



PLANNING COMMISSION MEETING AGENDA
September 25, 2023
7:00pm

1) Call to Order

- a) Approval of Agenda
- b) Approval of Minutes – August 28, 2023

2) Public Hearings

- a) **CONDITIONAL USE PERMIT:** Application from Richard Murphy for a conditional use permit for an accessory building over 1,000 sq. ft. at 5804 Hardscrabble Circle; R-1 – Low Density Single Family Residence Zoning District; PID# 26-117-24-42-0018.
- b) **INTERIM USE PERMIT:** Application from Frank Weigel and Esther Nazarov to extend an interim use permit for Agricultural Entertainment Activities at the properties of 6480 County Road 26 and 6530 County Road 26; A – Agriculture Zoning District; PID# 03-117-24-11-0004 and PID# 03-117-24-12-0004. (Continued from August 28, 2023)

3) Informational Items

- a) Staff Reports
- b) Council Reports

4) Adjournment

- *The agenda packet with all background material is located at the back table for viewing by the public.*
- *Published agenda subject to change without notice.*
- *Information and materials relating to the above items are available for review at city hall by appointment.*



PLANNING COMMISSION MEETING AGENDA

August 28, 2023

7:00pm

1) Call to Order

Chair Sandholm called the meeting to order at 7:02p.m.

In attendance: Commissioners: Chair Lora Sandholm, Michael Kirkwood, Steven Livermore, Damian Young, Tricia Taylor, and Lucas Rognli
Council Liaison: Mayor Lisa Whalen; Staff: Senior City Planner, Nickolas Olson
Absent: Zak Gangestad, Sarah Hussain and Heather Charles.

a) Approval of Agenda

Sandholm requested to move item 3E to item 3A. Sandholm also stated that the public hearing for item 3F will be opened and continue until the next meeting.

Motion by Young, seconded by Taylor to approve agenda with proposed changes.
Motion passed 6-0.

Absent: Hussain, Charles, and Gangestad (Alternate 1).

b) Approval of Minutes – June 26, 2023

Motion by Young, seconded by Taylor, to approve the June 26, 2023 minutes as presented.

Motion passed 6-0.

Absent: Hussain, Charles, and Gangestad (Alternate 1).

2) Business Items

a) Concept/Sketch Plan: Concept/sketch plan review of a possible commercial development of Outlot C, Woodland Cove; PUD – Planned Unit Development Zoning District; PID# 34-117-24-33-0052.

Senior Planner Nick Olson provided an overview. Highlights included:

- David Lau on behalf of Woodland Cove LLC has submitted an application for a concept/sketch plan review of a possible commercial development of Outlot C, Woodland Cove PUD.
- Woodland Cove is a 1,071 unit, 490 acre mixed use development and a total of 11 phases have been approved. Roughly 616 homes have received a permit or have been completed.
- The applicant submitted a concept for Outlot C that includes a space for three separate businesses and is seeking feedback from the Planning Commission and City Council for a future site plan submittal.

Applicant David Lau, 2640 Setter Cir, Mound, provided an overview of the concept plan.

Lau stated that the commercial development in the Woodland Cove area is very limited, and they drafted the proposed concept plan which would address dining, retail, and leisure needs of the community.

Sandholm questioned if there will be any outdoor seating. Lau clarified that most of the outdoor seating will be in front of the property.

The Commission and applicant discussed the traffic and parking implications of this proposed development in regards to the Mackenthun's development and residential traffic.

Shannon Lau and Kaylie Lau, 4268 Cottage Wood Ct, stated they foresee their bakery business being one of the commercial tenants proposed.

The Commission and staff discussed storm sewer for the development. Olson commented that storm sewer requirements will be included in the design phase.

The consensus of the Commission was that this is a viable plan.

3) Public Hearings

a) **e) CONDITIONAL USE PERMIT:** Application from Crystal Brummer for a conditional use permit for an accessory building over 1,000 sq. ft. at 400 North Branch Road; A – Agriculture Zoning District; PID# 12-117-24-21-0059.

Senior Planner Nick Olson provided an overview. Highlights include:

- Crystal Brummer has submitted an application for a conditional use permit for an accessory building over 1,000 square feet at 905 Maple Crest Drive.
- The Commission is being asked to consider the effect of the proposed use based upon health, safety, and general welfare of the City.
- City Staff did receive a couple of phone calls from residents. Most calls were general inquiries. No written comments were received.

Sandholm opened the public hearing at 7:26 p.m.

No one wished to speak.

Sandholm closed the public hearing at 7:26 p.m.

Motion by Rognli seconded by Young to recommend approval the Conditional Use Permit at 905 Maple Crest Drive subject to the conditions as presented.

Motion passed 6-0

Absent: Hussain, Charles, and Gangestad (Alternate 1).

b) **VARIANCE:** Application from Sharon Pelletier-Thaler for a lakeshore setback variance from the required 75 feet to 64.1 feet to allow for a screen porch addition at 3316 Williams Lane; R-1 – Low Density Single Family Residence Zoning District; PID# 27-117-24-21-0029.

Senior Planner Nick Olson provided an overview. Highlights include:

- Sharon Pelletier-Thaler submitted an application for a lakeshore setback variance for a porch addition on property located at 3316 Williams Lane.
- Applicant is currently remodeling existing family home and wish to enhance the portion of the home that faces the lake.
- The existing home is non-conforming with respect to the lakeshore setback and also the property exceeds the maximum allowed lot coverage. The current lot hard cover is 34%.
- Applicant owns the adjacent property to the west which will help mitigate the hard cover concern but does not address the lakeshore setback.
- The proposed addition minimizes the extent of the request and does not extend closer to the lake than the existing structure.

The Commission was in consensus that the applicant must comply with the maximum allowed hardcover of 25%.

Sandholm opened the public hearing at 7:33 p.m.

Vera Thorpe, 3300 Williams Lane, did not see concerns regarding this application.

Gary Pettis 6200 CR 26, had concerns about implications of moving the lot lines.

Sandholm closed the public hearing at 7:35 p.m.

Young stated an option would be to construct a different type of driveway. Olson stated that he has spoken to the applicant about their options to reduce their hardcover.

Motion by Livermore, seconded by Young to recommend approval of the lakeshore setback variance application at 3316 Williams Lane subject to conditions as presented.

Motion passed 6-0.

Absent: Hussain, Charles, and Gangestad (Alternate 1).

c) CONDITIONAL USE PERMIT: Application from Tyler and Amanda Holmer for a conditional use permit to keep the existing dwelling as a guest home over 1,000 sq. ft. at 400 North Branch Road; A – Agriculture Zoning District; PID# 03-117-24-13-0005. The applicants are proposing to build a new single family dwelling which will become the principle structure on the property.

Senior Planner Nick Olson provided an overview. Highlights included:

- Tyler and Amanda Homer submitted an application for a conditional use permit to keep existing dwelling as a guest house at 400 North Branch Road.
- There is an existing structure on the property and the applicant is proposing a conversion of the existing home to a guest home, however it is over the 1,000 sq. ft.
- The city may grant CUPs and may impose conditions and safeguards to protect health, safety and welfare of the community and assure harmony with the comprehensive plan of the city.
- Staff sent out notices to the surrounding property owners. A written comment was received and has been sent to the Commission to consider.

The size of the existing structure was discussed.

Tyler Holmer, 400 North Branch Road, and Joe Vos, 48227 HWY 19, Fairfax, stated they did not speak to the neighbors that submitted written comment. The Commission advised that the applicant speak to their neighbors to mitigate any concerns.

Sandholm opened the public hearing at 7:43 p.m.

No one wished to speak.

Sandholm closed the public hearing at 7:43 p.m.

There was discussion about screening.

Motion by Taylor seconded by Kirkwood to recommend approval of conditional use permit to keep the existing dwelling as a guest home over 1,000 sq. ft. and variance request at 400 North Branch Road based on the certain findings of fact and subject to the conditions outlined in the staff report.

Motion passed 6-0.

Absent: Hussain, Charles, and Gangestad (Alternate 1).

- d) VARIANCE:** Application from Nathan Fair on behalf of Harriet A Ellis Trust for a lakeshore setback variance from the required 75 feet to 41 feet, a street side setback variance from 35 feet to 26.3 feet, and side yard setback variances from 15 feet to 6.1 feet and 10.1 feet to allow for a new single family home at 3790 Enchanted Lane; R-1 – Low Density Single Family Residence Zoning District; PID# 25-117-24-43-0003.

Senior Planner Nick Olson provided an overview. Highlights included:

- Nathan Fair has submitted a request for a lakeshore setback variance, a street side variance, and a side yard setback variance at 3790 Enchanted Lane.
- The property was previously a single family dwelling and a detached garage. The structures did not comply with the current code requirements for setbacks and were torn down by the current owners. The lot was marketed for sale and the property is now vacant.
- There were many comments submitted from the neighborhood which were distributed to the Commission.

Sandholm questioned how the applicant is meeting hardcover. Olson responded Enchanted Lane should be omitted from the hardcover calculation. Staff has done this with other properties on Enchanted Lane. The applicant is bound to the 25% of the remaining area for hardcover, and they have demonstrated compliance with this requirement.

Olson clarified that the property would be city sewer and private wells.

Applicant Nathan Fair, 13432 Hanson Blvd, Andover, stated that he and his wife are excited to build a summer home in Minnetrista. He provided the clarifications below:

- There has been much design work that has gone into the request.
- Fair reached out to his two closest neighbors to address any concerns.
- Fair stated that surrounding homes may encroach on his property.
- The current owner has two PIDs, two wells of record, and two cabins that were on the property.
- Fair wished to note that the proposed cabins are no closer to the lake than existing cabins.
- Fair's proposed timeline would be to start building this fall.

Sandholm opened the public hearing at 7:56 p.m.

Steve Shoop, 3780 Enchanted Lane, has concerns about the side yard setbacks in regards to proving hardship to be granted a variance.

Nancy Rigelhoff, 3780 Enchanted Lane, has concerns about the side yard setbacks. She has concerns about the accuracy of the survey provided and the comparison to similar homes. She also has concerns regarding flooding in the neighborhood.

Tom Scherber, 3810 Enchanted Lane, stated he built his home five years ago and had to comply with the setbacks at that time. He has concerns about the size of the home in comparison to the size of the lot.

Bruce Philipson, 3740 Enchanted Lane, is not within 500 feet of the property so did not receive notice. His main concern is with the side yard setback. He believes the applicants are overbuilding the lot and has concerns about parking on the road.

Bruce Hauglid, 3770 Enchanted Lane, has concerns about fire risk in regards to the close proximity of the surrounding homes.

Bruce Olson, 3980 Enchanted Lane, has lived in the community for 50 years. Olson has concerns about the precedent that the approval of these variances would set in regards to future development. He also has concerns about the property value implications.

Prateek Sahgal, 3944 Enchanted Lane, wished to echo the sentiments of the comments before him.

Michelle Krenn, 3830 Enchanted Lane, wished to agree with the other comments that one home on this property is preferred.

Applicant Nathan Fair, 13432 Hanson Blvd, Andover, wanted to clarify that there are two properties they are interested in purchasing. The applicant thought it made sense to submit one application for both properties as to mitigate disturbance to the neighborhood during construction.

Fair stated there was a certified professional survey completed on the project and submitted with the application. Fair address the parking concerns as there is a garage and spaces in the driveway. Fair stated that his grading plat is reviewed by the city

engineer and must meet requirements to avoid flooding in the neighborhood. Fair wished to reiterate that there are two PIDs to be considered with this approval.

Sandholm closed the public hearing at 8:13 p.m.

Sandholm stated she does not have an issue with the variance to the lake. Kirkwood agreed and has a preference that there is only one home between the two lots.

It was the consensus of the Commission that the side yard setbacks are the largest concern.

There was discussion on the Enchanted Road Development in comparison to the Woodland Cove Development in regards to setbacks. Whalen clarified the differences between the PUD in Woodland Cove and the current neighborhood.

There was discussion on the nature of the Commission concerns, the challenges presented in this application, review the variance criteria, and what to state as findings of fact.

Motion by Kirkwood seconded by Young to recommend denial of lakeshore, street side, and side yard setback variance requests at 3790 Enchanted Lane based on the below findings of fact as discussed:

1. The variance is not in harmony with the general purpose and intent of the ordinance.
2. The variance would alter the essential character of the locality the resulting structure is too large compared to others in the neighborhood and the side yard setbacks are too dissimilar to the rest of the neighborhood.

Motion passed 5-1. Rognli Opposed.

Absent: Hussain, Charles, and Gangestad (Alternate 1).

e) VARIANCE: Application from Nathan Fair on behalf of Harriet A Ellis Trust for a lakeshore setback variance from the required 75 feet to 39.1 feet, a street side setback variance from 35 feet to 26.3 feet, and side yard setback variances from 15 feet to 6 feet and 6.3 feet to allow for a new single family home at 3800 Enchanted Lane; R-1 – Low Density Single Family Residence Zoning District; PID# 25-117-24-43-0005.

Senior Planner Nick Olson provided an overview. Highlights include:

- Nathan Fair submitted a request for a lakeshore setback variance, a street side setback variance, and a side yard setback variance at home located on 3800 Enchanted Lane in relation to the application discussed in item 3d.
- The property previously contained a single family dwelling and detached garage. The structures did not comply with the current city code for setbacks and were torn down by the current owners. The lot is now marketed for sale and the property is currently vacant.
- Because the situation is similar to the previous item, the Commission requested that only new public comments or concerns be provided.

Sandholm opened the public hearing at 8:48p.m.

Bruce Hauglid, 3770 Enchanted Lane, stated that he believes the two lots combined is fit for one house.

Nathan Fair, 13432 Hanson Blvd, Andover, clarified that this lot is different than the previous lot discussed. The trust which owns the properties desires to sell the two separate properties.

Sandholm closed the public hearing at 8:50 p.m.

There was discussion on the difference between the two lots.

Taylor asked the applicant if he intends to purchase both properties. Fair stated he wishes to buy both properties, and they are for sale separately.

Motion by Kirkwood seconded by Taylor to recommend denial of lakeshore, street side, and side yard setback variance requests at 3800 Enchanted Lane based on the below findings of fact as discussed:

1. The variance is not in harmony with the general purpose and intent of the ordinance.
2. The variance would alter the essential character of the locality because the resulting structure is too large compared to others in the neighborhood and the side yard setbacks are too dissimilar to the rest of the neighborhood.

Motion passed 4-2. Livermore and Rognli Opposed.

Absent: Hussain, Charles, and Gangestad (Alternate 1)

f) INTERIM USE PERMIT: Application from Frank Weigel and Esther Nazarov to extend an interim use permit for Agricultural Entertainment Activities at the properties of 6480 County Road 26 and 6530 County Road 26; A – Agriculture Zoning District; PID# 03-117-24-11-0004 and PID# 03-117-24-12-0004.

Senior Planner Nick Olson provided an overview. Highlights included:

- Applicant Frank Weigel and Ester Nazarov submitted an application to extend an interim use permit at 6480 County Road 26 and 6530 County Road 26.
- The previous owners amended the original Conditional Use Permit to allow for the operations known today as Minnetonka Orchards to allow agricultural entertainment activities by Interim Use Permit.
- At the time, the City issued an IDP which was good for 10 years. That IUP has now expired, and the applicants are applying for an extension.

Sandholm opened the public hearing at 8:59 p.m.

Kent Lee 6651 Fox Ridge Circle, Independence, stated they called the Minnetrista Police Department to speak with an officer regarding a noise complaint for an event

at Minnetonka Orchards. There was also an issue of the number of events that occurred per the IUP.

Olson clarified the CUP runs with the land. The IUP runs with the business operations at the property. The applicant has not requested any changes to the original permits.

Gary Pettis, 6200 CR 26, stated he agrees with the noise issues as stated above. He also stated there have been other issues.

The applicants were not present to speak.

Motion made by Livermore, seconded by Kirkwood to continue the public hearing until the next Planning Commission meeting.

Motion passed 6-0

Absent: Hussain, Charles, and Gangestad (Alternate 1)

4) Informational Items

a) Staff Reports

1. Olson updated the Commission on the upcoming planning items for next month's meeting.

b) Council Reports

i) Mayor Whalen

- a. Sworn in Police Officer at the August 21, 2023 meeting.
- b. Vacant city positions update
- c. Road project update
- d. Holiday Tree Lighting Event
- e. Groundbreaking for Doran development and Mackenthun's update
- f. 2024 Budget Update
- g. Water infrastructure update

2) Adjournment

Motion by Young and seconded by Taylor to adjourn the meeting at 9:26 p.m.

Motion passed 6-0. Absent: Hussain, Charles, and Gangestad (Alternate 1).

Respectfully submitted,

Allie Polsfuss

Director of Administration

CITY OF MINNETRISTA



PUBLIC HEARING

Subject: Application from Richard Murphy for a conditional use permit for an accessory building over 1,000 sq. ft. at 5804 Hardscrabble Circle

Prepared By: Nickolas Olson, Senior City Planner

Meeting Date: September 25, 2023

Overview: Richard Murphy (the “Applicant”) has made an application for a conditional use permit for an accessory building over 1,000 sq. ft. at 5804 Hardscrabble Circle; R-1 – Low Density Single Family Residence Zoning District; PID# 26-117-24-42-0018 (the “Property”).

Background: It is the intent of the city in establishing general and specific criteria for conditional uses that such uses, by subject to careful evaluation to ensure that their location, size, and design, are consistent with the standards, purposes, and procedures of the city code and the comprehensive plan. The city may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the city or other governmental bodies having jurisdiction over the city.

The city may grant conditional use permits when such permits are authorized by this section and may impose conditions and safeguards in such permits to protect the health, safety and welfare of the community and assure harmony with the comprehensive plan of the city.

Discussion: When acting upon an application for a conditional use permit, the city will consider the effect of the proposed use upon the health, safety, and general welfare of the city. When considering the effect, the city should look at the following:

- (1) The factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land.**

In regards to nuisances, the proposed accessory building should operate in a very similar manner as any other accessory building regardless of size, which means no discernable nuisances tied to its presence. There are no change in uses allowed just because it’s a larger building. The Applicant cannot use the building for commercial storage or business per the zoning district. It also will not present any additional fire or safety concerns. Since the proposed accessory is intended for the Applicant only, there should be ample off-street parking for the use.

Mission Statement:

The City of Minnetrista will deliver quality services in a cost effective and innovative manner and provide opportunities for a high quality of life while protecting natural resources and maintaining a rural character.

(2) The effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood.

The Applicant has indicated they will match the colors of the existing home on the proposed accessory building, but since its pole building style, it won't quite match architecturally. It's not a requirement to match, but to the extent the Applicant can make them match should help lessen the impact on surrounding properties. The Commission could condition the approval in this manner, however, if it feels it's important to further lessen the impact. The Applicant is also locating the building almost 3 times the required setback from any adjacent property, which should help lessen the impact of the larger building on adjacent properties. Taking these circumstances into consideration, there should not be a negative impact to the surrounding properties or the character of the neighborhood.

(3) Consistency with the city's comprehensive plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire.

The City's comprehensive plan and zoning code allow for accessory buildings over 1,000 square feet by conditional use permit. The Applicant has appropriately applied for a conditional use permit. As the accessory building is intended for residential use and not commercial business or storage, the property use will remain single family residential, which is consistent with the future land use map. Therefore, the proposed accessory building is consistent with the comprehensive plan. The proposed accessory building will also have no negative impacts on governmental facilities. It's not clear from the submittals if the Applicant intends to have plumbing in the accessory building, but the property is served by a private well so no impact to the city water system. The home is connected to City sewer and the Applicant would need to tap in somewhere on their property if sewer is needed. It is also anticipated that the need for police and fire services will not change with a large accessory building.

(4) The effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes, flood plains and soils.

