



Wayzata Planning Commission

Meeting Agenda

Monday, July 30, 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 July 16, 2018 Meeting Minutes
 - b. Adoption of Report and Recommendation of Approval of Variance for Taylor Residence at 405 Bushaway Rd
 - c. Adoption of Report and Recommendation of Approval of Variance for Greenway Boathouse at 623 Bushaway Rd
- 4. Old Business Items**
 - a. None
- 5. Public Hearing Items**
 - a. Broadway Place – 326 and 332 Broadway Ave S
Preliminary and Final Plat Subdivision, Conditional Use Permits
- 6. Other Items:**
 - a. Amendment to the Development Agreement for Waycliffe Second Addition
 - b. July 17th City Council Meeting Report – Commissioner Flannigan
 - c. Review of Development Activities
 - d. Next 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
JULY 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, Buchanan, and Douglas. Absent and Excused: Young, Iverson, and Flannigan. Director of Planning and Building Jeff Thomson, City Planning Consultant Olivia Dorow Hovland from WSB & Associates, and City Attorney David Schelzel were also present.

AGENDA ITEM 2. Approval of Agenda

There were no changes to the agenda.

AGENDA ITEM 3. Consent Agenda

- a.) Approval of June 18, 2018 Meeting Minutes
- b.) Adoption of Report and Recommendation of Approval of Tight-Of-Way Ordinance Amendment
- c.) Adoption of Report and Recommendation of Approval of Variance for Albers Addition at 224 Broadway Ave N
- d.) Adoption of Report and Recommendation of Approval of PUD Amendment and Design Review for Broadway Place at 326 and 332 Broadway Ave S
- e.) Adoption of Report and Recommendation of Approval of Interim Use Permit and Shoreland Impact Plan/Conditional Use Permit for Wayzata Bay Car Wash at 143 Lake St E.

Chair Buchanan read the items on the Consent Agenda and asked if the Commissioners wished to remove any items for further discussion. He noted that a letter had had been received from Dan Gustafson related to Newspaper vending machines and this would be added to the record. He made a correction on page 7 of the June 18, 2018 minutes, noting it should read "Wayzata Bay Car Wash." City Attorney Schelzel also noted a few corrections to the minutes.

Hearing approval of the suggested amendments, and no requests to pull any items, Chair Buchanan asked for a motion to approve the Consent Agenda as amended.

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

1 **AGENDA ITEM 4. Old Business Items:**

2
3 a.) None.
4
5

6 **AGENDA ITEM 5. Public Hearing Items:**

7
8 a.) Ventana Subdivision – 253 Lake St E

9 i. Preliminary and Final Plat Subdivision
10

11 Director of Planning and Building Thomson stated on December 9, 2017, the City Council had
12 approved the rezoning, PUD concept plan, building height variance, and shoreland impact
13 plan/conditional use permit for the redevelopment of 253 Lake St E. The redevelopment project
14 includes demolition of the existing buildings and construction of a three-story building with 16
15 residential units, and the applicant has also proposed donating the land behind the building to the
16 City for use as public parking. In connection with the donation, the applicant, Ventana, LLC, and
17 the property owner, Berry & Co., Inc., have submitted a development application to subdivide the
18 property to effectuate the donation of a parking area to the City. The development application
19 requests simultaneous approval of the preliminary and final plat subdivision to subdivide the
20 property into three separate lots. The front lot along Lake Street (Lot 1) would be the future
21 development site. The rear lot (Lot 3) would be donated to the City for future public parking. Lot
22 2 would be donated to the City for future public parking after the applicant obtains an access
23 easement from the owner of the adjacent property to the west. The applicant has also submitted
24 the PUD general plan and design review application, which would be reviewed at a future Planning
25 Commission meeting. Staff has drafted a draft Report and Recommendation recommending
26 approval of the preliminary and final plat subdivision request for the Commission to review and
27 adopt at this meeting.
28

29 Chair Buchanan asked if construction would be allowed in the wetland area.
30

31 Mr. Thomson stated the City has had discussions with Watershed District and confirmed that
32 wetland impact is doable in this area. The City would be able to do this because the City has built
33 up enough wetland credits through other construction projects in the City. These credits could be
34 used to offset any wetland fill the City needs to do as part of a public project. The parking project
35 would be about 160 total stalls.
36

37 Applicant Representative, Mr. Neal Weber, stated they are working with the Hughes project
38 development team to get the access between the buildings on each property to allow for greater
39 separation, and given this is still in process, the 2-phase donation of property to the City was
40 needed.
41

42 Chair Buchanan opened the public hearing at 7:12 p.m.
43

44 There being no one wishing to address the Commission on the application, Chair Buchanan closed
45 the public hearing at 7:13 p.m.
46

1 After brief discussion among the Commissioners, Chair Buchanan asked for a motion on the
2 Application.

3
4 Commissioner Murray made a motion, seconded by Commissioner Plantan, to approve the Draft
5 Planning Commission Report and Recommendation, as presented, recommending approval of the
6 Preliminary and Final Plat Subdivision at 253 Lake St E, subject to the conditions outlined in the
7 Report. The motion carried unanimously.
8

9 **b.) Taylor Residence – 405 Bushaway Rd**

10 **i. Variance**

11
12 City Planning Consultant Ms. Olivia Dorow Hovland, from WSB & Associates, stated the
13 applicant, Charlie and Co Design, on behalf of the property owner, Carolyn Taylor, has submitted
14 a development application for the property at 405 Bushaway Rd. The applicant is proposing to
15 tear down the existing family home and construct a 2-story, 6,165 sf home and a 247-sf boathouse.
16 As part of the submitted development application, the applicant is requesting approval of a
17 variance for a shoreline setback. The required shoreline setback is 156-feet (the average shoreline
18 setback of the two adjacent properties). The proposed home is located at a 129-foot setback. The
19 existing home is at a 114-foot setback.
20

21 Applicant Representative, Mr. Charlie Simmons, Charlie and Co. Design, stated they had designed
22 the project for the homeowner and would answer any additional questions the Commission would
23 have.
24

25 Chair Buchanan stated the application was well prepared and thorough. He opened the public
26 hearing at 7:20 p.m.
27

28 There being no one wishing to address the Commission on the application, Chair Buchanan closed
29 the public hearing at 7:21 p.m.
30

31 After brief discussion among the Commissioners, Chair Buchanan asked for a motion on the
32 Application.
33

34 Commissioner Murray made a motion, seconded by Commissioner Plantan to direct staff to
35 prepare a draft Planning Commission Report and Recommendation recommending approval of the
36 variance for a shoreland setback at 405 Bushaway Rd. The motion carried unanimously.
37

38 **c.) Enclave at Crossdale Fence – 205, 211, 223 Byrondale Ave N**

39 **i. Conditional Use Permit**

40
41 City Planning Consultant, Ms. Olivia Dorow Hovland, from WSB & Associates, stated the
42 applicant Susan Seeland, on behalf of the property owners, Scott and Sarah Johnson, Douglas and
43 Sarah Carter, and Bruce Gates, has submitted a Fence Conditional Use Permit application for the
44 properties at 205, 211, and 223 Byrondale Ave N. The applicant is proposing to install fencing
45 and a gate along the property lines adjacent to Wooddale Avenue. The proposed fence would be
46 6-feet high and 100% solid. The applicant is requesting a conditional use permit for a fence in the

1 front yard that is greater than 50% solid matter and greater than 42-inches in height. Fences
2 consisting of greater than 50% solid matter in front of the rear building line up to the front of the
3 property and not exceeding a height of 8-feet are allowed by CUP. Although the area where the
4 fence is located functions as the back yard of the properties, the lots are considered double frontage
5 lots since they have street frontage on Byrondale Ave and Wooddale Ave. Therefore, the front
6 yard fence requirements apply to the fence located along Wooddale Ave.

7
8 Commissioner Plantan asked how far the fence would be from the road.

9
10 Ms. Hovland stated it is not clear from the site plan. The setback requirement is 10-feet from the
11 street.

12
13 Commissioner Douglas asked if City public works staff had reviewed the plan for problems that
14 may arise for snow removal.

15
16 Director of Planning and Building Thomson stated staff had discussed the project with Mike Kelly,
17 the Interim Public Works Director. He explained why the City requires a 10-foot setback from the
18 road. The survey presented does not show where the edge of the pavement is so the City is not
19 clear if the fence is setback 10-feet from the road. This is something that could be added as a
20 condition of approval.

21
22 Applicant, Ms. Susan Seeland, 12 Bald Eagle Road, Hilton Head, South Carolina, stated nothing
23 along Wooddale Ave is 10-feet back from the road. The existing fence is 3-feet from the road.
24 When they developed the property, they gave property to the City to accommodate the road. There
25 is not enough room to provide for a 10-foot setback. She stated that this is an alley way and there
26 are neighboring garages right along the roadway. She provided pictures of the existing fence. She
27 explained they are requesting 160-feet of fence and this would continue along the path.

28
29 Chair Buchanan opened the public hearing at 7:34 p.m.

30
31 Resident, Ms. Pat Broyles, 212 Benton Ave, stated the last house that would be constructed as part
32 of the Applicant's development in the neighborhood would be behind her property. She stated the
33 existing fence should not have been put up because it was not part of the development agreement
34 and had not been approved. She stated there is a public trail planned along the fence.

35
36 Ms. Seeland stated the trail is installed, and the fence they are proposing would not block the trail.

37
38 Ms. Broyles stated there is a gate on the trail at Hwy 101, so people have to open the gate to
39 continue on the trail. There should not be a gate on the trail especially at this end of the trail. She
40 does not support the fence. This would make this appear to be a closed gated community.

41
42 Applicant, Mr. Bruce Gates, stated the existing house he purchased has the arborvitae that are in
43 poor condition. He provided pictures of his property and the neighborhood. He would like to
44 continue the existing fence to make the neighborhood look more cohesive.

45

1 Applicant Representative, Mr. Steve Schwieters, Wooddale Builders, 6117 Blue Circle Dr., Suite
2 101, Minnetonka, stated they had constructed all of the homes in the neighborhood, the idea of
3 fences in the neighborhood had been discussed with the property owners, and they had been
4 unaware that the property owners had to pull fence permits. He stated the fence is important for
5 the neighbors, and they did host a neighborhood meeting to discuss the proposed fence project.
6 Those that attended had been in favor of the fence.

7
8 Ms. Seeland stated the gate had not been included in the original PUD for the development but
9 due to the grading on the property the Council agreed that a gate would be a good safety measure
10 to prevent people from going into traffic. The portion of the path that has the gate would not be
11 used, but the rest of the path would be.

12
13 Applicant, Doug Carter, stated the understanding had been there would be a fence installed on the
14 property. They have a privacy concern, their backyard has become the path, and car lights are a
15 problem.

16
17 Applicant, Mr. Scott Johnson, 205 Byrondale, stated they had built the existing fence because they
18 have a young son and they would like to see a gate and fence added to protect him from going
19 down the path. He stated if they followed the 10-foot setback, they would not be able to use their
20 backyard.

21
22 There being no one further wishing to address the Commission on the application, Chair Buchanan
23 closed the public hearing at 7:53 p.m.

24
25 Chair Buchanan stated the dilemma is that the existing fence is 3-feet from the road. Even though
26 this fence was not approved, any additional fence should be continued along the same path. He
27 explained the Commission should make a decision based on what is best for the City, and the fence
28 may require approval of a setback variance. If the Commission recommends approval of anything
29 less than the 10-foot, then City may want to consider including a hold harmless provision in the
30 approval so if the fence were damaged by the City, the City is not responsible for replacing the
31 fence because it would be located so close to the road. He clarified the applicant would have to
32 provide a separate application for the setback variance. The current application is for the CUP for
33 the height and opacity of the fence. If these items were coupled, there would have to be another
34 public hearing for the variance request.

35
36 Commissioner Douglas stated she would like the fence to be consistent with what is already in
37 place. There is a safety issue, and it would be important to have a hold harmless agreement in
38 place. These particular lots are smaller than other city lots and the street is narrow. She could
39 support the project.

40
41 Commissioner Murray expressed concerns about the snow removal, the height and opacity of the
42 fence, and the setback. He stated moving the existing fence could be an option.

43
44 Chair Buchanan stated they are really looking at the backyard for these homes, even though the
45 front yard requirements apply. Continuity in the neighborhood is important. He would support

1 the fence project but needed further clarification on the details of the proposal and City
2 requirements.

3
4 City Attorney David Schelzel suggested the Planning Commission could recommend approval of
5 the CUP request as submitted, and if the applicant wants less than the required 10-foot setback,
6 the Applicant could amend the application, and a public hearing would be held at the next meeting.
7 Staff could prepare a draft report and recommendation based on the discussions for approval at the
8 next meeting.

9
10 After further discussion among the Commissioners, Chair Buchanan asked for a motion on the
11 Application.

12
13 Commissioner Murray made a motion. Seconded by Commissioner Plantan, to direct staff to work
14 with the applicant to amend the application as needed to include a variance request for the fence
15 setback to align with the existing fence, and prepare a draft Planning Commission Report and
16 Recommendation recommending approval of the CUP request for the fence height, opacity and
17 variance request if needed for the setback for a fence at 205, 211, and 223 Bushaway Ave N, and
18 any new the public hearing for the variance request.

19
20 City Attorney Schelzel suggested an amendment to the motion to include conditions pertaining to
21 liability, maintenance and snow removal.

22
23 The amendment was accepted by Commissioners Murray and Plantan.

24
25 Chair Buchanan called the amended motion to a vote. The motion carried unanimously.

26
27 Mr. Thomson stated the gate would be considered a separate issue because it crosses a public trail,
28 and staff would welcome input from the Commission for the City Council to consider such a
29 request.

30
31 It was the consensus of the Commission to recommend that the trail be open in this location, and
32 not be gated.

33
34 **d.) Greenway Boathouse – 623 Bushaway Rd**

35 **i. Variance**

36
37 City Planning Consultant, Ms. Olivia Dorow Hovland, from WSB & Associates, stated the
38 applicant, Greg Jurvakainen of L. Cramer Builders, on behalf of the property owners, Chad and
39 Jenni Greenway, have submitted a development application for the property at 623 Bushaway Rd.
40 The property owners are proposing to construct a new boathouse, replacing the existing one on the
41 site. The new boathouse would be 250 sf in size and located generally in the same location as the
42 existing one, but moved further back from the shoreline to meet setback requirements. As part of
43 the submitted development application, the applicant is requesting approval of a lot coverage
44 variance. Within the R-1A zoning district, lot coverage shall not exceed 10% of lot area. The
45 proposed new boathouse would exceed the 10% maximum lot coverage requirement. There is an

1 existing boathouse on the property, which is 187 sf in size. The new structure would be 63 sf
2 larger than the existing one.

3
4 Applicant Representative, Mr. Greg Jurvakainen, L. Cramer Builders, stated they want to build a
5 250-sf boathouse that would comply with the City's other ordinances and meet the character of
6 the site. The property is a substandard lot and just under the minimum square foot requirement. If
7 the property was not substandard and met the minimum lot size requirement, they would not need
8 to request a variance.

9
10 Chair Buchanan asked if the applicant had considered building the boathouse to comply with the
11 ordinance.

12
13 Mr. Jurvakainen stated they are planning to add a fireplace to the structure that would increase the
14 size of the footprint and make the space more usable. He stated the applicant was requesting a
15 variance for a structure up to 250-sf in size.

16
17 Chair Buchanan opened the public hearing at 8:13 p.m.

18
19 Applicant, Mr. Chad Greenway, 623 Bushaway Rd, stated the primary reason for the change in
20 the building size was for functionality. This change would allow for adding a couple of chairs to
21 the facility to make the building more functional for the family.

22
23 Commissioner Plantan asked if the new structure would follow the same roofline as the home.

24
25 Mr. Greenway stated the concept they would mimic that home with the same roofline and look
26 and would have a maximum height of 10-feet.

27
28 There being no one further wishing to address the Commission on the application, Chair Buchanan
29 closed the public hearing at 8:18 p.m.

30
31 After further discussion among the Commission, Chair Buchanan asked for a motion on the
32 Application.

33
34 Commissioner Murray made a motion, seconded by Commissioner Plantan, to direct staff to
35 prepare a draft Planning Commission Report and Recommendation recommending approval of the
36 lot coverage variance for 623 Bushaway Rd. The motion carried unanimously.

37
38
39 **AGENDA ITEM 6. Other Items:**

40
41 **a.) June 19th City Council Meeting Report – Commissioner Buchanan**

42
43 Chair Buchanan stated the June 19 City Council meeting included extended discussion and public
44 comment on Resolution 20-2018 for the Lake Street Design and Process Scope. This is a
45 resolution on a project that reimagines the area between Lake St and Barry Ave to provide better
46 sidewalks, pedestrian and bike ways and access by removing a center lane. This would be

1 something that would fit with where the City wants Lake St to go in terms of design. Most of the
2 public comments were against the proposal but the City Council did vote in favor of the project.
3

4 **b.) Review of Development Activities**
5

6 Director of Planning and Building Thomson stated the July 30 Planning Commission agenda is
7 scheduled to include two new items. The Broadway Place PUD and Design Review that had
8 been approved would be brought back for further review. There were items in the project that
9 had not been included in the original application and these would need to be approved. The
10 second item is an amendment to a development agreement for a PUD from thirty years ago. The
11 residents in this development are restricted on what they can do to replace the old decks in this
12 area. The August agendas would likely include the development agreement for the 253 Lake St
13 project, and the additional approvals for the Hoyt project and 305 Lake St.
14

15 **Next Meeting is July 30, 2018**
16

17 Director of Planning and Building Thomson noted the next regular meeting of the Planning
18 Commission was scheduled for July 30, 2018
19
20

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

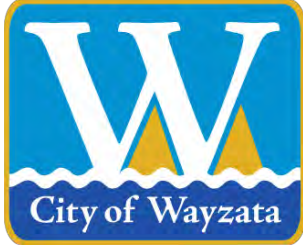
23 There being no further business on the agenda, Chair Buchanan asked for a motion to adjourn.
24

25 Commissioner Douglas made a motion, seconded by Commissioner Murray, to adjourn the
26 Planning Commission meeting. The motion carried unanimously.
27

28 The Planning Commission meeting was adjourned at 8:25 p.m.
29

30 Respectfully submitted,
31

32 Tina Borg
33 *TimeSaver Off Site Secretarial, Inc.*



City of Wayzata Planning Commission Agenda Report

MEETING DATE: July 30, 2018	AGENDA ITEM: 3b
TITLE: Adoption of Report and Recommendation of Approval of Variance for Taylor Residence at 405 Bushaway Road	
PROJECT NAME: Taylor Residence	
ADDRESS: 405 Bushaway Road	
PREPARED BY: Jeff Thomson, Director of Planning and Building	

BACKGROUND:

Application Overview

The applicant, Charlie & Co. Design, representing the property owner, Carolyn Taylor, has submitted a development application for the property at 405 Bushaway Road. The applicant is proposing to construct a new home and boathouse at 405 Bushaway Road. The development application requests approval of a shoreland setback variance.

Planning Commission Review

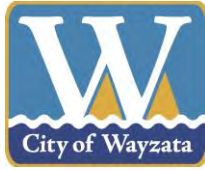
The Planning Commission reviewed the development application and held a public hearing at its meeting on July 16th. After discussing the application, the Planning Commission voted four (4) in favor and zero (0) opposed to direct staff to prepare a Report and Recommendation of approval of the variance 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 4-0, and includes the findings and conditions of approval discussed by the Planning Commission.

ATTACHMENTS:

1. Draft Planning Commission Report and Recommendation



WAYZATA PLANNING COMMISSION

July 30, 2018

REPORT AND RECOMMENDATION OF APPROVAL OF A VARIANCE FOR A NEW HOUSE AT 405 BUSHAWAY RD

SUMMARY OF RECOMMENDATION

- Approval* of Shoreland Setback Variance

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

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Project. Charlie and Co Design, on behalf of the property owner, Carolyn Taylor (the "Applicant") have submitted a development application for a shoreland setback variance (the "Application") for a new house as depicted on the plans included as Attachment A (the "Project") on the property at 405 Bushaway Rd. (the "Property").
- 1.2 Application Request. The Application requests approval of a variance from the average setback of the two closest riparian principal structures on either side of the proposed building site of 176 feet, and from the line drawn between the two closest riparian principal structures on either side of the proposed building site, to allow for a setback of 129 feet (the "Setback Variance").
- 1.3 Property. The address, property identification number and owner of the Property are:

405 Bushaway Road	05-117-22-33-0005	Carolyn Taylor
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- 1.4 Land Use. The Property is zoned R-1A Low Density Single Family Estate, falls within the Shoreland Overlay District, and is designated Estate Single Family Residential in the Comprehensive Plan.
- 1.5 Notice and Public Hearing. Notice of the public hearing on the Application was published in the *Wayzata Sun Sailor* on July 5, 2018 and notices were mailed to all properties within 350 feet of the Property on July 3, 2018. The public hearing on the Application was conducted at the July 16, 2018 Planning Commission meeting. No member of the public spoke at the public hearing.
- 1.6 Planning Commission Action. After the conclusion of the public hearing on the Application at the July 16, 2018 Planning Commission meeting, the Planning Commission voted unanimously to direct staff to prepare a draft Planning Commission Report and Recommendation recommending approval of the Application.

Section 2. STANDARDS

- 2.1 Zoning Ordinance Variance Standard. Section 801.05.1.C provides the criteria for reviewing variances from the standards of the Zoning Ordinance. The variance review criteria are as follows:
 - A. Variances shall only be permitted when they are:
 - (i) in harmony with the general purposes and intent of the Zoning 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 the Zoning 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.

