



Please note that, pursuant to the authority provided by Minn. Stat. Sec. 13D.021, subd. 1(1), the City has determined that in-person meetings of the City Council are not practical or prudent due to the COVID-19 public health pandemic and the declared national, state, and local emergencies. Meetings of the Council will be conducted by electronic or telephonic means. Under Minn. Stat. Sec. 13D.021, subd. 3, to the extent practical and possible, the City Council will allow individuals to monitor the meeting electronically. Access to the meeting can be obtained online by following the link provided below or by contacting the City Hall for instructions and methods for obtaining access to the meeting.

Meeting Access Information: <https://www.ci.independence.mn.us/meetings>

PLANNING COMMISSION MEETING AGENDA
REGULAR MEETING
TUESDAY DECEMBER 15, 2020

7:30 PM Regular Meeting

1. Call to Order
2. Roll Call
3. Approval of Minutes:
 - a. November 17, 2020 Planning Commission Meeting
 - b. December 1, 2020 City Council Meeting Minutes (For Information Only)
4. **PUBLIC HEARING:** Jessica Healy (Applicant/Owner) requests that the City consider the following action for the property located at 498 Kuntz Drive (PID No. 33-118-24-24-0008) in Independence, MN:
 - a. A conditional use permit to allow an accessory dwelling unit on the subject property.
5. Open/Misc.
6. Adjourn.

MINUTES OF A MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
TUESDAY, NOVEMBER 17, 2020 – 7:30 P.M.
(Virtual Meeting)

1. CALL TO ORDER

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Gardner at 7:30 p.m.

2. ROLL CALL

PRESENT: Commissioners Palmquist, Volkenant, Dumas, Thompson and Gardner (all virtual)
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner (all virtual)
ABSENT: None
VISITORS: Marvin Johnson, Brad Spencer, Glen Hartman (all virtual)

3. Approval of Minutes:

- a. October 20, 2020 Planning Commission Meeting
- b. October 20, 2020 City Council Meeting Minutes (For Information Only – November 3 City Council Meeting Cancelled Due to Election)

Motion by Palmquist to approve the October 20, 2020 Planning Commission minutes, second by Volkenant. Ayes: Gardner, Volkenant, Dumas, Thompson and Palmquist. Nays: None. Absent: None. Abstain: None. Motion Approved.

4. PUBLIC HEARING: A proposed text amendment to the City of Independence Ordinances as follows:

- a. Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts – Considering an amendment to detached accessory structure setbacks. The potential ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback.

Kaltsas said following the discussion at the last Planning Commission Meeting, staff has prepared a draft ordinance amendment for further consideration and direction by the Planning Commission. The following changes have been made to the ordinance:

- The rear yard setback can be reduced by the Accessory Building Review Committee if all applicable criteria are met. The primary reduction would allow a rear yard setback reduction equal to the requisite setback of the adjacent property sharing the same line. For example, if an adjacent property has a side yard setback of 15 feet, then the rear yard setback could be reduced up to 15 feet.
- I added a provision that would allow a similar reduction for properties that abut Out lots. This occurs in cluster type developments where a perimeter Out lot was created for public space.
- I noted that a setback resulting from a non-conforming structure or variance cannot be used to determine a reduced setback.

- I added a provision to the front yard setback that provides for properties that do not have a front yard that abuts a public right of way.

Staff reviewed the possibility of adding a provision which would regulate the size and or height of an accessory structure as it pertains to this reduced setback. I am not sure that there is an identifiable and or logical “break” point where a hard limitation would be appropriate. By requiring all reductions to be reviewed by the building review committee, the City will be able to review each individual proposal on its own merit. Staff has prepared a draft ordinance for further discussion and consideration by the Planning Commission.

Thompson noted that if a neighbor has 10’ it doesn’t mean you can necessarily mirror that but what happens if that neighbor does not build anything that close. Kaltsas said whether they take advantage, or they don’t they could at some point in time but would have to get the sign-off or a variance. Thompson said he does not like pitting neighbors against each other.

Gardner noted the value of rear yard setbacks and that they are wider than side yard terms. He wanted to know what that accomplished. Kaltsas said there are theories on why it was established at 40’. He said historically it could have been for cartways or set aside for alleyways. The proposed amendment gives the City the ability to have a vetting process and determine appropriate thresholds. He noted this amendment is preferable as every situation is unique.

Palmquist said if Council establishes a review committee and it turns down a proposal the applicant may then approach Council for a variance. Kaltsas said that was correct. It was also noted that 100% sign-off from the neighbors and approval from review committee negates the process of the Public Hearing model. Gardner asked if the public could be present at the review committee meeting if they wanted to. Kaltsas said it is not an advertised meeting but would be on the City website and open if someone wanted to attend or comment.

Dumas asked about the out-lot provision and cluster homes. He wanted to know if someone wanted to put a shed on a lot where it was visible to the cluster. Kaltsas said it would be up to the homeowner to get the sign off. Dumas noted they could go to the homeowner’s association. Thompson asked about properties that border public lands or natural features and how would the homeowner get acquiescence. Palmquist said it should not be made onerous and complicated. Kaltsas said this gives us more flexibility and ability to grant some relief where appropriate.

Public Hearing Open

Hartman said he liked the idea of having the committee and feels it makes sense.

Motion by Palmquist, second by Gardner to close the Public Hearing.

Public Hearing Closed

Motion by Palmquist, second by Dumas to approve the proposed text amendment to the City of Independence Ordinances as follows Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts –an amendment to detached accessory structure setbacks. The ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback. Ayes: Gardner, Volkenant, Dumas, Thompson and Palmquist. Nays: None. Absent: None. Abstain: None. Motion Approved.

5. Open/Misc.

Kaltsas stated he is planning on a December 15, 2020 Planning Commission meeting and it will be virtual.

Palmquist asked about the Comp Plan. Kaltsas noted it had been submitted to Met Council and there has been debate over density calculations for sewer residential and also affordable housing options for the City. He said the local water plans have been approved by the Pioneer Sarah Creek Watershed Committee and Minnehaha. Dumas asked if Met Council rejects parts what would happen. Kaltsas said if they don't approve it would go back to City Council with revisions and then we would resubmit.

8. Adjourn.

Motion by Dumas, second by Thompson to adjourn at 8:25 p.m.

Respectfully Submitted,

Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE CITY COUNCIL
TUESDAY, DECEMBER 1, 2020 –6:30 P.M.
(Virtual Meeting/ All Attendees)

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

3. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

2. ROLL CALL (Note: all noted present were “virtually” present

PRESENT: Mayor Johnson, Councilors Spencer, Betts, McCoy and Grotting

ABSENT: None

STAFF: City Administrator Kaltsas, Assistant to Administrator Horner, City Attorney Vose

VISITORS: Mark Theirot, Vince Velie, WHPS Chief Kroells, Stephen Eckman

3. ****Consent Agenda****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the November 17, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 20072-20092.
- c. Pay Request #3 from Wm. Mueller and Sons, Inc. for work completed on the 2020 Overlay Project Through 2020.
- d. **RESOLUTION 20-1201-01** – Certifying Delinquent Sewer Service Charges.
- e. Approval to not waive the monetary limits on Tort Liability established by MN Statutes, to the extent of the limits of liability coverage obtained from the LMCIT.

Johnson tabled Resolution 20-1201-01- Certifying Delinquent Sewer Service Charges.

Motion by Grotting, second by Spencer to approve the Consent Agenda. Ayes: Johnson, Spencer, and Grotting. Nays: None. Absent: McCoy and Betts. Abstain. None. MOTION DECLARED CARRIED.

Johnson noted that one of the accounts on the delinquent list had paid a portion of their bill. (5080 Fern Dr.) Kaltsas noted the new amount to be certified would be \$322.30 and he would correct it on the certified copy accordingly.