The proposed location will tuck the building in to the existing hillside. The Applicant has indicated a few trees may need to be remove, but beyond that there shouldn't be impacts to any sensitive environmental features on or near the Property. The as built grading will be reviewed with the existing new home under construction when everything is complete to ensure no negative impacts at that time.

(5) Any other factors as found relevant by the city.

Based on the request, the information submitted with this land use application, and the lack of neighborhood concerns, there appears to be no other relevant factors to consider.

Mission Statement:

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Neighborhood Comments: Notices were sent out to all property owners within 500 feet of the subject property. To date, staff has spoken with two neighboring property owners, but has not received any written comments or concerns regarding this request as a result of sending the public notice.

Conclusion: The Planning Commission should review the staff report and open a public hearing. Once all interested parties have had the opportunity to speak regarding the request, the Planning Commission should close the public hearing. After the public hearing is closed, the Planning Commission should consider the entire record before it prior to making a recommendation to the City Council. Along with making a recommendation, findings of fact should be established which support the recommendation. Findings of fact based on the information submitted by the Applicants may be as follows:

1. The proposed accessory building over 1,000 square feet is allowed with a Conditional Use Permit;
2. The proposed use does not pose any discernable concerns to the general public health, safety, morals, comfort or general welfare of the inhabitants of the city; and
3. The request is consistent with the Minnetrista Comprehensive Plan.

Recommended Action: Motion to recommend the City Council approve the requested conditional use permit for an accessory over 1,000 square feet at 5804 Hardscrabble Circle, based on the findings of fact outlined in the staff report and subject to the following conditions:

1. The accessory building shall only be used residential use only and shall not be used for any commercial business or storage operations, unless separate approval is granted at a later date by the City Council;
2. The Property shall be developed in accordance with the plans submitted with this land use application;
3. The as built grading shall be reviewed at the time of the as built grading for the new home currently under construction;
4. The Applicant shall obtain all necessary permits and approvals from the City and other applicable agencies with jurisdiction over the Property prior to any construction;
5. The Applicant is responsible for all fees incurred by the City in the review of this application;
6. This approval is valid for one year from the date of approval and will become void and expire unless a building permit has been issued for the Property; and
7. Any other conditions as required by the Planning Commission.

Attachments:

1. Location Map
2. Applicant Narrative
3. Property Survey
4. Building Plans
5. Plans of Home under construction


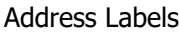

Mission Statement:

The City of Minnetrista will deliver quality services in a cost effective and innovative manner and provide opportunities for a high quality of life while protecting natural resources and maintaining a rural character.

5804 Hardscrabble Circle



1 in = 192 Ft

-  City Boundary
-  Address Labels
-  Parcels



Request for Conditional Use Permit

We are requesting a conditional use permit for an accessory garage that is more than 1000 square feet. It is to be built in conjunction with the new house on the property, having the same materials and architectural style as the house. The garage is strictly for storage and to alleviate clutter of lake toys and lawn equipment in the yard. There is no water or sewer supply to it.

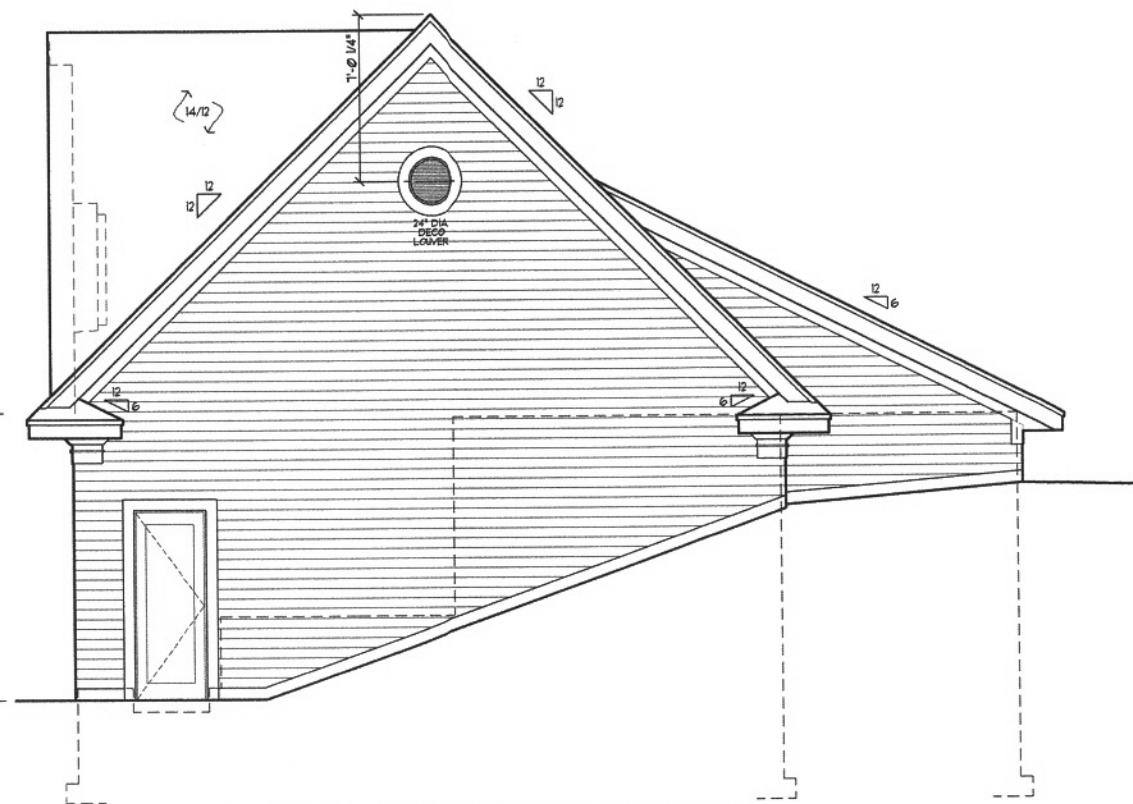
The garage is set into the hill on the property so as to minimize visibility from the road and nestle into the property. To grant the CUP will not adversely affect the community in terms of health, safety, or the environment. It will not place any undue burden on roads, water or sewer supply, fire, police or schools. We have tried to locate it in a private, non-conspicuous location.

Thankyou in advance for your consideration of this Conditional Use Permit.



1 DETACHED GARAGE FRONT ELEV.
SCALE: 1/4"=1'-0"

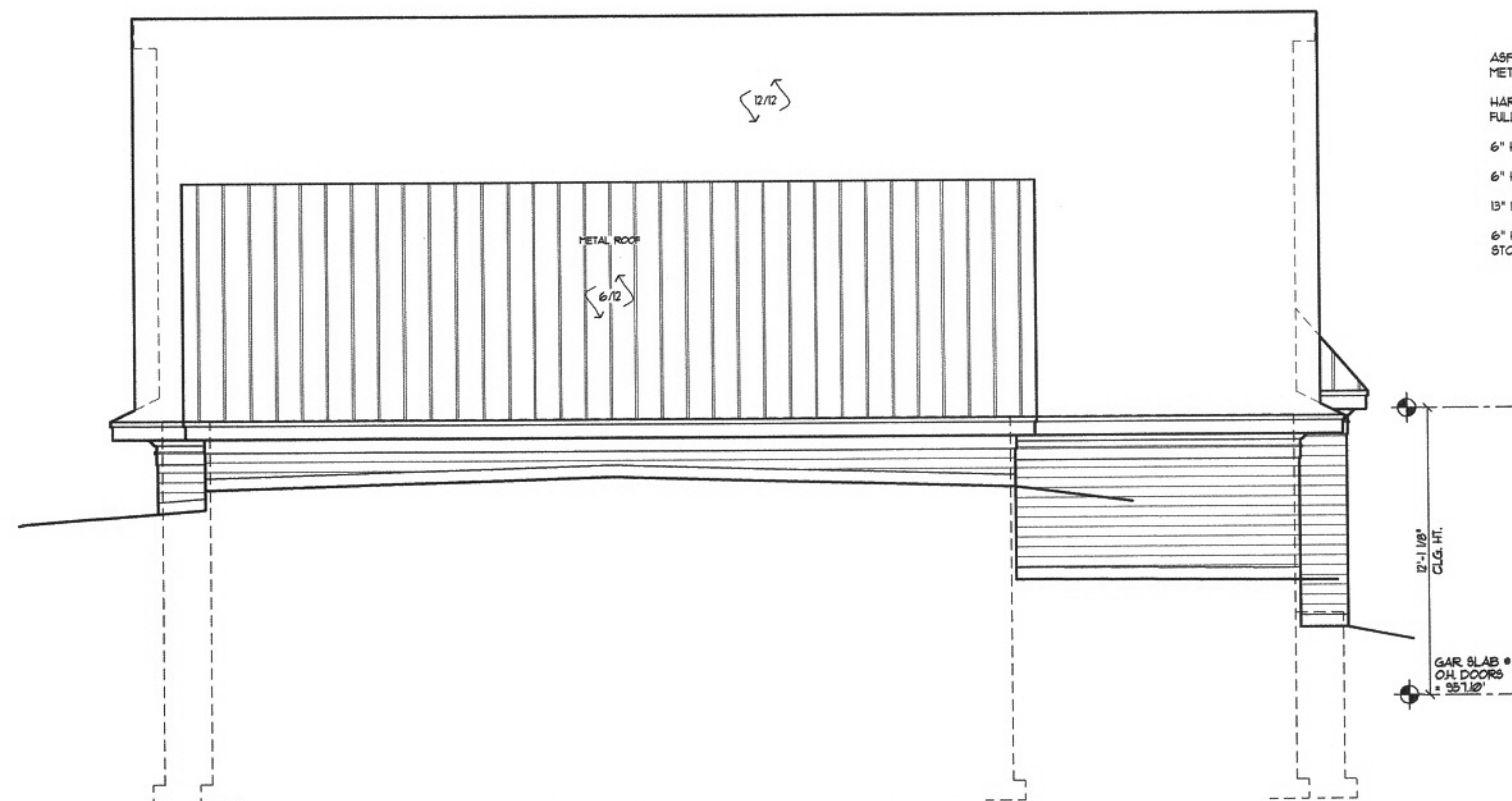
ASPHALT SHINGLES
METAL ROOF PER ELEV.
HARDIE SHAKE SIDING PER ELEV.
FULL STONE PER ELEV.
6" HARDIE GABLE FRIEZE
6" HARDIE FRIEZE
13" BUILT-UP FRIEZE w/ BEVELED CROWN
6" HARDIE WINDOW TRIM BOARDS w/
STOOL & APRON PER ELEV.



2 DETACHED GARAGE RIGHT ELEV.
SCALE: 1/4"=1'-0"

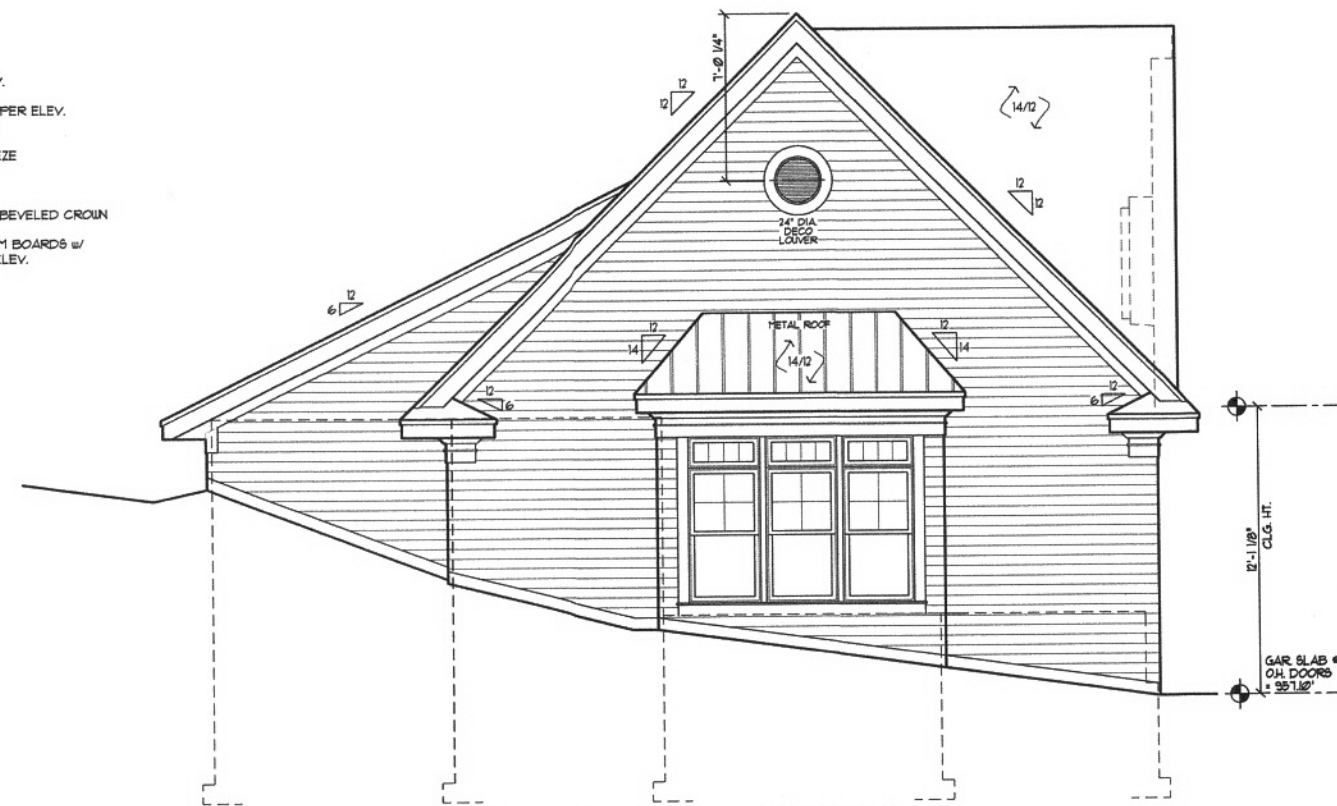
GAR SLAB *
OH DOORS
= 35'1 1/2"

GAR SLAB *
OH DOORS
= 35'1 1/2"



3 DETACHED GARAGE REAR ELEV.
SCALE: 1/4"=1'-0"

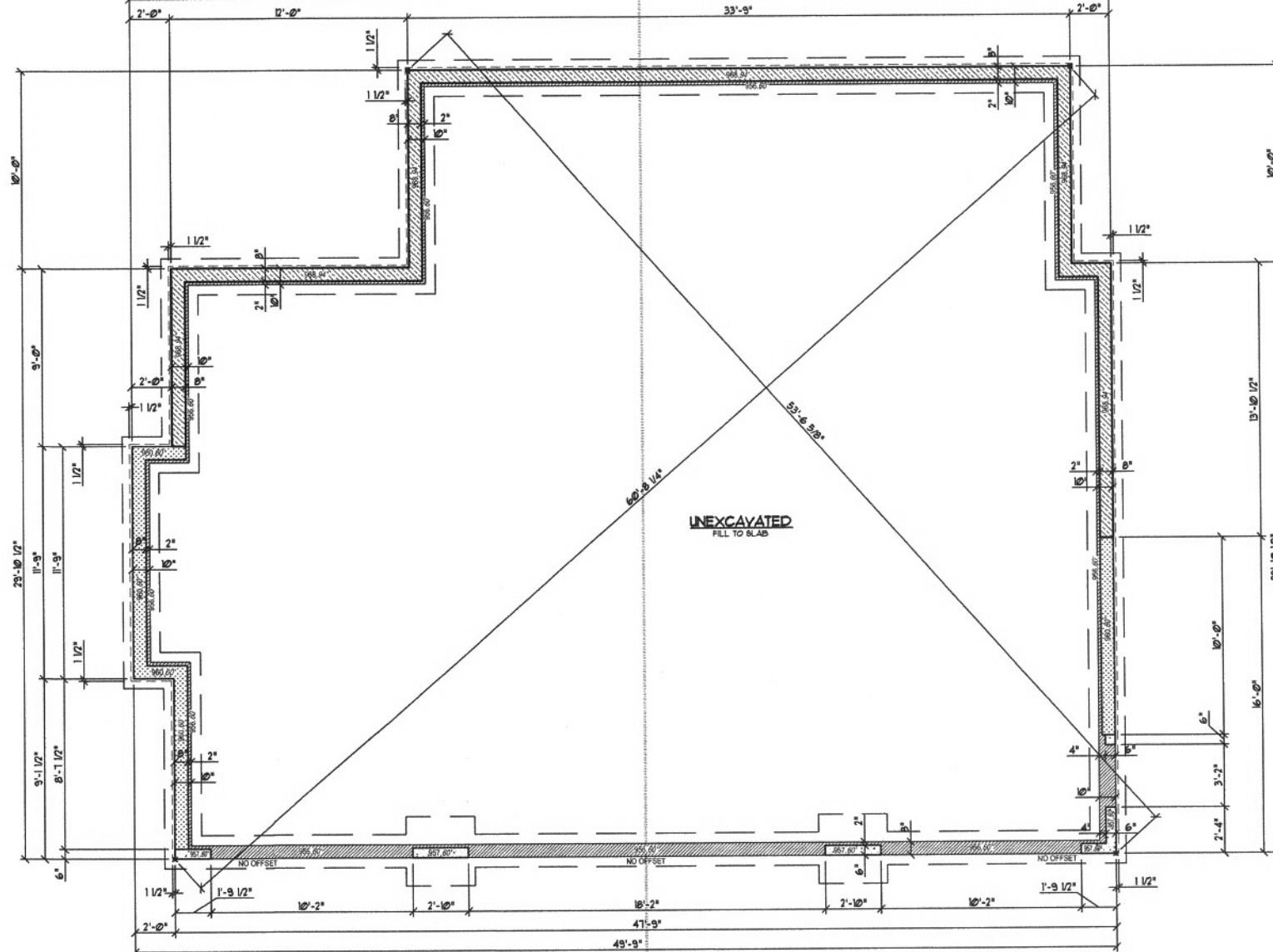
ASPHALT SHINGLES
METAL ROOF PER ELEV.
HARDIE SHAKE SIDING PER ELEV.
FULL STONE PER ELEV.
6" HARDIE GABLE FRIEZE
6" HARDIE FRIEZE
13" BUILT-UP FRIEZE w/ BEVELED CROWN
6" HARDIE WINDOW TRIM BOARDS w/
STOOL & APRON PER ELEV.