2.2 Lake Shore Setback Variance Standards. Section 801.91.9.D.2.b states that the required setback distance may be reduced by variance if the following conditions are met:

- A. The minimum setback from the ordinary high water mark is at least seventy-five feet.
- B. The setback shall not adversely impact views of the shoreline or lake for adjacent neighboring principal structures.
- C. The reduction of setback requirements is based upon a specific need or circumstance which is unique to the property in question and which, if approved, will not set a precedent which is contrary to the intent of this Ordinance. However, any structure built as a result of an issued variance shall be considered in determining the proper setback of future construction on adjacent lots.
- D. A shoreland impact plan is submitted and approved as required and set forth in Section 801.91.19 of this Ordinance.
- E. The conditions of Section 801.05 and Section 801.91.20 of this Ordinance are considered and satisfactorily met.

2.3 Shoreland District Variances. Section 801.91.20 states variances may be granted by the City Council in accordance with Section 801.05 of this Ordinance in extraordinary cases, but only when the proposed use is determined to be in the public interest. The following additional criteria shall apply within shoreland areas:

- A. Result in the placement of an artificial obstruction which shall restrict the passage of storm and flood water in such a manner as to increase the height of flooding, except obstructions approved by the U.S. Army Corps of Engineers in conjunction with sound floodplain management.

- B. Result in incompatible land uses or which shall be detrimental to the protection of surface and ground water supplies.
- C. Be not in keeping with land use plans and planning objectives for the City of Wayzata or which shall increase or cause danger to life or property.
- D. Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the City of Wayzata.
- E. Shall constitute a hardship as defined in Section 801.05 of this Ordinance.
- F. No permit or variance shall be issued unless the applicant has submitted a Shoreland Impact Plan as required and set forth in this Ordinance. In granting any variance, the City Council may attach such conditions as they deem necessary to insure compliance with the purpose and intent of this Section.

Section 3. FINDINGS

Based on the Application materials, staff reports, public hearing, and the standards set forth in the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact with respect to the Setback Variance:

3.1 Zoning Ordinance Variance Standard.

- A. The Setback Variance requested in the Application does not change the current single family residential use. It would improve the current non-conforming shoreland setback by 15 feet. The Setback Variance requested is in harmony with the general purposes and intent of the Zoning Ordinance and is consistent with the Comprehensive Plan.
- B. The Setback Variance addresses the practical difficulty with the Property in terms of the significantly larger setback on one of the adjacent properties, and will not alter the essential character of the locality.
- C. The Setback Variance requested is reasonable, due to circumstances driven by the adjacent setbacks and the new improved setback, and a desire to preserve and improve the character and setback of the existing property. If granted, the Setback Variance would not alter the essential character of the locality and would, from certain vantage points, improve views from adjacent properties. The Setback Variance would allow for less disturbance excavation and recontouring of the site, as well as preservation of a heritage tree and additional significant trees.

- D. The practical difficulties necessitating the Setback Variance are not economic in nature. The adjacent setbacks and lot layout are significant factors in the practical difficulty of meeting the Ordinance requirements.
- E. The proposed use for the Property would not change and is permitted within the applicable zoning district.
- F. The recommended conditions for granting approval of the Setback Variance are listed below in Section 4 of this Resolution.
- G. The Applicant has provided the reasons that the Setback Variance is justified under the criteria of the Zoning Ordinance in order to make reasonable use of the land, structures and buildings on the Property.

3.2 Lake Shore Setback Variance.

- A. The new house would be more than 75 feet from the ordinary high water mark of the lake.
- B. The new house would not adversely impact view of the shoreline or lake for adjacent principal structures because the building addition would be located further from the lake than the existing principal structure on the Property.
- C. The reduction of setback requirements is based upon a circumstances unique to the Property, which include the non-conforming shoreland setback of the existing principal structure, and the significant setback of the adjacent homes. The Setback Variance would not set a precedent which is contrary to the intent of the Zoning Ordinance.
- D. Section 801.91.19.B.2 provides an exception for development of permitted principal uses contained within the zoning districts. The single-family residential use is a permitted use in the R-1A district. Therefore, it is exempt from the shoreland impact plan requirements of the Ordinance.
- E. The conditions of Section 801.05 and Section 801.91.20 of the Zoning Ordinance are satisfactorily met as stated in Sections 3.1 and 3.3 of this Report.

3.3 Shoreland District Variance.

- A. The Setback Variance does not result in the placement of an artificial obstruction which restricts the passage of storm and flood water as the building addition would be located outside of the floodplain for Lake Minnetonka.

- B. The Setback Variance requested in the Application does not change the current single family residential use, which is compatible with the surrounding land uses which are also single-family homes.
- C. The Setback Variance requested is in harmony with the general purposes and intent of the Ordinance and are consistent with the Comprehensive Plan. The Setback Variance would not increase or cause danger to life or property.
- D. The Setback Variance is consistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the City of Wayzata.
- E. The conditions of Section 801.05 of the Zoning Ordinance are satisfactorily met as stated in Section 3.1 of this Report.
- F. Section 801.91.19.B.2 provides an exception for development of permitted principal uses contained within the zoning districts. The single-family residential use is a permitted use in the R-1A district. Therefore, it is exempt from the shoreland impact plan requirements of the Ordinance. The conditions for granting approval of the Variances are listed below in Section 4 of this Resolution.

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 Setback Variance as requested in the Application, subject to all of the following conditions:

- A. The Applicant must secure all necessary building permits for construction, and follow all laws and regulations applicable to the Project.
- B. The Applicant must build and complete the Project in conformance in all material respects with the plans depicted in the Application, included as Attachment A.
- C. 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 30th day of July 2018.

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

Voting Against Approval Recommendation: None

Abstaining: None

Absent: Flannigan, Iverson, Young

Attachment A
Plans

DRAFT

**Charlie
& COMPANY**

212 3rd Ave. N., Ste. 356
Minneapolis, MN 55401
(p) +612.333.2216
www.charlieandco.design.com

IMPORTANT NOTE FOR
ALL CONTRACTORS &
SUB-CONTRACTORS

1. The Owner/ General Contractor must take full responsibility including providing additional detailing, drawings, and engineering as needed, and to resolve configuration deficiencies as needed to coordinate and properly complete the Work. The General Contractor has the right and responsibility to revise configurations and details depicted in the Construction Drawings, as needed, to properly construct a code compliant and technically sound project.

2. All structural requirements, including but not limited to footing foundation and framing work are to be provided by the Structural Engineer, provided by the Owner.

3. The General Contractor is responsible for verifying all covering, zoning, building, fire, plumbing, plumbing and electrical code requirements.



WAYZATA BAY RESIDENCE

405 Bushway Rd.
Newzote MN 55555

Title
Sheet

Not for
Construction

[illegible]

A 0.0

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Charles E. Co. Boston, LLC

LANDSCAPE DESIGN	INTERIOR DESIGN	STRUCTURAL ENGINEER	GENERAL CONTRACTOR	ARCHITECTURAL DESIGN
Topo, LLC. 112 N. 3rd. St., Ste. 500 Minneapolis, MN 55401	Perkins + Will 80 S. 8th St., Ste. 300 Minneapolis, MN. 55402	Mattson, MacDonald & Young 901 3rd. Street, Ste. 100 Minneapolis, MN. 55401	John Kraemer & Sons 4906 Lincoln Dr. Edina, MN. 55434	Charlie & Co. Design, Ltd. 212 3rd. Ave. N., Ste. 356 Minneapolis, MN. 55401
Phone: +612.929.2049	Phone: +612.851.5030	Phone: +612.827.7825	Phone: +952.935.9100	Phone: +612.333.2246
Contact: Scott Ritter	Contact: Jeremy Collatz	Contact: Joe Cain	Contact: Jeff Kraemer	Contact: Marcy Townsend Charlie Simmons

A0.0	TITLE SHEET
A1.0	SITE PLAN
A1.1	LOWER LEVEL PLAN
A1.2	FIRST FLOOR PLAN
A1.4	ROOF PLAN
A2.0	EAST EXTERIOR ELEVATIONS
A2.1	SOUTH EXTERIOR ELEVATIONS
A2.2	WEST EXTERIOR ELEVATION
A2.3	NORTH EXTERIOR ELEVATIONS
L100	LANDSCAPE PLAN (BY LANDSCAPE ARCHITECT)
L500	LANDSCAPE PLAN (BY LANDSCAPE ARCHITECT)

FLOOR PLAN NOTES:

- Civil elevation $947.0' = 100.0'$ architectural elevation.
- Dimensions are taken from face of rough framing or concrete masonry foundation walls - U.N.O.
- Refer to structural drawings for load bearing locations, and additional details or sections
- C-Grns are primary layout lines. Interior partitions, establish and maintain these lines throughout construction.
- Interior walls: 2x4 wd. framing w/ 5/8" gyp. bd. each side - U.N.O.
- Interior bearing walls: 2x6 wd. framing w/ 5/8" gyp. bd. each side - U.N.O.
- Exterior walls: 2x6 wd. framing @ full hgt. - U.N.O.
- All wood in contact w/ conc. to be foundation grouts, pressure treated lumber.
- All wd. that contain pocket doors to be 2x6 walls unless noted otherwise
- Coordinate floor finishes and floor finish transitions to existing or not shown
- The Cabinet Maker is to field verify all as-built measurements before manufacturing.

- Contractor to coordinate design of mechanical, hvac, plumbing, & electrical systems and assure they are integrated into the architecture.
- Mechanical ducts to be contained within floor truss system u.n.o. Floor truss mfr. to verify locations. Any furred chases that are not shown are to be approved with Designer and provided by carpenter
- Plumbing walls to be 2x6 studs for entire wall of effected room. Any plumbing walls that are not shown are to be approved by Designer
- Verify exterior faucet locations w/ Owner & Contractor

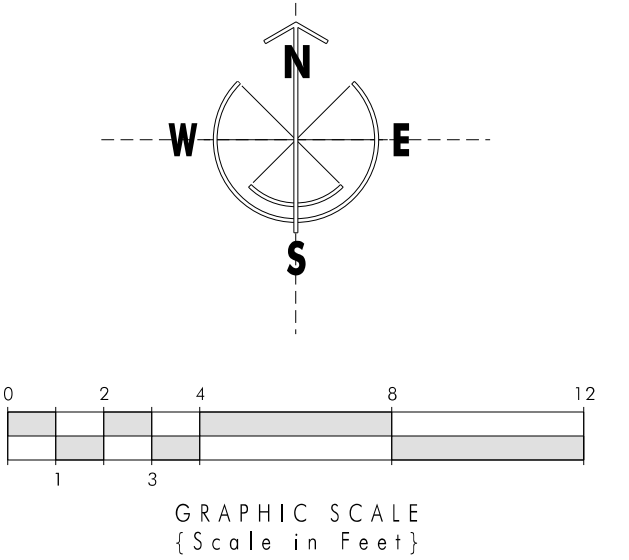
- Window & door numbers taken from "Marvin Integrity" windows catalog (unless noted otherwise).
- Top of windows and doors @ 8'-0" (u.n.o. on plan) @ first floor
- Top of windows and doors @ 8'-0" (u.n.o. on plan) @ second floor
- Verify window & hardware color w/ Charlie & Co. & owner prior to ordering.
- Windows to have 6 1/2" jambos [see plan for windows w/ 4 1/2" jambos]
- See exterior elevations for grid pattern & swing
- Units to be provided w/ 7/8" interior & exterior grids (SDI) w/ aluminum spacer bar

- Interior doors & cased openings to be 8'-0" high at first floor and 8'-0" at second floor (head casing is intended to align w/ head casing @ exterior doors & windows) unless noted otherwise
- All door openings & cased openings to be set a min. of 5" clear from gyp. board to edge of door or opening unless noted otherwise

	Indicates Dropped Soffit Areas - See plans, details, or interior elevations for heights (vertical heights not indicated w/ Charlie & Co.)
	Typical Wood Frame Wall
	Wood Frame Bearing Wall
	Existing Wood Frame Wall (remodeling only)
	Reinforced Concrete Wall
	Concentrated Point Load
	Grid Line

- 2x studs 16" o.c. w/ 3 1/2" batt. insul.
- 1/2" sound board (on symbol side of wall)
- Gyp. bd each side - unless noted otherwise
- No through-wall penetrations in sound walls

- 4" high tile curb -- U.N.O.
- Glass shower door (approx. size as noted - verify actual)
- Head @ $\pm 7'-0"$ (verify w/head selection & owner)
- Soap recess @ $\pm 48"$ o.f.f. (verify w/ owner)
- Ledge @ $\pm 56"$ o.f.f. (verify w/ owner)
- Bench @ $\pm 18"$ o.f.f. (verify w/ owner) w/ pitched top



1. The Owner/ General Contractor must take full responsibility including providing additional detailing, drawings, and engineering as needed, and to resolve configuration deficiencies in order to coordinate and properly complete the Work. The General Contractor has the right and responsibility to revise configurations and details depicted in the Construction Drawings, as required to properly construct a code compliant and technically sound project.
2. All structural requirements, including but not limited to footing, foundation and framing work are to be governed by a Professional Structural Engineer, provided by the Owner.
3. The General Contractor is responsible for verifying all concrete, zoning, building, fire, heating, plumbing and electrical code requirements.

A BAY RES
405 Bushaway Rd.
Wayzata, MN. 55xx

Not for
Construction

ISSUANCE DATE:		
PRELIM. PRICING SET		04.09.18
DESIGN REVIEW		04.26.18
DESIGN REVIEW		05.03.18
VARIANCE SET		06.01.18

A 1.0

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Charlie & Co. Design, LLC



FLOOR PLAN NOTES:

- Civil elevation 947'-0" = 100'-0" architectural elevation.
- Dimensions are taken from face of rough framing.
- Concrete masonry foundation walls - U.N.O.
- Refer to structural drawings for load bearing locations, and additional details or sections.
- Gridlines are primary layout lines for interior partitions, establish and maintain these lines throughout construction.
- Interior walls: 2x4 wd. framing w/ 5/8" gyp. - U.N.O.
- Interior bearing walls: 2x6 wd. framing w/ 5/8" gyp. bd. each side - U.N.O.
- Exterior walls: 2x6 wd. framing @ full hgt. - U.N.O.
- All wall in contact w/ conc. to be foundation grade, pressure treated lumber.
- Walls that contain pocket doors to be 2x6 walls unless noted otherwise.
- Coordinate floor finishes and floor finish transitions - requirements not shown.
- The contractor shall verify all as-built measurements before manufacturing.

- Contractor to coordinate design of mechanical, hvac, plumbing, & electrical systems and assure they are integrated into the architecture.
- Mechanical ducts to be contained within floor truss system u.n.o. Floor truss mfr. to verify locations.
- Any furred chases that are not shown are to be approved with Designer and provided by carpenter
- Plumbing walls to be 2x6 studs for entire wall of affected room. Any plumbing walls that are not shown are to be approved by Designer
- Verify exterior faucet locations w/ Owner & Contractor

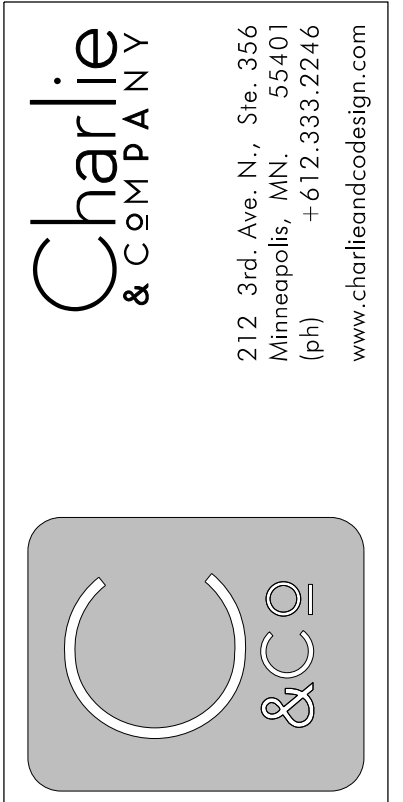
- Window & door numbers taken from 'Marvin Integrity' windows catalog (unless noted otherwise).
- Top of windows and doors @ 8'-0" (u.n.o on plan) @ 1st floor
- Top of windows and doors @ 8'-0" (u.n.o on plan) @ 2nd floor
- Verify window & hardware color w/ Charlie & Co. & owner prior to ordering.
- Windows to have 6 1/8" jamba (see plan for windows w/ 4 1/8" jamba)
- See exterior elevations for grid pattern & swing
- Units to be provided w/ 1/8" interior & exterior grids (SDI) w/ aluminum spacer bar

- Interior doors & cased openings to be 8'-0" high at first floor and 8'-0" at second floor (head casing is intended to align w/ head casing @ exterior doors & windows) unless noted otherwise
- All door openings & cased openings to be set a min. of 5' clear from gyp. board to edge of door or opening unless noted otherwise

 Indicates Dropped Soffit Areas - See plans, details, or interior elevations for heights (verify heights not indicated w/ Charlie & Co.)
 Typical Wood Frame Wall
 Wood Frame Bearing Wall
 Existing Wood Frame Wall (remodelling only)
 Reinforced Concrete Wall
 Concentrated Point Load
 Grid Line

- 2x studs 16" o.c. w/ 3/4" batt. insul.
- 1/2" sound board (on symbol side of wall)
- Gyp. bd each side - unless noted otherwise
- No through-wall penetrations in sound walls

- 4" high tile curb -- U.N.O.
- Glass shower door (approx. size as noted - verify actual)
- Head @ $\pm 7" \pm 0"$ (verify w/head selection & owner)
- Soap recess @ $\pm 48"$ a.f.f. (verify w/ owner)
- Ledger @ $\pm 56"$ a.f.f. (verify w/ owner)
- Bench @ $\pm 18"$ a.f.f. (verify w/ owner) w/ pitched top



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1. All structural requirements, including but not limited to footing, foundation and framing work are to be verified by the Professional Structural Engineer, provided by the Owner.
2. The General Contractor is responsible for verifying all coverages, piping, building, fire, electrical, plumbing and electrical code requirements.

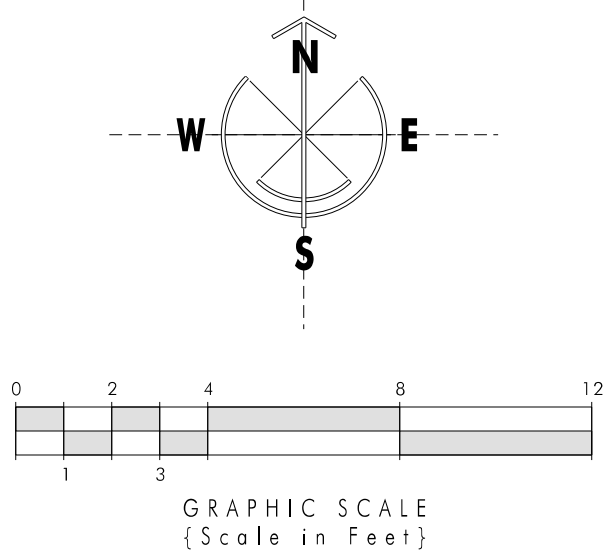
405 Bushway Rd.
Wayzata, MN. 55xx

Not for
Construction

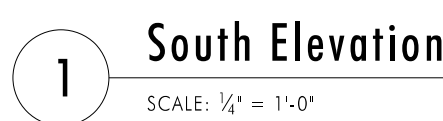
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Charlie & Co. Design, LLC

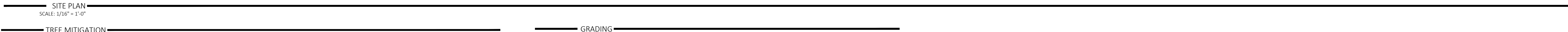
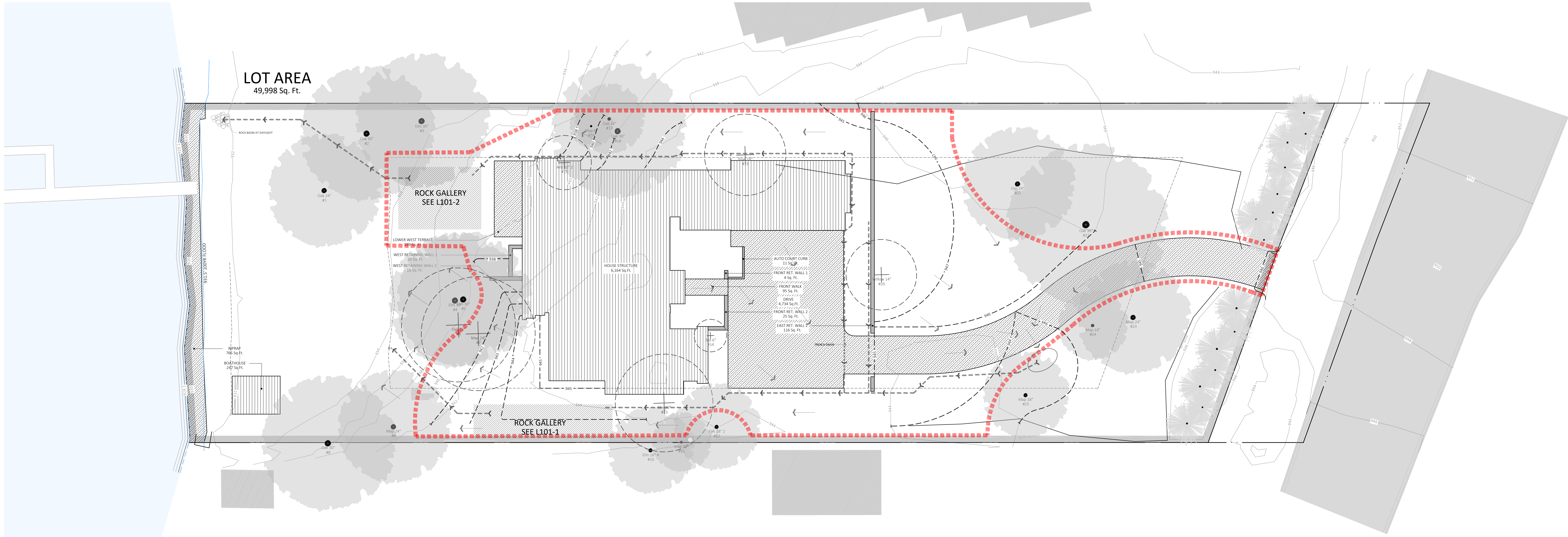
1 First Floor Plan
SCALE: $\frac{1}{4}" = 1'-0"$