Motion by Betts, second by McCoy to approve RESOLUTION 20-1201-01 – Certifying Delinquent Sewer Service Charges with the noted change on 5080 Fern Dr. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

4. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

5. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- None

Grotting attended the following meetings:

- None

McCoy attended the following meetings:

- None

Betts attended the following meetings:

- None

Johnson attended the following meetings:

- National League of Cities (virtual)
- Metro Cities Annual Meeting (virtual)
- Senior Community Services Board Meeting (virtual)
- Jim Ramstad's funeral (virtual)

Horner attended the following meetings:

- Met with BKV architects

Kaltsas attended the following meetings:

- Bi-weekly meeting on County Road 92 and Highway 12 projects

7. Discussion regarding compliance of the Conditional Use Permit granted for the property located at 3315 County Road 92 N. (PID No. 09-118-24-34-0004).

Kaltsas stated that last year the City completed its regular compliance review of all conditional use permits in the City. Following inspection of the majority of conditional use permits and after an extended period of time and opportunities were granted to property owners to bring non-compliant properties into compliance, it was recommended that a handful of conditional use permits be considered for revocation. The City Council revoked a number of conditional use permits in February 2019 based on non-compliance or no longer being used by the property owner.

The property located at 3315 County Road 92 N. was notified of a hearing for revocation at the February 5th City Council Meeting. The property identification number was mistakenly not included in the revocation resolution. The City identified this error and looked to make a correction at the July 30, 2019 City Council Meeting. The City Council considered the matter at the July 2019 meeting. The future buyer of the property attended the meeting and asked the City Council to consider postponing a decision on the CUP revocation. The buyer described his intent to clean the property and bring it into compliance with applicable conditions associated with the conditional use permit. Council discussed the matter and ultimately decided to table revocation of the CUP. After a lengthy Council discussion, it was noted that the purpose for tabling the CUP was to allow the buyer and opportunity to consider and make application for an Interim Use Permit. The

Interim Use Permit would allow a reasonable public process to be authenticated and relevant current details of the business to be considered by the City.

The purchaser of the subject property, Vincent Velie, made an application to the City in October of 2019 for an Interim Use Permit. The City reviewed and processed the IUP. The Planning Commission considered the IUP in February 2020 and were unable to pass a motion to approve nor deny the application. Ultimately, the IUP was withdrawn by the applicant before City Council consideration on the matter. At the request of Mr. Velie's Attorney, the City inspected the site in April 2020. The City prepared a letter with the findings of the inspection. A copy of the inspection letter is attached to this report. Mr. Velie's Attorney has also provided the City with a list of equipment and vehicles on the property that Mr. Velie does not use in his business. The City has also received several additional letters or correspondence from neighboring property owners relating to the use of the property in 2019 and 2020. In addition to the inspection made by staff, West Hennepin Public Safety has been called to the property for several additional complaints. Mr. Velie's Attorney has prepared an additional letter to the City relating to a concern addressed by WHPS on June 26th, 2020. It should be noted that WHPS had visited the site prior to this incident and had given the owner a verbal warning to discontinue burning on the property.

The City Council is being asked to consider the information presented and to provide direction to staff relating to the status of the revocation of the existing conditional use permit that was tabled in 2019.

Vose noted the history of the property and addressed three legal points. He said Conditional Use Permits run with the land and do not expire from owner to owner. He noted that is the difference between a Conditional Use Permit and an Interim Use Permit which has an expiration date. CUP's have to have conditions that are in place and observed for the permit to remain in effect. Vose said the second point is that the correspondence being addressed in the letters from the property owner's attorney alludes to past violations not applying to the current owner. Vose said that is incorrect and that past violations may be considered. The final point addresses business versus general life use of the property. He said the requirements have to be understood in how they apply to the property in regard to how the business is operated versus general life operations.

Theirotff (Attorney for Velie) stated the property was an entirely different place that was presented in earlier pictures submitted of the property. He said the CUP points to the property interest and the reason Velie bought the property. Theirotff noted Velie has spent thousands of dollars improving the property after he purchased it. Theirotff said item "k" is basically a "catch all" and the noise over the past year has been in direct relation to Velie improving the property and not business violations.

Spencer said he spoke with the seller's realtor and there was no guarantee of the transfer of the CUP with the purchase of the property. Theirotff said it does not matter because the CUP transfers with the property regardless. Spencer said the CUP was issued with some amnesty's in the 1990's and there is a limitation that the business may not be expanded. Vose noted the language quoted is from the ordinance and the underlying theme is whether the conditions are consistent with the original operation.

Betts asked why Velie was not considering an Interim Use Permit instead of a CUP. Theirotff said it was not desirable as it would have an expiration date.

McCoy asked if in light of Ordinance 88 and if this property has seen an expansion or uptick in the CUP. Kaltsas said that would be subjective and it would have to be investigated since original approval. Spencer asked if storage sheds added would be an expansion of use. Kaltsas said there were three sheds added that were not part of the original CUP and permits were not pulled. An amendment should have been pulled to add those per the CUP.

Stephen Eckman said he lives across the street from the property at 3315. He said this property has been a problem that dates back to amnesty times some 26 years ago. He said there has been landscaping, tree grinding and employees coming and going which are not compliant per the zoning of this area. Eckman said Poole never complied with the CUP that Council approved 26 years ago. He said the 2005 Ordinance revision of non-compliant CUP's would be expired if not complied with after inspection. Eckman suggested the CUP is no longer in effect and formal revocation is not required in his opinion. He agrees with Spencer that Velie acknowledged in writing at the closing that the CUP was not in effect. Eckman said Velie's use of the land is commercial in an ag district which makes it non-conforming and illegal. He said if there is some loophole found within law then it should be dissolved because of repeated violations. It is not fair to neighbors and this situation should be nipped in the bud. Eckman urged the Council to put a stop to this CUP.

Grotting asked Vose why the CUP was not dissolved years ago when the activity stopped. Vose said it relates back to condition number 1 which outlines the CUP running with the land. Vose said if the majority of the Council feels the CUP should not continue than it would be through non-compliance and the issue of non-use is not the hand to play. Violations are a valid basis to revoke. Grotting said he feels this was an amnesty CUP structured around the behavior of the owner at the time. It appears the structure of that business was significantly less than what is going on now with the property. Vose said Council could look at the scope of operations going on now those facts would have to be brought forth and examined as evidence to bear. Johnson asked about information coming from the building inspector and what that file looks like. Kaltsas said there is a file and it is available publicly.

Spencer asked about item (k) which addresses neighbor's reasonable enjoyment of their property and the large fires that have occurred on the property. Vose said that goes back to his comments that business operations and general use need to be brought into conformance per Ordinance 88. Spencer asked Kroells for comments on the property. Kroells said Velie owns a tree trimming business and generates waste from that which he burns without obtaining a burn permit. He said he knows Velie is fully aware that burn permits are required and has gotten them for his other property in Independence but has never gotten one for this property. Kroells said he has called Velie and told him that a permit is required but Velie has not complied. He questions why Velie has not done this for this property.

Theirotff said the way he understands it is that his client is contesting the citation he was served for not getting a burning permit as when he went to obtain the police station was closed due to Covid. He said that his client was the one that made the call for protection for himself on the domestic call noted and it was not a situation where someone called on him.

Betts said there should be more inspection on what is actually going on and did the previous owner have some of the same activities that are going on now. Johnson said that is why records of inspections would be good to look at for a better grasp of any expansion of business. Betts said if there has been an expansion than that is a reason to revoke the CUP. Spencer said Poole's CUP is very limited and thinks the argument could be made that the businesses are very different. He said it would be very hard to operate under the original CUP without an amendment. Spencer said his personal opinion is that the CUP should be revoked. McCoy was disappointed when the IUP was pulled off the agenda by Velie as he thought it was on the road to a compromise. He said it now leaves the City with little choice and in a tough spot. McCoy said the offer was there to try and work it out, but the offer was pulled off the table by Velie.