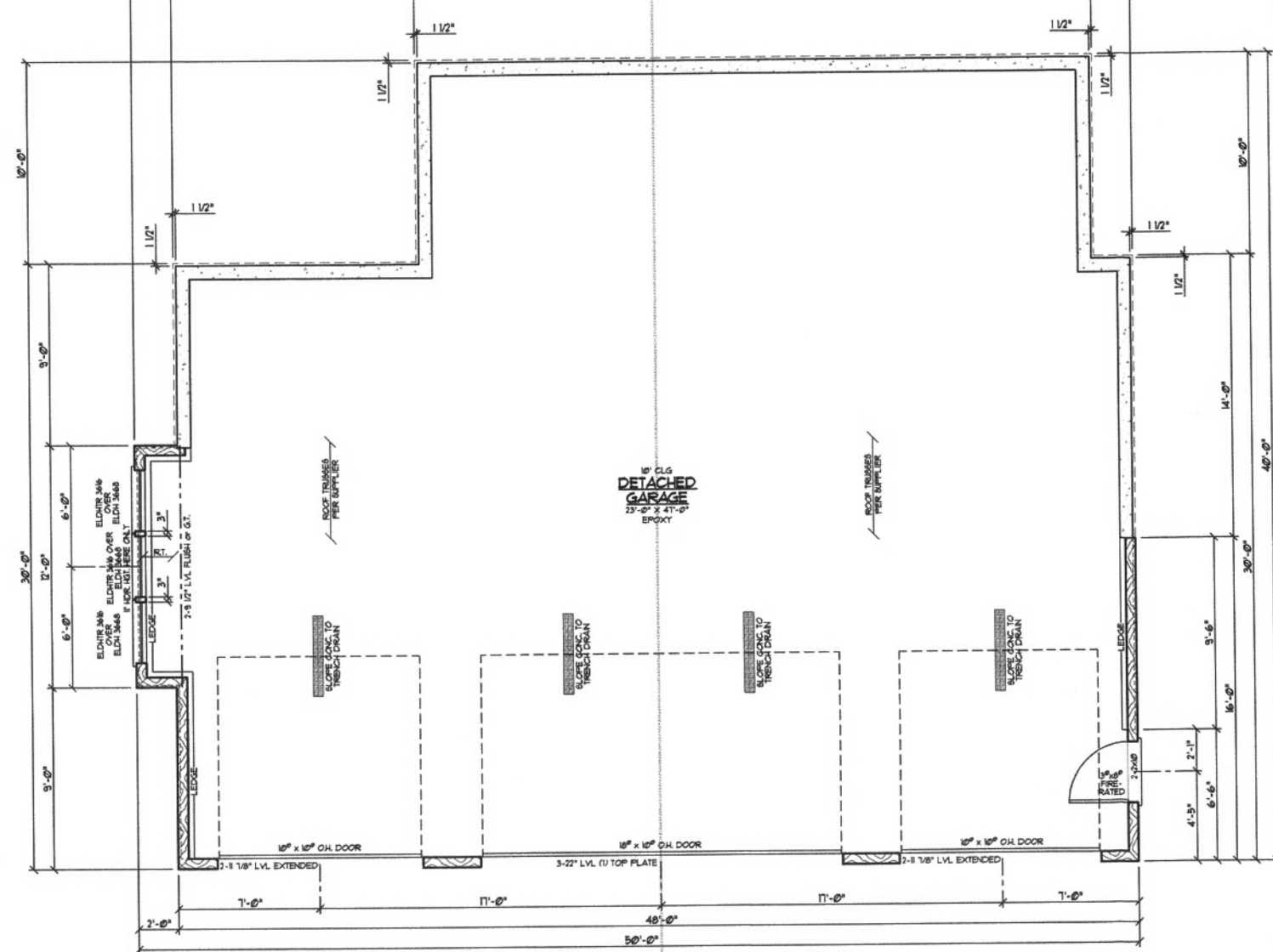
4 DETACHED GARAGE LEFT ELEV.
SCALE: 1/4"=1'-0"

GAR SLAB *
OH DOORS
= 35'1 1/2"

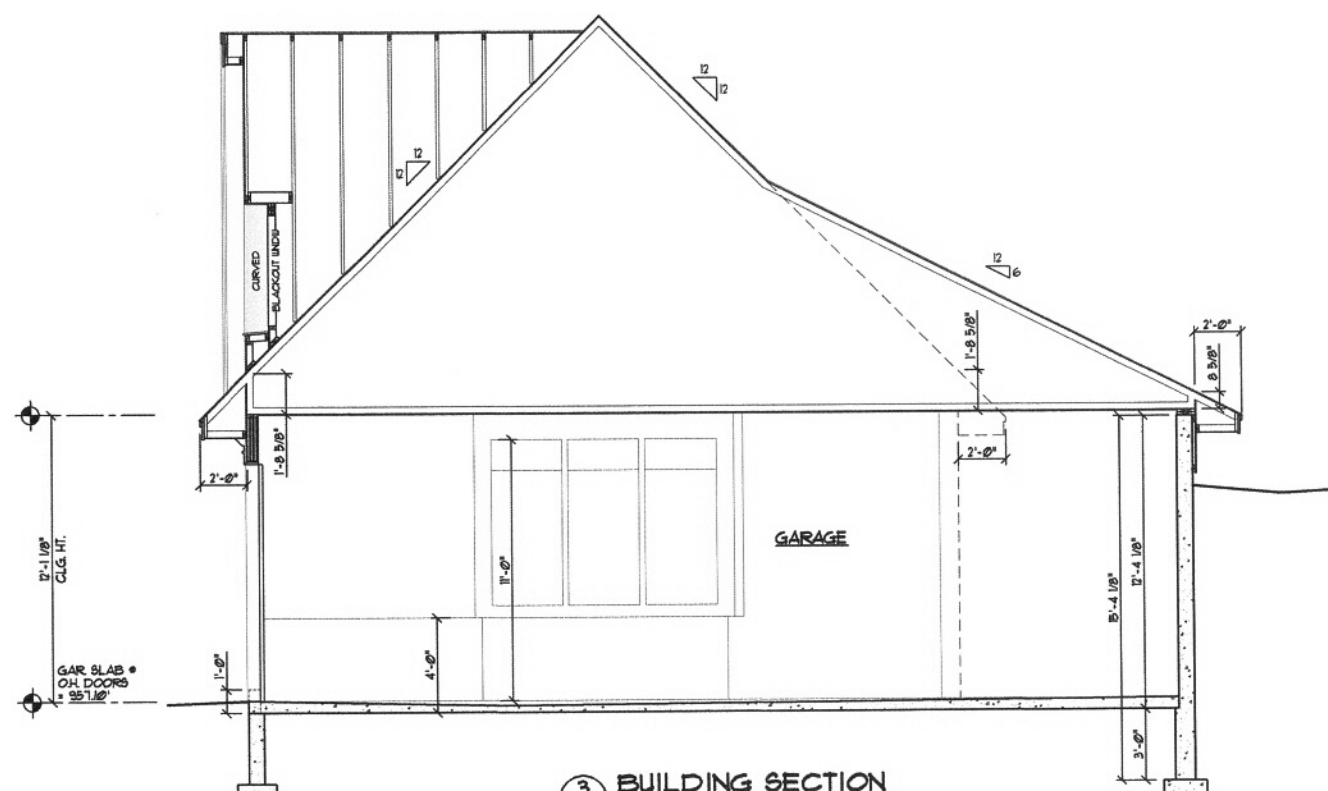
GAR SLAB *
OH DOORS
= 35'1 1/2"



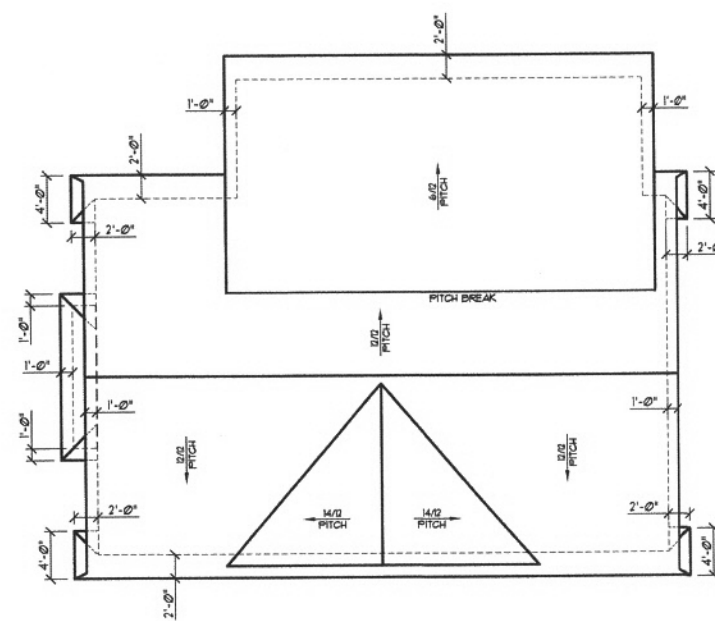
1 DETACHED GARAGE FOUNDATION
SCALE: 1/4"=1'-0"



2 DETACHED GARAGE PLAN
SCALE: 1/4"=1'-0"



3 BUILDING SECTION



4 ROOF PLAN

NOTE:
OFFSET EXTERIOR STUDS 1-1/2" TO
THE OUTSIDE FACE OF FOUNDATION
WHERE EXT. FND. INSUL. IS APPLIED,
EXCEPT WHERE NOTED.

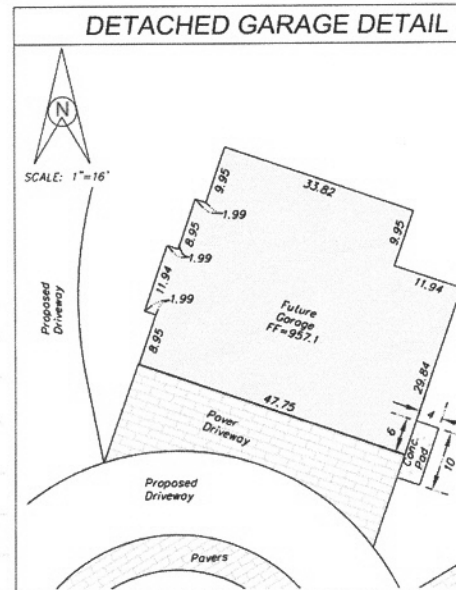
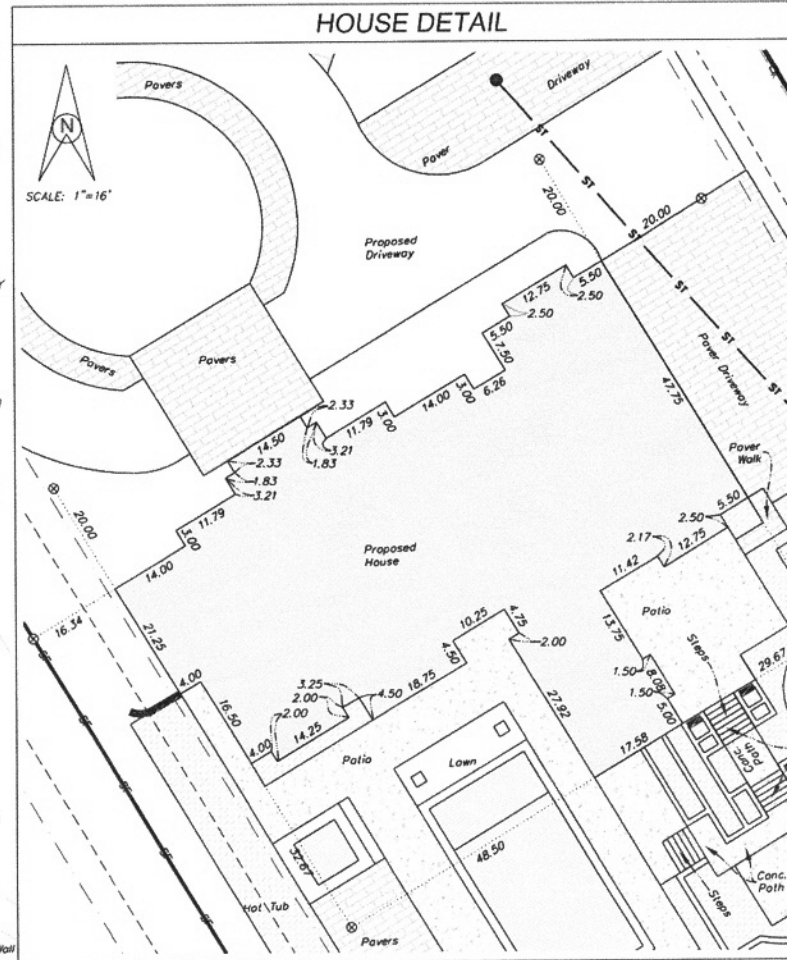
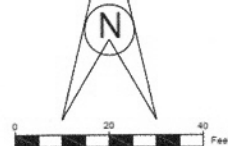
MARVIN ELEVATE WINDOW CODES
(*) UNLESS NOTED OTHERWISE (*)
MARVIN WINDOW OPENING CONTROL
DEVICE FOR FALL PREVENTION AS REQ'D.

NOTE - DETAILS ARE FOR DESIGN
INTENT. CONTRACTOR TO FOLLOW
PROPER BUILDING PRACTICES,
FLASHING, & MANUF. INSTALLATION.

NOTE:
SEE 'HANSON GROUP' STRUCTURAL
PAGES FOR ALL ENGINEERING.
THESE PAGES TO SUPERSEDE ANY
CALLOUTS OR SIZING SHOWN THAT
MAY DIFFER.

Certificate of Survey

- LEGEND**
- 1010 denotes Proposed Contour
 - 1017.5 denotes Proposed Spot Elevation
 - denotes Proposed Drainage
 - denotes Existing Contour
 - denotes Existing Spot Elevation
 - denotes Telephone Pedestal
 - denotes Electrical Pedestal
 - denotes Guy Wire
 - denotes Power Pole
 - denotes Ballard TO BE REMOVED
 - denotes Gas Valve
 - denotes Sanitary Manhole
 - denotes Catch Basin
 - denotes Deciduous Tree
 - denotes Coniferous Tree
 - denotes Tree TO BE REMOVED
 - denotes Gas Line
 - denotes Fence Line TO BE REMOVED
 - denotes Fence Line
 - denotes Overhead Electric Line
 - denotes Sanitary Sewer Line
 - denotes Storm Sewer Line
 - denotes Existing Culvert
 - denotes Certificate of Title Dimension
 - (plot) denotes Plot Dimension
 - denotes Drainage and Utility Easement per the plot MURPHY HIGHLANDS
 - denotes Building Setback Line
Front = 35'
Side = 15'
Lake O.H.W.L. = 75'
 - denotes Proposed Landscaping
 - denotes Area to be planted with No Maintenance Turf
 - denotes Construction Fence
 - SF denotes Pre-construction Silt Fence



Proposed House Elevations:
Top of Foundation = 955.11
Garage Floor = 956.50
Basement Floor = 944.98
Theater Floor = 943.98

Property Description:
Lot 2, Block 1, MURPHY HIGHLANDS,
Hennepin County, Minnesota, according
to the recorded plat thereof.

EXISTING HARDCOVER CALCULATIONS:		
AREA TO O.H.W.L.	90,319±	S.F.
	AREA	
Existing Driveway	6,473	S.F.
TOTAL	6,473	S.F.
% HARDCOVER	7.2	%

PROPOSED HARDCOVER CALCULATIONS:		
AREA TO O.H.W.L.	90,319±	S.F.
	AREA	
Proposed House	4,925	S.F.
Future Garage	1,785	S.F.
Proposed Driveway	7,113	S.F.
Proposed Pervious Pavers (50%)	2,100	S.F.
Garage Pervious Pavers (50%)	283	S.F.
Garage Conc. Pad	40	S.F.
Proposed Patios, Conc. Paths, Steps, Hot Tub Area, Pool Area	3,225	S.F.
TOTAL	19,471	S.F.
% HARDCOVER	21.6	%

Certificate of Survey on Lot 2, Block 1,
MURPHY HIGHLANDS, Hennepin County,
Minnesota

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.

Requested By:

Alexander Design Group

Date:

Drawn By:

Scale:

Checked By:

3-31-22

TJR

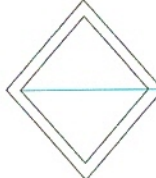
1"=20'

PEO



www.ttoassociates.com
9 West Division Street
Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522

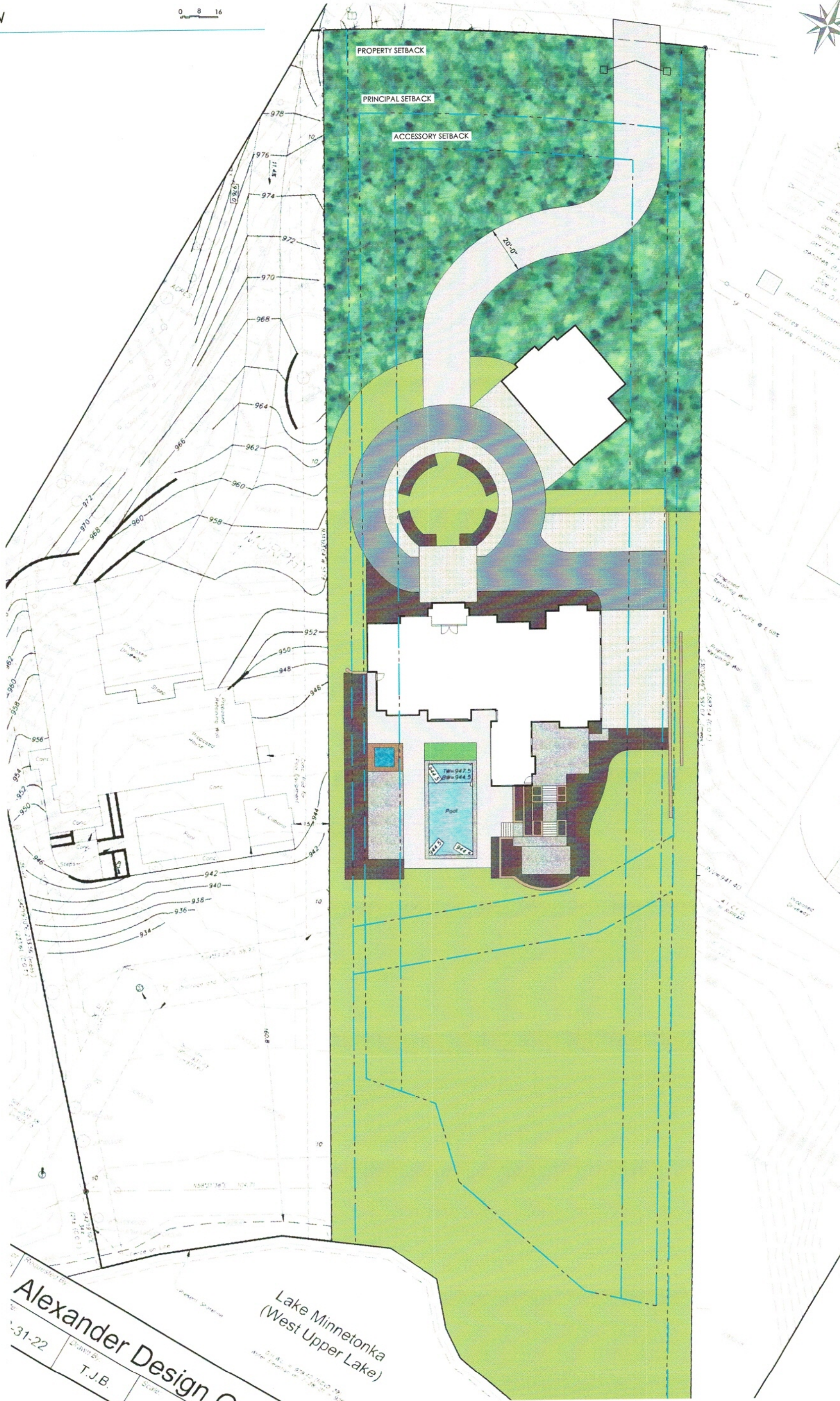
denotes iron monument found
denotes 1/2 inch by 14 inch iron
and marked by License #4000
denotes found judicial landma
denotes iron monument to be
Project No.



PLAN VIEW

scale: 1"=20'

0 8 16



MOM'S
DESIGN • BUILD

Landscape. Remodel. Maintain.