TREE INVENTORY

STATUS KEY:

R - Remove Existing Tree

* Denotes mitigation required

T - Transplant existing tree to new location on site

P - Protect existing tree to remain

D - Dead Tree

405 Bushaway Rd. Wayzata, MN. 55391

* Denotes trees requiring mitigation

Tree No.	Species	Size	Status (R,T,P)	Category (Significant, Heritage)
1	Oak	24"	P	S
2	Oak	24"	P	H
3	Elm	30"	P	H
4	Elm	30"	P	H
5	Elm	30"	P	H
6	Oak	24"	R	S
7	Map	24"	R	S
8	Oak	30"	P	H
9	Map	24"	P	S
10	Elm	18"	P	S
11	Map	12"	P	S
12	Elm	18"	P	S
13	Elm	20"	R	S
14	Bas	6"	R	S
15	Arb	10"	R	S
16	Map	8"	P	S
17	Oak	14"	P	S
18	Oak	30"	P	H
19	Pine	18"	R	S
20	Willow	14"	R	S
21	Elm	24"	P	S
22	Oak	30"	P	H
23	Map	24"	P	S
24	Map	14"	P	S
25	Map	18"	P	S

TREE REPLACEMENT SCHEDULE / MITIGATION DATA

TREE PRESERVATION AND REPLACEMENT DATA:

Total Trees inventoried>

25 ± 530"(dia at DBH)

Total Heritage Trees>

7 ± 216" (dia at DBH)

Total Significant Tree>

18 ± 314"(dia at DBH)

Trees to be Mitigated

Heritage Trees to be Removed:

Softwood Deciduous Tree(s) 30" or greater in dia. at DBH

0

Hardwood Deciduous Tree(s) 25" or greater in dia. at DBH

0

Coniferous Tree(s) 25" or greater in dia. at DBH

0

Total Heritage Tree(s) dia. at DBH

dia at DBH = 0"

Significant Trees to be Removed:

Softwood Deciduous Tree(s) 12" or greater in dia. at DBH

0

Hardwood Deciduous Tree(s) 6" or greater in dia. at DBH

#6 - Oak 24"

#7 - Map 24"

#13 - Elm 20"

#14 - Basswood 6"

#20 - Willow 14"

Coniferous Tree(s) 12" or gr. in DBH or 12" or gr. in height

#20 - Willow 14"

Total Significant Tree(s) dia. at DBH

dia at DBH = 106"

MITIGATION REQUIRED

Total Trees to be removed

6

Total Heritage Trees to be removed>

0 (dia at DBH)

Total Significant Trees to be removed>

6 ± 108"(dia at DBH)

25% Allowable removal of the existing significant trees dia.

530"(existing dia.) x 25% = 132.5"

Proposed percentage of significant trees removal

20% (under by 26.5")

	Required	Proposed
Heritage mitigation requirements		
Deciduous caliper inches (replace 2" per 1" removed DBH)	0	0
Coniferous caliper inches	0	0
Significant Tree mitigation requirements		
Deciduous caliper inches	0	0
Coniferous caliper inches	0	0

NO MITIGATION REQUIRED

TREE PROTECTION



4' ht. orange safety fence with posts spaced 6' o.c. max at drip line of outer most branches, refer to plan for locations.
6" Shredded Hardwood Mulch. Remove existing vegetation or suckering before installing mulch.

TREE PROTECTION NOTES:

1. Trees not noted to be removed shall be protected throughout the duration of the contract. Protection fences will be installed at trees to remain. The protection fence will be maintained and communications to all construction trades as a no disturbance area throughout the duration of the construction.
2. Tree protection areas are a continuing process or method to not disturb the health or quality of the existing tree. This process may include, but not be limited to, minimizing compaction to soils, addition or reduction in soil elevations within the drip line, or storage of equipment or vehicles within protected fence areas.

GRADING

DEMOLITION KEY NOTES:

1. The contractor must protect all existing roads, curbs, structures, trees and site elements not designated for removal. Any damage shall be repaired or replaced at contractor's expense to the satisfaction of the Owner's representative.
2. Protect all trees designated to be saved with a barrier fence consisting of safety-capped rebar posts placed no more than 8 feet on center with 4 foot high orange square mesh barrier fencing. Rebar(s) 3/4", or equal, attached to posts. Barrier fence must be installed at the limits of the drip line prior to construction, and must not be removed until final landscaping is to be completed. Reference detail XXX.
3. Prior to construction, contact the Owner's representative to visit site and verify trees to be saved. Contractor must review the drawings, and daily work schedule, so that should proposed grades pose a "tree to be saved" the contractor's work is not impeded and there will be time to study the issue. If roots of the trees designated to be saved are cut, broken or disturbed by construction operations, they must be immediately and cleanly root pruned with a sharp axe or pruner.

GRADING/DRAINAGE NOTES:

1. Provide and maintain positive drainage away from all structures at all times.
2. All design contours and proposed elevations indicated are to finish grade unless otherwise noted.
3. The contractor shall account for all imported surface and planting materials in determining earthwork requirements.
4. Grading operations must minimize the potential for erosion.
5. Prior to rough grading the site, the contractor must remove all topsoil in areas to be disturbed and stockpile on site for future use. Excess topsoil must be removed from the site after finish grading at the contractor's expense.
6. If the earthwork for the site is anticipated to produce an excess of material. The contractor must remove all excess material from the site and dispose of it at the contractor's expense.
7. No topsoil shall be removed from restoration areas without approval from the landscape architect.
8. Topsoil compacted by construction traffic in restoration areas shall be loosened under the direction of the landscape architect.
9. Locations and elevations of existing topography and utilities as shown on this plan are approximate. Contractor shall field verify site conditions and utility locations prior to excavation/construction. The Owner's representative shall be notified immediately if any discrepancies are found.
10. All excavation shall be in accordance with the current edition of "Standard specifications for trench excavation and backfill/surface restoration" as prepared by the city of engineer's association of Minnesota.
11. Adjacent streets, alleys and properties must be swept to keep them free of sediment and materials tracked, blown or washed from the site. Contractor must monitor conditions and sweep as needed for within 24 hours notice by the Owner's representative. Sweeping is incidental to the project.
12. Contractor must maintain dust control for the site at all times and provide watering trucks as needed, or within 24 hours notice by the landscape architect. Dust control is incidental to the project.

GRADING /DRAINAGE KEY NOTES:

1. No grading, stockpiling of materials, or staging is permitted outside of the limits of work.
2. All areas indicated for turf are to receive 8" of topsoil.
3. Contractor is to subcut driveway to 16" from finish grade, and then base driveway with 5" of base.
4. Contractor is to excavate and shape pond to grades shown. Specifications...
5. Stormwater Management System to be installed per plan and specifications.

EROSION CONTROL NOTES:

1. The contractor is responsible for reviewing the erosion control requirements of the site, and for installing and maintaining erosion control measures where needed. Even if they are not indicated on the drawings.
2. Where disturbed soil will be exposed for more than 21 days, the contractor must seed with a temporary cover crop to prevent erosion or cover with temporary erosion blanket until. Temporary seed mix must be approved by Owner's representative prior to installation. Temporary seed seeding or erosions blankets is incidental to the project.

EROSION CONTROL KEY NOTES:

1. All temporary erosion control measures must be in place prior to any removal work and must be maintained until permanent erosion control measures have been completely implemented and established.
2. Install silt fencing around the perimeter of the limits of work and maintain until permanent erosion control is established. All silt fence must be orange geotextile fabric with steel posts. Machine slicing of silt fencing around or under trees will not be permitted. Silt fence around or under trees must be hand placed and fastened to the ground with staples.
3. Inlet protection (silt fence barricades, silt stacks, riser pipes or filter fabric and gravel) must be installed in all existing affected catch basins prior to any removal work, and in all new catch basins immediately after catch basin installation.

GRADING AND DRAINAGE PLAN KEY:

EXISTING MAJOR CONTOUR	—
EXISTING MINOR CONTOUR	—
PROPOSED CONTOUR	—
PROPOSED SPOT ELEVATION	• 100'-0"
EXISTING SPOT ELEVATION	+ 100'-0"
DIRECTION OF SLOPE	—
SILT FENCE	—
BIO LOG	—
NDS BOX FOR ROOF DRAINS	■
PVC DRAIN PIPE, SIZE AND DIRECTION OF FLOW AS NOTED ON SITE PLAN	—

FLOOD PLAIN IMPACT:

CUT = 0
FILL = 0

AREA OF DISTURBANCE:
26.662 SQUARE FEET / 0.61 ACRES

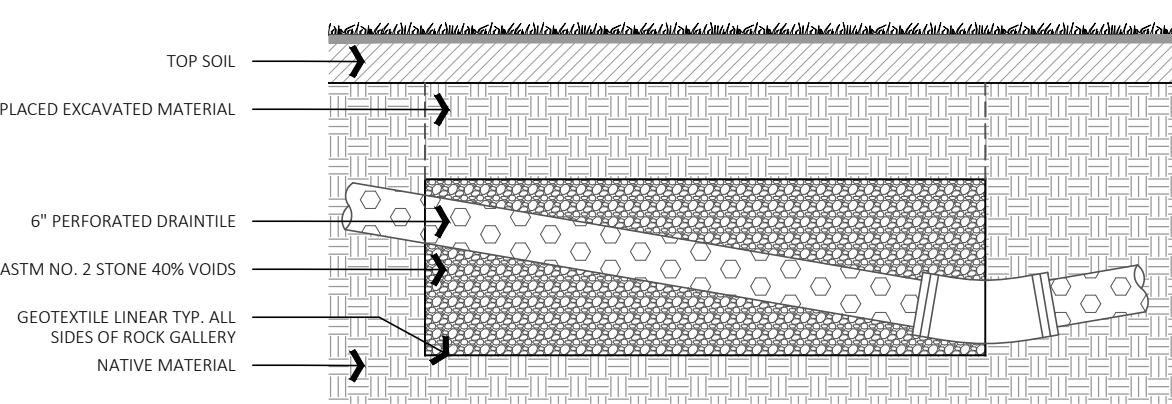
area of disturbance key



IMPERVIOUS COVERAGE KEY:

Impervious Area - Structure	—
Impervious Area - Hardscaping	—
Impervious Area - Retaining/Site Walls	—

L101-1 ROCK GALLERY. TYP



NOTE: LENGTH AND WIDTH OF ROCK GALLERY VARIES. SEE PLANS FOR GALLERY DIMENSIONS.

topo

530 NORTH THIRD STREET, SUITE 401
MINNEAPOLIS, MINNESOTA 55401
612.929.2049
www.topologic.com

TAYLOR
405 Bushaway Rd. Wayzata, MN. 55391

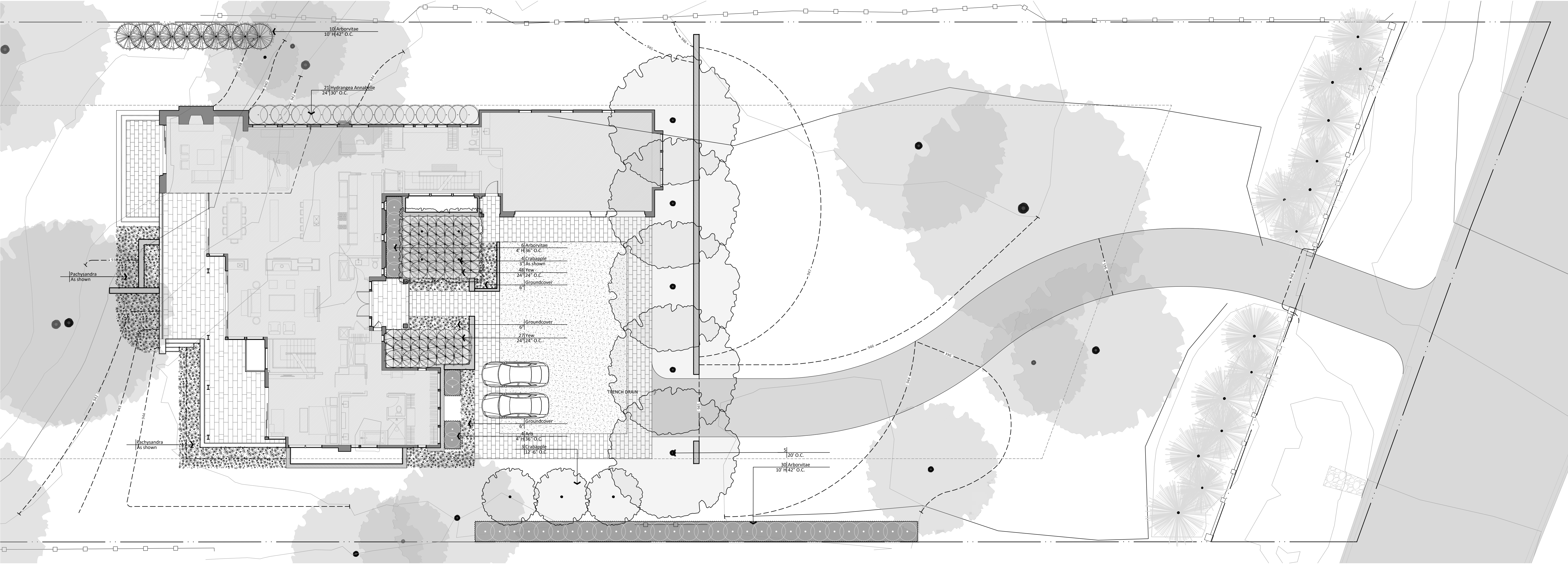
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

REVISIONS:	DATE
REV # DESCRIPTION	

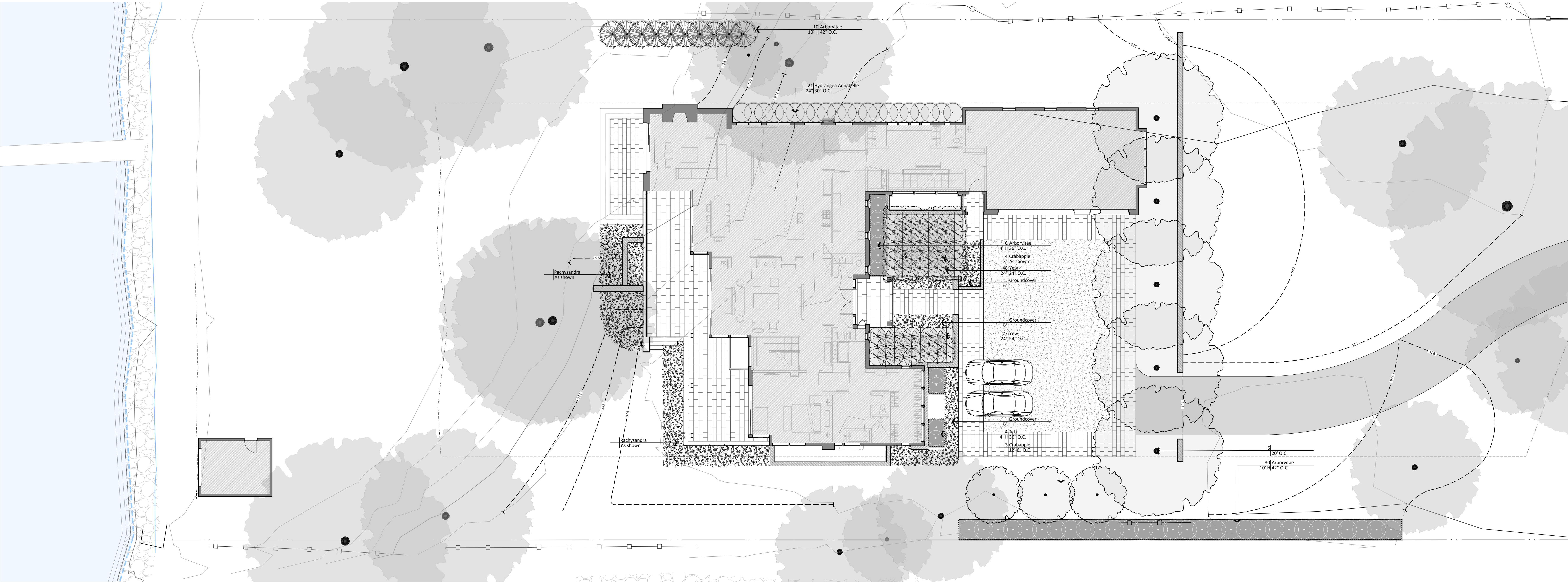
Not For Construction
HARDCOVER/
TREE MITIG.

DESIGNED BY: SR
DRAFTED BY: AB
ISSUE DATE: 04.19.18
DRAWING SCALE: 1/8" = 1'-0"

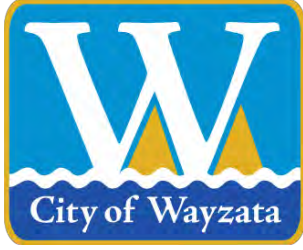
L100



PLANTING PLAN
SCALE: 1/8" = 1'-0"



PLANTING PLAN LAKE SIDE
SCALE: 1" = 10'-0"



City of Wayzata Planning Commission Agenda Report

MEETING DATE: July 30, 2018	AGENDA ITEM: 3c
TITLE: Adoption of Report and Recommendation of Approval of Variance for 623 Bushaway Road	
PROJECT NAME: Greenway Boathouse	
ADDRESS: 623 Bushaway Rd	
PREPARED BY: Jeff Thomson, Director of Planning and Building	

BACKGROUND:

Application Overview

The applicant, L. Cramer Company, on behalf of property owners Chad and Jenni Greenway, has submitted a development application for the property at 623 Bushaway Road. The applicant is proposing to construct a 250-square foot boathouse. The development application requests approval of a variance for lot coverage.

Planning Commission Review

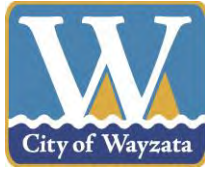
The Planning Commission reviewed the development application and held a public hearing at its meeting on July 16th. After discussing the application, the Planning Commission voted four (4) in favor and zero (0) opposed to direct staff to prepare a Report and Recommendation of approval of the variance 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 4-0, and includes the findings and conditions of approval discussed by the Planning Commission.

ATTACHMENTS:

1. Draft Planning Commission Report and Recommendation



WAYZATA PLANNING COMMISSION

July 30, 2018

REPORT AND RECOMMENDATION OF APPROVAL OF A LOT COVERAGE VARIANCE AT 623 BUSHAWAY RD

SUMMARY OF RECOMMENDATION

- Approval* of Lot Coverage Variance

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

REPORT AND RECOMMENDATION

Section 1. BACKGROUND

- 1.1 Project. Greg Jurvakainen of L. Cramer Builders, on behalf of the residents, Chad and Jenni Greenway and the property owner listed below (the "Applicant") have submitted a development application for a lot coverage variance (the "Application") to construct a new boat house on the property at 623 Bushaway Rd. (the "Property"). The new boathouse would be 250 square feet in size and located generally in the same location as the existing boathouse it would replace, but moved further back from the shoreline to meet current lake shore setback requirements as depicted on the plans on Attachment A (the "Project").
- 1.2 Application Request. The variance requested in the Application is for a variance to exceed ten percent (10%) of the maximum lot area coverage by up to an additional 72 square feet (.1%) of coverage (the "Lot Coverage Variance").
- 1.3 Property. The address, property identification number and owner of the Property are:

623 Bushaway Road	0811722230009	Jennifer Capista Revoc. Trust
-------------------	---------------	-------------------------------

- 1.4 Land Use. The Property is zoned R-1A Low Density Single Family Estate, falls within the Shoreland Overlay District, and is designated Estate Single Family Residential in the Comprehensive Plan.
- 1.5 Notice and Public Hearing. Notice of the public hearing on the Application was published in the *Wayzata Sun Sailor* on July 5, 2018 and notices were mailed to all properties within 350 feet of the Property on July 3, 2018. The public hearing on the Application was conducted at the July 16, 2018 Planning Commission meeting. No member of the public spoke at the public hearing.
- 1.6 Planning Commission Action. After the conclusion of the public hearing on the Application at the July 16, 2018 Planning Commission meeting, the Planning Commission voted unanimously to direct staff to prepare a draft Planning Commission Report and Recommendation recommending approval of the Application.

Section 2. STANDARDS

- 2.1 Maximum Lot Area Coverage. Lot coverage in the R-1A Low Density Single Family Estate District may not exceed ten (10) percent of lot area. Sec. 801.51.7.
- 2.2 Zoning Ordinance Variance Standard. Section 801.05.1.C provides the criteria for reviewing variances from the standards of the Zoning Ordinance. The variance review criteria are as follows:
 - A. Variances shall only be permitted when they are:
 - (i) in harmony with the general purposes and intent of the Zoning 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 the Zoning 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.