Motion by Spencer, second by Betts to ask staff to prepare a resolution denying the CUP that would be brought before the Council at the December 15th meeting for non-conformance due to the expansion of the business and added buildings on the property located at 3315 County Road 92 N. (PID No. 09-118-24-34-0004). :

Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

8. Consider Adoption of the Final 2021 Tax Levy and General Fund Budget and Associated Actions.

- a. **RESOLUTION 20-1201-02** – Adopting the 2021 General Fund Budget.
- b. **RESOLUTION 20-1201-03** – Adopting the 2021 General Tax Levy.
- c. **RESOLUTION 20-1201-04** – Adopting the 2021 Pioneer Sarah Creek Watershed Management Commission Tax Levy.

Motion by Spencer, second by McCoy to approve RESOLUTION 20-1201-02 – Adopting the 2021 General Fund Budget. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Spencer, second by Betts to approve RESOLUTION 20-1201-03 – Adopting the 2021 General Tax Levy. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Motion by Johnson, second by Spencer to RESOLUTION 20-1201-04 – Adopting the 2021 Pioneer Sarah Creek Watershed Management Commission Tax Levy. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

Spencer noted the work Commissioner Joe Baker has done with the Pioneer Sarah Creek Watershed district which has been extremely diligent and resulted in a relatively flat levy for several years.

9. A proposed text amendment to the City of Independence Ordinances as follows:

- a. **ORDINANCE NO. 2020-03 (Summary Ordinance 2020-03)** - Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts – Considering an amendment to detached accessory structure setbacks. The potential ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback.

Kaltsas said following the discussion and direction provided by the City Council and Planning Commission, staff has prepared an ordinance amendment for further consideration and direction by the Planning Commission. The following changes have been made to the ordinance:

- The rear yard setback can be reduced by the Accessory Building Review Committee if all applicable criteria are met. The primary reduction would allow a rear yard setback reduction equal to the requisite setback of the adjacent property sharing the same line. For example, if an adjacent property has a side yard setback of 15 feet, then the rear yard setback could be reduced up to 15 feet.
- I added a provision that would allow a similar reduction for properties that abut Out lots. This occurs in cluster type developments where a perimeter Out lot was created for public space.
- I noted that a setback resulting from a non-conforming structure or variance cannot be used to determine a reduced setback.

- I added a provision to the front yard setback that provides for properties that do not have a front yard that abuts a public right of way.

Staff reviewed the possibility of adding a provision which would regulate the size and or height of an accessory structure as it pertains to this reduced setback. I am not sure that there is an identifiable and or logical “break” point where a hard limitation would be appropriate. By requiring all reductions to be reviewed by the building review committee, the City will be able to review each individual proposal on its own merit. One resident was present at the public hearing and noted that he would support the recommended changes and was in favor of allowing a reduction to the rear yard setback. Planning Commissioners discussed the proposed amendment. Commissioners asked if surrounding neighbors should have the ability to reject the request. It was further discussed that the reason the neighboring property owners would be notified is to ensure that they are aware of the proposed construction. Commissioners confirmed that if a request was denied by the Accessory Building Review Committee, an applicant could seek a variance through the formal process. This was confirmed by staff.

Commissioners discussed the impacts of this provision on property that abutted public property (i.e., the Luce Line Trail). Commissioners discussed this for some time but ultimately agreed that the onus would fall on the applicant to obtain written permission from the property owner (state or otherwise). If this was not attainable, it was noted that the applicant could go through the variance process. Commissioners ultimately recommended approval of the ordinance amendment to the City Council. The City Council is presented with an ordinance amendment (**ORDINANCE 2020-03**) for consideration and adoption. A summary ordinance (**SUMMARY ORDINANCE 2020-03**) has also been presented for adoption should the Council approve the ordinance.

Johnson stated the Planning Commission did a great job analyzing this and commended them on their work. Betts asked if this would require it to come back to Council if looking at approval. Kaltsas said it would not be required if all conditions are met.

Motion by Grotting, second by McCoy to approve ORDINANCE NO. 2020-03 (Summary Ordinance 2020-03) - Chapter 5, Section 530.03 and 530.07, Physical Standards in both the Agriculture and Rural Residential zoning districts – Considering an amendment to detached accessory structure setbacks. The potential ordinance amendment considers both the process for reviewing accessory structure setbacks and the required setback. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

10. A proposed text amendment to the City of Independence Ordinances as follows:

- a. **ORDINANCE NO. 2020-04 (Summary Ordinance 2020-04)** - Section 1100 relating to cigarettes and cigarette wrappers – Considering an amendment to address the new statutory age limitations that were adopted by the State of Minnesota.

Johnson asked why the City needed to do this as it was already a State Ordinance. Kaltsas said it has been revised to be consistent with the state statute. Kroells said they are trying to prevent the use of drugs, alcohol and tobacco by children by updating the ordinance from 18 to 21 years of age. He noted that the police are not allowed to issue citations for underage use which makes it frustrating to enforce.

Kaltsas stated on August 1, 2020, the Minnesota State Legislature updated the tobacco laws to reflect changes in the Minnesota State Statute 144.391 to prevent young people from starting to use tobacco products. The

minimum age required to purchase tobacco products has been raised from 18 to 21. Staff has worked with the City Attorney to revise the ordinance to bring it into compliance with the recently adopted state statute.

The City Council is presented with an ordinance amendment (**ORDINANCE 2020-04**) for consideration and adoption. A summary ordinance (**SUMMARY ORDINANCE 2020-04**) has also been presented for adoption should the Council approve the ordinance.

Motion by Johnson, second by Spencer to approve ORDINANCE NO. 2020-04 (Summary Ordinance 2020-04) - Section 1100 relating to cigarettes and cigarette wrappers – Considering an amendment to address the new statutory age limitations that were adopted by the State of Minnesota. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

11. Consider Approval of the New City Single Sort Recycling Contract with Randy’s Environmental Services.

a. **RESOLUTION 20-1201-05** – Approving the contract for recycling services.

Kaltsas said the City has historically contracted with a waste service provider to provide single sort recycling services for all Independence residents. The current contract ends on December 31, 2020. The City prepared and sent out a Request for Proposals (RFP) in September of this year to obtain proposals for a new contract. Due to contraction, acquisitions and mergers within the industry, the City received only one proposal from our current provider (Randy’s Environmental Services). The City subsequently reached out to all possible service providers to see if anyone else was interested in providing a proposal for service.

The proposed recycling contract would increase the annual recycling contract from \$50,885 in 2020 to \$66,677 in 2021. It was noted that the City’s current contract proved to be advantageous to the City due to its length and the significant change in commodity pricing. This represents an approximately 25% increase in the cost of obtaining the recycling service. In discussions with providers, it was noted that the price increase generally reflects a significant reduction in the pricing of commodities that has occurred for the past several years. One other item of note is that the previous contract was a seven (7) year contract. As a result of the lack of competitive bids, the proposed contract length is three (3) years. The City can seek a different length in contract if directed by the Council. The proposed contract has an annual increase of 2.75% to offset the declining commodities market. The service will provide each property of the City with a 65-gallon single sort container that will be picked up every other week. Residents can request a 96-gallon single sort container if they would like a larger container at no cost.

Motion by Spencer, second by Grotting to approve RESOLUTION 20-1201-05 – Approving the contract for recycling services. Ayes: Johnson, Spencer, McCoy, Betts and Grotting. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED.

12. OPEN/MISC.

Johnson noted that the City of Maple Plain cancelled the “View Santa” event this year without input from WHPS. Kroells stated there has been a 40-year tradition of hosting the “View Santa” event for children which also combined a food drive. He said this was a result of limited social gatherings per Governor’s Walz order due to Covid19. Maple Plain then contacted Kroells and requested the cancellation of the event. Kroells stated 70-80 percent of the event takes place in Maple Plain so he did cancel the event for this year. Kroells

encouraged people to continue to donate to local food shelves that are needing the donations. Betts said it would have been nice to have a discussion with the Police Commission.

13. ADJOURN.

Motion by Johnson, second by Spencer to adjourn at 8:37 p.m. Ayes: Johnson, Grotting and Spencer. Nays: None. Absent: Betts and Spencer. None. Abstain. None. MOTION DECLARED CARRIED.