12275 WECKMAN RD
Shakopee, Minnesota 55379
momsdesignbuild.com 952.277.6667

Designed by:
BRITTNEY MURPHY
Drawn by:
BRITTNEY MURPHY

PAGE SIZE: ARCH D

Designed for the
MURPHY RESIDENCE

5804 HARDSCRABBLE CIRCLE MOUND, MN. 55364

Approved by:

Date:

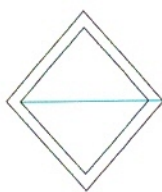
Date: 6.13.23 Version: 2.4

Document Title:
NEW DRIVEWAY LAYOUT

Sheet Number:

L - 1

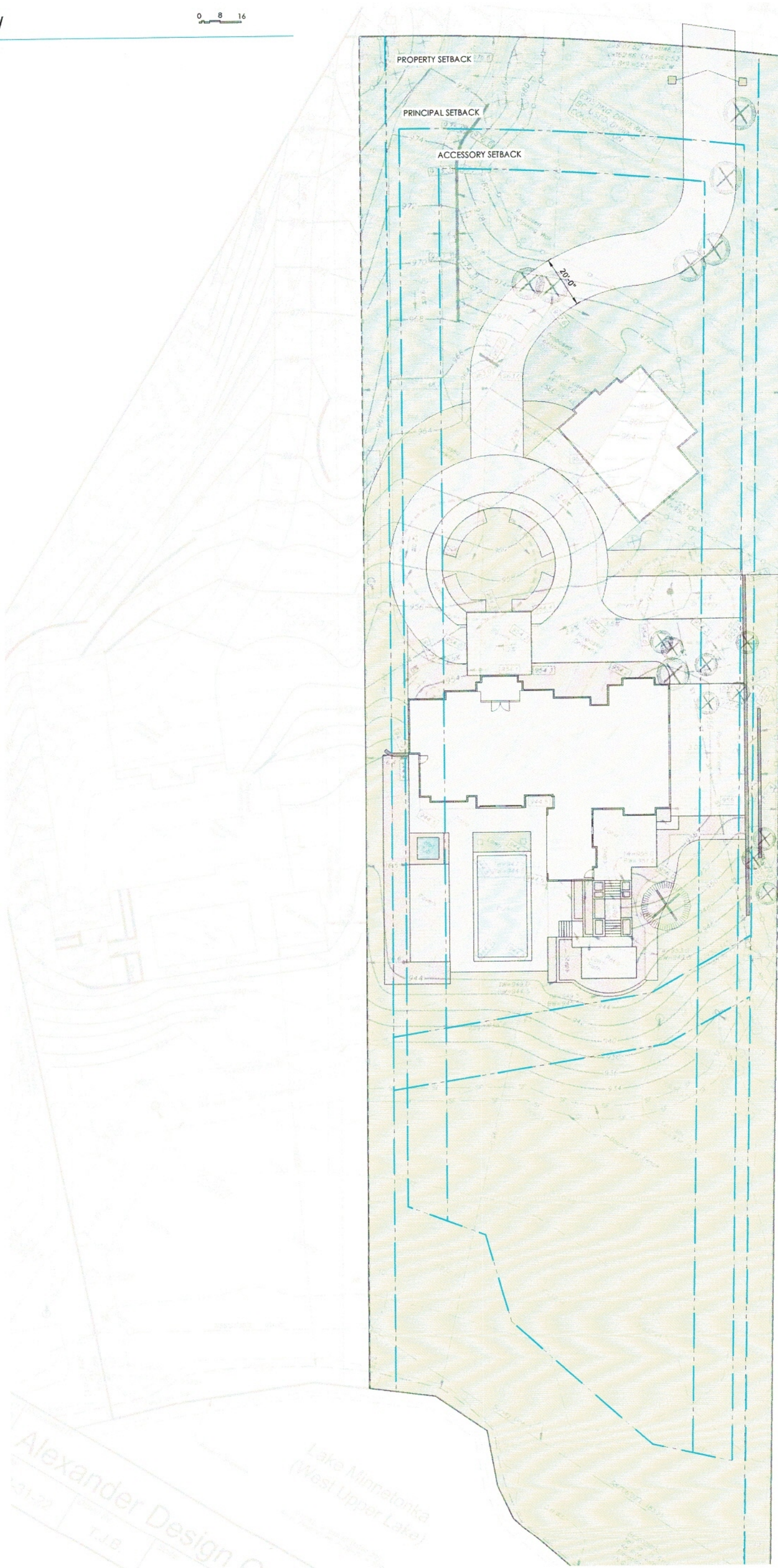
#CasualLuxury



PLAN VIEW

scale: 1"=20'

0 8 16



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momsdesignbuild.com 952.277.6667

Designed by:
BRITTNEY MURPHY
Drawn by:
BRITTNEY MURPHY

PAGE SIZE: ARCH D

MURPHY RESIDENCE

5804 HARDCRABBLE CIRCLE MOUND, MN. 55364

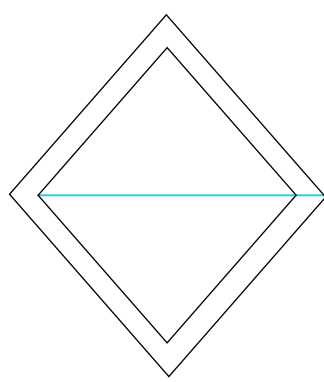
Approved by:

Date:

Date: 6.13.23 Version: 2.4
Document Title: DRIVEWAY OVERLAID ON SURVEY
Sheet Number: L - 2

#CasualLuxury

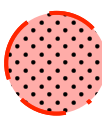
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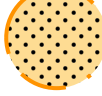
PLAN VIEW

scale: 1"=20'

LANDSCAPE KEY



TREES TO BE REMOVED



EXISTING TREE PROTECTION ZONE

* All planting beds Mink Mulch with Black Steel Edging



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Shakopee, Minnesota 55379
momsdesignbuild.com 952.277.6667

Designed by:
BRITTNEY MURPHY
Drawn by:
BRITTNEY MURPHY

PAGE SIZE: ARCH D

Designed for the
MURPHY RESIDENCE

5804 HARDCRABBLE CIRCLE MOUND, MN. 55364

Approved by:

Date: _____

Date:
8.29.23
Version:
2.5
Document Title:
LANDSCAPE PLAN
Sheet Number:
L - 1

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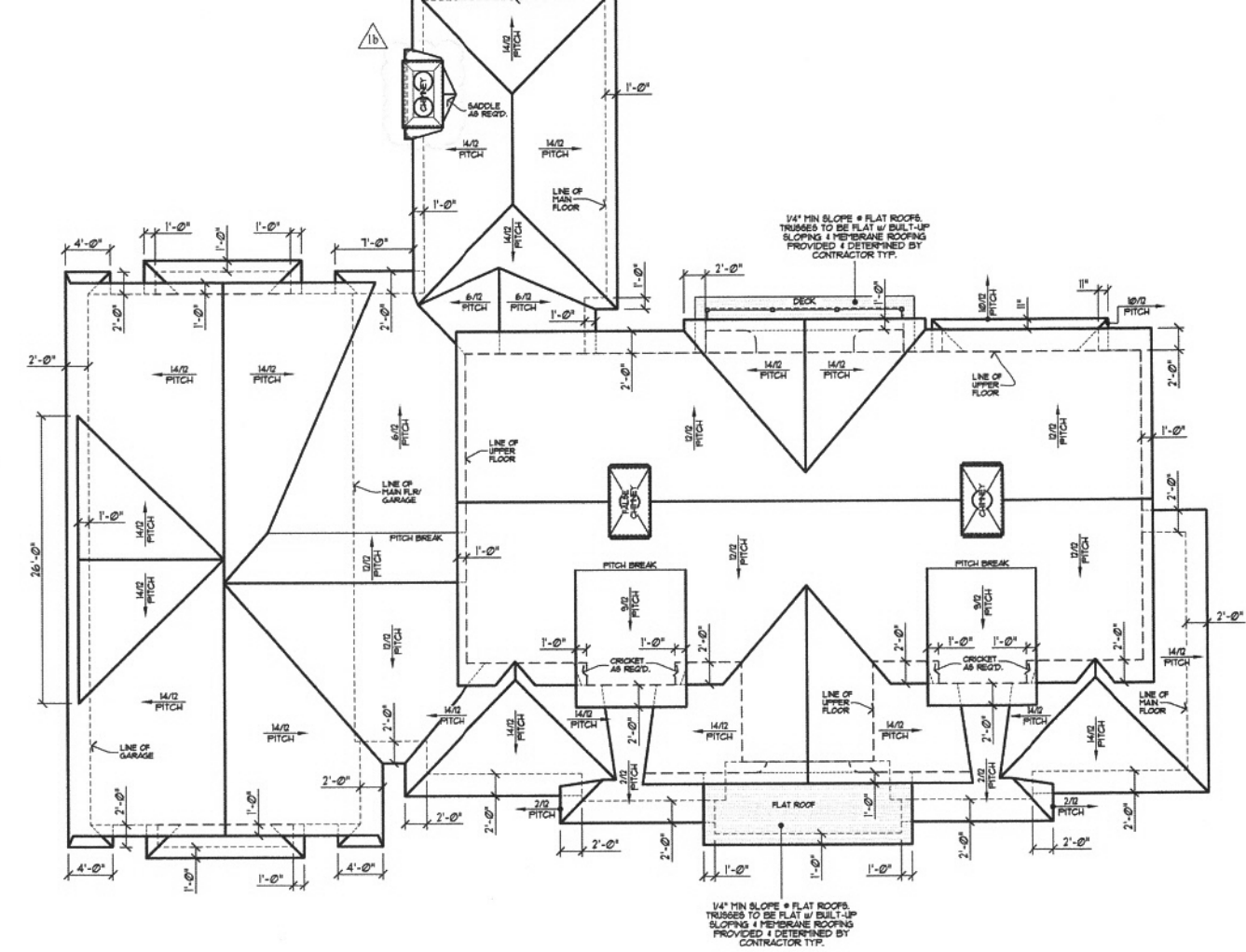
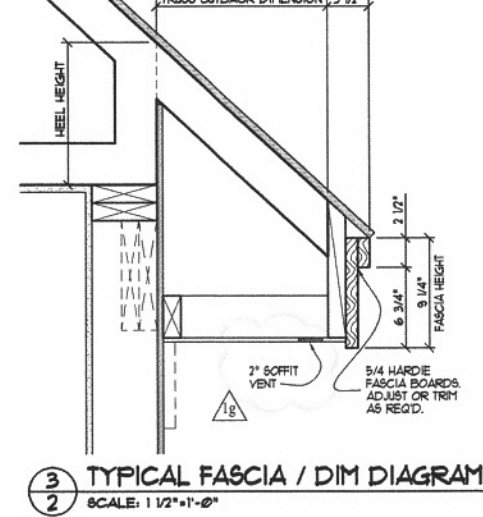
FRONT ELEVATION
SCALE: 1/4\"/>

ASPHALT SHINGLES
METAL ROOF PER ELEV.
HARDIE SHAKE SIDING PER ELEV.
RILL STONE PER ELEV.
THIN STONE PER ELEV. AS NOTED
6\"/>

REVISION 6/14/2023

- AT SUNROOM:
- DROP FLOOR TRUSSES 1-1/2\"/>
- AT POOL HOUSE/SUNROOM:
- REROUTE GRILL VENTING TO REAR OF POOL HOUSE & LANDSCAPE WALL.
- ADD (2) FIP VENTS TO CHASE.
- AT GOLF BUNKERS:
- INCREASE OPENING TO ALLOW FOR HVAC DUCTING.
- AT SUNROOM PATIO:
- NOTE THAT INSET FOOTINGS TO BE DETERMINED BY LANDSCAPE DESIGN.
- AT POOL ENTRY/POOL BATH/ THEATRE & PLAYROOM 1/2 BATH:
- FURN DOWN CEILING 9-1/2\"/>
- AT DINING GATHERING OWNERS BED & BATH WINGS:
- ADD MOTORIZED SHADES AND NOTED DECO BEAMS OR SOFFITS.
- ADD SOFFIT VENT TO OWNERS DTL & FRONT PORCH.
- AT KITCHEN:
- CHANGE RANGE TO 36\"/>
- AT BACK KITCHEN:
- CHANGE REFRIG TO BY OWNER.
- GENERAL CHANGES NOT BUBBLED:
- CLARIFICATION OF OPENING & DOOR HEIGHTS & LOWER LEVEL.
- FIP & CUPNET CAP SELECTIONS.
- BEAM SELECTION AIDS FROM HANSON ENG W/ MULTIPLE OPTIONS.
- NOT BUBBLED:
- ADDED CABINET PLANS AND SET FIRST CLOSET, 1ST & 2ND BATH.

- 1. AT SUNROOM:
 - DROP FLOOR TRUSSES 1/2" TO 2" FOR HEATED FLOORING.
 - FINISH FLOOR TO MATCH MAIN FLOOR FINISH.
 - TRIM: EDIT HEIGHT OF FOUNDATION WALL. AT REAR SUNROOM WALL, REMOVE 1/4" ABOVE F.P. AND EXTEND TRUSSES.
 - ADD DECOR BEAM + PERIMETER AND ADD MOTORIZED SHADES.
- 2. AT POOL HOUSE/SUNROOM:
 - REMOVE GULLY VENTING TO REAR OF POOL HOUSE + LANDSCAPE WALL.
 - ADD (1) F.P. VENTS TO CHASE.
- 3. AT GOLF SHEDS:
 - INCREASE OPENING TO ALLOW FOR HVAC DUCTING.
- 4. AT SUNROOM PATIO:
 - NOTE THAT PROST FOOTINGS TO BE DETERMINED BY LANDSCAPE DESIGN.
- 5. AT POOL ENTRY/POOL BATH:
 - THEATRE + POOL ROOM: 12" BATH.
 - TURN DOWN CEILING 1/2" AS NOTED FOR HVAC.
 - 6" FLUSH BEAM + THEATRE.
- 6. AT DINING GATHERING OWNER'S BED + BATH BUDS:
 - ADD MOTORIZED SHADES AND NOTED DECOR BEAMS OR SOFFITS.
- 7. ADD SOFFIT VENT TO CHASE DTL + FRONT PORCH.
- 8. AT KITCHEN:
 - CHANGE RANGE TO 36".
- 9. AT BACK KITCHEN:
 - CHANGE REFRIG TO 36".
- 10. GENERAL CHANGES NOT SUBMITTED:
 - CLARIFICATION OF CHANGES.
 - DOOR HEIGHTS + LOWER LEVEL.
 - F.P. + CHIMNEY CAP SELECTION.
 - BEAM SELECTION NEEDED FROM HANSON ENG. w/ MULTIPLE OPTIONS.
- 11. NOT SUBMITTED:
 - ROOFING CABINET PLANS AND RELATED CHANGES: 1" SHEETS.



2 ROOF PLAN
SCALE: 1/8" = 1'-0"

- ASPHALT SHINGLES
- METAL ROOF PER ELEV.
- HARDIE SHAKE SIDING PER ELEV.
- RULL STONE PER ELEV.
- THIN STONE PER ELEV. AS NOTED
- 6" HARDIE GABLE FRIEZE
- 6" HARDIE FRIEZE + UPPER LEVEL
- 13" BUILT-UP FRIEZE w/ BEVELED CROWN + MAIN LEVEL
- 6" HARDIE WINDOW TRIM BOARDS w/ STOOL + APRON PER ELEV.
- HARDIE TRIM BANDS PER ELEV.
- HARDIE PANELS PER ELEV.



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



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

2 LEFT ELEVATION

REVISION 6/14/2023

- 1. AT SUNROOM: - DROP FLOOR TRIM 1/4" TO ALLOW FOR HEATED FLOORING. FINISH FLOOR TO MATCH MAIN FLOOR FINISH. - TRIM EDIT HEIGHT OF FOUNDATION WALL AT REAR SUNROOM WALL. - REMOVE LVL ABOVE RFP AND EXIST TRUSS. - ADD DECO BEAM + PERIMETER AND ADD NOTICED SHADES.
- 2. AT POOL HOUSE/SUNROOM: - REMOVE GRILL VENTING TO REAR OF POOL HOUSE + LANDSCAPE WALL. - INCREASE OPENING TO ALLOW FOR HVAC DUCTING.
- 3. AT GOLF BRIGADES: - NOTE THAT FRONT FOOTINGS TO BE DETERMINED BY LANDSCAPE DESIGN.
- 4. AT POOL ENTRY/POOL BATH: - REAR ENTRY 12 BATH. - TURN DOWN CEILING 5'-12" AS NOTED FOR RAC. - RE-FLUSH BEAM + THEATRE.
- 5. AT DINING GATHERING OWNER'S BED + BATH UNDOORS: - ADD NOTICED SHADES AND NOTED DECO BEAMS OR SOFFITS.
- 6. ADD SOFFIT VENT TO OVAL DTL + FRONT PORCH.
- 7. AT KITCHEN: - CHANGE RANGE TO 36".
- 8. AT BACK KITCHEN: - CHANGE REFERS TO BY OWNER.
- 9. GENERAL CHANGES NOT BLURRED: - CLARIFICATION OF OPENING + DOOR HEIGHTS + LOWER LEVEL. - RFP + CHIMNEY + SELECTIONS. - BEAM SELECTION BASED FROM HANSON ENG. IN MULTIPLE OPTIONS.
- 10. NOT BLURRED: - ADDED CABINET PLANS AND RELATED CHANGES: "I" SHEETS.

REVISION 6/28/2023

- 1. AT BATH #4 CHANGE TUB/SHOWER TO SHOWER.
- 2. AT BATH #5 MOVE RFP FLUE TO CLOSET AND ENLARGE SHOWER.
- 3. ADD STRUCTURAL SLAB TO PATIO BEHIND GARAGE/SUNROOM. - INCREASE LEDGE + PERIMETER HOUSE BUILT BY HAVING BUILT. - ADJUST ADJOINING WALL W/ STONE. - ADD GRACE BEAMS PER ENGINEER. - DROP FOUNDATION WALL 1/2" + DETAIL 3/8". - ADD FRONT FOOTING + LEDGE. - AT POOL HOUSE: ADD BEAM FOR STONE + RFP ABOVE + SUNROOM. - ADJUST GRILL VENT TO AVOID BEAM.
- 4. ADD ADDITIONAL ENGINEERED WALLS + LANDSCAPE WALLS.

ASPHALT SHINGLES
METAL ROOF PER ELEV.
HARDIE SHAKE SIDING PER ELEV.
FULL STONE PER ELEV.
THIN STONE PER ELEV. AS NOTED
6" HARDIE GABLE FRIEZE
6" HARDIE FRIEZE + UPPER LEVEL
13" BUILT-UP FRIEZE w/ BEVELED CROWN
+ MAIN LEVEL
6" HARDIE WINDOW TRIM BOARDS w/
STOOL + APRON PER ELEV.
HARDIE TRIM BANDS PER ELEV.
HARDIE PANELS PER ELEV.