Section 3. FINDINGS

Based on the Application materials, staff reports, public hearing, and the standards set forth in the Wayzata Zoning Ordinance, the Planning Commission of the City of Wayzata makes the following findings of fact with respect to the Lot Coverage Variance:

3.1 Zoning Ordinance Variance Standard.

- A. The Lot Coverage Variance requested in the Application does not change the current single family residential use, or significantly alter the hardcover surface. It would improve the current non-conforming setback. The Lot Coverage Variance requested is in harmony with the general purposes and intent of the Zoning Ordinance and is consistent with the Comprehensive Plan.
- B. The Lot Coverage Variance is minimal relative to the size of the Property and addresses the practical difficulty with the Property in terms of its slightly smaller lot size, and will not alter the essential character of the locality.
- C. The Lot Coverage Variance requested is reasonable, due to circumstances driven by the existing lot size and improved building layout, and desire to preserve and improve the character and setback of the boathouse. If granted, the Lot Coverage Variance would not alter the essential character of the locality in that the boathouse aesthetics would be preserved, the lake shore setback would be improved, and no significant trees would be lost.

- D. The practical difficulties necessitating the Lot Coverage Variance are not economic in nature. The existing lot size and dimensions on the Property are significant factors in the practical difficulty of meeting the Ordinance requirements.
- E. The proposed use for the Property would not change and is permitted within the applicable zoning district.
- F. The recommended conditions for granting approval of the Lot Coverage Variance are listed below in Section 4 of this Resolution.
- G. The Applicant has provided the reasons that the Lot Coverage Variance is justified under the criteria of the Zoning Ordinance in order to make reasonable use of the land, structures and buildings on the Property.

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 Lot Coverage Variance as requested in the Application, subject to all of the following conditions:

- A. The Applicant must secure all necessary permits for construction, and follow all laws and regulations applicable to the Project.
- B. The Applicant must build and complete the Project in conformance in all material respects with the plans depicted in the Application, included as Attachment A.
- C. 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 30th day of July 2018.

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

Voting Against Approval Recommendation: None

Abstaining: None

Absent: Flannigan, Iverson, Young

Attachment A
Plans

DRAFT

AS-BUILT SURVEY FOR L. CRAMER DESIGNERS AND BUILDERS IN LOT "B" CARPENTERS POINT HENNEPIN COUNTY, MINNESOTA

LEGAL DESCRIPTION OF PREMISES SURVEYED

That part of the following described Tract
That part of Lot "B", "Carpenters Point", Hennepin County Minn. described as follows
Beginning at a judicial monument at the point of intersection of the Northeastern line of Lot "B"
Carpenters Point with the Westerly line of County Road Number 13 as now laid out and
travelled across said Lot "B", thence South 58 degrees 18 minutes East along the Northeastern
line of said Lot "B" a distance of 81.3 feet to the Northeastern corner of said Lot "B" at the shore
of Grays Bay Lake Minnetonka, thence South 58 degrees 18 minutes East along the shore of Grays Bay to a point
South 33 degrees 42 minutes West 55.65 feet from the Northeastern line of said Lot "B", thence
North 58 degrees 18 minutes West on a line parallel with the Northeastern line of said Lot "B" to
the center line of said County Road Number 13, thence North 85 degrees 30 minutes West
170.35 feet, thence South 85 degrees 30 minutes West 80.4 feet thence North 54 degrees 33
minutes West 405.9 feet, more or less to the shore of Wayzata Bay, Lake Minnetonka, thence in
a Northernly direction along the shore of Wayzata Bay to the Northeastern corner of said Lot "B",
thence South 58 degrees 18 minutes East along the Northeastern line of said Lot "B" a distance
of 22.6 feet, more or less, to a judicial monument distant 454.4 feet Northwest of the point of
beginning, thence continuing South 58 degrees 18 minutes East along the Northeastern line
of Lot "B" a distance of 454.4 feet to the judicial monument set at said point of beginning,
Which lies Northwest of the center line of said County Road Number 13.

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

- Iron marker found
- Iron marker set
- Existing contour line, mean sea level datum

LAKE MINNETONKA
WAYZATA BAY

EXISTING HOUSE
#611 BUSHAWAY ROAD

EXISTING HOUSE
(L.A.)

PROPERTY ADDRESS
#623 BUSHAWAY ROAD

BUSHAWAY ROAD
(CO. RD. NO. 10)
(F-K-A CO. RD. NO. 13)

HARDCOVER CALCULATIONS

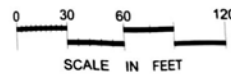
LOT TO MONUMENTED PROPERTY LINE
AND EXCLUDING BUSHAWAY ROAD R.O.W

HOUSE
BLACKTOP DRIVE
PAVER DRIVE
PAVER APRON
PAVER PATIO
PAVER POOL AREA
PAVERS
POOL BUILDING
COVERED PATIO
BOATHOUSE
STEPS
STONE WALKS
STEP STONES
A/C PADS
GEN PAD
CONC. POOL PAD
BORDERS

74876+ S.F
6862+ S.F
3218+
1151+
183+
388+
1604+
164+
285+
183+
187+
142+
253+
87+
27+
12+
35+
87+

TOTAL
14848/74876 = 19.83%

14848+ S.F



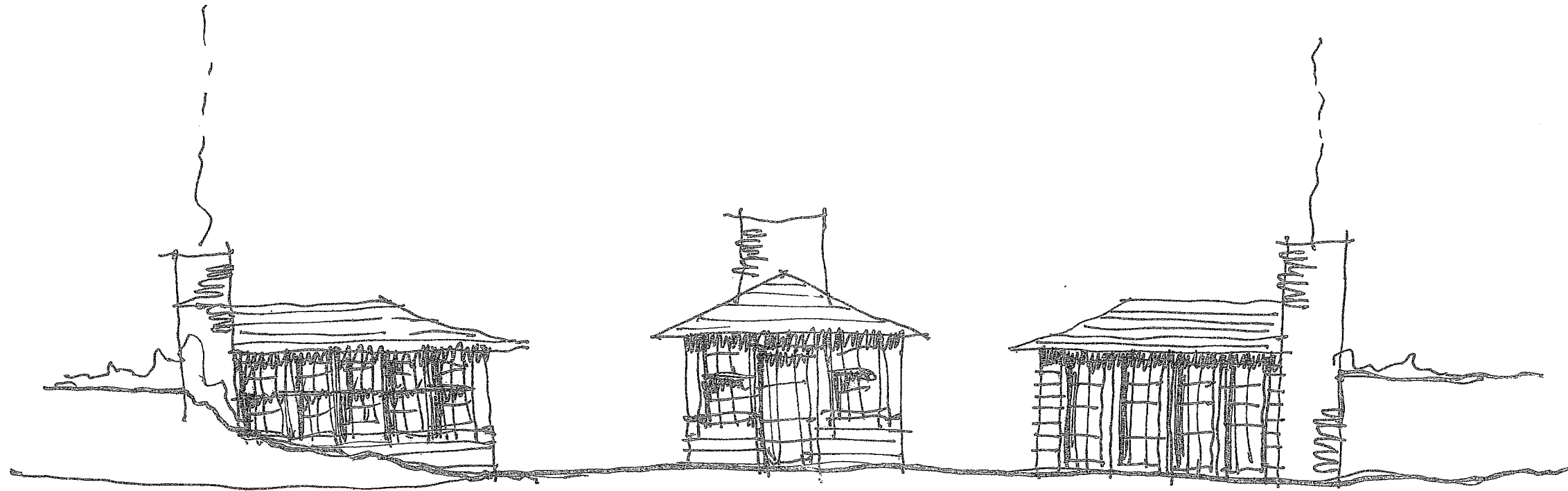
GRONBERG & ASSOCIATES, INC.
LAND SURVEYORS AND PLANNERS
448 N. WILLOW DRIVE LONG LAKE, MN 55309
PHONE: 952-473-1411 FAX: 952-473-1435



1. Accuracy: This survey was made in accordance with the Minnesota Surveying Act of 1981 and the rules and regulations of the Minnesota Board of Surveying and Mapping.

REVISIONS

DATE

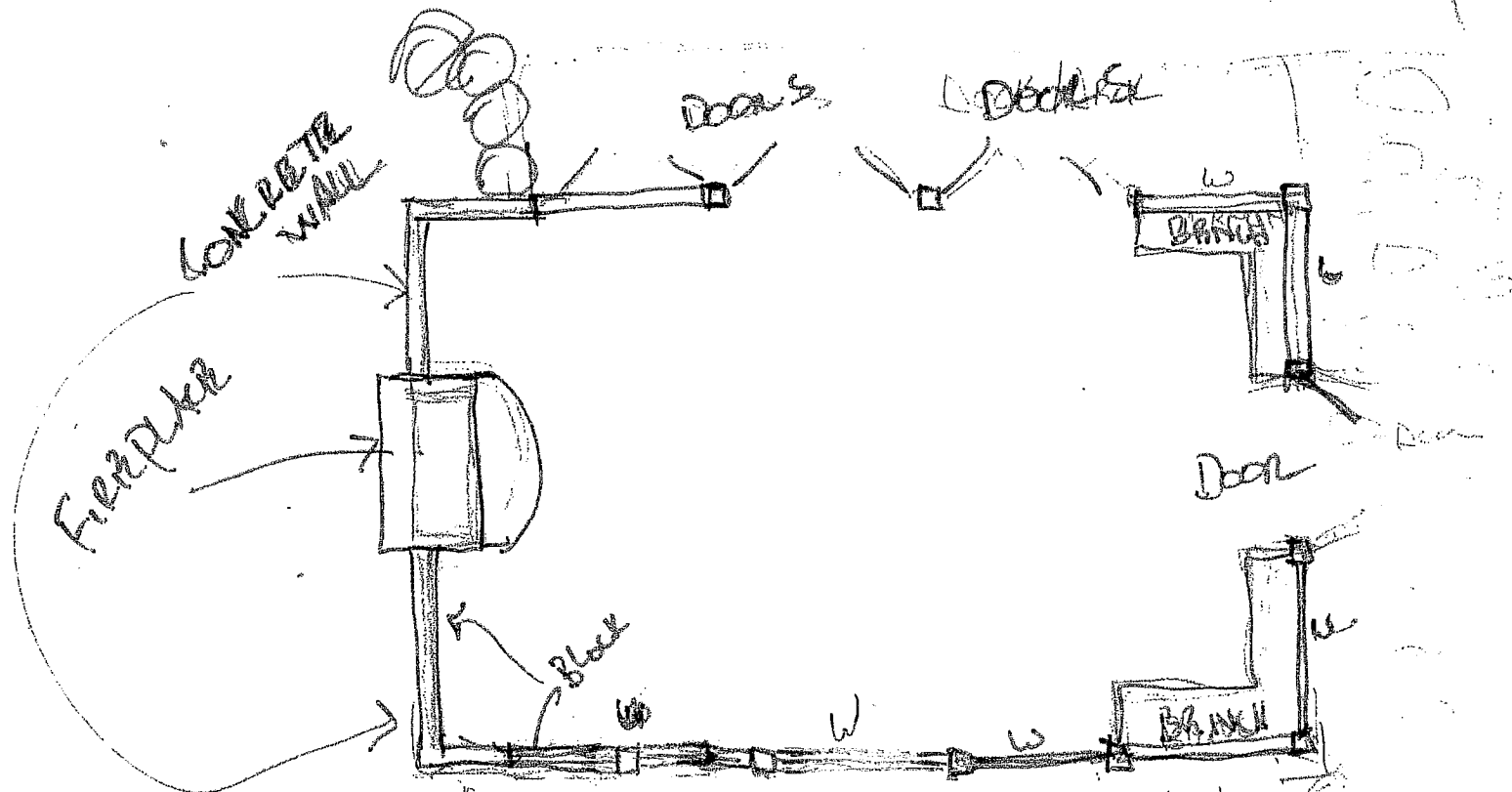


. boathouse option three .

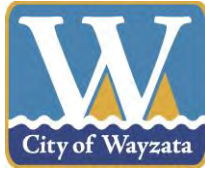
PROPOSED BOAT HOUSE FOOTPRINT

± 20' x 12'

L. 11/12



20' x 12'
240 SQ
1/4 SCALE



**Staff Report
July 30, 2018**

Project Name: Broadway Place
Addresses: 326 and 332 Broadway Ave S
Prepared by: Jeff Thomson, Director of Planning and Building
“60 Day” Deadline: September 15, 2018

Development Application

Introduction

The applicant, Beltz Enterprises, LLC, and the property owner, MJ Mail Center, LLC, have submitted a development application to modify the previously approved Broadway Place redevelopment at 326 and 332 Broadway Ave S. The proposed redevelopment involves the demolition of the two existing commercial buildings on the property, and construction of a new three story mixed use building consisting of retail, service commercial, or restaurant uses on the first floor and office uses on the upper two floors.

The proposed modifications include: (1) allowing service commercial and restaurant uses on the first floor; (2) connecting the previously approved three story mixed use building to the existing building at 701 Lake St E; and (3) allow parking to be provided by paying a fee in lieu of on-site parking. The proposed modifications would not include any other significant changes, including to the general design, size, footprint, or height of the approved plans.

The development application requests approval of a PUD Amendment, design review, conditional use permit, and preliminary and final plat subdivision. The Planning Commission previously reviewed and recommended approval of the PUD amendment and design review. The subdivision and conditional use permits have been published for a public hearing on July 30th.

Background Information

On September 6, 2016, the City Council approved the Broadway Place redevelopment project. The approved project included demolition of the two existing commercial buildings, and construction of a three story mixed use building with retail uses on the ground level and office uses on the upper two levels. The City Council action included the following approvals:

- Rezoning from C-4B to PUD/Planned Unit Development

- Concurrent PUD concept and general plans
- Design review
- Building height variance from 35 feet to 38 feet
- Shoreland Impact Plan/CUP for building height greater than 35 feet
- Shoreland Impact Plan/CUP for impervious surface exceeding 75%
- Preliminary and final plat subdivision to combine the two lots into one lot

On September 5, 2017, the City Council approved a one year extension of the zoning approvals and reapproved the final plat.

Property Information

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

Address	PID	Owner
326 Broadway Ave S	06-117-22-42-0016	MJ Mail Center, LLC
332 Broadway Ave S	06-117-22-42-0017	MJ Mail Center, LLC

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

Current zoning:	PUD/Planned Unit Development District
Comp Plan designation:	Central Business District
Overlay districts:	S/Shoreland Overlay District

Project Location

The property is located on the southeast corner of the Broadway Ave/Mill Street E intersection.

Map 1: Project Location



Application Requests

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

- A. Preliminary and Final Plat Subdivision: The Project would combine the two existing lots and the alley located between the properties and the 701 Lake St E property into a new single lot. The lot combination requires preliminary and final plat review. (City Code Sections 805.14 and 805.15)
- B. Conditional Use Permit for Joint Parking Facilities: The zoning ordinance requires a conditional use permit for joint parking facilities, where the required off-street parking facilities for one or more uses is provided on one or more sites and the total number of spaces provided are less than the sum of the total required for each use. (City Code Section 801.20.9)
- C. Conditional Use Permit for Fee in Lieu of Parking: The City's Fee in Lieu of Parking (FILOP) Policy states that any new use on a property that cannot meet the applicable on-site minimum parking requirements of City Code may be permitted if: (1) a fee-in-lieu of parking is paid to the City; and (2) a conditional use permit is approved by the City. The Applicant is requesting a conditional use permit under the FILOP Policy. (City Council Resolution No. 47-2016)

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	Mill Street municipal parking lot and ramp	Institutional	Institutional/Public
East	701 Lake St E mixed use building	PUD/Planned Unit Development	Central Business District
South	701 Lake St E mixed use building	PUD/Planned Unit Development	Central Business District
West	Broadway Ave S	N/A	N/A
	Marquee Place	C-4B/Central Business District	Central Business District

Public Hearing Notice

The public hearing notice on the preliminary and final plat subdivision and conditional use permits was published in the *Wayzata Sun Sailor* on July 19, 2018. The public hearing notice was also mailed to all property owners located within 350 feet of the subject property on July 19, 2018.

Project Overview

The proposed addition would be three stories and uses would include retail, service commercial, and restaurant uses on the first floor and office uses on the upper two floors. The addition would be 23,876 square feet in size, which is larger than the original 20,000 square feet approved. As with the original proposal, the ground floor space could include a single or multiple tenants, and each ground level tenant space would have an individual entrance from Broadway Ave or Mill St. The upper level office would be accessed by an entrance from Mill Street on the northeast corner of the building. The back of the building includes a common corridor, elevator, staircases, and common restrooms. Service and deliveries would be provided from Mill St, and trash and recycling services for the building would be accommodated by the trash area within the existing 701 Lake Street East building.

Analysis of Application

Parking

The City's parking ordinance establishes the minimum number of parking stalls that must be provided in a development. The parking requirements are based on the size and type of uses in the building. The proposed building would be 23,876 gross square feet in size – with 8,384 square feet of retail and 15,492 square feet of office. The minimum number of parking stalls for a mixed use building with a shared use/joint parking conditional use permit is 62 parking stalls.

Use	Size (nsf)	Min Parking	Weekdays		
			Midnight – 7:00 am	7:00 am – 6:00 pm	6:00 pm – Midnight
Retail	8,384	22.6	0	20.3	13.6
Office	15,492	41.8	2	41.8	2
Total		64	2	62	16

The proposed plans do not provide any on-site parking. In November 2016, the City Council adopted a Fee in Lieu of Parking (FILOP) Policy. The FILOP Policy states that any new use on a property that cannot meet the applicable on-site minimum parking requirements of City Code may be permitted if: (1) a fee-in-lieu of parking is paid to the City; and (2) a conditional use permit is approved by the City. The applicant is requesting a conditional use permit under the FILOP Policy.

The total amount of parking will vary based on whether or not a restaurant tenant occupies all or a portion of the first floor, since the City's parking requirement for restaurants is significantly greater than retail or service commercial uses – 15.2 stalls/1,000 sq. ft. vs 3 stalls/1,000 sq. ft. Without a restaurant, the development is required 62 parking stalls. The Mill St parking ramp added 200 additional parking stalls immediately adjacent to the site, so the parking demand for the development can be accommodated within the ramp and surface lot along Mill Street.

As a condition of approval, the applicant would be required to enter into an agreement with the City as outlined in the FILOP Policy. The number of parking stalls included in the agreement would need to cover at least 62 stalls, and more if there is a restaurant tenant in the first floor. The fee in lieu of parking is \$10,000 per stall.

Proposed Subdivision

The applicant is proposing to combine the two existing lots and the alley located between the property and the 701 Lake St E property into one platted lot. The PUD zoning does not have minimum lot size, width, or depth requirements, and the proposed subdivision would meet the lot requirements of the PUD zoning district.

The following table outlines the existing and proposed lots:

	Lot area	Lot width	Lot depth
PUD Requirement	No minimum	No minimum	No minimum
326 Broadway Ave S (existing lot)	2,467 sq. ft.	25 ft.	100 ft.
332 Broadway Ave S (existing lot)	4,934 sq. ft.	50 ft.	100 ft.
Combined Lot (proposed)	8,580 sq. ft.	75 ft.	113.75 ft.

The applicant has requested that the City vacate the alley easement behind the property. The vacation request is a separate item on the Council's agenda. If the vacation is approved, the entire vacated area would be combined with the subject properties, including the half of right of way adjacent to the 701 Lake St E property.

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 attached *Planning Commission Report and Recommendation*, which recommends approval of the development application subject to several conditions.

Attachments

Proposed Plans

Draft Planning Commission Report and Recommendation

Applicable Code Provisions for Review

Comprehensive Plan

The Comprehensive Plan includes the follow “1st Tier” priorities for the Central Business District:

- Allow a mix of commercial, office, and residential uses that strengthen the CBD as the shopping, employment, and entertainment destination of Wayzata.
- Update development standards continually to assure the highest development quality possible for the Central Business District.
- Complement the CBD and its strong sense of place through land use choices, urban design principles, traffic, parking, and architectural style.
- Investigate strategies to increase retail vitality throughout the CBD.
- Define and evaluate on-street/off-street parking needs consistent with land use, and requirements within the CBD so as to emphasize circulation ease and access control.
- Continue to provide a safe, comfortable, and attractive pedestrian scale environment through the enhancement of the pedestrian circulation system by improving sidewalks, walkways and street furniture; mitigating conflicts with traffic and street intersections, and by providing proper demarcation and sign control.
- Enhance the image and identity of the CBD by emphasizing street trees and landscaping elements.
- Plan for an orderly transition between the CBD development and adjacent residential neighborhoods.
- Accommodate traffic without negatively compromising the integrity of the downtown and its adjacent neighborhoods.
- Consider complementing abutting edges, both residential and retail/commercial.
- Consider public financial support that is fiscally responsible and provides value to the City's infrastructure and community systems.
- Consider ways to assist with redevelopment when properties become a liability to the community.
- Commercial buildings on Lake Street, west of Barry Avenue, should not be required to have a first floor retail use, although it is allowed and encouraged.

Transparency requirements under the Lake Street District of the Design Standards remain in effect.

- Identify ecological and water quality impacts on the lake and other water bodies caused by proposed land use developments, for example stormwater runoff, and work to mitigate these impacts.

In addition, the Comprehensive Plan includes the following “2nd Tier” priorities:

- Plan development of parking so that it is not a focal point but rather placed behind buildings with appropriate buffers and landscaping.
- Adjust City’s Zoning Ordinance to address concerns of sun-orientation on southern side of Lake Street by requiring upper story setbacks for all new construction to avoid shading the north side of Lake Street.
- Continue to evaluate ways to encourage a variety of housing options for upper-story housing.
- Consider 3rd story’ uses with appropriate considerations for design and scale. Commercial and residential uses are allowed as a third story, but the third story must be set back significantly more from the front facade of the floor below.