Respectfully Submitted,
Trish Gronstal/ Recording Secretary

City of Independence

Request for a Conditional Use Permit to Allow an Accessory Dwelling Unit on the Property Located at 498 Kuntz Drive

<i>To:</i>	Planning Commission
<i>From:</i>	Mark Kaltsas, City Planner
<i>Meeting Date:</i>	December 15, 2020
<i>Applicant:</i>	Jessica Healy
<i>Owner:</i>	Jessica Healy
<i>Location:</i>	498 Kuntz Drive

Request:

Jessica Healy (Applicant/Owner) requests that the City consider the following action for the property located at 498 Kuntz Drive (PID No. 33-118-24-24-0008) in Independence, MN:

- a. A conditional use permit to allow an accessory dwelling unit on the subject property.

Property/Site Information:

The property is located at 498 Kuntz Drive which is generally located at the southeast corner of CSAH 6 and Kuntz Drive. The property is comprised of mostly upland with a wetland on the east side of the property. There are two existing accessory structures located on the property. The principal structure had been previously taken down due to the poor condition.

Property Information: **498 Kuntz Drive**

Zoning: AG-Agriculture

Comprehensive Plan: AG-Agriculture

Acreage: 10.00 acres



Discussion:

The City allows accessory dwelling units (ADU) as a conditional use in the AG-Agriculture zoning district. The intent of the ordinance was to allow for “mother-in-law” type units to be located within the principal structure or within a detached accessory building. The applicant recently acquired this property and the property to the north and discussed regulations relating to ADUs for this property. The applicant is planning on constructing a principal residence on this property in 2021 and would like the City to consider allowing a separate detached ADU.

This property historically had an existing residence that was located inside of the loop driveway (near the existing well). The home was removed between 2016-2018. There is an existing Quonset building and barn located on the property. The applicant has prepared plans for the development of the property which include both the principal and accessory dwelling units. The City has adopted standards requiring the ADU to be proportional and subordinate to the principal structure. The proposed principal house and accessory dwelling unit have the following specifics:

PROJECT DATA:

MAIN HOUSE

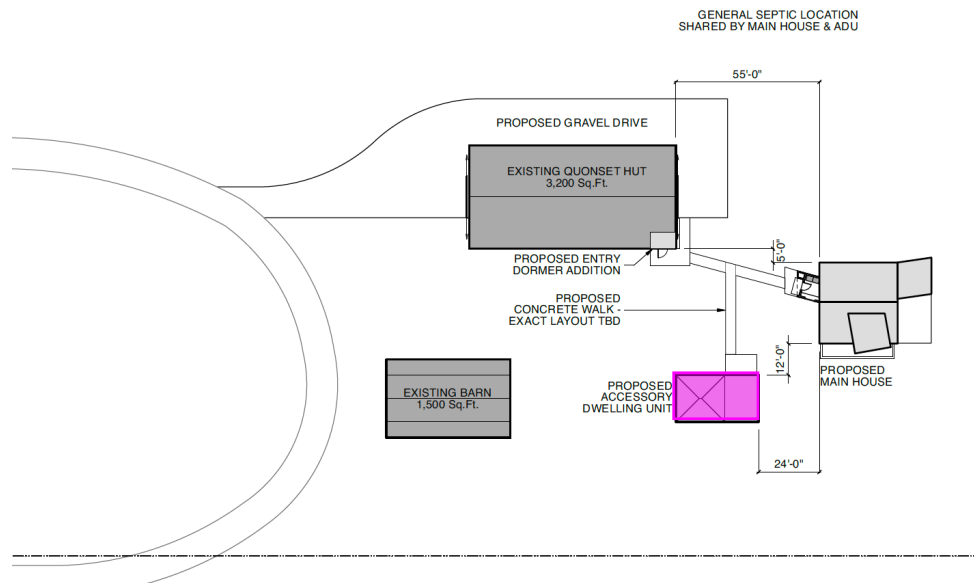
1479 SF 1st & 2nd FLOORS
+ 737 SF BASEMENT
+ 194 SF SCREENED PORCH
+ 252 SF DECK

BEDROOMS 3
BATHROOMS 2

ACCESSORY DWELLING UNIT

480 SF
+ 96 SF PATIO

BEDROOMS 1
BATHROOMS 1



The proposed accessory dwelling unit is comprised of a combined bedroom, kitchen and living area with a bathroom and laundry. In order for the City to consider a CUP for an accessory dwelling unit, the applicant will need to demonstrate how they meet all applicable criteria for granting a conditional use permit and for an accessory dwelling unit. The City has criteria broadly relating to Conditional Use Permits and then more focused criteria relating specifically to accessory dwelling units.

An accessory dwelling unit must meet the following criteria:

Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is:

- (a) *Physically attached to or within a single-family dwelling unit or within a detached^a accessory building that has a principal structure on the parcel; and*

The applicant is proposing to construct a detached accessory dwelling unit.

- (b) *Subordinate in size to the single-family dwelling unit; and*

The proposed accessory dwelling unit would be subordinate in size to the single-family dwelling unit.

- (c) *Fully separated from the single-family dwelling unit by means of a wall or floor, with or without a door; and*

The proposed accessory dwelling unit would be in a detached structure which is separated from the single-family home.

- (d) *Architecturally compatible with the principal structure (using materials, finishes, style and colors similar to the principal structure); and*

The proposed ADU has been designed to be architecturally similar to the proposed principal structure. Architecture and materials appear to be consistent with the existing home.

- (e) *The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and*

The principal structure is proposed to be 1,479 square feet of above ground living space not including the basement. 33% of 1,479 square feet equals 488 square feet. The applicant is proposing to construct a 480 square foot accessory dwelling unit. The proposed square footage would be approximately equal to the total permitted maximum amount of square feet permitted for this property.

- (f) *Not in excess of the maximum square footage for accessory structures as permitted in this code; and*

The existing property is 10 acres in size and therefore does not have a limitation on the total square footage for detached accessory structures. For context, the existing Quonset is 3,200 SF and the existing barn is 1,500 SF.

- (g) *Has permanent provisions for cooking, living and sanitation; and*

The applicant is proposing to construct permanent provisions for cooking; living and sanitation (see attached depiction).

- (h) *Has no more than 2 bedrooms; and*

The applicant is proposing to have one bedroom within the accessory dwelling unit.

- (i) *Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and*

The owner of the property is proposing that the accessory dwelling unit will be occupied by her family.

- (j) *Uses the existing on-site septic system^b or an approved holding tank; and*

The proposed accessory structure will be connected to the new septic system that also serves the principal residence.

- (k) *Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and*

The accessory structure does not impede the ability of the owner to subdivide the property in the future or utilize a secondary septic site.

- (l) *In compliance with the adopted building code relating to all aspects of the dwelling unit.*

The applicant will be required to obtain a building permit for all proposed improvements.

^a *On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.*

^b *The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.*

The applicant has discussed the proposed improvements to the property with the City. The applicant has submitted a site survey, sketch of the proposed building plans, elevations of the proposed principal residence and ADU and a site plan. The accessory dwelling unit will need to meet all applicable building codes and building regulations.

As proposed, the accessory dwelling unit appears to meet all applicable criteria established in the zoning ordinance for granting a conditional use permit for an accessory dwelling unit.

The criteria for granting a conditional use permit are clearly delineated in the City's Zoning Ordinance (Section 520.11 subd. 1, a-i) as follows:

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

Consideration for the proposed conditional use permit should weigh the impact of having an accessory dwelling unit located on this property. The proposed new home and ADU appear to be designed so that they are compatible and consistent. The size of the property, the proximity to surrounding properties and the general geographic location within the City will help to mitigate any impacts of having an ADU.