PROPOSED
LANDSCAPING
SEE LANDSCAPE PLANS
FOR FINAL DESIGN

ALEXANDER
DESIGN GROUP

275 EAST LAKE STREET
SUITE 102
WAYZATA, MN 55178
Phone: 952.473.8383
FAX: 952.473.8383

ISSUE DATE:
28 JUNE 2023

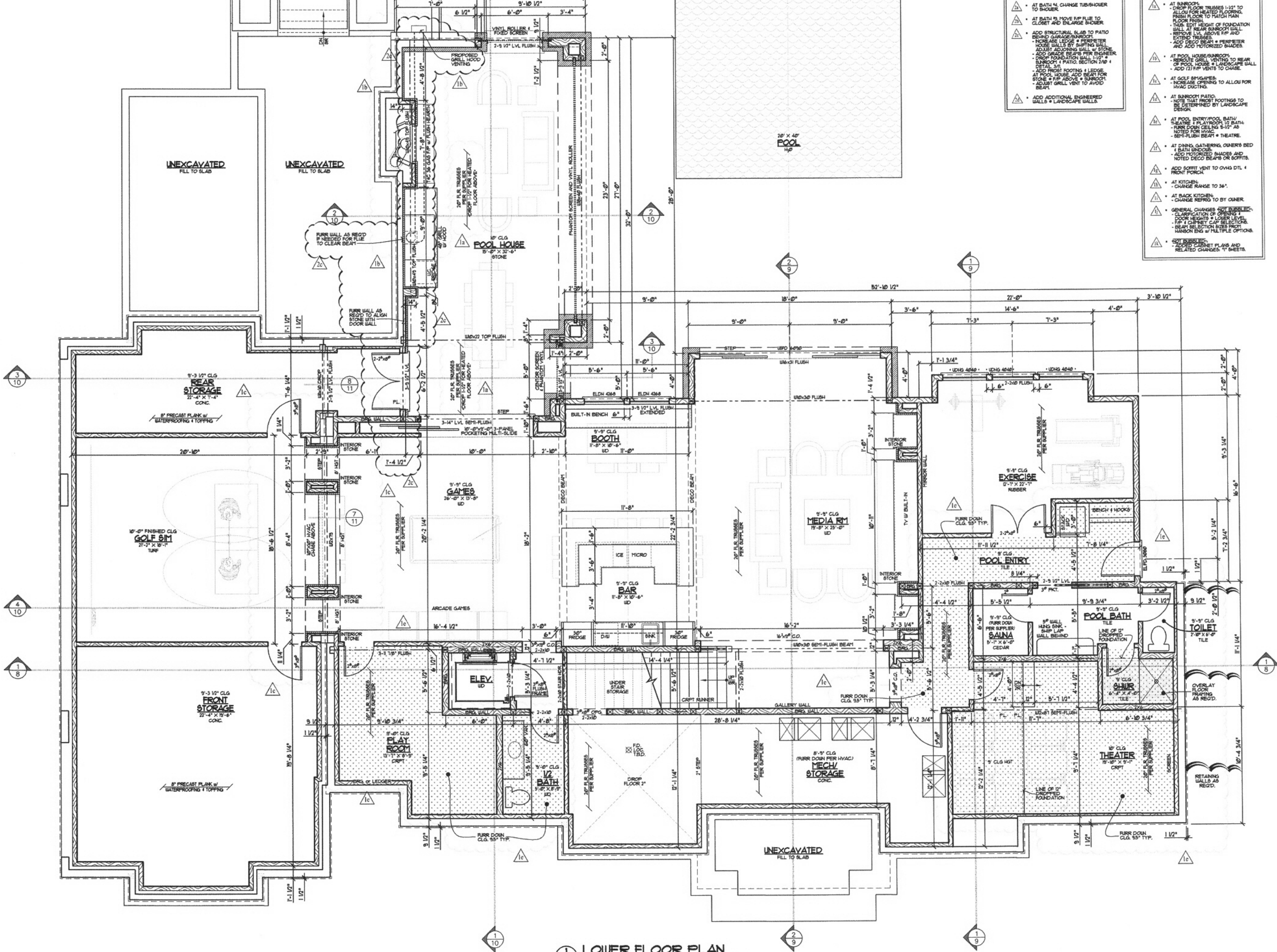
PREVIOUS ISSUE DATES:
6/7/2023

DRAWING DESCRIPTION:
ELEVATIONS

CONSTRUCTION SET
REVISION 2

MURPHY RESIDENCE
5804 HARDSCRABLE
MINNETRISTA, MN

3
3 OF



- AT BATH 1, CHANGE TUB/SHOWER TO SHOWER.
- AT BATH 2, MOVE R/P FLUE TO CLOSET AND ENLARGE SHOWER.
- ADD STRUCTURAL SLAB TO PATIO BEHIND GARAGE/SUNROOM.
- INCREASE LEDGE & PERIMETER HOUSE WALLS BY SHIFTING WALL.
- ADJUST ADJOINING WALL w/ STONE.
- ADD GRADE BEAMS PER ENGINEER.
- DROP FOUNDATION WALL 1/2" & SUNROOM & PATIO, SECTION 2-20 & DETAIL 3-11.
- ADD FRONT FOOTING & LEDGE AT POOL HOUSE ADD BEAM FOR STONE & R/P ABOVE & SUNROOM.
- ADJUST GRILL VENT TO AVOID BEAM.
- ADD ADDITIONAL ENGINEERED WALLS & LANDSCAPE WALLS.
- AT SUNROOM.
- NOTE THAT BEST FOOTINGS TO ALLOW FOR HEATED FLOORING, REAR DOOR TO HATCH MAIN FLOOR FINISH.
- THIS EPT HEIGHT OF FOUNDATION WALL AT REAR SUNROOM WALL.
- REMOVE LVL ABOVE R/P AND STONE.
- ADD DECO BEAM & PERIMETER AND ADD NOTORIZED SHADES.
- AT POOL HOUSE/SUNROOM.
- REROUTE GRILL VENTING TO REAR OF POOL HOUSE & LANDSCAPE WALL.
- ADD DRYER VENTS TO CHASE.
- AT GOLF SHED/GARAGE.
- INCREASE OPENING TO ALLOW FOR HVAC DUCTING.
- AT SUNROOM PATIO.
- NOTE THAT BEST FOOTINGS TO BE DETERMINED BY LANDSCAPE DESIGN.
- AT POOL ENTRY/POOL BATH/ THEATRE & PLAYROOM 1/2 BATH.
- RURR DOWN CEILING 3-1/2" AS NOTED FOR HVAC.
- SET-FLUSH BEAM & THEATRE.
- AT DINING, GATHERING, OWNER'S BED & BATH SINKS.
- ADD NOTORIZED SHADES AND NOTED DECO BEAMS OR SOFFITS.
- ADD SOFFIT VENT TO CROWN DTL & FRONT PORCH.
- AT KITCHEN.
- CHANGE RANGE TO 36".
- AT BACK KITCHEN.
- CHANGE REFRIG TO BY OWNER.
- GENERAL CHANGES NOT REBUILT:
- CLARIFICATION OF OPENING & DOOR HEIGHTS & LOWER LEVEL.
- R/P & CROWN CAP SELECTIONS.
- BEAM SELECTION REBUILT FROM HANSON ENG w/ MULTIPLE OPTIONS.
- NOT REBUILT:
- ADDED CABINET PLANS AND RELATED CHANGES, 11 SHEETS.

NOTE:
SEE HANSON GROUP'S STRUCTURAL
PAGES FOR ALL ENGINEERING.
THESE PAGES TO SUPERSEDE ANY
CALLOUTS OR SIZING SHOWN THAT
MAY DIFFER.

NOTE:
OFFSET EXTERIOR STUDS 1-1/2" TO
THE OUTSIDE FACE OF FOUNDATION
WHERE EXT. FND. INSUL. IS APPLIED,
EXCEPT WHERE NOTED.

MARVIN ELEVATE WINDOW CODES
(UNLESS NOTED OTHERWISE)
MARVIN WINDOW OPENING CONTROL
DEVICE FOR FALL PREVENTION AS REQ'D.

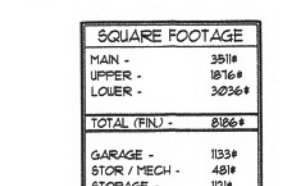
NOTE - ALL WINDOW & DOOR HEAD
HGTs. TO BE SET AT 8'-0" AT LWR
LEVEL UNLESS NOTED OTHERWISE.

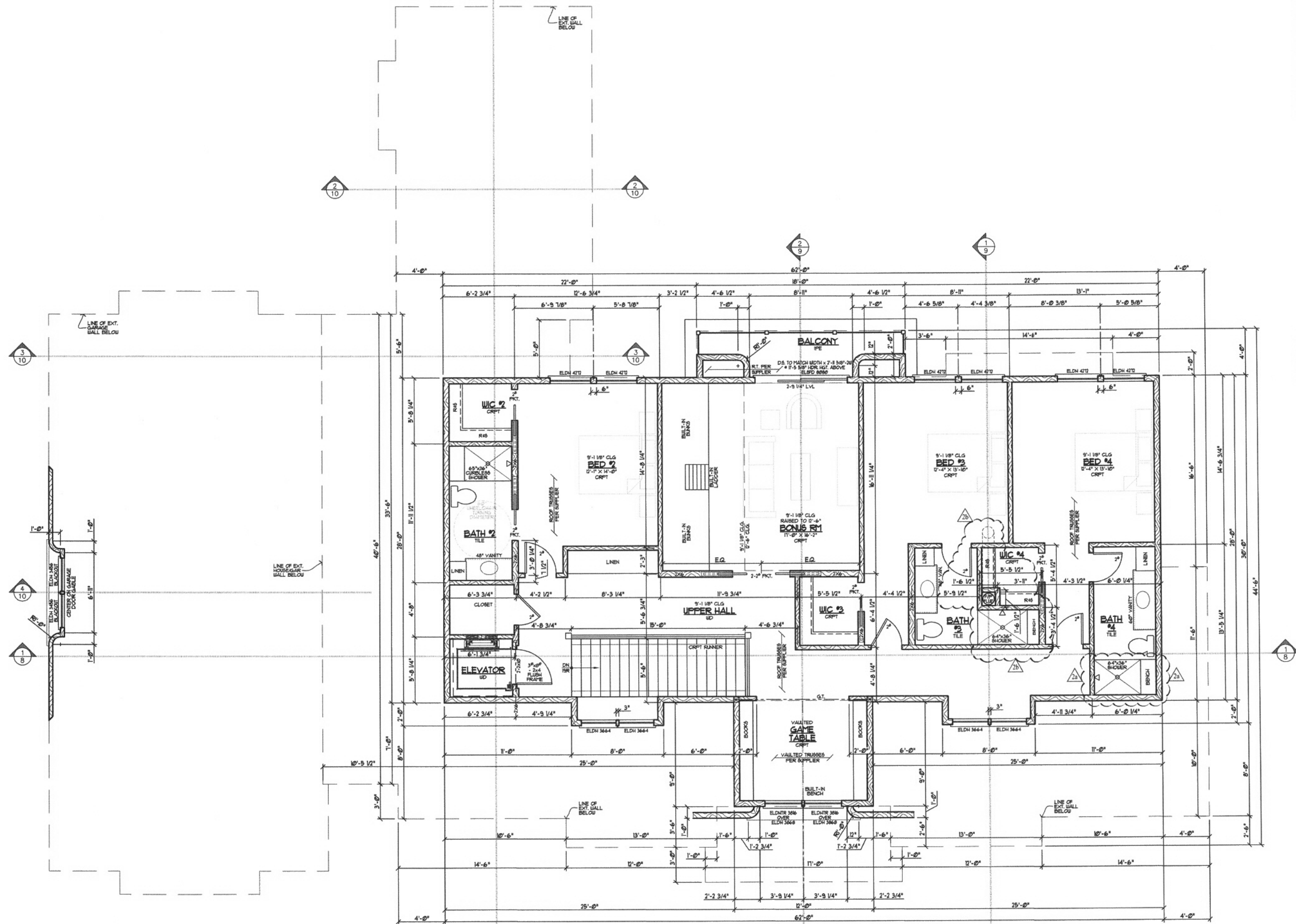
SMOKE ALARMS AT ALL SLEEPING
ROOMS, ENTRY LEVEL, AND ALL
HALLWAYS TO SLEEPING ROOMS,
AND/OR PER CODE.

CO ALARMS OUTSIDE OF & WITHIN 10'
OF ALL SLEEPING ROOMS, AND/OR
PER CODE.

SQUARE FOOTAGE	
MAIN -	3511#
UPPER -	1876#
LOWER -	3036#
TOTAL (FIN.) -	8423#
GARAGE -	1133#
STOR / MECH -	481#
STORAGE -	1121#

1 LOWER FLOOR PLAN
5 SCALE: 1/4"=1'-0"





1 UPPER FLOOR PLAN
SCALE: 1/4"=1'-0"

REVISION		6/28/2023
1	AT BATH #4 CHANGE TUB/SHOWER TO SHOWER	
2	AT BATH #4 MOVE FIP FLE TO CLOSET AND ENLARGE SHOWER	
3	ADD STRUCTURAL SLAB TO PATIO BEHIND GARAGE/SUNROOM INCREASE LEDGE & PERIMETER HOUSE WALLS BY SHIFTING WALL. ADJUST ADJOINING WALL & STONE. ADD GRADE BEAMS PER ENGINEER. DROPT FOUNDATION WALL 1'-0" & SUNROOM & PATIO SECTION 2/16 & DETAIL 1/16	
4	ADD FROST FOOTING & LEDGE AT POOL HOUSE. ADD BEAM FOR STONE & FIP ABOVE & SUNROOM. ADJUST GRILL VENT TO AVOID BEAT.	
5	ADD ADDITIONAL ENGINEERED WALLS & LANDSCAPE WALLS	

NOTE:
SEE 'HANSON GROUP' STRUCTURAL PAGES FOR ALL ENGINEERING. THESE PAGES TO SUPERSEDE ANY CALLOUTS OR SIZING SHOWN THAT MAY DIFFER.

MARVIN ELEVATE WINDOW CODES
(* UNLESS NOTED OTHERWISE *)
MARVIN WINDOW OPENING CONTROL DEVICE FOR FALL PREVENTION AS REQ'D.

NOTE - ALL WINDOW & DOOR HEAD HGT'S TO BE SET AT 8'-0" AT UPFR LEVEL UNLESS NOTED OTHERWISE

SMOKE ALARMS AT ALL SLEEPING ROOMS ENTRY LEVEL AND ALL HALLWAYS TO SLEEPING ROOMS, AND/OR PER CODE.

CO ALARMS OUTSIDE OF & WITHIN 10' OF ALL SLEEPING ROOMS, AND/OR PER CODE.

SQUARE FOOTAGE	
MAIN -	3511#
UPPER -	1876#
LOWER -	3036#
TOTAL (FIN) -	8423#
GARAGE -	1133#
STOR / MECH -	481#
STORAGE -	1214#

CITY OF MINNETRISTA



PUBLIC HEARING

Subject: Application from Frank Weigel and Esther Nazarov to extend an interim use permit for Agricultural Entertainment Activities at the properties of 6480 County Road 26 and 6530 County Road 26 (continued from August 28, 2023)

Prepared By: Nickolas Olson, Senior City Planner

Meeting Date: September 25, 2023

Issue: Frank Weigel and Esther Nazarov (the “Applicants”) have made an application to extend an interim use permit for Agricultural Entertainment Activities at the properties of 6480 County Road 26 and 6530 County Road 26; A – Agriculture Zoning District; PID# 03-117-24-11-0004 and PID# 03-117-24-12-0004 (collectively the “Properties”).

Background: The previous property owners originally received a Conditional Use Permit (CUP) back in 1980 to sell apples and honey on the Properties. That CUP was later amended in 1996 to allow for the operation known today as Minnetonka Orchards. City ordinances changed in 2007 to allow agricultural entertainment activities by interim use permit (IUP) rather than CUP. The difference between a CUP and IUP is that an IUP is a use that is allowed for a certain duration of time and is specific to a certain property owner. In 2013, a CUP for a farm winery was approved. At that time, the City issued an IUP for the agricultural entertainment activities which was good for 10 years. In 2020, Lowell and Phyllis Schaper (the Schapers), the previous owners of Minnetonka Orchards, began exploring selling the Properties. As they were going through the process, they were informed that in order to continue the IUP operation, any new owner would need to be added to that permit. In late 2020 and early 2021, the Applicants went through that process with the Planning Commission and City Council. From that, it was clear that noise was the primary issue with the IUP. In order to help address that issue, information from a acoustic consultant was presented with the materials to the Planning Commission and City Council. The City, the Applicants, and the Schapers all agreed this should be completed. As the Planning Commission will see in the additional materials attached to this staff report, it appears as though this has not been completed. Now, the permit recently expired and the Applicants have applied to extend the previously approved permit. In the meantime, the City has approved a special events permit to cover the already scheduled events while this request is being reviewed. This request was initially scheduled to be heard at the August 25, 2023 meeting, but the Applicants could not be present. The Planning Commission opened the public hearing as scheduled, took public comment from two parties, and continued the hearing until this evening.

Mission Statement:

The City of Minnetrista will deliver quality services in a cost effective and innovative manner and provide opportunities for a high quality of life while protecting natural resources and maintaining a rural character.

Discussion: The Applicants are requesting to extend the existing IUP for an additional 10 years. This was the duration given to the previous owners when the IUP was first issued. The Planning Commission might want to consider certain factors like how many events the Applicants have held, how long they have been open, the type of events they are holding, etc. in determining the duration of the permit. Back when the Schapers started Minnetonka Orchards, it was geared towards families and children. As time has gone on and the introduction of the farm winery, the nature of the events has become more adult friendly with alcohol, and this might also factor in to the Planning Commissions consideration. Another point of note is that when the Applicants names were added to the previous IUP, there were a few years left on that permit and it was expected that would serve as a trial period for the Applicants. However, during that time there was a global pandemic and it's unclear how that may have impacted their operation. If the Applicant was limited in any way, it might make sense to consider a shorter duration. Outside of extending the duration of the IUP, no other changes or conditions are being requested at this time. For discussion, the criteria from City Code for reviewing an IUP have been included below:

Subd. 8. Interim Use Permit

- (a) Purpose. The purpose of this ordinance is to allow interim uses under specific and regulated conditions. Interim uses may be allowed by permit if the following conditions are met:
 - (1) The use conforms to the zoning regulations;
 - (2) The date or event that will terminate the use can be identified with certainty;
 - (3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - (4) The user agrees to any conditions that the city council deems appropriate for permission of the use.
- (b) Application. The applicant shall submit an application for an interim use permit to the city planner. The application shall be accompanied by the following information and documentation:
 - (1) Legal description of the property;
 - (2) Identification of the owner and user, if different;
 - (3) Site plan, including location of all buildings, driveways, parking areas, restroom facilities, septic systems, drain fields, wetlands and easements;
 - (4) Sign plan;
 - (5) Lighting plan;
 - (6) Names of each owner of property situated wholly or partly within 1,500 feet of the property to which the interim use relates;
 - (7) Statement of the date or event terminating the use;
 - (8) Application fee as set forth in the city's fee schedule; and

Mission Statement:

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- (9) Such other information as the city deems necessary or desirable.
- (c) City Staff Review. Upon receipt of an application for an interim use permit, the city planner shall review the material submitted and determine whether the application is complete. If the application is not complete, the city planner shall notify the applicant in writing and shall specify the additional documentation or information that the applicant will be required to submit before the application will be considered complete. When the application is complete, the city planner shall refer the matter to the planning commission for review and public hearing.
- (d) Planning Commission Review; Public Hearing.
 - (1) The planning commission shall review the proposed interim use permit on the basis of the information and documentation submitted by the applicant and any other information available to it. The planning commission shall hold a public hearing on the proposed interim use. Notice of the time, place and purpose of the hearing shall be published in the city's official newspaper at least 10 days prior to the date of the hearing. Notice shall also be mailed at least 10 days prior to the hearing to each owner of affected property and property situated wholly or partly within 1500 feet of the property to which the interim use relates.
 - (2) The planning commission shall review the proposed interim use to determine whether it is consistent with the requirements of this ordinance. Following the public hearing, the planning commission shall recommend that the interim use be approved with conditions or denied. The planning commission shall forward its recommendation to the city council along with a list of suggested conditions if it recommends approval of the permit.
- (e) City Council Review; Amendment.
 - (1) The city council shall consider the report of the city planner and the recommendation of the planning commission and may consider any additional information or conduct such additional review as it determines would serve the public interest. The city council shall approve with conditions or deny the interim use permit. The city council shall condition its approval in any manner it deems reasonably necessary in order to promote public health, safety or welfare and to achieve compliance with this ordinance. The city council may require the applicant to enter into an agreement including such provisions as it

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deems reasonably required to ensure compliance with this ordinance and the terms and conditions of the city's approval.

- (2) An application to amend an approved interim use permit shall be reviewed under this section in the same manner as an initial application for an interim use permit.