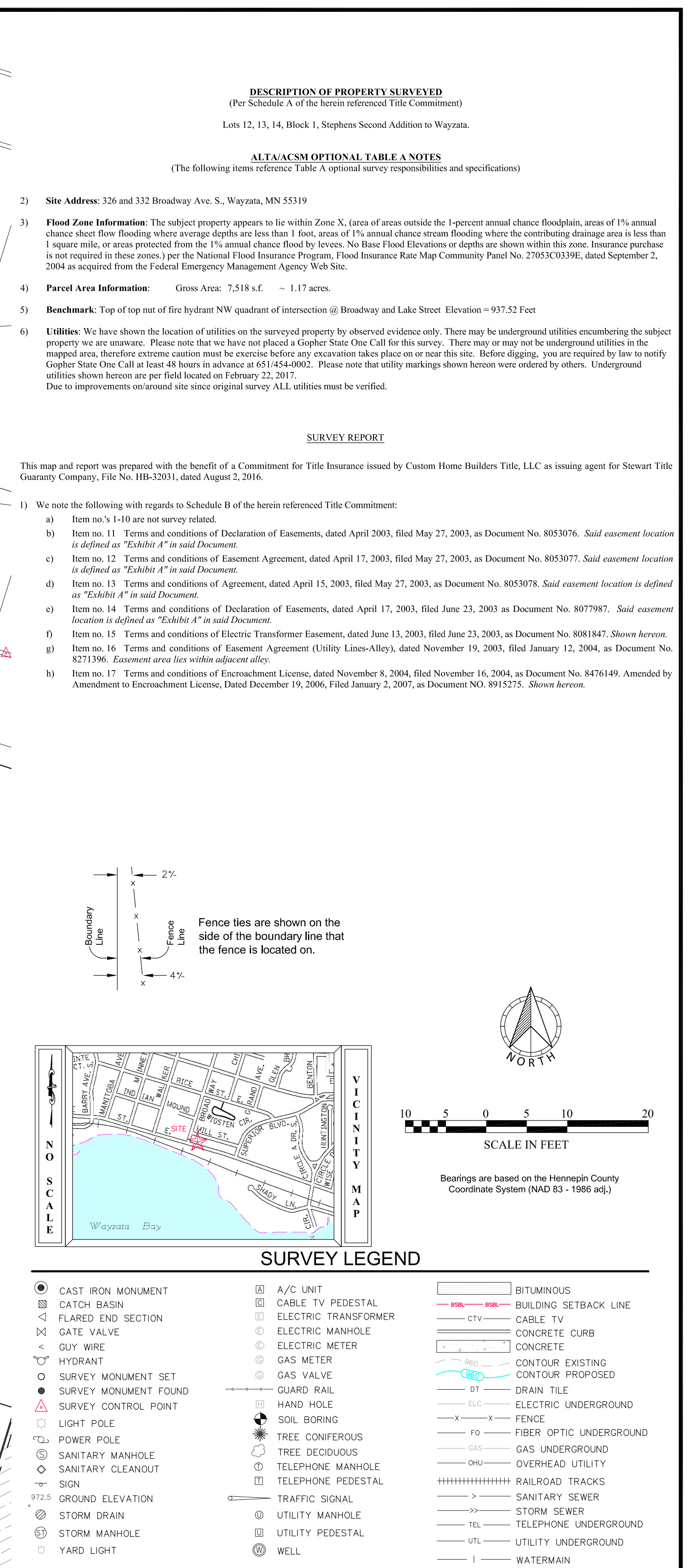
Conditional Use Permits: City Code Section 801.04.2.F. states that the Planning Commission and City Council shall consider possible adverse effects of the proposed conditional use. Their judgment shall be based upon (but not limited to) the following factors:

- 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.

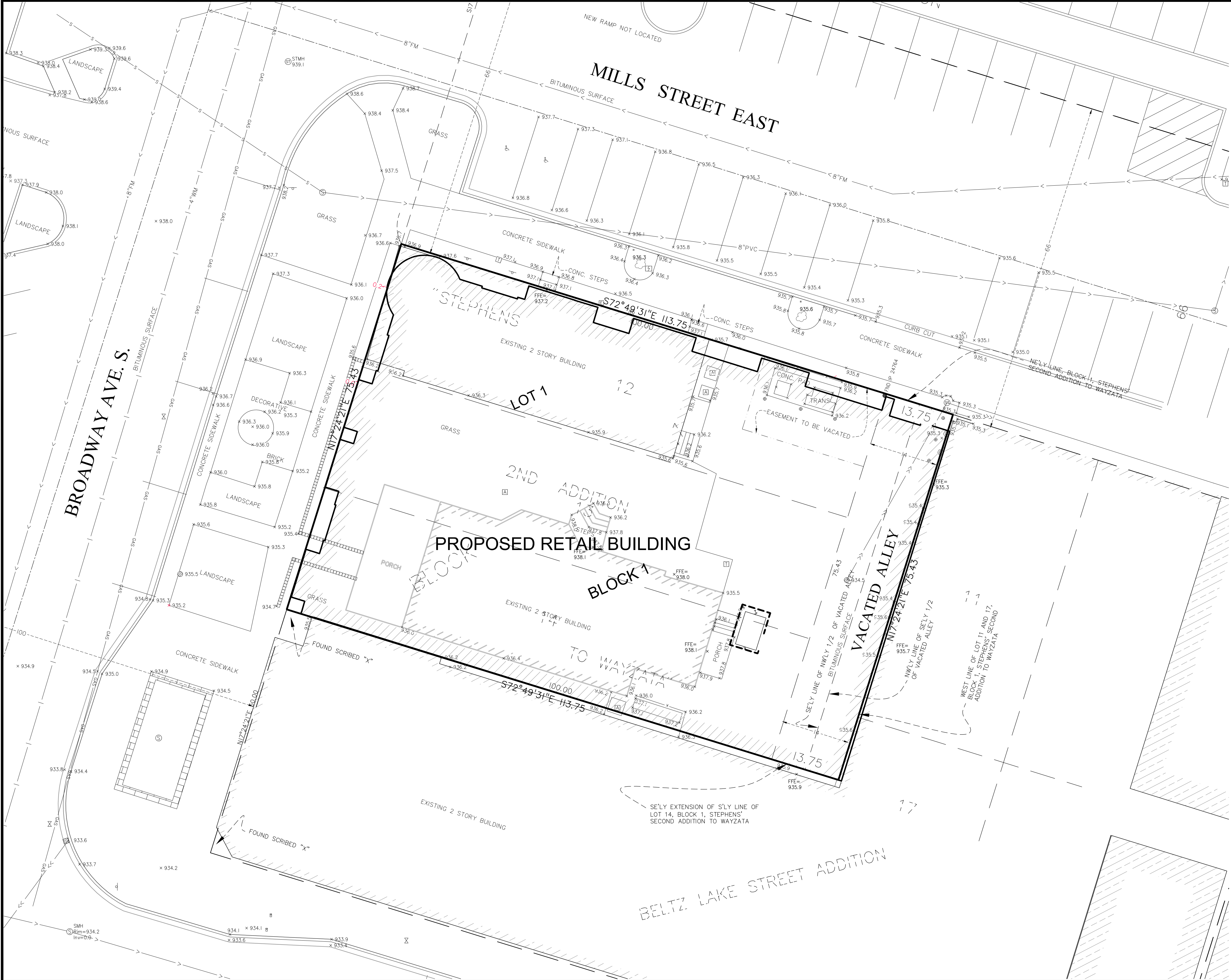
Preliminary Plat Criteria (Section 805.14.E): The Planning Commission shall consider possible adverse effects of the preliminary plat. Its judgment shall be based upon, but not limited to, the following factors:

- A. The proposed subdivision or lot combination shall be consistent with the Wayzata Comprehensive Plan.
- B. Building pads that result from a subdivision or lot combination shall preserve sensitive areas such as lakes, streams, wetlands, wildlife habitat, trees and vegetation, scenic points, historical locations, or similar community assets.
- C. Building pads that result from subdivision or lot combination shall be selected and located with respect to natural topography to minimize filing or grading.
- D. Existing stands of significant trees shall be retained where possible. Building pads that result from a subdivision or lot combination shall be sensitively integrated into existing trees.
- E. The creation of a lot or lots shall not adversely impact the scale, pattern or character of the City, its neighborhoods, or its commercial areas.
- F. The design of a lot, the building pad, and the site layout shall respond to and be reflective of the surrounding lots and neighborhood character.
- G. The lot size that results from a subdivision or lot combination shall not be dissimilar from adjacent lots or lots found in the surrounding neighborhood or commercial area.
- H. The architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of a building proposed on a lot to be divided or combined shall be similar to the characteristics and quality of existing development in the City, a neighborhood or commercial area.
- I. The design, scale and massing of buildings proposed on a subdivided or combined lot shall be subject to the architectural guidelines and criteria for the Downtown Architectural District, Commercial and Institutional Architectural Districts, and Residential Architectural Districts and the Design Review Board/City Council review process outline in Section 9 of the Wayzata Zoning Ordinance.
- J. The proposed lot layout and building pads shall conform with all performance standards contained herein.

- K. The proposed subdivision or lot combination shall not tend to or actually depreciate the values of neighboring properties in the area in which the subdivision or lot combination is proposed.
- L. The proposed subdivision or lot combination shall be accommodated with existing public services, primarily related to transportation and utility systems, and will not overburden the City's service capacity.



PAGE 22 - SEC. 06 City: Wayzata Zip: 55418 County: Hennepin	ALTA/NSPS Land Title Survey PREPARED FOR: MJ Mail Center, LLC	FILE NO. 10105-001 1 1
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SITE ADDRESS

326/332 Broadway Avenue, Wayzata, MN 55391

DESCRIPTION OF SUBJECT PROPERTY

Lots 12, 13, 14, Block 1, Stephens' Second Addition to Wayzata.

And

That part of the alley as dedicated in Block 1, "Stephens' Second Addition to Wayzata" abutting Lots 11, 12, 13, 14 and 17, said Block 1 and lying between the northeasterly line of said block and the southeasterly extension of the southerly line of said Lot 14.

NOTES

This survey does not purport to show all underground utilities. The source of information from plans and markings will be combined with observed evidence of utilities to develop a view of those underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

The contractor shall determine the exact location of any and all existing utilities before commencing work. The contractor shall be fully responsible for any and all damages arising out of his failure to exactly locate and protect all existing utility facilities.

Contact GOPHER STATE ONE CALL at 651-454-0002 for precise onsite location of utilities prior to any excavation.

No Title Commitment was provided or relied upon as to matters of recorded. No easements shown.

The subject property appears to lie within 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.) per the National Flood Insurance Program, Flood Insurance Rate Map Community Panel No. 27053C0339E, dated September 2, 2004 as acquired from the Federal Emergency Management Agency Web Site.

Area Information : Total Area = 8,580 Sq. Ft. - 1.197 Acres

Current zoning and setback information:

Zoning: C-4B (Central Business District)

Building Setbacks: No setbacks

Building Height: 2 stories or 30 feet in height.

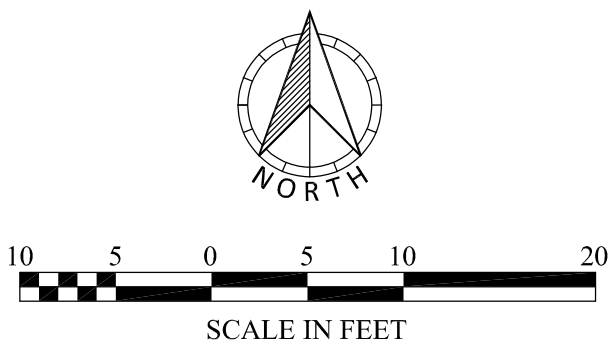
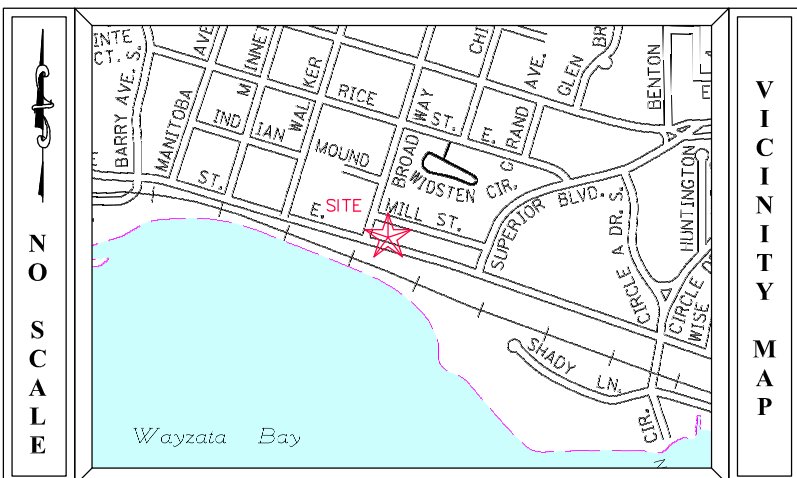
*Zoning and Setback information provided by the Planning Department of the City of Wayzata

Survey coordinate and bearing basis : Assumed

No modifications to this survey or sketch may be performed by any person other than the surveyor signing this certification or persons under his direct supervision. Its reproduction and redistribution without proper consent is prohibited.

Benchmark: Top of top nut of fire hydrant NW quadrant of intersection @ Broadway and Lake Street
Elevation = 937.52 Feet

DEVELOPER	PROJECT MANAGER	LAND SURVEYOR
Jim Beltz	Source Group 2399 Wayzata Blvd. W suite #100 Long Lake, MN 55356 Attn: David Link t. 952-476-8100 e. dlink@sourcegroup.com	Sathre-Bergquist, Inc. 150 Broadway Ave. S. Wayzata, MN 55391 Attn: David Pemberton t. 952-476-6000 e. pemberton@sathre.com



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	— BLDG SETBACK LINE
◁ FLARED END SECTION	⊠ ELECTRIC TRANSFORMER	— 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	— ELC ELECTRIC UNDERGROUND
⊠ LIGHT POLE	⊠ SOIL BORING	— FENCE
⊠ POWER POLE	⊠ TREE CONIFEROUS	— FO 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
LAKE	1	DBP	7/10/2018	UPDATE - NEW BOUNDARY
DRAWN				
DBP				
CHECKED				
DBP				
DATE				
7/10/18				

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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 29th day of August, 2016.

David B. Pemberton, PLS
pemberton@sathre.com

Minnesota License No. 40344

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

TWP.117 - RGE.23 - SEC.01
Project City:
Hennepin County

PRELIMINARY PLAT OF BELTZ MILL STREET ADDITION PREPARED FOR: Jim Beltz	FILE NO. 10105-001
	1
	1

BELTZ MILL STREET ADDITION

R.T. DOC. NO. _____

C.R. DOC. NO. _____

KNOW ALL PERSONS BY THESE PRESENTS: That MJ Mail Center, LLC, a Minnesota limited liability company, fee owner of the following described property situated in the State of Minnesota, County of Hennepin, to wit:

Lots 12, 13, 14, Block 1, "Stephens Second Addition to Wayzata", including the northwesterly half of that part of the vacated alley as dedicated in said plat lying between the northeasterly line of said block and the southeasterly extension of the southerly line of said Lot 14.

And that Beltz Enterprises, LLC, a Minnesota limited liability company, fee owner of the following described property situated in the State of Minnesota, County of Hennepin, to wit:

That part of the southeasterly half of the vacated alley, dedicated in Block 1, "Stephen's Second Addition to Wayzata" abutting Lots 11 and 17, Block 1, and lying between the northeasterly line of said block and the southeasterly extension of the southerly line of said Lot 14.

Has caused the same to be surveyed and platted as BELTZ MILL STREET ADDITION.

In witness whereof said MJ Mail Center, LLC., a Minnesota limited liability company, has caused these presents to be signed by its proper officer this _____ day of _____, 2018 .

_____, President
Jim Beltz

STATE OF MINNESOTA, COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Jim Beltz, President of MJ Mail Center, LLC, a Minnesota limited liability company on behalf of the company.

Notary Public, Hennepin County, Minnesota

Notary Printed Name

My Commission Expires

In witness whereof said Beltz Enterprises, LLC., a Minnesota limited liability company, has caused these presents to be signed by its proper officer this _____ day of _____, 2018 .

_____, President
Jim Beltz

STATE OF MINNESOTA, COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by Jim Beltz, President of Beltz Enterprises, LLC, a Minnesota limited liability company on behalf of the company.

Notary Public, Hennepin County, Minnesota

Notary Printed Name

My Commission Expires

I, David B. Pemberton do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been or will be correctly set within one year; that all water boundaries and wet lands, as defined by Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat, and all public ways are shown and labeled on this plat.

Dated this _____ day of _____, 2018.

David B. Pemberton, Licensed Land Surveyor
Minnesota License No. 40344

STATE OF MINNESOTA, COUNTY OF HENNEPIN

This instrument was acknowledged before me this _____ day of _____, 2018, by David B. Pemberton.

Notary Public, Hennepin County, Minnesota

Notary Printed Name

My Commission Expires

WAYZATA, MINNESOTA

This plat of BELTZ MILL STREET ADDITION was approved and accepted by the City Council of Wayzata, Minnesota at a regular meeting held this _____ day of _____, 2018. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendations, as provided by Minnesota Statutes, Section 505.03, Subdivision 2.

By: _____, Mayor By: _____, City Clerk

RESIDENT AND REAL ESTATE SERVICES
Hennepin County, Minnesota

I hereby certify that taxes payable in _____ and prior years have been paid for land described on this plat. Dated this _____ day of _____, 2018.

Mark V. Chapin, Hennepin County Auditor

By: _____, Deputy

SURVEY DIVISION
Hennepin County, Minnesota

Pursuant to Minnesota Statutes Section 383B.565 (1969), this plat has been approved this _____ day of _____, 2018.

Chris F. Mavis, Hennepin County Surveyor

By: _____

REGISTRAR OF TITLES
Hennepin County, Minnesota

I hereby certify that the within plat of BELTZ MILL STREET ADDITION was filed in this office this _____ day of _____, 2018, at _____ o'clock _____ M.

Martin McCormick, Registrar of Titles

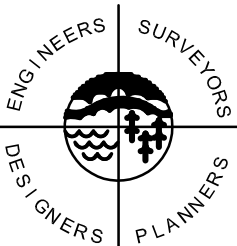
By: _____, Deputy

COUNTY RECORDER
Hennepin County, Minnesota

I hereby certify that the within plat of BELTZ MILL STREET ADDITION was recorded in this office this _____ day of _____, 2018, at _____ o'clock _____ M.

Martin McCormick, County Recorder

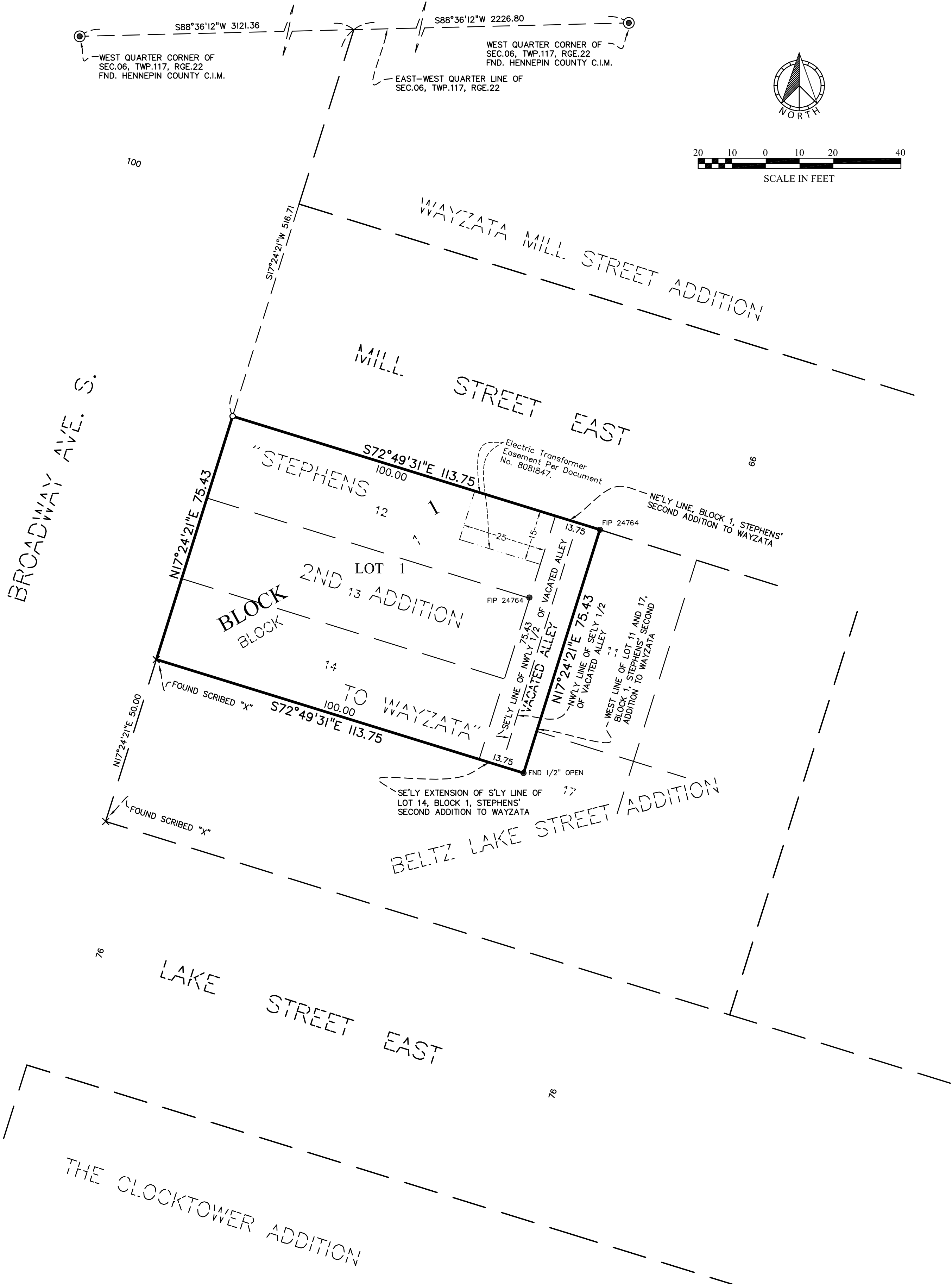
By: _____, Deputy

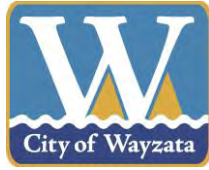


SATHRE-BERGQUIST, INC.