Should the CUP to allow an accessory dwelling unit be recommended for approval by the Planning Commission, it is suggested that the following conditions be noted by the City:

- The Conditional Use Permit will be subject to the applicant constructing the principal structure on the property and successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
- The ADU will be constructed in accordance with the approved plans.
- The ADU will meet all applicable setbacks of the City's zoning ordinance.

Neighbor Comments:

The City has not received any written comments regarding the proposed conditional use permit to allow an accessory dwelling unit.

Recommendation:

Staff is seeking a recommendation from the Planning Commission for the requested Conditional Use Permit with the following findings and conditions:

1. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The Conditional Use Permit will be issued subject to the following items being completed:
 - A. The Conditional Use Permit will be subject to the applicant constructing the principal structure on the property and successfully obtaining and completing a building permit for all applicable improvements required for a dwelling unit.
 - B. The ADU will be constructed in accordance with the approved plans.
 - C. The ADU will meet all applicable setbacks of the City's zoning ordinance.
3. Prior to the City Council placing the Conditional Use Permit into effect, the applicant shall provide the City with the following items:
 - A. The Applicant shall pay for all costs associated with the City's review of the requested conditional use permit.

Attachments:

1. Application
2. Survey
3. Proposed Accessory Dwelling Unit Floor Plan
4. Building Elevations
5. Site Plan



**CITY OF
INDEPENDENCE
MINNESOTA**

Applicant Information

Name: Jessica M. Healy
Address: 728 E RAMONA AVE
SALT LAKE CITY,
Utah 84105
Primary Phone: 7632328536
Secondary Phone: 3126409028
Email: jmhealy17@gmail.com

Owner Information

Name: Jessica M. Healy
Address: 728 E RAMONA AVE
SALT LAKE CITY,
Utah 84105
Primary Phone: 7632328536
Secondary Phone: 3126409028
Email: jmhealy17@gmail.com

Property Address:

PID:

Planning Application Type: Conditional Use Permit

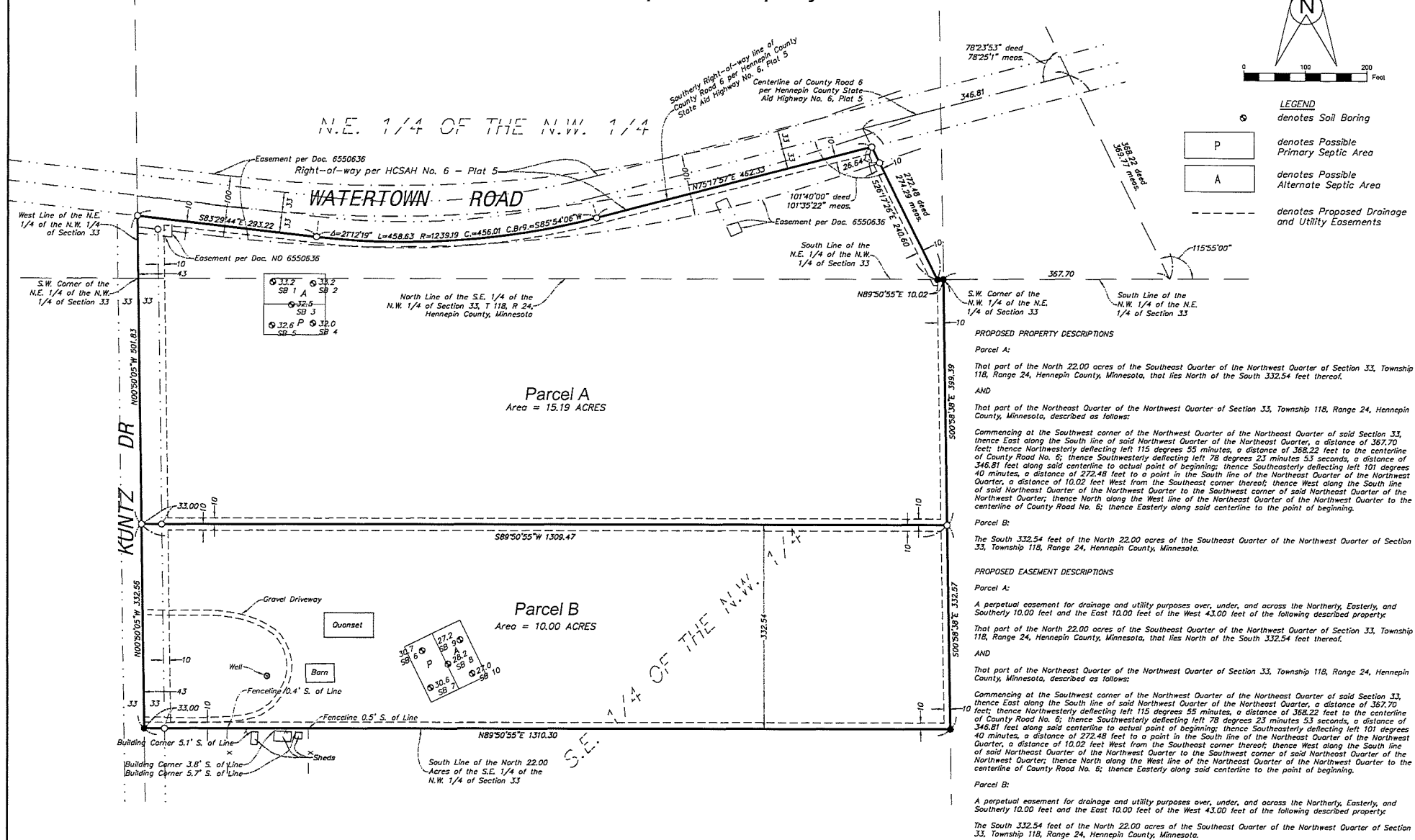
Description:

Supporting Documents: Site Survey (Existing Conditions), Construction Plans, Preliminary/Final Plan

Signature:

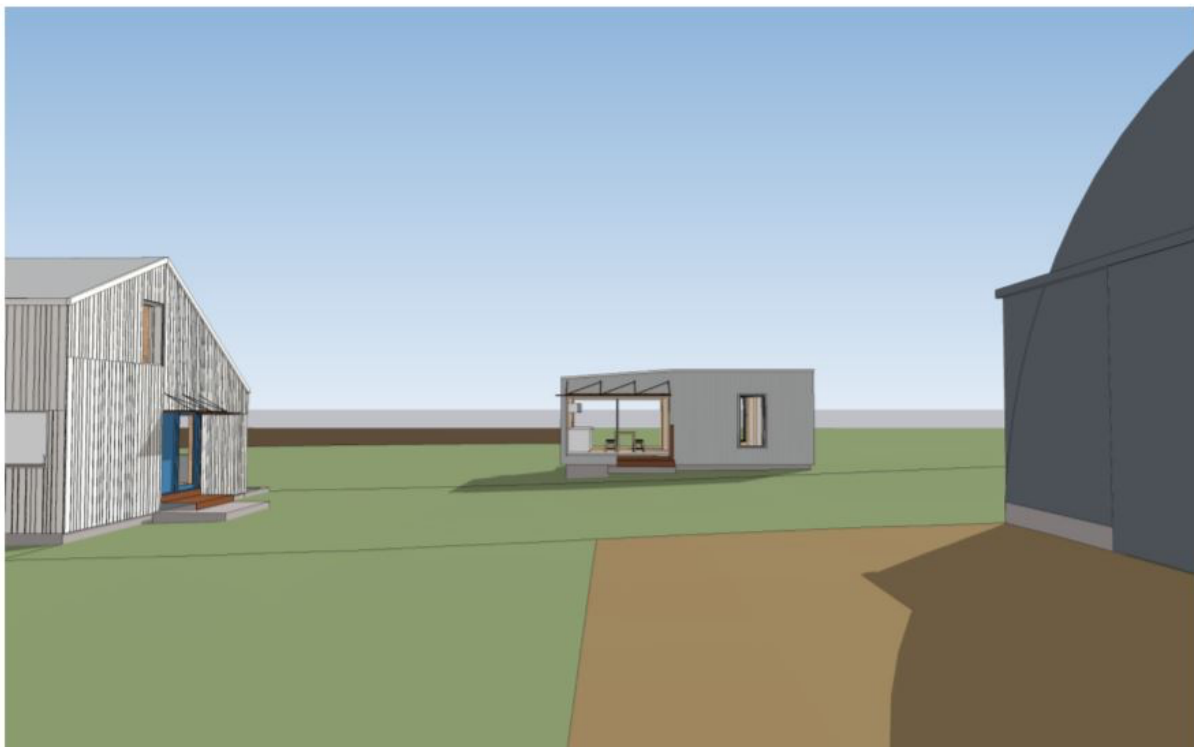
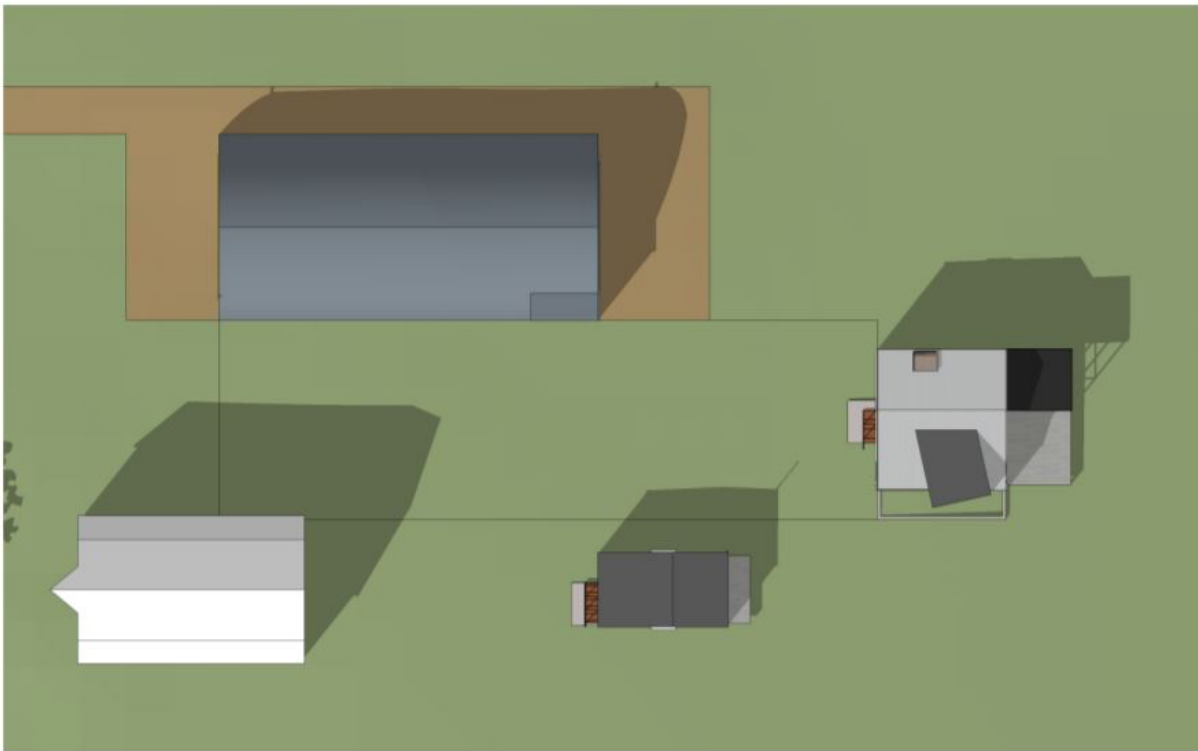
Certificate of Survey

Proposed Property



<p>Certificate of Survey on part of the N.W. 1/4 of Section 33, Township 118, Range 24, Hennepin County, Minnesota</p> <p>Revised: 9-28-18 - Easements - M.J.H.</p>	<p>I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.</p> <p><i>Paul E. Otto</i> Paul E. Otto License #40062 Date: 9-28-18</p>	<p>Requested By:</p> <p>David Zoldahn</p> <p>Date: 9-6-18 Drawn By: M.J.H. Scale: 1"=100' Checked By: P.E.O.</p>	<p>OTTO ASSOCIATES Engineers & Land Surveyors, Inc.</p> <p>www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763)682-4727 Fax: (763)682-3522</p>	<p>● denotes iron monument found ○ denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062</p> <p>Project No. 18-0425</p>
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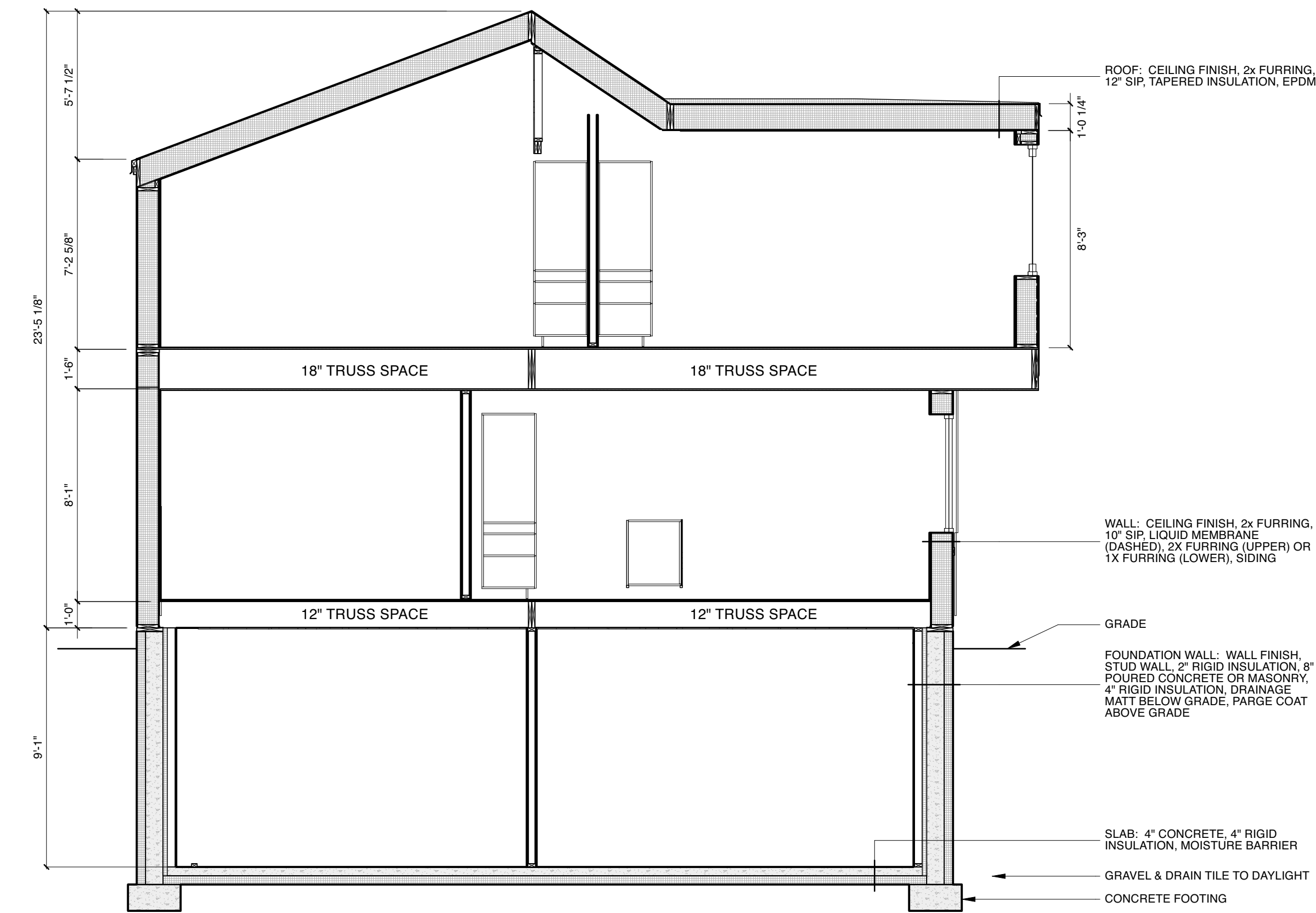
Healy Barnhouse & ADU
Conditional Permit Application 11.9.20
498 Kuntz Drive Independence, MN