- (f) Termination. An interim use shall terminate upon the date or the occurrence of the event established in the permit or upon such other condition specified by the city. Notwithstanding anything herein to the contrary, an interim use may be terminated by a change in zoning regulations applicable to the use or land upon which it is located.

Specific to interim uses, the following language is found within the Agriculture Zoning District:

(d) Interim use in A-agriculture district.

- (1) Within the A-agriculture district, the following use shall be permitted by interim use permit:

- a. Agricultural entertainment, which shall include events or activities conducted or held on private property by the property owner or the owner's lessee, either private or open to the general public, with an estimated attendance of 75 people or more.
- b. For purposes of this section, "events" and "activities" have the following meanings:
 - i. Events: planned parties, celebrations, concerts, conferences, or similar occasions with reservation of a particular space at the property for a single-occurrence gathering, including but not limited to weddings, wedding receptions, private parties or similar family or social functions.
 - ii. Activities: ongoing occurrences at the property which are open to the general public, including but not limited to tractor pulled hayrides; guided nature walks, petting barn yards, school-age tour groups or similar family or social functions.

- (2) Standards. The following standards apply to interim use permits for agricultural entertainment:

- a. The property proposed to be used for agricultural entertainment must be located with direct access to a collector or arterial street as identified in the comprehensive plan;

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- b. The property owner may be required to improve the traffic intersection located nearest to the property with additional turning lanes, street lights, traffic controls, traffic signs and such other measures as the city deems necessary to safely control traffic traveling to and from the property;
- c. The property must have at least two points of unobstructed emergency vehicle access to each building or permanent or temporary structure;
- d. Minimum lot size and building setbacks for “other uses” in the A-agriculture zoning district must be met;
- e. All parking must occur on-site but not on the primary or alternate septic sites or on any green area; must be on an improved surface, such as class five gravel or pavement; and must be set back at least 30 feet from all property lines;
- f. No more than 25 percent of the site may be covered with impervious surface and the remainder shall be suitably landscaped;
- g. All requirements of section 405 of the city code must be met;
- h. Exterior lighting must be designed and installed so that the light source is recessed and enclosed on all sides except the bottom so that no light is cast directly or indirectly on any other property and so that the light source cannot be seen from adjacent property;
- i. Roof top or outside mechanical equipment and any exterior storage must be screened from view from adjacent properties and rights-of-way with an opaque material architecturally compatible with the building(s);
- j. Trash containers must be located inside or screened in an acceptable manner;
- k. No outdoor speakers may be used. All live music, including but not limited to bands and disc jockeys as well as stereos, juke boxes or other equipment, shall be conducted inside a permanent or temporary structure and the property owners shall take all necessary steps to contain the noise produced by all such devices within the permanent or temporary structure;
- l. The number of persons who may attend an event featuring live music shall be determined by the city council after considering the impact on adjacent properties;
- m. All requirements of the fire code and fire marshal must be met;
- n. All requirements of chapter 1200 of the city code must be met;
- o. Discharge of firearms, including blanks, shall not be allowed on the property;

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- p. The hours of operation and the number of permitted employees will be determined by the city council after consideration of the impact on adjacent properties;
- q. Events are limited to twice weekly and only during the months of May through December;
- r. The city may require the property owner to utilize the services of a licensed security officer or peace officer at any event or activity;
- s. The city may require inspections of the property in order to investigate complaints;
- t. Food consumed on site must be prepared in accordance with all applicable state and county codes and regulations;
- u. The property owner must take reasonable steps to prevent trespassing on adjacent properties by employees, contractors or patrons;
- v. There must be identified and acceptable primary and alternate well and septic sites on the property which are sized for the maximum anticipated usage of the property;
- w. All animal feed and bedding must be stored within an enclosed building;
- x. Manure must be properly stored while on site. Manure must be disposed of at an off-site location at least every six months by means of a method approved by the city and the Minnesota Pollution Control Agency; and
- y. The city council may require compliance with any other conditions, restrictions, or limitations it deems to be reasonably necessary to protect the health, safety or welfare of the surrounding properties and the community and may require the applicant to enter into an agreement to ensure compliance with the conditions.

Neighborhood Comments: Notices were sent out to all property owners within 500 feet of the subject property. To date, staff has spoken with two neighboring property owner, and received one written comment regarding this request as a result of sending the public notice. It has been attached for the Planning Commissions to review.

The Planning Commission also opened the public hearing on August 25, 2023 and took comments from two parties. Those comments can be found in the draft minutes from that meeting that were included with the packet of information for this meeting.

Conclusion: The Planning Commission should review the staff report and continue the public hearing. Once all interested parties have had the opportunity to speak regarding the request, the Planning Commission should close the public hearing. After the public hearing is closed, the Planning Commission should consider the entire record before it prior to making a recommendation to the City Council. Along with making a recommendation, findings of fact should be made which support the recommendation.

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Should the Planning Commission determine they wish to approve the request, findings of fact based on the information submitted by the Applicants may be as follows:

1. Agricultural entertainment is allowed within the Agriculture zoning district by Interim Use Permit; and
2. The proposed change in ownership is in harmony with the purpose and intent of the City's zoning ordinance and is consistent with the City's comprehensive plan.

Recommended Action: The Planning Commission will need to first determine if the nature of Minnetonka Orchards remains consistent with the original approval and operation dating back several decades. Noise remains a major concern with the surrounding property owners and it's largely unknown how or when that may be address by the Applicants. Addressing the noise concerns and working to move the events indoors, especially during the evening hours may help with the neighboring property owner concerns. The Planning Commission should review the conditions of the previous approval, which the Applicants aren't asking to be changed, to determine themselves if they are sufficient or if additional conditions should be added or amended to address any concerns raised. Should the Planning Commission decide it wants to move forward with approval, a motion as outlined below would be a place to start. It is based on the previous approval with a blank in the number of years because the Planning Commission should make that determination after reviewing the entire record before them, including any public testimony at the public hearing.

Motion to recommend the City Council approve the requested Interim Use Permit extension, based on certain findings of fact outlined in the staff report and subject to the addition of the following conditions:

1. The Interim Use Permit shall be issued for ____ years from the date of City Council approval;
2. Agricultural entertainment events shall be limited to two (2) events per week and only during the months of May – December;
3. The Applicants shall coordinate persons to provide traffic control for all activities and events during the month of October;
4. Additional on-site security officers shall be obtained by the Applicants;
5. Food and beverage sales to the scale with which were provided under the Conditional Use Permit are allowed with the Interim Use Permit;
6. No off-site parking for activities or events;
7. The Applicants shall provide documentation from Hennepin County stating that the existing septic and well systems are sized adequately;
8. Any and all changes to the lighting of the property shall be reviewed by City staff and shall be designed so as to not be obtrusive and shall register as zero foot-candles at the property lines;
9. Trash enclosures must be located inside a structure on the property or screened appropriately;
10. All noise pollution shall be defined and restricted by the Minnesota Pollution Control Agency under Minn. Rules 7030 – Noise Pollution.
 - Adoption of the Standard Definitions per 7030.0020 (page 15)
 - Uphold the Noise Standards per 7030.0040 (page 16)

Mission Statement:

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- Classify Minnetonka Orchards activities as Noise Area Classification #2 (page 17)
 - Subsection 3. Exceptions (page 18)
 - No outdoor speakers may be used
 - The property owners shall take all necessary steps to contain the noise produced by all such devices within the permanent or temporary structures.
11. The Applicants must conform to all applicable sections of City Code;
 12. If violations of the Interim Use Permit or the City's nuisance ordinance occur, the City Council reserves the right to review and to revise or revoke the Interim Use Permit;
 13. Wedding ceremony events located in the garden shall not occur past 6:00 p.m.; and
 14. The Applicants shall continue to work with adjacent property owners to determine appropriate decibel levels; and
 15. Any additional conditions as determined by the Planning Commission.

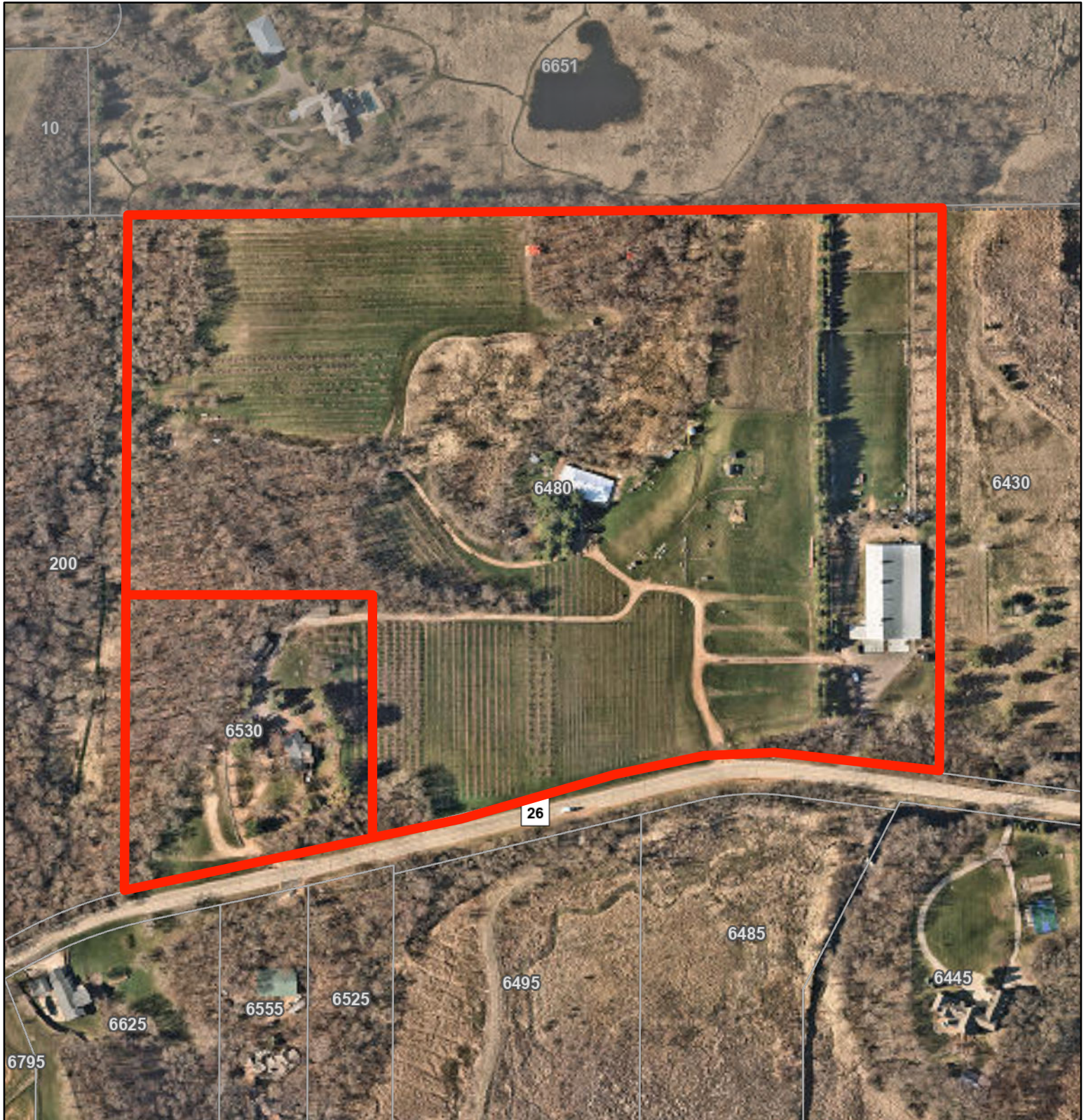
Attachments:

1. Location Map
2. Applicant Narrative
3. Site Plan
4. Lighting Plan
5. Resolution No. 083-13
6. Neighborhood Comments




Mission Statement:

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6480 & 6530 County Road 26



1 in = 375 Ft

-  City Boundary
-  City Mask
- Address Labels
-  Parcels



Written Answers

a. Property Owners:

- a. Frank Weigel, 4496 North Shore Dr., Mound, MN 55364. 605-400-7112.
fweigel@everlyfarmsmn.com
- b. Esther Nazarov, 4496 North Shore Dr., Mound, MN 55364. 408-656-1765.
esther@everlyfarmsmn.com

b. Site Data:

1. Address
 - a. 6480 County Road 26, Minnetrista, MN 55364
 - b. 6530 County Road 26, Minnetrista, MN 55364
2. Current Zoning:
 - a. A
 - b. A
3. Parcel Size in Acres & Square Ft.:
 - a. 5.95 Acres, 259,222 sq. ft.
 - b. 37.37 acres, 1,627,753 sq. ft.
4. PID:
 - a. 0311724110004
 - b. 0311724120004
5. Current Legal Descriptions:

Parcel A: The East 500 feet of that part of the Northeast Quarter of Section 3, Township 117 North, Range 24 West of the 5th Principal Meridian, lying North of the Northerly right of way line of County Road No. 26

Parcel B: Commencing at a point in the North line of the Northeast Quarter a distance of 730 feet East from the Northwest corner thereof, thence South 810 feet, thence East 484 feet, thence South to the Northerly line of County Road No. 26, thence Easterly along said Northerly line to a point 903 feet West from East line of Northeast quarter thence North to North line thereof, thence West to beginning, Section 3, Township 117 North, Range 24 West of the 5th Principal Meridian.

The West 403 feet of the East 903 feet of that part of the Northeast Quarter of Section 3, Township 117 North, Range 24 West of the 5th Principal Meridian, lying North of the Northerly right of way line of County Road 26.

- c. Proposed Use: The address of 6530 CR. 26 & 6480 CR 26 are the properties of the existing Minnetonka Orchard & Everly Farms Winery. The intended use of said properties will remain as in the past, as agriculture entertainment at the orchard to include seasonal offerings such as U-pick apples, food huts, hay rides, petting zoo, retail

offerings, and outdoor entertainment amongst the property, such as weddings and/or corporate events. Use of the winery shall include accessibility to the Everly Farms Winery tasting room (currently pending construction/renovation), as well as outdoor entertainment use of the property. Existing structures on the properties will be used as the current intent, as housing for retail space, tasting room, food huts, and shelter. Landscaping at the properties shall be only for visual maintenance and upkeep. We accommodate for traffic to the properties with three separate parking lots, to reduce any overflow or hold up to traffic on adjoining roads or properties. It is our intent and goal to maintain the natural surroundings and beauty of the property, including the maintenance of the apple trees and vineyard on site.

- d. The properties are intended for the well-being of the community, to bring in guests and paying customers to the area. We have plans and rules put in place to abide by and control noise levels of events, by limiting music to 60 decibels, and requiring all music to follow county noise ordinances, being over by 10:00 PM. Any fires used for maintenance of the property are first approved by the county/city by obtaining a license to burn. It is our goal to monitor and control traffic by providing parking attendants at both entrances to safely and accurately maintain traffic flow, and to avoid disruption to neighbors, and other traffic in the area. Our water & septic supplies are regularly monitored & tested to ensure no contamination to the natural wetlands around us. We have Safety Plans put into place which includes fire, weather, and personal safety guidelines. It is our general objective to keep the beloved traditions of the orchard in the community, and to provide jobs, and bring in revenue to the area, in a respectful, structured, and mindful manner to the neighbors and general public around us.
- e. The properties have been operating as the same business for 40+ years and we only continue to take measures to ensure that excessive burden to the community around us, such as traffic, schools, emergency personnel, water, sewer, etc. will not be impacted.
- f. The current Interim Use Permit has expired, and we are seeking to extend the effectiveness without any changes for a time period of 10 years.

Addition to Written Answers:

Since purchasing the properties in 2020, it has been our full effort to restore the orchard back into a thriving family friendly destination & venue. The Schaper's (original owners) were allowed to remain living on the property and continue to do so with our encouragement. They are a wealth of knowledge to the operation of the farm and we continually meet with them regularly to learn as much as we can. It is our understanding that they had met with an acoustic company but that was not completed before we took ownership. At that time, we had focused on opening the orchard back up to the community and had only 1 wedding booked for the season. While building a new venue site is a goal, we've since had limited ability to do so, as we have put so much into getting the orchard functioning and operating successfully.

We are aware of the concerns of the noise level with the weddings/events held at the orchard venue, and are dedicated to work with the neighbors & community to mitigate this concern. Since taking ownership, we have adjusted our contract so that events end 1 hour earlier (10PM). We have implemented a no-drum policy in our contract. We require the decibel levels to be maintained under 60 decibels, and continuously monitor these decibel levels from multiple perimeter locations of the property. We have also bought new side walls for the tent to ensure walls/windows are not open, helping to contain the sound level to inside the tent only. It remains a goal to build a permanent structure in the future, but we are awaiting the completion of our current project, the rebuilding of the winery tasting room.

Since 2020, we have had 14 events. We received only one concern of noise. This came from a neighbor who reached out to us directly. It should also be noted there was one other event happening at a private residence on this same night in close proximity to our location, and our staff noticed still hearing their music when leaving that night after our wedding. Our manager was in touch with them right away and gave her personal cell phone to help alleviate any future issues in an immediate fashion.

We are thrilled to be a part of this community, to the extent of giving back on a regular basis. Our first annual Corks for a Cause fundraising event raised \$70,000+ for a local non-profit, and our School Support Sundays give 25% back to local schools. We employ community members, and contract with local vendors when possible. Our goal for success goes beyond our own business, but for those around us as well. We are happy and willing to have an open line of communication with all neighbors and community members to help maintain an appropriate and respectful noise limit. If there is any concern about noise in the future, we can be contacted and will resolve it right away.

Minnetonka Orchards Business Plan:

We fell in love with the place a couple years ago when we first visited for apple picking. We would like to continue on with the orchard as currently used. Our plan over the next couple years would be to continue the operations while enhancing the facilities. Initially we would start by getting to know Lowell and Phyliss as well as the current employees and collaborate with them to figure out how to best manage the Orchard. We would also like to meet and get to know the neighbors to discuss any of their thoughts and concerns. Below is a list of items we would like to accomplish in the next few years.