- Denotes a 1/2 inch by 14 inch iron pipe set in the ground and marked by License No. 40344
- Denotes a Found Iron Monument
- ⊙ Denotes a Found Cast-Iron-Monument

The basis for the bearing system is the East-West Quarter line of Section 6, Township 117, Range 22 which is assumed to bear South 88 degrees 36 minutes 12 seconds West





WAYZATA PLANNING COMMISSION

July 30, 2018

REPORT AND RECOMMENDATION OF APPROVAL OF PRELIMINARY AND FINAL PLAT SUBDIVISION AND CONDITIONAL USE PERMIT AT 326 AND 332 BROADWAY AVE S

SUMMARY OF RECOMMENDATIONS

1. Approval of Preliminary and Final Plat Subdivision *with conditions*
 2. Approval of Conditional Use Permit *with conditions*
-

REPORT

Section 1. BACKGROUND

- 1.1 Proposed Change to Previously Approved PUD. Beltz Enterprises, LLC, and the property owner, MJ Mail Center, LLC (the "Applicant") have submitted a development application (the "Application") for approval of a preliminary and final plat subdivision and conditional use permit at 326 and 332 Broadway Ave S (the "Property").
- 1.2 Application Requests. As part of the Application, the Applicant is requesting approval of the following:
 - A. Preliminary and Final Plat Subdivision: The Project would combine the two existing lots comprising the Property and the alley located between the Property and the 701 Lake St E property into a new single lot (the "Preliminary and Final Plat" or "Subdivision").
 - B. Conditional Use Permit for Joint Parking Facilities: The zoning ordinance requires a conditional use permit for joint parking facilities, where the required off-street parking facilities for one or more uses is provided on one or more sites and the total number of spaces provided are less than the sum of the total required for each use. The applicant has requested a conditional use permit for joint parking facilities (the "Joint Parking Facilities CUP")
 - C. Conditional Use Permit: The City Council adopted Resolution No. 47-2016

on November 15, 2016 which adopted a Fee in Lieu of Parking Policy (the "FILOP Policy"). The FILOP Policy states that any new use on a property that cannot meet the applicable on-site minimum parking requirements of City Code may be permitted if: (1) a fee-in-lieu of parking is paid to the City; and (2) a conditional use permit is approved by the City. The Applicant is requesting a Conditional Use Permit under the FILOP Policy (the "Parking CUP").

- 1.3 Property. The address, property identification number and owner of the parcel comprising the subject property (the "Property") are:

326 Broadway Ave S	06-117-22-42-0016	MJ Mail Center, LLC
332 Broadway Ave S	06-117-22-42-0017	MJ Mail Center, LLC

- 1.4 Land Use Designations. The Property falls within the following land use districts:

Current zoning:	PUD District
Comp Plan designation:	Central Business District
Overlay districts:	Shoreland
Design district	Lake Street District

- 1.5 Notice and Public Hearing. Notice of a public hearing on the Preliminary and Final Plat Subdivision and Conditional Use Permit components of the Application was published in the *Wayzata Sun Sailor* on July 19, 2018, and mailed to all property owners located within 350 feet of the Property on July 19, 2018. The required public hearing was held at the July 30, 2018 Planning Commission meeting.

Section 2. STANDARDS

- 2.1 Subdivision / Preliminary and Final Plat. Review and approval of subdivisions of property, combinations of two or more lots, and preliminary/final plats are governed by the City's Subdivision Ordinance, Ch. 805 of City Code. The City may agree to review the preliminary and final plat simultaneously. Sec. 805.15.A.

In reviewing such requests, the Planning Commission shall consider possible adverse effects of the preliminary plat. Its judgment shall be based upon, but not limited to, the following factors found in Section 805.14.E:

- A. The proposed subdivision or lot combination shall be consistent with the Wayzata Comprehensive Plan.
- B. Building pads that result from a subdivision or lot combination shall preserve sensitive areas such as lakes, streams, wetlands, wildlife habitat, trees and vegetation, scenic points, historical locations, or similar

community assets.

- C. Building pads that result from subdivision or lot combination shall be selected and located with respect to natural topography to minimize filling or grading.
- D. Existing stands of significant trees shall be retained where possible. Building pads that result from a subdivision or lot combination shall be sensitively integrated into existing trees.
- E. The creation of a lot or lots shall not adversely impact the scale, pattern or character of the City, its neighborhoods, or its commercial areas.
- F. The design of a lot, the building pad, and the site layout shall respond to and be reflective of the surrounding lots and neighborhood character.
- G. The lot size that results from a subdivision or lot combination shall not be dissimilar from adjacent lots or lots found in the surrounding neighborhood or commercial area.
- H. The architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of a building proposed on a lot to be divided or combined shall be similar to the characteristics and quality of existing development in the City, a neighborhood or commercial area.
- I. The design, scale and massing of buildings proposed on a subdivided or combined lot shall be subject to the architectural guidelines and criteria for the Downtown Architectural District, Commercial and Institutional Architectural Districts, and Residential Architectural Districts and the Design Review Board/City Council review process outline in Section 9 of the Wayzata Zoning Ordinance.
- J. The proposed lot layout and building pads shall conform with all performance standards contained herein.
- K. The proposed subdivision or lot combination shall not tend to or actually depreciate the values of neighboring properties in the area in which the subdivision or lot combination is proposed.
- L. The proposed subdivision or lot combination shall be accommodated with existing public services, primarily related to transportation and utility systems, and will not overburden the City's service capacity.

- 2.2 FILOP Policy: The FILOP Policy states that any new use on a property that cannot meet the applicable on-site minimum parking requirements of City Code may be permitted if: (1) a fee-in-lieu of parking is paid to the City; and (2) a conditional use permit is approved by the City based upon the requirements of Section 801.04 of the City Code and the following additional criteria:
- A. The Project is located within the “Mobility District” as established by City Council.
 - B. The City Council finds that the Project would enhance the accessibility, functionality, density and vitality of the Downtown Business District.
 - C. The parking impact of the Project does not exceed the available capacity of the City’s parking facilities.
- 2.3 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.

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 Subdivision / Preliminary and Final Plat. The Preliminary and Final Plat Subdivision meets the standards of the City's Subdivision Ordinance, Ch. 805 of City Code:

- A. The Subdivision is consistent with the Wayzata Comprehensive Plan.
- B. The building pad that results from the Subdivision not impact sensitive areas on the Property.
- C. The building pad that results from the Subdivision have been selected and located with respect to natural topography to minimize filing or grading.
- D. There are no significant trees on the Property. Therefore, the Project would not adversely impact existing stands of significant trees.
- E. The building pad that results from the Subdivision is sensitively integrated into existing trees on the right of way.
- F. The Subdivision does not adversely impact the scale, pattern or character of the City, its neighborhoods, or its commercial areas.
- G. The design of the lot, the building pad, and the site layout responds to and is reflective of the surrounding lots and neighborhood character.
- H. The lot size resulting from the Subdivision is not dissimilar from adjacent lots or lots found in downtown and in the immediate area.
- I. The architectural appearance, scale, mass, construction materials, proportion and scale of roof line and functional plan of the building proposed is similar to the characteristics and quality of existing development in the City and surrounding neighborhood. The design of the Project is similar to the existing building at 701 Lake St E.
- J. The building proposed for the Subdivision meets the applicable Design District and the Design Review Board/City Council review criteria and process outlined in Section 9 of the Wayzata Zoning Ordinance.
- K. The proposed lot layout and building pad conforms with all performance standards contained in the Subdivision Ordinance.
- L. The Subdivision will not tend to or actually depreciate the values of neighboring properties in the area in which it is proposed.
- M. The Subdivision will be accommodated with existing public services, including those related to transportation and utility systems, and will not overburden the City's service capacity.

3.2 FILOP Policy. The Project meets the standards in the FILOP Policy:

- A. The Project is located within the Mobility District as established by the City Council.
- B. The Project would enhance the accessibility, functionality, density and vitality of the Downtown Business District. The Project would increase the street vitality along Mill Street and Broadway Ave by providing retail, service commercial, or restaurant uses at street level, and would provide an improved building design that complements other buildings in downtown.
- C. The Mill Street parking ramp added approximately 200 additional parking stalls immediately adjacent to the Property. The parking stalls required by the City Code for the Project can be accommodated by these additional parking stalls.

3.3 Conditional Use Permit. The Project meets the conditional use permit standards of City Code Section 801.04.2.F:

- A. The Project is compatible with the specific policies and provisions of the official City Comprehensive Plan.
- B. The Project is compatible with present and future uses of the area.
- C. The Project conforms with all performance standards contained in the Zoning Ordinance.
- D. The Project would not have a negative effect upon the surrounding area.
- E. The Project would not have a negative impact upon surrounding property values.
- F. Traffic generated by the Project can be accommodated within the existing transportation system and street network.
- G. The Project would not impact existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

Section 4. RECOMMENDATION

Based on the Findings of this Report, the Planning Commission recommends APPROVAL of the Preliminary and Final Plat Subdivision, Join Parking Facilities CUP, and Parking CUP, subject to the following conditions:

- A. The Applicant must pay the fee in lieu of parking for the number of parking stalls required by the Zoning Ordinance for the Project, and must enter into an agreement with the City that meets the requirements of the FILOP Policy. The agreement must also state that the Applicant must comply with all current and future parking requirements for uses associated with the Project, and any change in use for which the Zoning Ordinance requires additional parking will require an amendment to the agreement.
- B. The Applicant must record the Final Plat with the appropriate Hennepin County officials within one hundred twenty (120) days in conformance with Section 805.15.E.7 of the Subdivision Ordinance, and provide a recorded copy to the City.
- C. All expenses of the City of Wayzata, including consultant, expert, legal, and planning fees incurred must be fully reimbursed by the Applicant.

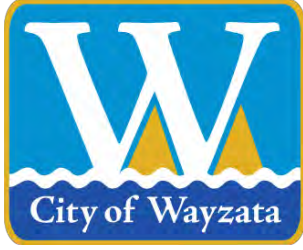
Adopted by the Wayzata Planning Commission this 30th day of July 2018.

Voting For Approval Recommendation:

Voting Against Approval Recommendation:

Abstaining:

Absent:



City of Wayzata Planning Commission Agenda Report

MEETING DATE: July 30, 2018	AGENDA ITEM: 6a
TITLE: Amendment to the Development Agreement for Waycliffe Second Addition	
PROJECT NAME: Waycliffe Second Addition	
PREPARED BY: Jeff Thomson, Director of Planning and Building	

BACKGROUND:

The Waycliffe twin home development on Gleason Lake was developed in two phases. The first phase, Waycliffe First Addition was approved by the City in October 1993. The second phase, Waycliffe Second addition, was approved by the City in September 1995.



The two phases of the Waycliffe development are subject to separate development agreements with the City. The development agreements outline similar requirements and development standards. However, the Waycliffe Second Addition agreement has more specific language about any changes to the individual twin homes within the development. The development agreement states:

Any further development, construction of new improvements, and additions or alterations to existing structures, landscaping or improvements not expressly permitted by this contract or other changes which, in the opinion of City Staff, differ from the plans and what was approved pursuant to this contract shall require and be subject to the processing of a new PUD application. This includes material changes in size or location of impervious surfaces, any alterations to structures (decks or porches) visible from the outside, and the removal of any landscaping.

The development agreement is strict regarding any changes to the exterior of the twin homes. Since the development is more than 20 years old, the City has received numerous requests from individual homeowners to replace existing decks. Many of the homeowners state that the original decks have a small footprint, and so they would like to make the decks larger when they rebuild them. The architectural committee for the homeowners association has approved the deck expansions. However, the development agreement requires an amendment to the PUD for any alterations to the structures, including decks. A PUD amendment is a significant undertaking for individual homeowners. In the past several years, the City Council has approved individual waivers for deck expansions. However, this requires each homeowner to submit the decks plans to the City for City Council review.

City staff recommends an amendment to the development agreement to allow greater flexibility for modifications and additions, and to regulate the development similar to other residential PUDs in the City. City staff has drafted the following amendment to the development agreement:

Any further development, construction of new improvements, and additions or alterations to existing structures, landscaping or improvements not expressly permitted by this contract or other changes which, in the opinion of City Staff, differ from the plans and what was approved pursuant to this contract shall require and be subject to the processing of a new PUD application.

This includes material changes in the size or location of impervious surfaces and, any alterations to structures (decks or porches) visible from the outside, must meet the setback requirements of the R-4 Zoning District and the requirements of the Shoreland Overlay District. For lots that directly abut land owned by the homeowners association, the rear yard setback will be measured from the association property line and not the individual property line owned by the homeowner. and the removal of any landscaping.

PLANNING COMMISSION ACTION:

The Planning Commission should review the development agreement and provide feedback and recommendation on an amendment to the development agreement. Based on the Planning Commission's recommendation, City staff will prepare an amended development agreement for review by the City Council on August 9th.

ATTACHMENTS:

1. Existing Development Agreement

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**DEVELOPMENT CONTRACT FOR SUBDIVISION, PLANNED UNIT
DEVELOPMENT CONDITIONAL USE PERMIT, AND SHORELAND
IMPACT PLAN/CONDITIONAL USE PERMIT
WAYCLIFFE TOWNHOMES (SECOND ADDITION)**

AGREEMENT dated September 20, 1995, by and between the CITY OF WAYZATA, a Minnesota municipal corporation ("City"), and R.E.C., INC., a Minnesota for profit corporation ("Developer").

1. Request for Plan Approval. The Developer has asked the City to approve the following:

- A. Preliminary and Final Plat - Waycliffe 2nd Addition
- B. Planned Unit Development Conditional Use Permit, site, and building plan approval.
- C. Shoreland Impact Plan/Conditional Use Permit approval;

for the property legally described on the attached Exhibit A (the "Property").

2. Development Plans. The Property shall be developed in accordance with Plans A through I listed below (the "Plans") which shall, among other things, satisfy the requirements of the Zoning and Subdivision Ordinances of the City. The Property, developed in accordance with the Plans and this Contract, shall be referred to as the "Development Project." Reduced copies of these plans are attached to this Contract with large scale copies of the plans, which are or will be on file with the City, and are incorporated into this Contract by reference. The plans, as specified below, may be amended or prepared, subject to City approval, after entering the Contract, but shall be filed by Developer with the City (and recorded against the title pursuant to Section 16.F. hereof) and must be approved by the City before issuance of building permits. If, during the course or after completion of the Development Project, the City determines that any of the improvements shown on Plans B, C, E or G are not adequate to serve the Development Project, or do not satisfy the performance standards of the City or other governmental agency, then the City may require modifications in such plans and the improvements shown thereon to correct such deficiencies, and the City shall not be estopped from making such requirements notwithstanding its approval of the original plans. If the plans vary from the written terms of this Contract, the written terms shall control. The plans are:

- Plan A: Plat
- Plan B: Site and Utility Plan
- Plan C: Grading/Stormwater Plan
- Plan D: Landscape Plan
- Plan E: Erosion Control Plan
- Plan F: Plans for Private Improvements
- Plan G: Plans for Public Improvements

Plan H: Preliminary Building Plans and Elevations
Plan I: Tree Preservation Plan

3. Effect of Development Approval. Notwithstanding any provision of this Contract to the contrary, to the full extent permitted by State laws, any further development or construction of new improvements and any additions or alterations to existing improvements not expressly approved under this Contract will require additional approvals from the City and full compliance with any amendments to the City's Comprehensive Plan, zoning, platting, and dedication requirements enacted after the date of this Contract.

4. Conditions of Approval. The following provisions in this paragraph state the conditions which must be satisfied by the Developer to obtain the City approvals described in Paragraph 1 herein and to remain in compliance with this Contract.

A. Development Contract. The City hereby approves the Preliminary and Final Plat, the Shoreline Impact Plan/Conditional Use Permit, and Planned Unit Development Conditional Use Permit on the condition that the Developer enter into and comply with this Contract and City Ordinances and resolutions.

B. Subdivision.

(1) Recording. The final plat for subdivision of the Property in accordance with Plan A must be approved by the City staff and recorded with Hennepin County prior to the issuance of any building permits for the Property. Included within the area subdivided will be that portion of Waycliffe 1st Addition which is included within the proposed Lot 1, Block 1, Waycliffe 2nd Addition.

(2) Easements/Land Dedication.

- a. The easements and land dedications indicated on the Final Plat for the subdivision of the Property in accordance with Plan A shall be provided by the Developer at no cost to the City.
- b. An easement for access shall be granted to the City over the portions of Outlot A shown on Plan B to be utilized for driveways, private streets and parking areas, and cross easements for access shall also be granted to and from the Waycliffe 1st Addition townhouse project and this Development Project, providing mutual access rights across all driveways and private streets.

- c. A flowage easement for all areas adjoining Gleason Lake up to an elevation of 947.0 feet shall be granted to the City and Minnehaha Creek Watershed District ("MCWD").
 - d. A floodplain easement for all areas adjoining Gleason Lake up to an elevation of 947 feet shall be granted to the City and MCWD.
- (3) Park Dedication. The City shall require payment of park dedication fee in the amount of \$45,500.00, prior to the issuance by the City of any building permits for the Property.

C. Planned Unit Development Conditional Use Permit Approval.

- (1) The minimum front yard setback from Waycliffe Drive and Hollybrook Road shall be thirty feet. The minimum side yard setback from adjacent property for only Lots 1 and 2, Block 2, Waycliffe 2nd Addition shall be seven feet. In all other respects, all other applicable setback requirements shall be satisfied without exception or modification.
- (2) No on-street parking shall be permitted on the Development Project's private streets. The only parking permitted anywhere on Outlot A shall be in the 21 parking spaces shown on Plan B. Documents for the homeowners association shall reflect this restriction.
- (3) During the first 24 months after planting, Developer shall be responsible for maintenance and replacement, as necessary, of all trees, grass and shrubs on the median of Waycliffe Drive. Thereafter, the homeowners association shall be responsible for such maintenance and replacement.
- (4) Signage for the Development Project shall be in accordance with existing signage for Waycliffe 1st Addition and with City Ordinances and must receive approval from the City prior to any modification.
- (5) The Declaration, Bylaws, Articles of Incorporation and any rules proposed by the Developer to organize and govern the homeowners association for the Development Project must be approved by the City staff, and shall incorporate all the provisions of this Contract. All requirements for maintenance and operation of improvements, landscaping operation, utilities etc. located within Outlot A or located outside of Outlot A but serving the Development Project exclusively shall become the responsibility of the homeowners' association when title to Outlot A is transferred to the homeowners' association, but this

provision shall not transfer, release, or limit the Developer's obligations under this Contract.

- (6) No more than one-half of the buildings located within the Shoreland District Tier #1 (Lots 1-20, Block 1), as shown on Plan B shall be two story buildings, with the other buildings limited to one story structures with an additional, optional basement level. No more than one-half of the buildings located on the remainder of the Development Project shall be two story buildings, with the other buildings being one story structures with an additional, optional basement level. Two story buildings may have an additional basement level.
- (7) The design, materials and color of all buildings in the Development Project shall be similar to those in Waycliffe 1st Addition.
- (8) The minimum basement floor elevation for all structures located on Lots in Blocks 2, 3, 4 and 5 of Waycliffe 2nd Addition shall be 968.5 M.S.L., and the minimum elevation for all day-lite windows or other openings into such structures shall be 970 M.S.L.
- (9) The City may elect to order a traffic study analyzing the intersection of Highway 101 and Hollybrook Road, with the cost thereof to be assessed to the benefitted properties. Developer agrees to petition for such study, at the request of the City, and to pay its share (as determined by the City) of any assessments required to fund such study and hereby waives its rights to object to any such assessment. Developer agrees to execute additional documentation as the City may require to document such payment obligation and waiver of objection to such assessment. Developer's obligation to pay its share of the costs of such traffic study shall survive the sale of units in the Development Project by Developer. Developer will include a provision in all purchase agreements for the sale of units in the Development Project notifying prospective purchasers that they may be responsible for future assessments required to fund road and traffic improvements ordered as a result of such traffic study.
- (10) Written approval by the Minnehaha Creek Watershed District and the Department of Natural Resources of the Development Project and all plans within their jurisdiction must be obtained and evidence thereof must be provided to the City before issuance of a building permit.