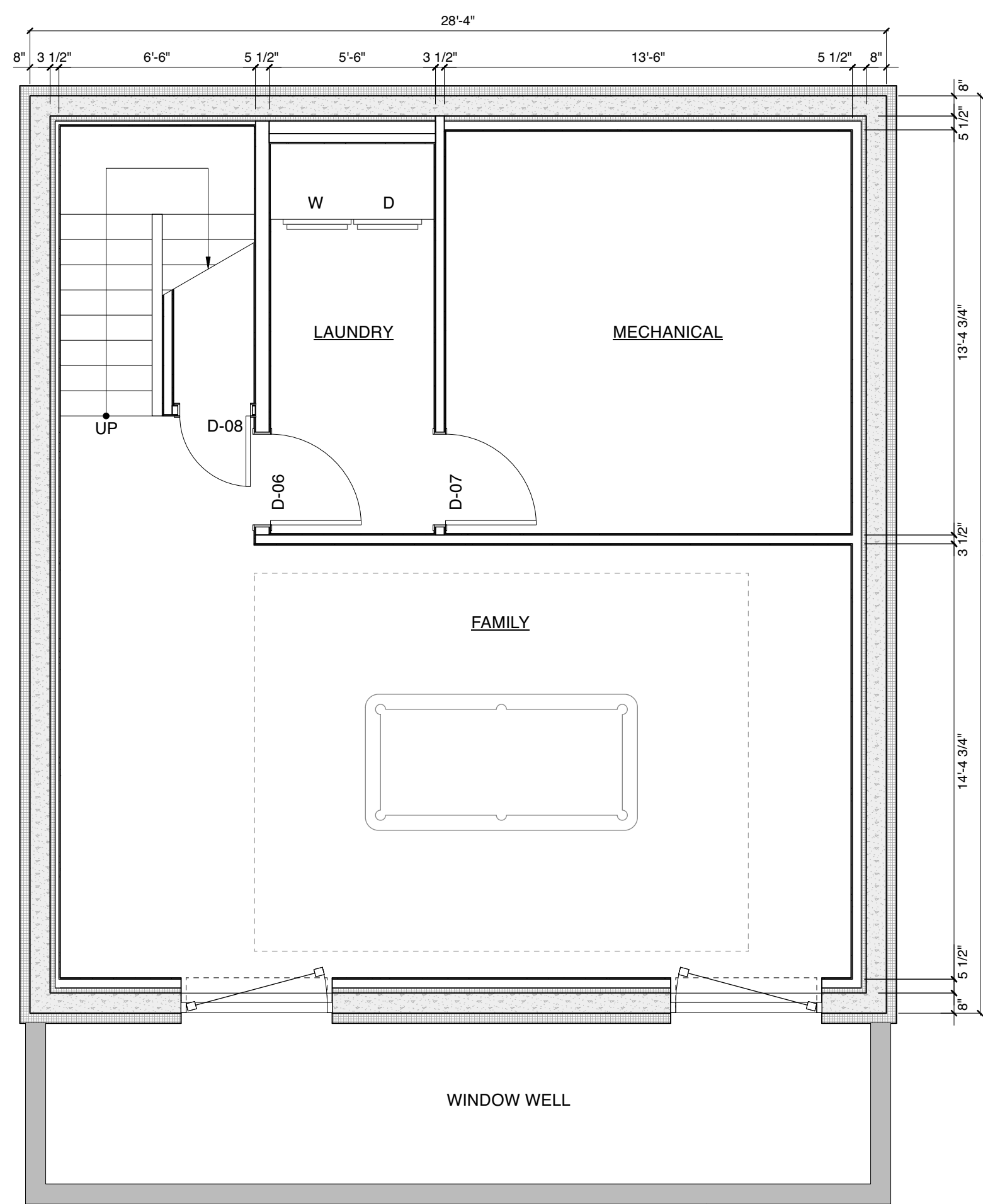
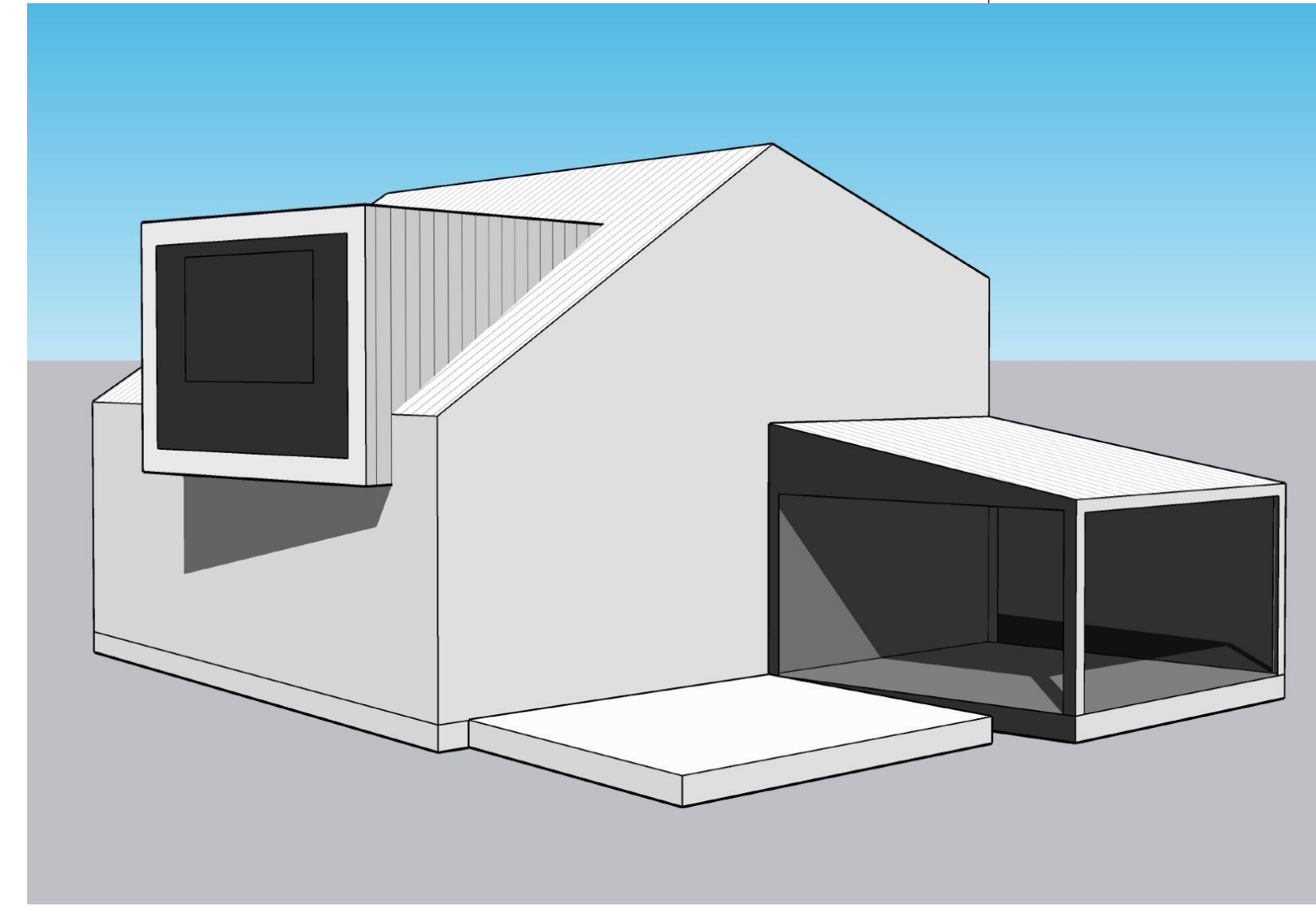
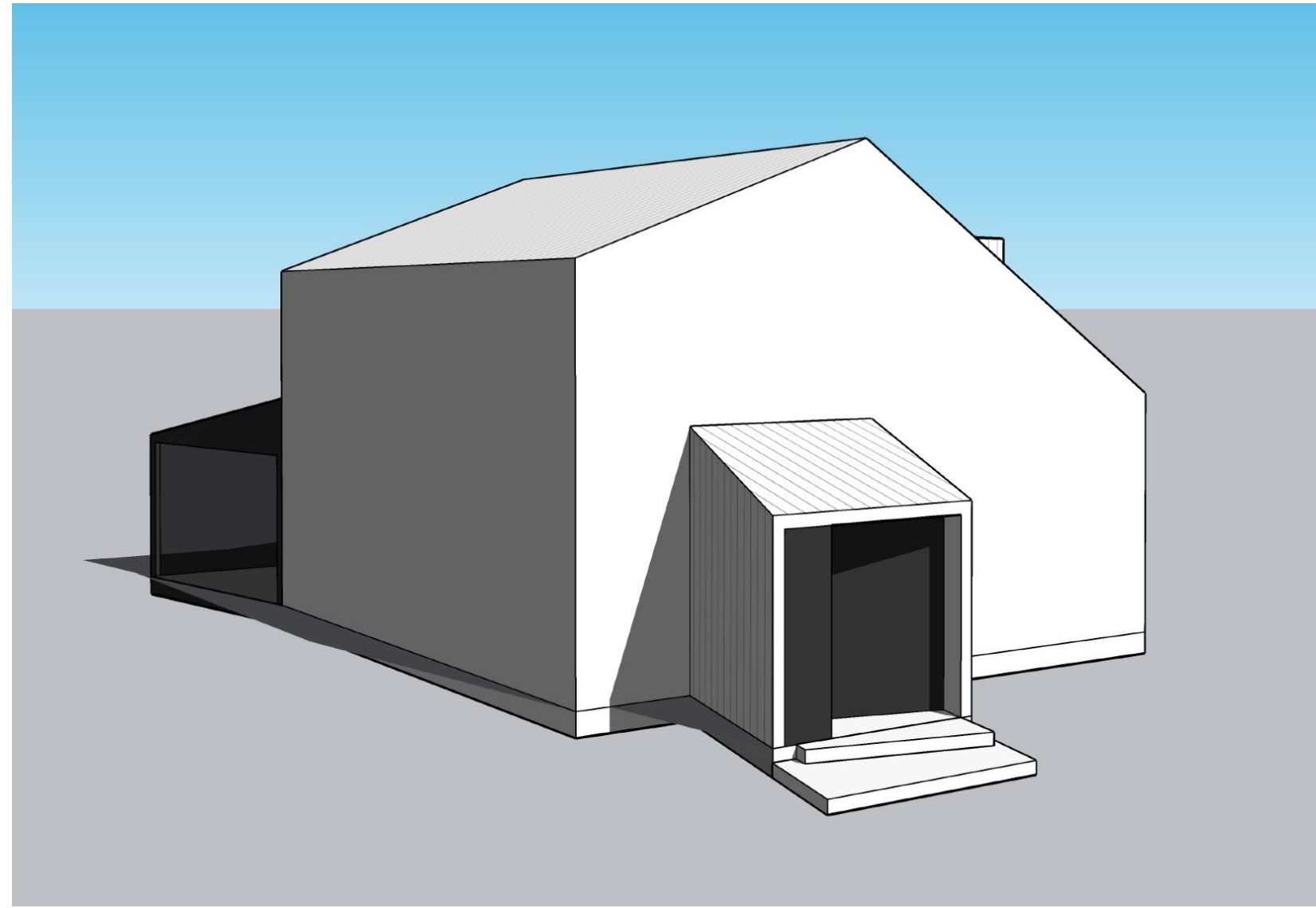
Healy Barnhouse & ADU
Conditional Permit Application 11.9.20
498 Kuntz Drive Independence, MN