- Refresh the paint of accessory buildings
- Enhance the gift shop area
- Enhance the production of Hard Ciders in the winery
- Establish an area for a garden to grow vegetables
- Build out the Pergola on the front of the wine room



Bridal Barn

Grooms Barn

Wetland

Wetland

Wine Garden

Wetland

Restrooms
Manual
Septic
Station

Event Tent

snack hut
Sweets &
Treats
Grill Hut

Winery

Septic
System

Machine Shed

Lower
Parking Lot

Winery
parking lot

Gift Barn

Donut
Hut

Brat Hut

Wine &
Cider Hut

House

Septic
System

Everly Farms Winery

26

26

26

Minnetonka Orchards

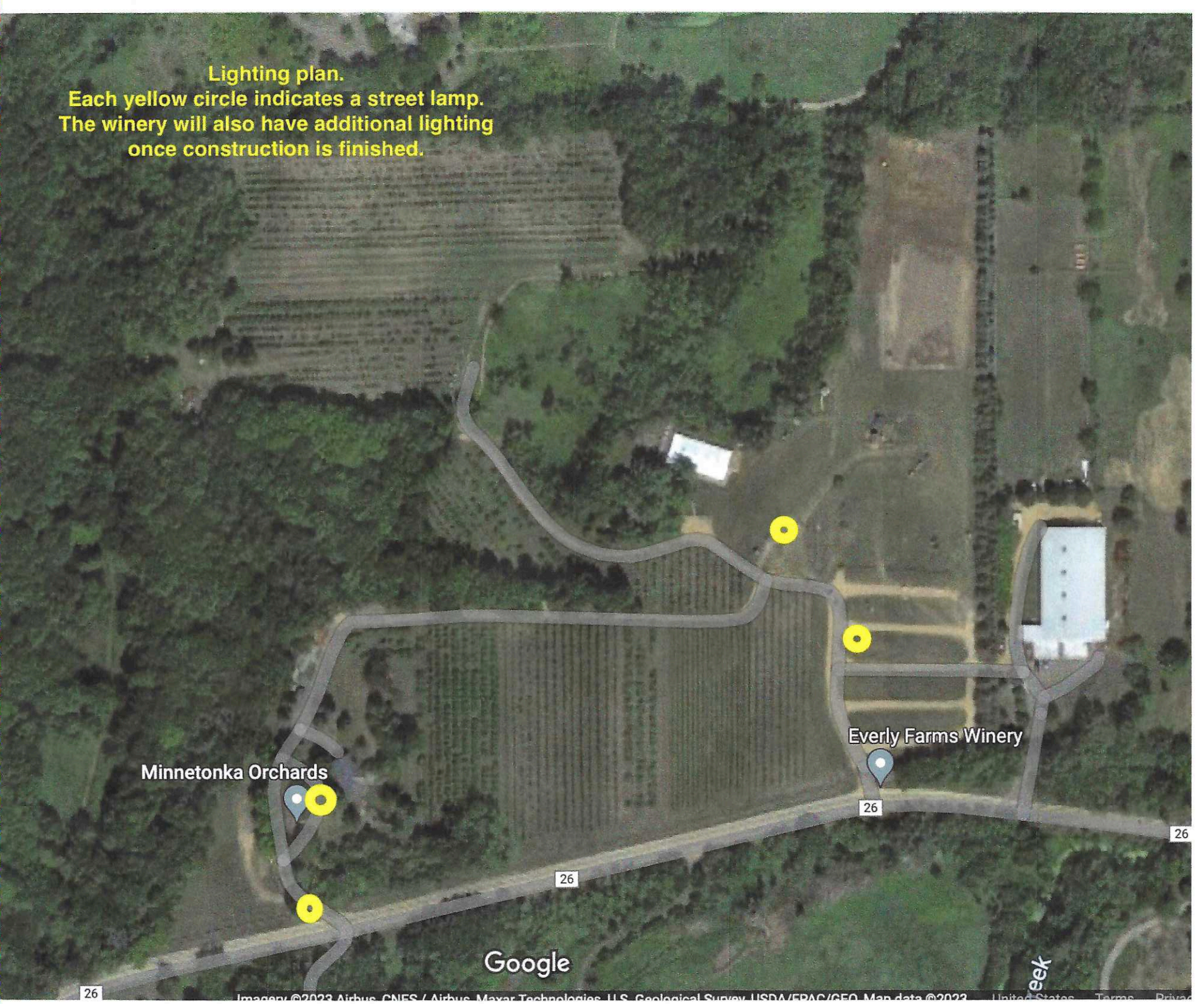
Admission
Booth

Drain Field

Upper
Parking Lot

Google

Lighting plan.
Each yellow circle indicates a street lamp.
The winery will also have additional lighting
once construction is finished.



STATE OF MINNESOTA)

)ss.

COUNTY OF HENNEPIN)

The undersigned, duly qualified and acting City Clerk of the City of Minnetrista, hereby certifies that the attached hereto is a true and correct copy of the original:

**Resolution No. 83-13 Approving Amendments to the
Existing Interim Use Permit to Allow Agricultural
Entertainment Activities and Events at 6530 and 6480
County Road 26**

on file in the office of the City Clerk of the City of Minnetrista.



Terri Haarstad
City Clerk

Dated this 12th day of August 2013.

(City Seal)



RESOLUTION NO. 83-13

**RESOLUTION APPROVING AMENDMENTS TO THE EXISTING INTERIM USE PERMIT TO
ALLOW AGRICULTURAL ENTERTAINMENT ACTIVITIES AND EVENTS AT 6530 AND 6480
COUNTY ROAD 26**

WHEREAS, the City of Minnetrista is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Minnetrista has adopted zoning and subdivision regulations, per Chapter 5 of the Municipal Code, to promote the orderly, economic and safe development and utilization of land within the city; and

WHEREAS, Lowell Schaper and Phyllis Schaper have made application for amendments to the existing interim use permit (IUP) to allow agricultural entertainment activities and events at property legally described in Exhibit A attached hereto; and

WHEREAS, the Planning Commission and City Council reviewed the application, as submitted, and have made the following findings of fact:

1. Agricultural entertainment is a permitted use in the A – Agricultural zoning district with an IUP; and
2. The request is consistent with the Minnetrista Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Minnetrista hereby approves the amendments to the existing interim use permit as requested, based on the findings of fact outlined above, with the following conditions:

1. The IUP shall be issued for a period of ten years from the date of this resolution (July 2023);
2. Craig & Michele Schaper are added to the IUP as co-owner/co-operators of Minnetonka Orchards, the IUP shall become void upon transfer of ownership of the property and any transfer of the IUP shall require City Council approval;
3. Agricultural entertainment events shall be limited to two (2) events per week and only during the months of May – December;
4. The applicant shall coordinate persons to provide traffic control for all activities and events during the month of October;
5. Additional on-site security officers shall be obtained by the applicant;
6. Food and beverage sales to the scale with which were provided under the CUP are allowed with the IUP;
7. No off-site parking for activities or events;
8. The applicant shall provide documentation from Hennepin County stating that the existing septic and well systems are sized adequately;
9. Any and all changes to the lighting of the property shall be reviewed by City staff and shall be designed so as to not be obtrusive and shall register as zero foot-candles at the property lines;

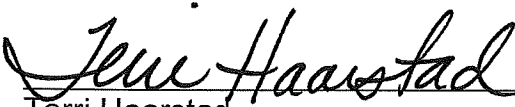
10. Trash enclosures must be located inside a structure on the property or screened appropriately;
11. All noise pollution be defined and restricted by the Minnesota Pollution Control Agency under Minn. Rules 7030 – Noise Pollution.
 - Adoption of the Standard Definitions per 7030.0020 (page 15)
 - Uphold the Noise Standards per 7030.0040 (page 16)
 - Classify Minnetonka Orchards activities as Noise Area Classification #2 (page 17)
 - Subsection 3. Exceptions (page 18)
 - No outdoor speakers may be used
 - The property owners shall take all necessary steps to contain the noise produced by all such devices within the permanent or temporary structures.
12. The applicants must conform to all applicable sections of our City Code;
13. If violations of the IUP or the City nuisance ordinance occur, the City Council reserves the right to review and to revise or revoke the IUP;
14. Wedding ceremony events located in the garden shall not occur past 6:00 p.m.;
15. The applicant shall continue to work with adjacent property owners to determine appropriate decibel levels;

This resolution was adopted by the City Council of the City of Minnetrista on the 15th day of July 2013, by a vote of 5 Ayes and 0 Nays.



Mayor Cheryl Fischer

ATTEST:



Terri Haarstad
City Clerk

(SEAL)

From: [Lori Ketola](#)
To: [Nickolas Olson](#)
Subject: Minnetonka Orchards Permit Extension - Noise Levels
Date: Sunday, August 27, 2023 11:39:22 AM

Hello Nick,

My husband and I received the letter sent to nearby property owners about the agenda item for the Planning Commission meeting on 8/28/23 regarding the extension of the Interim Use Permit for the Minnetonka Orchards.

We continue to have some concerns about the noise levels in the evenings when the Orchard hosts large events (we raised these concerns several years ago when the new owners requested the IUP be transferred to their names). While the noise levels are not as frequent as they were previously, I am not certain if this is due to efforts to control the noise or simply a decline in the number of hosted events. I am also not certain if the Orchard set up the sound proof structure that they intended to set up when the new owners took over several years ago. In any event, we continue to hear some noise from events, most generally this occurs in the hours from 8 p.m. to 10 p.m. and later.

When the new owners initially applied to have the IUP transferred into their name, I started a conversation with staff at the Minnesota Pollution Control Agency about the matter. They confirmed that with respect to noise classifications, while the Orchard may be classified as Noise Area Classification (NAC) 2, the noise from the Orchards must be at NAC 1 when it reaches the surrounding residential areas. Given that we can hear the noise from the Orchards at our house (which is not even directly adjacent to the Orchard), I do not think the sound is at NAC 1 when it reaches neighboring properties.

The Minnesota Pollution Control Agency will loan cities equipment to measure decibel levels, and will provide training on how to use the equipment. Data obtained is then sent to the MPCA and it will perform the analysis of the data and make the determination of what decibel levels are. The equipment could be used both at the Orchard and at neighboring residential properties to determine if the appropriate noise levels are being met in each location. I would like to see Minnetrista take advantage of the resources available through the MPCA and request that Minnetrista connect with the MPCA on this. I can provide contact information if you would like.

Thank you for your attention to this matter, and please feel free to share this letter with the Planning Commission.

Regards,

Harold & Lori Ketola
6724 Fox Ridge Circle
Independence, MN 55359

September 20, 2023

Memo to Minnetrista Planning Commission:

Thank you for the opportunity to share feedback and concerns about continued noise levels at the Minnetonka Orchards and Winery.

The noise from Minnetonka Orchards and Winery (hereinafter "Orchard") during events, including wine tasting events on Wednesday evenings, continues to exceed levels as required by its permit as well as Minnesota law. The noise is most noticeable to those properties that are in close proximity to the Orchard, which is why this Commission continues to hear complaints from the same property owners regarding the noise levels (see Exhibit 1).

We have had several conversations with the Minnesota Pollution Control Agency (MPCA), and they have clarified that while the Orchard may be classified as a Noise Area Classification (NAC) 2 property, the noise from the Orchard must be at NAC 1 levels when it reaches the neighboring residential areas (see Exhibit 2). This means that noise levels at neighboring residential areas must be at the level of 60 decibels during the day, and 50 decibels at night, which is equivalent to normal speech at a distance of 1 meter and a dishwasher running in the next room, respectively (see Exhibit 3).

We frequently hear the music from the Orchard inside our house, with the windows closed. Occasionally we hear the people at the Orchard as well. This means the noise levels at the Orchard are greatly in excess of what is required by the Orchard's existing permit as well as Minnesota law.

If there are questions about whether the Orchard is exceeding the appropriate noise levels, it is easy to confirm the level of noise from the activities and events at the Orchard. The MPCA loans equipment to municipalities, at no cost, to measure noise levels, and will train individuals on how to use the equipment. The data from the equipment is then submitted to the MPCA and the MPCA will analyze the data and report on the results. We understand from speaking with Nickolas Olson, Minnetrista's City Planner, that Minnetrista may be reluctant to participate in this process given its limited staff. The MPCA has confirmed that anyone affiliated with the City, such as current or even past Planning Commission members or City Council members, can be trained to use the equipment. We have had several conversations with staff at the MPCA about this process and they have assured us that the time involved is minimal. Staff at the MPCA has offered to have their contact information shared with Minnetrista for purposes of moving forward with this, we can share that information with you should you choose to take advantage of this program.

The excessive noise from the Orchard is primarily due to two factors. First, the Orchard is playing amplified music outdoors, which is not permitted under its permit (the IUP states clearly that "no outdoor speakers may be used"). Amplified music is played outdoors in the patio area (see Exhibit 1) for wine tasting events on Wednesday evening. It is likely that outdoor speakers are also used for weddings and other celebrations on weekends.

Second, the Orchard continues to play amplified music and use microphones for speeches in its temporary structure referred to as the event tent. The event tent consists of a concrete floor with a tent erected on top of it. The event tent is made of a lightweight, tarp-like fabric which keeps out the elements but does nothing to absorb sound. A large screen made of the same tarp-like fabric is positioned outside the entrance to the event tent, which also protects against the elements but does not absorb sound.

In January 2021, when the Planning Commission considered transfer of the Orchard IUP to the new owners, noise concerns were also raised as an issue. At that time, the owners presented information to this Commission stating they were working with Acoustical Surfaces of Chaska to address the issue of continued noise coming from events at the Orchards. Specifically, owners said they would modify the event tent to include an acoustic absorbing ceiling banner, sound absorbing wall curtain, sound encapsulating baffles at the stage, and a house sound system that all musicians would be required to use (see Exhibits 4 and 5). It was in part based on the expectation that owners would actually follow through on the installation of these items that this Commission agreed to approve their IUP for several years. To date, it does not appear that the banner, the wall curtain, the baffles or the house sound system have been installed.

We have made calls to the Orchard in past years during events when the noise was excessive, and the phone is not answered at those times. We have also made calls to the police in past years, both West Hennepin Public Safety and Minnetrista, but we do not know what happens when those calls are made, and we have never received a follow-up call. We have since stopped making those calls.

Minnesota law specifically requires that municipalities must prevent land use activities where the noise levels will exceed the NAC levels established by Minnesota law (see Minnesota Rules 7030.0030). Consequently, as noise levels are already being exceeded, the Planning Commission must deny the IUP being requested here.

If the Planning Commission feels compelled to approve the IUP, knowing that the Orchard is already in violation of Minnesota law and its existing IUP, it cannot do so without taking measures to ensure that the Orchard will in fact comply with Minnesota law. One means of accomplishing this is to prohibit all events until such time as the Orchard installs soundproofing materials in its tent and testing is conducted to ensure that the soundproofing will meet the requirements of Minnesota law both with respect to noise levels at the Orchard and in neighboring residential areas. Events would have to include any and all events where amplified sound is played, including weddings, wine tasting, celebrations and other events as promoted by the Orchard and/or winery such as the upcoming Booze Bash for adults 21+ to be held on October 28th, which, according to the Orchard website will feature a "lively DJ" and a cash bar (see Exhibit 6).

Alternatively, the Planning Commission might permit such events to continue with significant restrictions on use of amplified sound. This could be done by making the following modifications and additions to the IUP:

- Events and/or agricultural events should be clarified to include events at either the Orchard or the Winery, and should specifically include wine tasting events as promoted by the Orchard

and/or Winery, and all other events promoted by the Orchard and/or Winery such as the upcoming Booze Bash for adults 21+, in addition to weddings, corporate parties and other celebratory events.

- The Orchard must develop a written and well-defined complaint process to address concerns from neighbors at the time an event is occurring which will be incorporated into the IUP. This complaint process must ensure that a representative of the Orchard (owner or manager) be available by phone during any event so that complaints can be addressed in real time.
- No amplified sound (music, speech, or any other sound) will be permitted for any event, occasion, celebration, wine tasting event, Booze Bash or general operations of the Orchard or Winery in any indoor location or structure (including the event tent) on the Orchard or Winery properties after 6 p.m. Specifically, the Orchard and/or the Winery cannot allow microphones, bullhorns, speakers or other amplification devices at any location after 6 p.m. As is currently provided in the existing IUP, no outdoor speakers can be used at any time at any location on the property for any purpose.
- The Orchard must ensure that decibel levels meet the requirements of MN Law and the IUP at all times, specifically, the Orchard and the Winery must ensure that NAC 2 levels are met on its premises, and that NAC 1 levels are met at neighboring properties.
- Fines should be assessed for any violation of the IUP, these fines should be increased after 3 violations, with further increases after 6 violations. Fines will be determined by the City in its discretion and will take into consideration the resources the City must use to monitor the Orchard as well as the severity of the violation.
- The City should allocate resources to monitor the Orchard on an on-going basis to ensure that all terms of the IUP are being met, including no use of outdoor speakers at any time or at any location on the property, no use of any speakers or amplification devices anywhere on the property after 6 p.m., and no more than 2 events per week. Costs of monitoring should be assessed against the Orchard. If the City determines the cost of monitoring any particular event would be excessive (such as the upcoming Booze Bash), the City has the right to require the Orchard to cancel an event.
- The IUP should be extended for a period of not more than 1 year, at which time the City may again consider whether modifications can be made to the IUP (for example, if the Orchard obtains sound proofing materials for its structures that ensures it can meet MN Laws with respect to noise levels, or builds a permanent structure for events, the City will reconsider whether amplified music can be played indoors after 6 p.m.).

Finally, we would like to reiterate what we expressed to the Commission when the transfer of the IUP was considered in January 2021. The Orchard is evolving from a family focused entertainment center to an adult entertainment center. Its activities started years ago with apple picking and retail sales of

apples and related items, to hosting weddings and corporate events where alcohol is served and amplified music is played late into the night, to winemaking and winetasting events for adults as well as adult celebrations such as the upcoming Booze Bash for those 21+. This business model no longer seems consistent with the surrounding residential area. These activities at the Orchard also seem inconsistent with Minnetrista's 2040 Comprehensive Plan, in which Minnetrista states its intent to concentrate commercial and retail activities within the cities of Mound, St. Bonifacius and the Highway 7 corridor.

This is the time for the Commission to consider whether the changing business model of the Orchard is aligned with Minnetrista's Comprehensive Plan for the area, or whether such an entertainment center is better suited to Minnetrista's existing retail areas.

Respectfully,

Harold and Lori Ketola

Harold and Lori Ketola
6724 Fox Ridge Circle
Independence, MN

Exhibits:

Exhibit 1: Map of neighborhood

Exhibit 2: MPCA Guide to Noise Control in Minnesota: Introduction

Exhibit 3: MPCA Guide to Noise Control in Minnesota: Noise Rules and Noise Levels

Exhibit 4: Letter on behalf of Orchard owners dated January 2021 identifying noise barriers to be installed by Acoustical Surfaces of Chaska

Exhibit 5: Letter from prior Orchard owners committing to installation of acoustic barriers by spring 2021

Exhibit 6: Orchard website promotion of Booze Bash for Adults 21+ on 10/28/23

Exhibit 1



Hennepin County Property Map

Date: 8/31/2023

6724
Fox
Ridge →

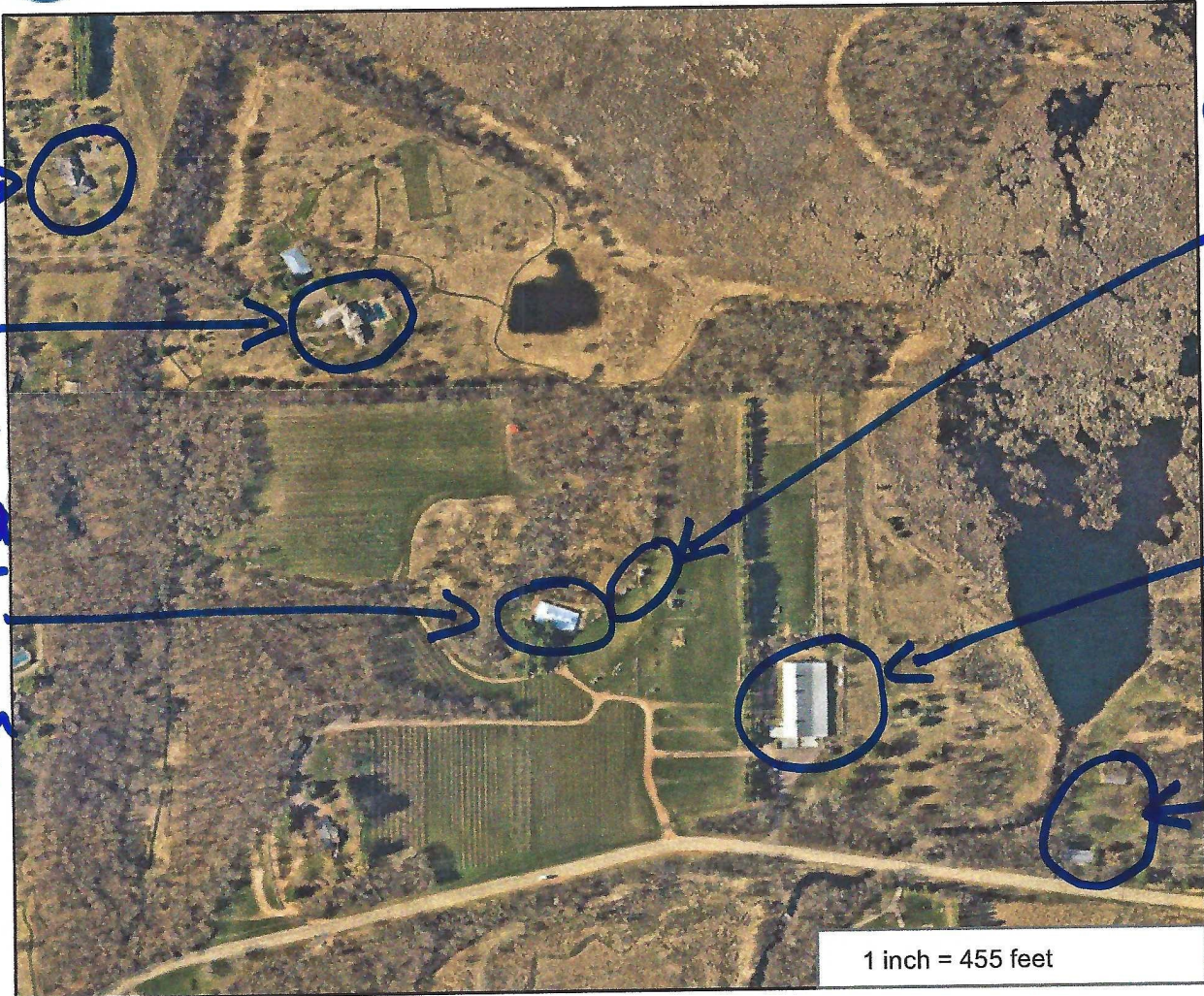
6651
Fox
Ridge →

Orchard
Event
Tent
and
Garden
Area →

Orchard
Outdoor
Patio/
Wine
Tasting
Events

Orchard
Winery

6200
City.
Rd.
26



1 inch = 455 feet

Exhibit 2

Introduction

Noise is a pollutant. While its physical and emotional effects are difficult to define quantitatively, the noise level itself can be measured.