- (11) Final Plan stage Planned Unit Development approval must be obtained from the City staff before a building permit will be issued.
- (12) The final utility plan is subject to approval of the plans by the City Engineer and the costs of installing such utilities shall be paid by the Developer.
- (13) Any further development, construction of new improvements, and additions or alterations to existing structures, landscaping or improvements not expressly permitted by this Contract, or other changes which, in the opinion of City Staff, differ from the Plans and what was approved pursuant to this Contract shall require and be subject to the processing of a new PUD application and receipt of appropriate City approvals. This includes, by way of example only, material changes in the size or location of impervious surfaces, any alterations to structures (decks or porches) visible from the outside, and the removal of any landscaping. No assurance of such approvals are intended or implied at this time by the City.
- (14) All use, development, construction and operation requirements and standards of the PUD District, as specified in Section 801.33 of the Zoning Ordinance, shall apply to and regulate the Property in all respects.
- (15) The existing two story house and garage on the Property shall be demolished and removed, and any wells on the Property shall be registered and sealed in accordance with applicable law.
- (16) All trees identified in Plan I for preservation (the "Preserved Trees"), shall remain on the site, and Developer shall take the actions required by such plan to keep such trees alive. No tree protection fences, once installed, shall be removed until the City Forester has inspected the site and any Preserved Trees, and has approved removal of such protection fences. All Preserved Trees shall be maintained by the fee owner of the Property on which such trees are located, and, if a Preserved Tree is removed or damaged, it shall be replaced by such owner with a tree which is the same species and, to the extent possible, of comparable size or caliper inches, except if the Preserved Tree dies due to factors beyond the control of such owner. In addition, a penalty of \$200.00 per caliper inch of the Preserved Tree that is removed or damaged shall be paid by any owner who personally, or by the owner's agent,

employee or subcontractor, removes or damages any Preserved Tree as determined by the City Forester. Except for dead or diseased limbs, no pruning or trimming of Preserved Trees may be done without prior written approval from City Forester .

- (17) The Development Project shall be constructed and operated so as to satisfy the requirements of Ordinance Subsections 801.91.17.G., H., I. and J. The homeowners association documents and Declaration shall incorporate the requirements of Subsections 801.91.17.G., H., I. and J. in a form and according to terms acceptable to the City and shall include a restriction allowing no more than 18 boat docking spaces on Gleason Lake. Such 18 docking spaces shall be in addition to the 12 docking spaces permitted for the Waycliffe 1st Addition townhouse project.

D. Shoreline Impact Plan/Conditional Use Permit Approval. The Plans, together with the requirements stated in this Contract, shall constitute the Shoreline Impact Plan required by Ordinance 801.91.19, and such Plan is approved by the City, subject to Developer's performance of this Contract.

5. Public Improvements - Developer. The Developer shall install and pay for the following:

A. Developer Improvements.

- (1) Water service.
- (2) Sanitary sewer service.
- (3) All storm water drainage facilities, including the two storm water drainage ponds.

All public improvements installed by the Developer shall be consistent with Plan G and requirements of the City Engineer.

- B. Water and Sewer Charges. The Developer shall pay a sanitary sewer and water connection charge based on the Metropolitan Waste Control Commission (MWCC) SAC Units as determined by the MWCC. The Developer shall be responsible for any increase in the fees due at the time of paying the fees to the City and the MKCC, and the fees may change to reflect the City and MWCC rates in effect at the time the building permit is issued and the fee paid. The fees are calculated as follows, based upon existing rates:

To City:

Water \$1,500.00 Per Sewer Availability Charge Unit
Sanitary

Sewer \$350.00 Per Sewer Availability Charge Unit
To MWCC:

SAC Charge \$850.00 Per Sewer Availability Charge Unit

The number of sewer availability charge units in the Project shall be determined pursuant to regulations and procedures of the MWCC.

C. The Developer, and all succeeding owners of any lot or outlot on the Property, shall be liable for the cost of maintaining the Public Improvements installed by the Developer, including but not limited to all utility lines that serve the Development Project exclusively, whether or not located on the Property, from the point in the public right-of-way where such utility lines connect to the main utility lines (serving the Development Project and other properties).

6. Public Improvements - City. Subject to successful performance by Developer of its obligations under this Contract, the City shall install and pay for the following improvements: NONE

7. Private Improvements - Developer. The Developer shall install, in accordance with Plan F and City Ordinances and standards and pay for the following:

A. General.

- (1) Site grading.
- (2) Surveying and staking.
- (3) Setting lot and block monuments.
- (4) Gas, electric and phone utilities.
- (5) Construction of driveways, parking areas, private roadways.

B. Driveway and Parking Development. The driveway, private road and parking spaces as shown on Plan B, are herein incorporated into this Contract and the Developer shall install these improvements at its expense.

C. Landscaping. The site shall be landscaped in accordance with Plan D and specifications on file with the City. The Developer shall provide sufficient security and performance guarantees, as described in Section 9, to assure compliance and implementation of said landscape improvements. All landscaping for the common areas shall be installed no later than November 30, 1996. Weather permitting, all landscaping for each building shall be installed prior to the issuance of a final certificate of occupancy for each unit in the building.

D. Erosion Control. After the site is rough graded, but before any utility or building construction is commenced, erosion control measures provided by Plan E shall be immediately implemented, inspected and approved by the City. The City or Minnehaha Creek Watershed District may impose additional erosion control requirements if they would be beneficial. All areas disturbed by the excavation and backfilling operations, with the exception of those areas to be covered by an impervious surface or built upon, shall be reseeded (weather permitting) immediately after the completion of the work in that area. Except as otherwise provided in the erosion control plan, seed shall be rye grass or other fast growing seed suitable to the existing soil to provide a temporary ground cover as rapidly as possible. All seeded areas shall be mulched and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. If the development does not comply with the erosion control plan and schedule or supplementary instructions received from the City or the Minnehaha Creek Watershed District, the City may cause its agents to enter the Property and take appropriate erosion control actions, at Developer's expense. Except in emergency situations, the City shall notify Developer in advance of taking any such action and shall provide the Developer a reasonable opportunity to cure its default, not to exceed thirty (30) days. If the Developer does not reimburse the City for any cost the City incurred for such work within thirty (30) days, the City may draw down the letter of credit to pay any costs. No development will be allowed and no building or occupancy permits will be issued unless the development is in full compliance with the erosion control requirements.

E. Clean Up. Prior to issuance of any certificate of occupancy, the Developer shall remove from the Property any excess soil, earth or debris resulting from construction work by the Developer directed by the City.

F. Hazardous Waste. Developer agrees that prior to or during site redevelopment work, it shall completely remove all hazardous waste, and contaminated soil and ground water from the Property to the extent required by the Minnesota Pollution Control Agency and shall furnish the City with documented approval by such Agency of project completion prior to the issuance of any certificate of occupancy.

8. Warranty. The Developer warrants all work required to be performed by it pursuant to Sections 5 and 7 herein against poor material and faulty workmanship for a period of one (1) year after substantial completion is certified by the Developer's engineer. Any repairs or replacements shall be warranted for twelve (12) months from the time of construction or installation. All trees, grass, sod or ornamentals shall be warranted to be alive, of good quality, and disease free for twenty-four (24) months after planting, and Developer shall replace any Preserved Trees that become damaged or die within twenty-four (24) months of when a building permit is issued for the particular lot containing such Preserved Tree. Developer further warrants that no changes in the structure or form of the

improvements to the Property shown on the Plans shall be made unless this Contract is amended by both parties.

9. **Security.** The Developer shall furnish the City with an irrevocable letter of credit or payment and performance bond for \$ 305,261 (125 percent of estimated costs) due at the time of issuance of the building permit. The amount of security shall include, but not be limited to, the costs, as estimated by City staff, of all public and private improvements listed under Sections 5 and 7. The amount of security shall be subject to approval by the City Manager at the time of issuance of the building permit and will be adjusted to reflect project costs at that time. The bank and form of the letter of credit or payment and performance bond shall be subject to the approval of the City Manager. The letter of credit or payment and performance bond shall be in force until all objectives under this contract have been satisfied, provided however, the letter of credit or payment and performance bond may be for a one year term provided it is automatically renewable for successive one year periods from the present or any future expiration dates, unless sixty (60) days prior to an expiration date, the bank notifies the City that it elects not to renew for an additional period. The letter of credit or payment and performance bond shall secure compliance with the terms of this Contract and all financial obligations of the Developer under it. The City may draw down the letter of credit or payment and performance bond, with five (5) business days notice, for any violation of the terms of this Contract, or to reimburse itself for costs incurred in performing obligations Developer has defaulted on, or to pay outstanding, past due costs Developer has incurred under this Contract, provided however, that the City shall not call such letter or other security, if within such notice period, Developer commences and diligently pursues to completion such cure in a manner satisfactory to the City. The City shall not call the letter of credit or payment and performance bond to pay past due costs incurred by the Developer under this Contract if Developer posts adequate additional security and diligently contests the claims represented by such past due costs. With City approval, the letter of credit or payment and performance bond may be reduced from time to time as obligations of Developer under this Contract secured by such letter of credit or payment and performance bond are satisfied, provided that the public or private improvements completed have received final approval from the City. The amount of such reduction shall equal the lesser of the cost or value of the obligation satisfied, provided, however, that the remaining amount after any such reductions shall be sufficient to fund the private and public improvements yet to be completed by the Developer. If a contractor of the Developer provides a payment and performance bond for 125% of the estimated cost of the public improvements, which said bond names the City as an obligee and otherwise conforms to the bond requirements set forth herein and said bond is approved by the City Manager, then security required from Developer under this Section shall be reduced by an amount corresponding with the estimated amount of the public improvements.

10. License. The Developer hereby grants the City, its agents, employees, officers and contractors a license to enter the Property to perform all necessary work and/or inspections deemed appropriate by the City, provided that the City shall take no action on the Property to cure Developer's default without first providing the notice and cure rights provided by Section 14 hereof. The license shall expire after all the public improvements required by the Development Contract have been inspected and accepted by the city.

11. Snow Removal. The Developer shall be responsible for the plowing and removal of snow from the parking areas, driveways, private roads and sidewalks within the Property and all associated costs. Snow piles shall not be allowed to occupy parking spaces, in order to ensure that the required number of spaces are available at all times during the year. Excess snow will be promptly removed from the Property or stored in locations on the Property previously approved by City staff so that snow or snow piles do not constitute an obstruction to emergency service vehicles. "Promptly" shall mean no later than twenty-four (24) hours after the end of the last snow fall.

12. Construction Deadline.

- A. The Developer shall begin actual construction of the improvements shown on the Plans according to plans approved by the City, on or before six months from the date that the Final Plan Stage Planned Unit Development approval is issued. To satisfy this requirement, the Developer must have obtained a building permit and commenced construction of the public improvements.
- B. The Developer shall complete construction of the public and private improvements specified in Paragraphs 5 and 7 hereof no later than thirteen months from the date that Final Plan State Planned Unit Development approval is issued .
- C. If the Developer fails for any reason to satisfy one or more of the deadlines provided for by this Section, then such failure shall constitute an "Event of Default" hereunder, and, in addition to any other remedies provided for in this Development Contract, the City may cancel the Planned Unit Development Conditional Use Permit granted pursuant to this Development Contract. Neither party expects nor shall be entitled to any extensions or delays in the deadlines stipulated by this Section, other than those granted strictly in accordance with the terms hereof.

13. Responsibility for Costs.

- A. Except as otherwise specified herein, the Developer shall pay all costs incurred by it or the City in conjunction with the development itself, including but not limited to Minnehaha Creek Watershed District charges, legal, planning, engineering and inspection expenses incurred in connection with approval and acceptance of the development, the preparation of this Contract and all costs and expenses incurred by the City in monitoring and inspecting the progress of the project.
- B. The Developer shall hold the City and its officers, employees and agents harmless from claims made by itself and third parties for damages sustained or costs incurred resulting from development approval, construction and operation, except for such damages or costs resulting from the gross negligence, intentional misconduct or intentional violation of this Contract by the City. Except as limited by the preceding sentence, the Developer shall indemnify the City and its officers and employees for all costs, damages or expenses which the City may pay or incur in consequence of such claims, including attorney and other consulting fees.
- C. The Developer shall reimburse the City for reasonable costs incurred in the enforcement of this Contract, including engineering, building official, planning and attorney's fees.
- D. The Developer shall pay in full all bills submitted to it by the City for obligations properly incurred under this Contract within thirty (30) days after receipt. If the bills are not paid on time, the City may halt all development work and construction until the bills are paid in full, and may draw on the letter of credit or other collateral to discharge such obligations. Bills not paid within thirty (30) days shall accrue interest at the rate of eight (8) percent per year.

14. Events of Default.

A. Events of Default Defined. The following shall be "Events of Default" under this Contract:

- (1) Failure by the Developer to pay when due amounts required to be paid under any provision of this Contract.
- (2) Failure by the Developer to observe and substantially perform any covenant, condition, obligations on its part to be observed or performed hereunder.

B. Remedies of Default. Whenever any Event of Default occurs and the Developer fails to cure such default within (i) five (5) days after notice of a monetary default by the City; or (ii) thirty (30) days after notice by the City of a non-monetary default; or (iii) in the case of an emergency, such shorter period of time as may be reasonable under all of the circumstances, then the City may, in addition to any other remedies or rights available to the City at law or equity and those specifically given the City under this Contract or its ordinances, take any one or more of the following actions:

- (1) Perform or hire a third party to perform for the account of the Developer any obligation of the Developer. The Developer shall promptly reimburse the City for any expense incurred by the City. This Contract is a license for the City to act, and it shall not be necessary for the City to seek a Court order for permission to enter the Property or act in accordance with this Contract. When the City does any work, the City may, in addition to its other remedies, assess the cost in whole or in part against the Property and the Property shall be deemed to have benefitted from the work in the amount expended by the City to perform such work.
- (2) Withhold approval of any permit with respect to the Property and plat, including building permits for the Property.
- (3) Draw on the letter of credit, or payment and performance bond deposited with the City to pay for the cure of the default.
- (4) Require the Developer to discontinue work on the Property until such time as the Event of Default has been cured.
- (5) Assess against the Property any costs incurred by the City and not theretofore reimbursed by the Developer and the Property shall be deemed to have benefitted in the amount and to the extent of such costs.
- (6) Cancel and terminate any conditional use and the Planned Unit Development Conditional Use Permit granted to the Developer pursuant to this Contract.

15. Conformance with Laws. The Developer shall comply with the terms of this Contract and all local, state, and federal laws and regulations applicable to the development and Property.

The Developer represents to the City that to the best of its knowledge that the development is not of "metropolitan significance,, and that an environmental impact statement is not required. If the City or another governmental entity or agency determines that such a review is needed,

however, the Developer shall prepare it in compliance with legal requirements so issued from said agency. The Developer shall reimburse the City for all expenses, including staff time and attorney's fees, that the City necessarily incurs in assisting in the preparation of the review.

16. Miscellaneous.

- A. The Developer represents to the City that the development complies with all county, metropolitan, state and federal laws and regulations, and that Developer has no knowledge of any violations by the development or Developer of City Subdivision Ordinances, City Zoning Ordinances, and environmental regulations. If the City determines that the development does not comply, the City may, at its option, refuse to allow construction or preliminary work in the development until the Developer does comply. upon the City's demand, the Developer shall cease work until there is compliance.
- B. Only the Developer shall have recourse against the City under this Contract.
- C. If any portion, section, sub-section, sentence, clause, paragraph, or phrase of this Contract is for any reason held invalid, such decision shall not affect the validity of the remaining portions of this Contract.
- D. If building permits are issued prior to the completion and acceptance of public improvements, the Developer assumes all liability and costs resulting from delays in completion of public improvements and damage to public improvements caused by the City, Developer, its contractors, sub-contractors, employees, agents or third parties. No one may occupy a building for which a building permit is issued on either a temporary or permanent basis until all streets needed for access have been reconstructed as required by the City Engineer and Hennepin County and all other public and private improvements which serve such building have been completed.
- E. The action or inaction of the City shall not constitute a waiver or amendment to the provisions of this Contract. To be binding, amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. No building permit or certificate of occupancy shall be issued which conflicts with the requirements of this Contract, and any such permit or certificate which does so conflict shall be void. The City's failure to promptly take legal action to enforce this Contract shall not be a waiver or release.
- F. Developer and its successors and assignees are liable under this Contract. The Developer may not assign this Contract without written consent of the City

Council prior to issuance of the Certificate of Completion described below. This Contract shall run with the land and shall be recorded against the title to the Property by the Developer at the expense of the Developer. Developer shall provide the City with a recorded copy of this Contract within thirty (30) days of its execution by both parties. No building permits shall be issued until evidence of such recording acceptable to the City has been provided by the Developer.

G. After the Developer has completed the work required of it under this Contract, at the Developer's request, the City will execute and deliver to the Developer a Certificate of Completion in recordable form evidencing performance by Developer of its obligations hereunder, subject to:

- (1) Any representation or warranties which may be in effect subsequent to the date of completion, and
- (2) The Developer's obligations to retain the improvements in the form described by the plans referenced herein.
- (3) Any other obligations which are not specifically identified in such Certificate as having been performed.

Any obligations imposed by this Contract not certified as having been satisfied in such Certificate of Completion, and all warranties and representations of the Developer, shall remain the ongoing obligation of the Developer and its successors and assigns. The owner of any lot or outlot in the Property shall be subject to all the restrictions and obligations contained herein to the extent that such restrictions and obligations have not been satisfied by the Certificate.

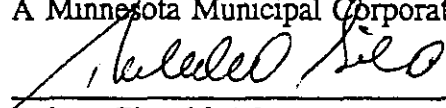
H. Each right, power or remedy herein conferred upon either party is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to such party at law or inequity, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to the party having such right, power and remedy and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy.

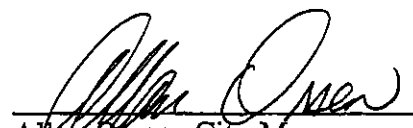
17. **Notices.** Required notices to the Developer shall be in writing, and shall be either hand delivered to the Developer, its employees or agents, or mailed to the Developer by certified or registered mail at the following address:

R.E.C., Inc.
7500 West 78th Street
Edina, Minnesota, 55439

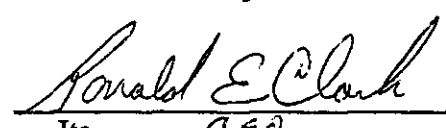
Notices to the City shall be in writing and shall be either hand delivered to the City Manager, or mailed to the City by registered or certified mail in care of the City Manager at the following address: Wayzata City Hall, 600 East Rice Street, Wayzata, Minnesota, 55391.

CITY OF WAYZATA
A Minnesota Municipal Corporation


Robert Gisvold, Mayor


Allan Orsen, City Manager

R.E.C., INC.,
A Minnesota Corporation

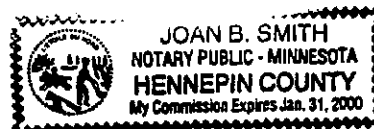

Its CEO

Its _____

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 19th day of September, 1995 by Robert Gisvold, Mayor and by Allan Orsen, City Manager of the City of Wayzata, a Minnesota municipal corporation, on behalf of the corporation.

Joan B. Smith
Notary Public



STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 1995, by _____ of R.E.C., Inc., a Minnesota corporation, on behalf of the corporation.

Notary Public

THIS INSTRUMENT DRAFTED BY:

BEST & FLANAGAN (Gregory D. Soule)
4000 First Bank Place
601 Second Avenue South
Minneapolis, Minnesota 55402

gda/32521

EXHIBIT A

That part of Government Lot 2, Section 5, Township 117, Range 22, lying Easterly and Southerly of the plat of WAYCLIFFE, which lies Northerly of a line described as beginning at the most Southerly corner of Outlot F, in said plat; thence Northeasterly along the southerly line of said Outlot F and its extension to the intersection with a line drawn parallel with and 99.00 feet North from the South line of said Government Lot 2, which point is marked by a Judicial Landmark set pursuant to Torrens Case No. 4436; thence Easterly 198.00 feet along said parallel line to a Judicial Landmark set pursuant to said Torrens case, which point is 412.50 feet East from the Northerly extension of the West line of Government Lot 3, in said Section 5; thence South 88 degrees 20 minutes East assuming said Northerly extension of the West line of Government Lot 3 bears South to the shoreline of Gleason Lake.

That part of Government Lot 3, Section 5, Township 117, Range 22, lying Northwesterly and Westerly of the plat of GLEASON LAKE COURTYARD SECOND ADDITION and Easterly and Northeasterly of the Easterly and Northeasterly right-of-way lines of U.S. Highway Number 12 according to Document 4566147, Office of the County Recorder, which lies Southerly of the following described line: Beginning at a Judicial Landmark set pursuant to Torrens Case No. 4436 on the West line of said Government Lot 3, distant 203.15 feet South from the Northwest corner of said Government Lot 3, which Northwest corner is marked by a Judicial Landmark set pursuant to said Torrens case; thence Easterly 412.70 feet to a Judicial Landmark set pursuant to said Torrens case distant 221.00 feet South, measured along a line parallel with the West line of said Government Lot 3, from the North line of said Government Lot 3; thence North 68 degrees 15 minutes East, assuming said west line bears South, 240.00 feet to a Judicial Landmark as shown on the North line of GLEASON LAKE COURTYARD SECOND ADDITION and there terminating.