Sound: An alteration of pressure that propagates through an elastic medium such as air and produces an auditory sensation.

Noise: Any undesired sound.

The Minnesota Pollution Control Agency (MPCA) is empowered to enforce the State of Minnesota noise rules (Minn. Rules Ch. 7030). Minnesota's primary noise limits are set by "noise area classifications" (NACs) based on the land use at the location of the person that hears the noise. They are also based on the sound level in decibels (dBA) over ten percent (L_{10}), or six minutes, and fifty percent (L_{50}), or thirty minutes, of an hour.

For residential locations (NAC 1), the limits are $L_{10} = 65$ dBA and $L_{50} = 60$ dBA during the daytime (7:00 a.m. – 10:00 p.m.) and $L_{10} = 55$ dBA and $L_{50} = 50$ dBA during the nighttime (10:00 p.m. – 7:00 a.m.) (Minn. R. 7030.0040). This means that during a one-hour period of monitoring, daytime noise levels cannot exceed 65 dBA for more than 10 percent of the time (six minutes) and cannot exceed 60 dBA more than 50 percent of the time (30 minutes).

Exhibit 3

1. Noise rules in Minnesota

1.1 The basics

Minnesota's noise pollution rules are based on statistical calculations that quantify noise levels over a one-hour monitoring period. The L_{10} calculation is the noise level that is exceeded for 10 percent, or six minutes, of the hour, and the L_{50} calculation is the noise level exceeded for 50 percent, or 30 minutes, of the hour. There is not a limit on maximum noise.

The statutory limits for a residential location are $L_{10} = 65$ dBA and $L_{50} = 60$ dBA during the daytime (7:00 a.m. – 10:00 p.m.) and $L_{10} = 55$ dBA and $L_{50} = 50$ dBA during the nighttime (10:00 p.m. – 7:00 a.m.) (Minn. R. 7030.0040). This means that during the one-hour period of monitoring, daytime noise levels cannot exceed 65 dBA for more than 10 percent of the time or 60 dBA more than 50 percent of the time.

The basic noise rules for other noise area classifications are:

Noise Area Classification	Daytime		Nighttime	
	L_{10}	L_{50}	L_{10}	L_{50}
1	65	60	55	50
2	70	65	70	65
3	80	75	80	75

1.2 Noise area classifications

Noise area classifications (NAC) are based on the land use at the location of the person who hears the noise, which does not always correspond with the zoning of an area. Therefore, noise from an industrial facility near a residential area is held to the NAC 1 standards if it can be heard on a residential property.

Some common land uses associated with the NACs include:

NAC 1: Residential housing, religious activities, camping and picnicking areas, health services, hotels, educational services

NAC 2: Retail, business and government services, recreational activities, transit passenger terminals

NAC 3: Manufacturing, fairgrounds and amusement parks, agricultural and forestry activities

NAC 4: Undeveloped and unused land

Note that, although there is a NAC 4, there are no noise standards for these areas. The full list of NAC land uses can be found starting on [page 21](#) of this guide or in Minnesota Rule [7030.0050](#).

Many different properties affect the noise level of a specific source type. For example, three lawn mowers may have three different noise levels because of differences in each specific piece of equipment. Noise level also depends on the distance from the noise source and features of the surrounding environment.

Figure 3 provides a rough estimate of decibel levels of some common noise sources.

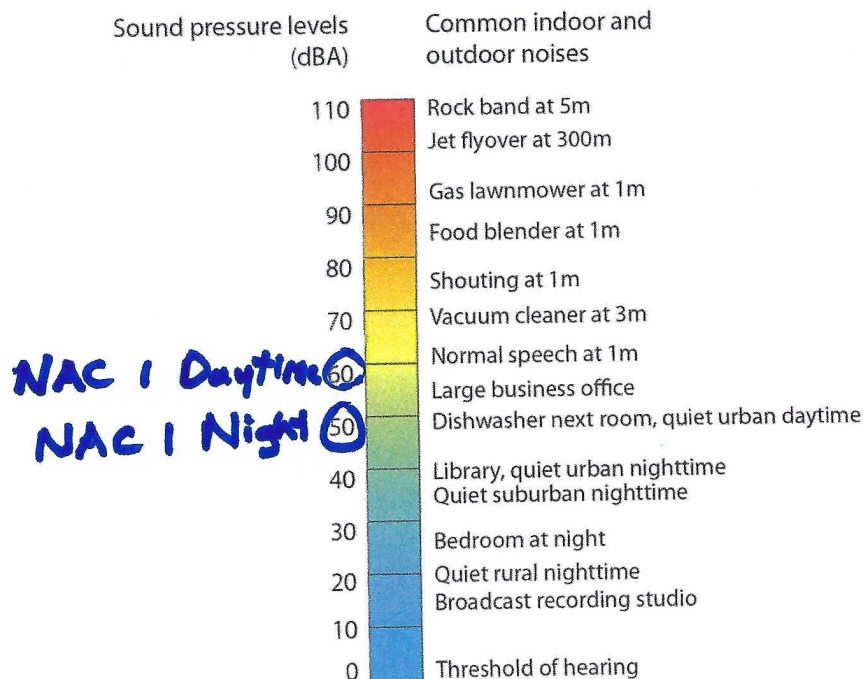


Figure 3. Decibel levels of common noise sources

2.2 Sound weighting networks

Sound level meters (SLM) used for monitoring can pick up sounds as a perfect computer, but the human ear is not as precise. The human ear cannot hear very low frequencies or very high frequencies. Weighting networks are used in noise monitors to adjust specific frequencies in the audio spectrum to attempt to duplicate the response of the human ear.

The C-weighting network represents the actual sound pressure level that is received by the sound level meter, and does not noticeably vary in its amount of compensation throughout the audio spectrum. C-weighting is used during the calibration of sound level meters to ensure that the sound level displayed on the meter is accurate and the same as the frequency of the calibrator.

The A-weighting network is used to duplicate the sensitivity of the human ear. At 100 Hertz, the A-weighting network filters out approximately 20 dB from the incoming signal before it is combined with the levels from the other frequency ranges to produce an A-weighted sound level.

Exhibit 4

From: [Steve Grotting](#)
To: [Nickolas Olson](#)
Cc: [Darci Atkinson](#); [David Abel](#); [Craig Schaper](#); [Lisa Schaper](#); [Frank Weigel](#); [Esther Nazarov](#); [Karen Wind-Grotting](#)
Subject: Sound Reduction Solutions for Minnetonks Orchards
Date: Tuesday, January 19, 2021 12:37:28 PM

Nick,

Thanks for the feedback. Please forward the following as well.

Dear City Leaders,

I am writing on behalf of Lowell and Phyllis Schaper.

Please review the solution Minnetonka Orchards has designed to significantly reduce sound issues.

We are working with [Acoustical Surfaces Inc](#) out of Chaska and have designed a solution using three main tools. Each line is a link to an overall solution:

1. [Acoustic absorbing ceiling banner material](#)
2. [Sound absorbing wall curtains](#)
3. [Sound Encapulating Baffles](#) at stage
4. A house sound system designed to deliver music locally to the room that musicians can plug into instead of using theirs.

They are committed to limited orchard weddings that make it a special experience while being a good neighbor. Please extend the IUP through the sale to allow time for Frank and Esther (the buyers) to prove themselves in this regard with the Schaper's help.

Thank you,

STEVE GROTTING

Broker
Windsong Realty
P.O. Box 111
5422 US Hwy 12
Maple Plain, MN 55359

[952-451-8800](tel:952-451-8800)

WWW.WINDSONGREALTY.COM

Click here for [Agency Relationships in Real Estate](#)

Acousti-Banner™

High Performance, Durable

Acousti-Banners are ideal for areas that have a large open space. Available in thicknesses of 2" or 4", and custom sizes up to 4' x 25'. Acousti-Banners are easily installed on ceilings, with grommets.



MATERIAL

0.75-1.65lb pcf fiberglass core

APPLICATIONS

Large open spaces

THICKNESS

2" or 4"

SIZES

Custom up to 4' x 25'

FINISHES

PVC, Sailcloth, or Fabric

ACOUSTIC PERFORMANCE

2" 0.95 - 1.10 NRC

4" 1.00 - 1.15 NRC

FLAMMABILITY

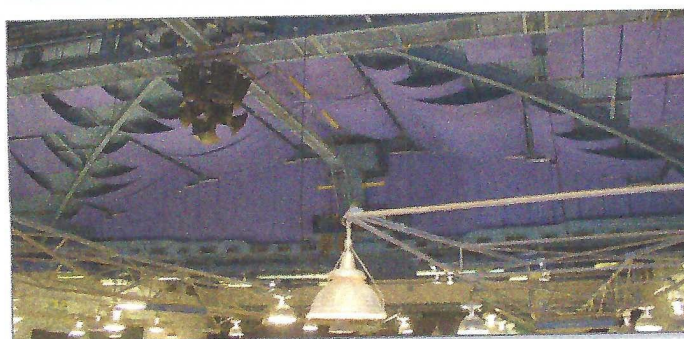
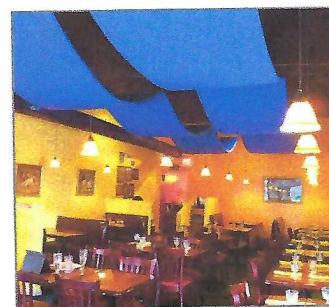
Class A per ASTM E84

INSTALLATION

Grommets

Test Reports & Additional Information Can be Found at:

https://www.acousticalsurfaces.com/baffle_options/acoustical_baffles.htm



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Exhibit 5

TO OUR GOOD NEIGHBORS,

Our age and my health problems of the last two years and the business environment of the last two years have made it necessary for us to sell Minnetonka Orchards, Painter Creek Winery and Our House at 6530 County 26.

A couple living in the Minnetonka area have decided to purchase the apple orchard, winery, house, the outbuildings, and most of the operating equipment. We will continue to live in the house for several more years to assist with the transfer.

They are wonderful people with children, and a desire to resolve the noise issue and they have several work able plans to do so.

THE NOISE ISSUE-----WE WANT TO RESOLVE THE NOISE ISSUE.

I am sure that some of you have heard the music/noise or maybe the boom, boom of the base drums that is generated here at the orchard for some of the weddings, although we have never received any complaints.

We know that with certain weather conditions the sounds will travel further. Loud base drums are some of offenders, they are not necessary for good music.

When things open back up (after current pandemic restrictions are lifted) and weddings are once again booked, we will build a improved sound barriers using a more solid and better noise absorbing materials and better control of the loud music,

CURRENT MN state law and Minnetrista city CUP & IUP limits and restriction us of 60 DB(sound) at the boundry Minnetonka Orchards and Painter Creek Winery Propre; Maximum of 60 DB levels {Night time limit, at the property lines , (fence lines) of the Orchard and winery.

Recording decibel meters set up on the north boundary of the orchard. And another in the wedding tent to monitor the sound level at the source. But I do think we can do a better job with some of the noise reduction. We do need an improved sound barrier system, the original was destroyed 2 years ago and not replaced.

We have contacted a contractor/engineer with sound barrier design and construction experience.

He will design and build the new sound barriers to be installed this spring.

Binging able to continue hosting weddings is very important to Minnetonka Orchards. It provides significant revenue, without which it would be very difficult to continue the orchard operation.

We want to be good neighbors, we can and will reduce the excess noise. Your feed back would be a great help.

THANK YOU FOR YOUR SUPPORT

LOWELL SCHAPER PHYLLIS SCHAPER

Exhibit 6



CALENDAR PLAN YOUR VISIT
PRIVATE EVENTS ABOUT HOLIDAYS

CONTACT

← Back to All Events

Booze Bash

Saturday, October 28, 2023
6:00 PM – 10:00 PM

Minnetonka Orchard
6530 County Road 26,
Minnetrista, MN, 55364,
United States (map)

Google Calendar · ICS



Join us for a spooktacular Booze Bash on October 28th from 6-10pm!

Enjoy a lively DJ, food stations, and a cash bar to keep the spirits high. Don't miss out on the costume party of the year – free admission for all! Add yourself to the event page to RSVP.

For Adults 21 + only.

Free admission. Limited capacity so reserve your spot today!

Reserve Your Spot for Booze Bash

Source: <https://www.simpletix.com/e/booze-bash-at-minnetonka-orchard-tickets-143949>

October 25

October 29

From: [Lee, Kent](#)
To: [Nickolas Olson](#)
Cc: [Somova, Zina](#); [Lori Ketola](#); gpettis@frontiernet.net
Subject: Input from neighbors for Sep 25 Planning Commission Meeting agenda item concerning Minnetonka Orchards IUP extension request
Date: Friday, September 22, 2023 3:30:18 PM

22 September 2023

Mr. Nickolas Olson
Senior City Planner
City of Minnetrista
Municipal Offices
7701 County Road 110 West
Minnetrista, MN 55364-9552

Dear Mr. Olson:

We are writing to offer our formal input into the Planning Commission's consideration of an extension of the IUP for Agricultural Entertainment Activities from Frank Weigel and Esther Nazarov ("Minnetonka Orchards"/ applicants).

We are the most proximate neighbors of the Minnetonka Orchards business, and share the longest property line of their parcel, approximately 1600 feet from east to west. We are directly north of their parcel, and the major areas of their activities as concern us in the IUP (the wedding event tent and ceremony area, as well as the new outdoor patio for wine events) are from 200 to 500 feet from our property line, and thereafter, another 200 to 300 feet to our home.

In summary we request that the Planning Commission DENY the requested IUP, for the following reasons:

1. **The applicants are in repeated violation of the number of weekly permitted events.** The existing IUP allows for two events per week. The applicants sometimes have three: an outdoor, patio-based wine and food event advertised as such and open to the general public from 5:00 p.m. to 9:00 p.m. on Wednesdays, the entire time of which involves amplified live music; and two wedding events which typically run from 4:00 p.m. to 10:00 p.m. on Fridays and Saturdays and are always accompanied by amplified music and DJs/announcers.
 - a. The most recent week:
 - i. Event #1: Public wine/food/music event, Wednesday, September 13, 2023
 - ii. Event #2: Private wedding and reception event with music, Friday, September 15, 2023
 - iii. Event #3: Private wedding and reception event with music, Saturday, September 16, 2023
 - b. This is a typical pattern, and we would expect this throughout the Orchard's traditional season, through the end of October
 - c. Three events in a week is a clear violation of the IUP provisions allowing only two events per week.

2. **The above events routinely cause noise in excess of MPCA guidelines to be experienced on our property**, whether measured at the property line or in our home.
 - a. Excessive noise is invariably connected with two things: either the amplified music, or the amplified DJ/announcer voices.
 - b. We have measured the music onsite at the Orchards to be in excess of 87 dB at peak (with average = 75 dB); and at out property line to be in excess of 72 dB at peak (65 dB average)
 - c. These levels exceed MCPA guidelines.
 - d. On one particularly noisy evening (Saturday, August 19, 2023) we needed to call the Minnetrista Police and complain about the noise levels. The officer (cellphone # 612-799-8104) called us back at 8:27 p.m. that evening and we described the situation; Minnetrista Police reporting will verify this.
3. **The applicants have not acted in good faith to mitigate noise from the operation of their business**, despite explicit promises for such mitigation made to the Planning Commission and Minnetrista City Council during their initial application for the IUP to transfer from the previous owners two years ago.
 - a. At the earlier IUP hearing, the applicants described their plans, including with pictures and with reference to a specific noise mitigation system, to Minnetrista authorities and other members of the public present. No noise mitigation systems of any kind have been installed.
 - b. The wedding receptions continue to be held in the same tent structure that was used by the previous owners; this tent is a single-wall fabric structure that does not mitigate noise from amplified music.
 - c. The current applicants have unfortunately removed the only structure in the reception tent that was designed to mitigate noise, a small wall-like structure with acoustic absorption properties that was set up by the previous owners.
 - d. So not only have the current applicants failed to install their own promised remedy for noise control; they have removed the only remedy that was used by the previous owners.

We have tried to be good neighbors, but the applicants refuse to have direct contact with us. We have contacted them through their website, and only received a message from "Crystal" their operations manager. We have asked Crystal to give them our contact information and to please contact us so that we can discuss our concerns. Neither of the applicants have contacted us. We have asked Crystal to give us their direct contact information, but she has not done so. This behavior is in stark contrast with the previous owners (the Schapers), who gladly provided us from the beginning almost ten years ago multiple numbers for contacting them. Under the previous owners, whenever the noise was too loud or there was any issue at all, we simply called them directly, and often went over in person. The Schapers were at least friendly, and they were on site at all times because they lived there as well. They were our neighbors.

The current applicants are not residents of Minnetrista. They live elsewhere. Unlike the previous owners, they do not live on the property. They are operating Minnetonka Orchards as a pure business, and with no apparent regard for the neighbors of Minnetonka Orchards. In general the trend seems to be that they are focused on a full-fledged Adult Entertainment Business, with a major role for loud music and alcohol.

Their business is noisy and disruptive to the peaceful rural residential life of the area. We do not oppose the activities of Minnetonka Orchards, but until they operate their business within the limits of the existing IUP with respect to allowed number of weekly events and the control of noise to within MCPA limits, we feel that the Planning Commission has no choice but to deny the current application for an extension of

the IUP. Extending the IUP under the current circumstances means a ten-year license to continue as they are with current violations. This is a recipe for nothing good, including wasteful and time-consuming litigation.

In denying the applicant's IUP request, our advice as fellow neighbors and fellow business owners is that the applicants adjust their business plans such that they operate wedding receptions inside of a proper building, not a tent, which will undoubtedly resolve the noise problem. As for the number of permitted events—we feel that the Planning Commission must make it absolutely clear that the limit is two per week with an IUP. Anything more than that is a violation that obligates the City of Minnetrista to enforcement, and failing that, opens up both the City and the applicants to litigation.

Sincerely,

Kent Lee and Zina Somova
6651 Fox Ridge Circle
Independence, MN 55359

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President and CEO
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