That part of Government Lots 2 and 3, Section 5, Township 117, Range 22, described as follows:

Beginning at a point 99.00 feet North of the North line of Government Lot 3 in said Section 5, and 412.50 feet East of the extension of the West line of said Government Lot 3, which point is marked by a Judicial Landmark; thence West parallel with the line between Government Lots 2 and 3, a distance of 198.00 feet to a point marked by a Judicial Landmark; thence Southwesterly 237.00 feet to the Northwest corner of said Government Lot 3, which corner is marked by a Judicial Landmark; thence South along the West line of said Government Lot 3, a distance of 203.15 feet to a point marked by a Judicial Landmark; thence Southeasterly 412.70 feet to a point marked by a Judicial Landmark 320.00 feet due South of the point of beginning; thence North 68 degrees 15 minutes East, 240.00 feet to a point marked by a Judicial Landmark, thence East parallel with the line between Government Lots 2 and 3, a distance of 72.50 feet to a point on the shore of Gleason's Lake marked by a Judicial Landmark; thence North 6 degrees 5 minutes East, along the shore of said lake, a distance of 217.50 feet to a point marked by a Judicial Landmark, said last described point being South 88 degrees 20 minutes East, 314.60 feet from the point of beginning; thence North 88 degrees 20 minutes West, 314.60 feet to the point of beginning.

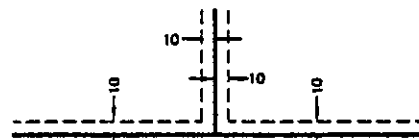
That part of Outlot B, WAYCLIFFE lying southerly of a line described as follows: Commencing at the most northerly corner of Lot 1, Block 1, WAYCLIFFE; thence on an assumed bearing of South 26 degrees 06 minutes 26 seconds East, along the northeasterly line of said lot, 35.65 feet to the actual point of beginning; thence South 54 degrees 39 minutes 02 seconds East, 6.15 feet to an angle point in the easterly line of WAYCLIFFE and there terminating.

WAYCLIFFE 2ND ADDITION

R.T. Doc. No. _____
C.R. Doc. No. _____

All or part of this plat may be
a part of C.C. Number _____

DRAINAGE AND UTILITY
EASEMENTS ARE SHOWN THUS:



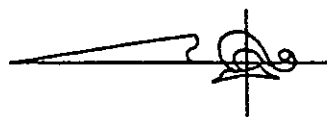
being 10 feet in width, and adjoining lot lines
unless otherwise indicated, and 10 feet in width
adjoining right of way, unless otherwise indicated,
as shown on the plat

WATER ELEVATION AS OF JULY 1995 IS _____ FEET (NGVD 1929)
HIGHEST KNOWN WATER ELEVATION = (UNKNOWN)

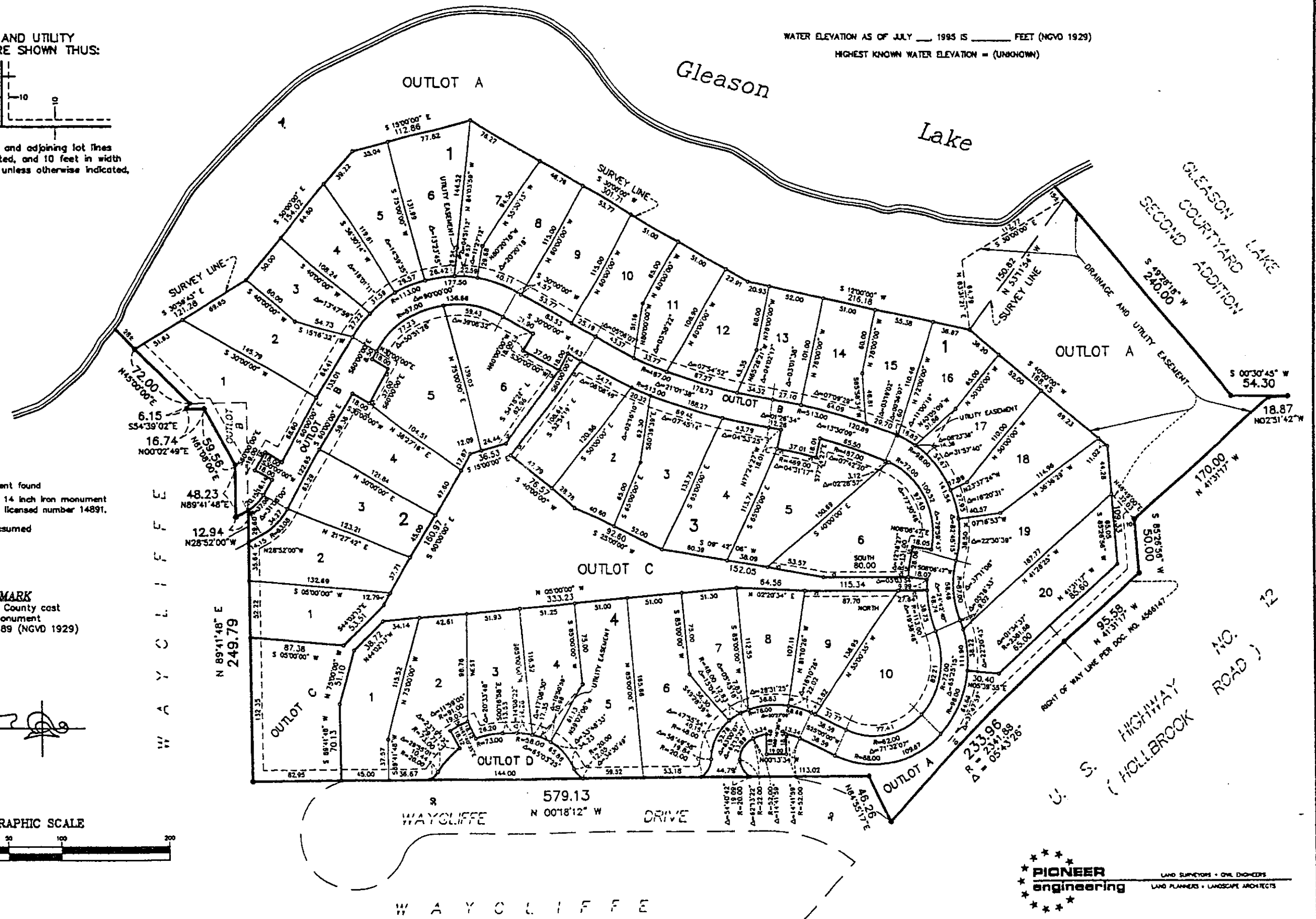
- Denotes iron monument found
 - Denotes 1/2 inch by 14 inch iron monument
set and marked with licensed number 14891.
- Bearings shown are assumed

BENCHMARK

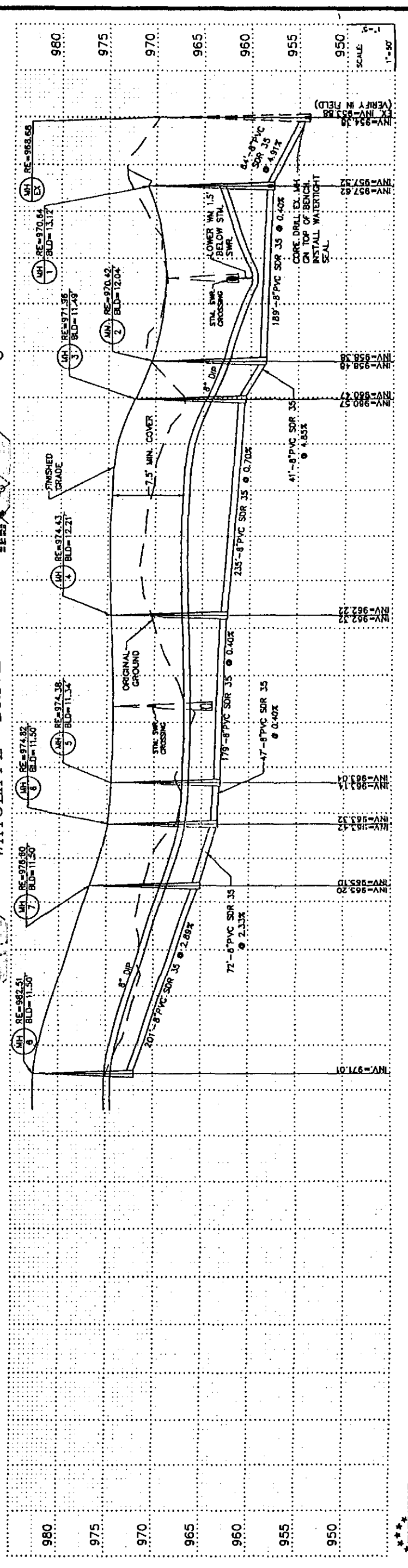
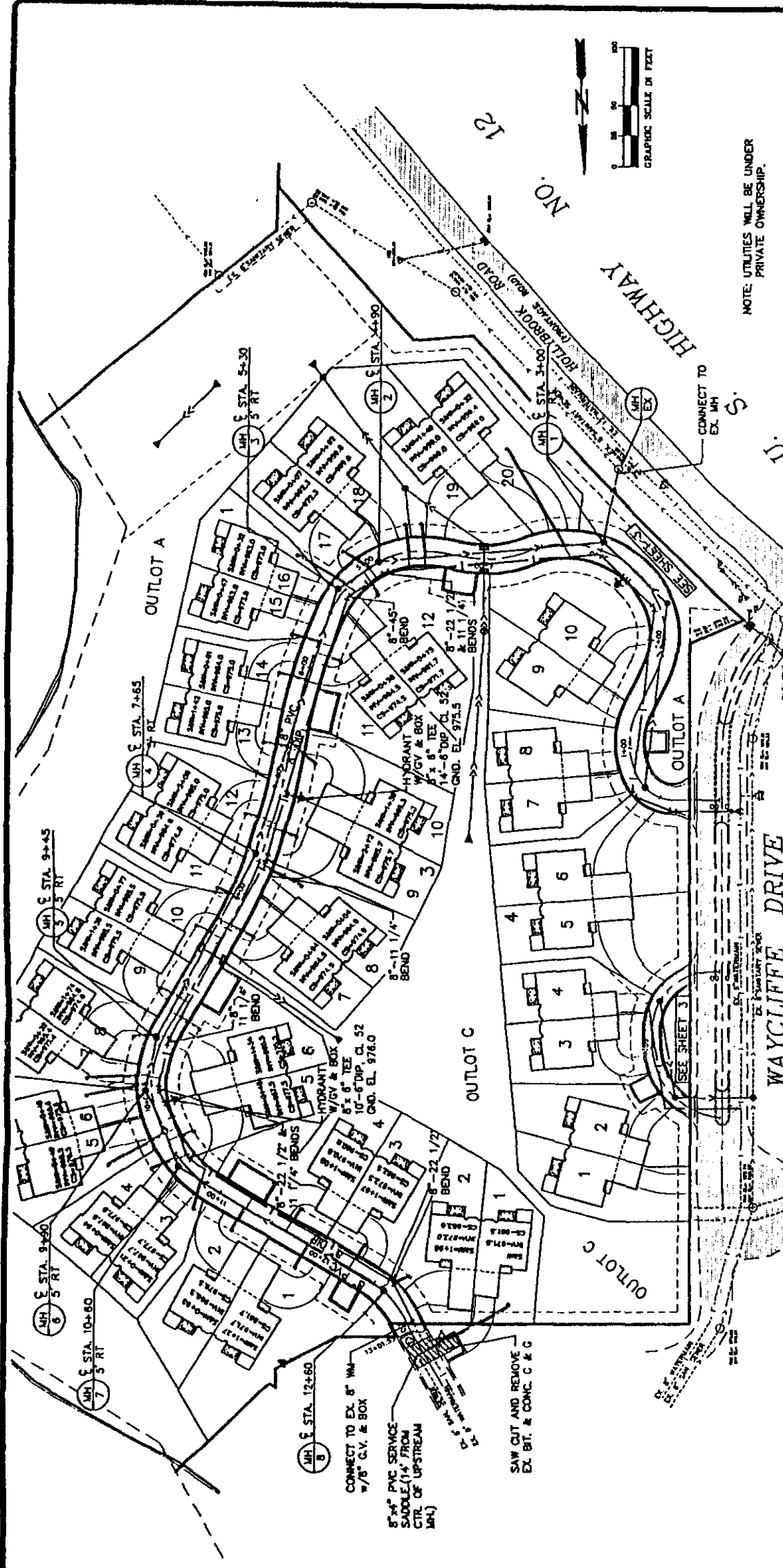
Top of Hennepin County cast
iron reference monument
Elevation = 950.89 (NGVD 1929)



GRAPHIC SCALE



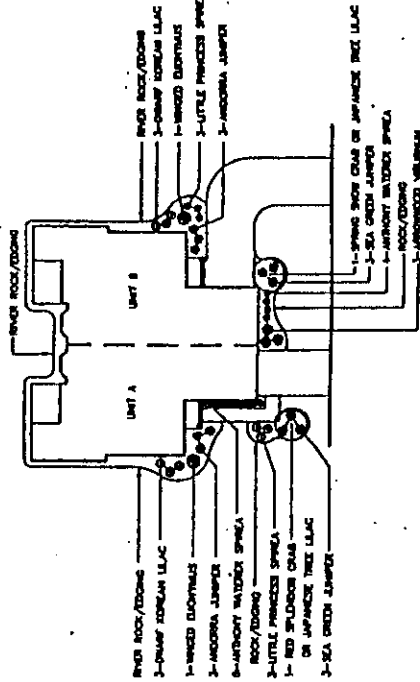
PIONEER
engineering
LAND SURVEYORS • CIVIL ENGINEERS
LAND PLANNERS • LANDSCAPE ARCHITECTS



PIONEER Engineering Inc. 1100 N. 1st St. St. Paul, MN 55101		PROJECT WAYCLIFFE 2nd ADDITION	SHEET 2 OF 11
DATE 1/17/75		OWNER RON CLARK CONSTRUCTION, INC. 7500 N. 7th St. Eden Prairie, MN 55329	
DRAWN BY J. J. J.		CHECKED BY J. J. J.	
1. I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota.		1. I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly registered Professional Engineer under the laws of the State of Minnesota.	

[illegible]

PLANT LIST				
KEY	COMMON/BOTANICAL NAME	ROOT	SIZE	QTY.
	OVERSTORY			
W	WIDE LEAFY/LEAF IMPERFORATE, 4-5cm Venation	5-6	7.5	1
L	WIDE LEAFY/LEAF IMPERFORATE, 4-5cm Venation	5-6	2.5	1
	ORANGEAL			
WE	WIDE LEAFY/LEAF IMPERFORATE, 4-5cm Venation	5-6	1.75	9
W	WIDE LEAFY/LEAF IMPERFORATE, 4-5cm Venation	5-6	2.5	1
W	WIDE LEAFY/LEAF IMPERFORATE, 4-5cm Venation	5-6	1.25	9
	EVERGREEN			
G	GLABROUS, 4-5cm Venation, 4-5cm Venation	5-6	8	7
	SHRUBS			
RED	RED DROOP/ROOPEL, 4-5cm Venation	POT	17	98
				98

[illegible]

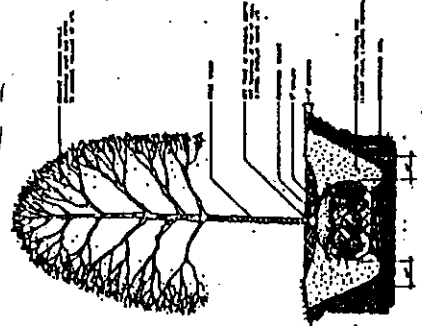
NOTE:
 Blank very slightly (for maintenance) and be handled around planting beds.
 1-1/2" diameter their feet and be included in planting beds.
 Quantities and be varied by Landscape Contractors.
 Foundation plant stems should be (upside and well) all adjacent countryside to and including first.
 Spring planting may be first Summer Crops and Spring Season Crops.



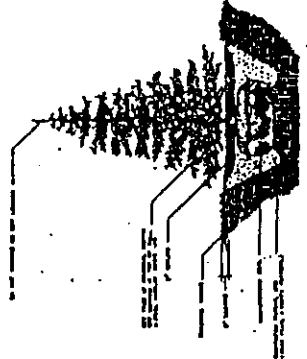
PIONEER
Engineering



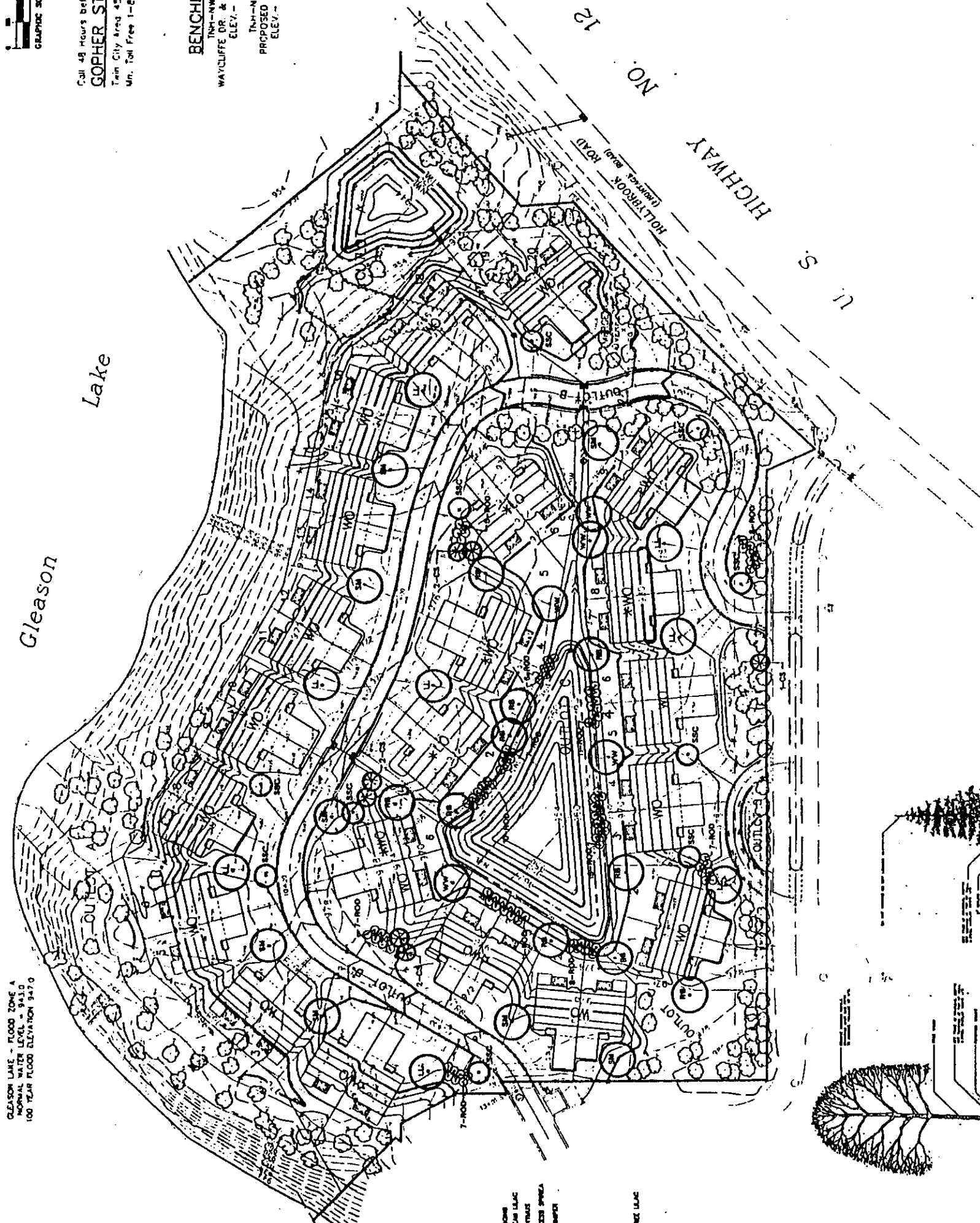
Buyer's Guide
RESEND



CONFESSIONS THAT IN ACTION?



STANDARD: 1.00



GLEASON LAKE - FLOOD ZONE A
NORMAL WATER LEVEL - 943.0
100 YEAR FLOOD ELEVATION 947.0

Call 48 Hours before digging:
GOPHER STATE ONE CALL
Twin City Area 434-2002
Mn. Toll Free 1-800-252-1166

BENCHMARKS
TNH-NW QUAD
WAYCLIFFE DR. & HOLLYBROOK RD
ELEV. - 979.56

TNH-N. END
PROPOSED STREET A
ELEV. - 984.81

PIONEER engineering inc. ★ ★ ★ 14515 503	I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly registered landscape architect under the laws of the State of Washington.	Date: <u>3/10/75</u> Drawn: <u>AKS</u> Check: <u>W.E.</u>	SHEET TITLE LANDSCAPE PLAN	OWNER RON CLARK CONSTRUCTION, INC. 7500 WEST 78th STREET EDINA, MN 55425	PROJECT WAYCLIFFE 2nd ADDITION	SHEET 11 OF 11 SHEETS
	I have reviewed this plan and find it correct and complete as shown.	Date: <u>3/10/75</u>	Scale: <u>1" = 10'</u>	Project No.: <u>75-001</u>	City: <u>Edina, MN</u>	State: <u>MN</u>

Refer to Plan C attached to this document.



7/1/73	SHEET TITLE	OWNER	PROJECT	SHEET	OF	SHEETS
1	TREE PRESERVATION PLAN	RON CLARK CONSTRUCTION, INC. 7500 WEST 78th STREET MINNAPOLIS, MINN 55412	WAYCLIFFE 2nd ADDITION	10	11	

PLAN E

Refer to Plan C attached to this document.

PLAN F & G

Refer to Plan B attached to this document.

PLAN H

Plan H is on file with the City of Wayzata.