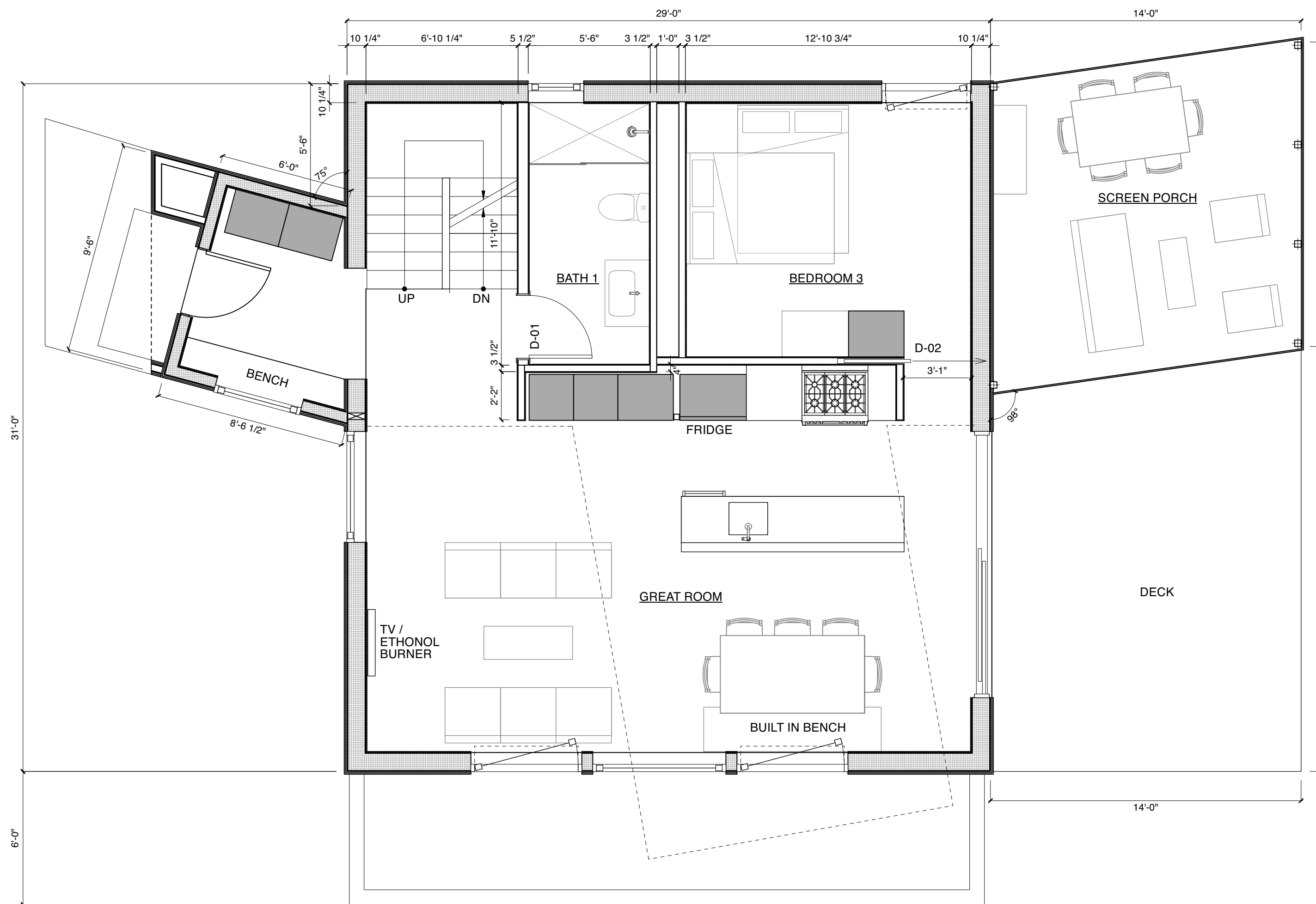
OPTION 3 +/-500SF



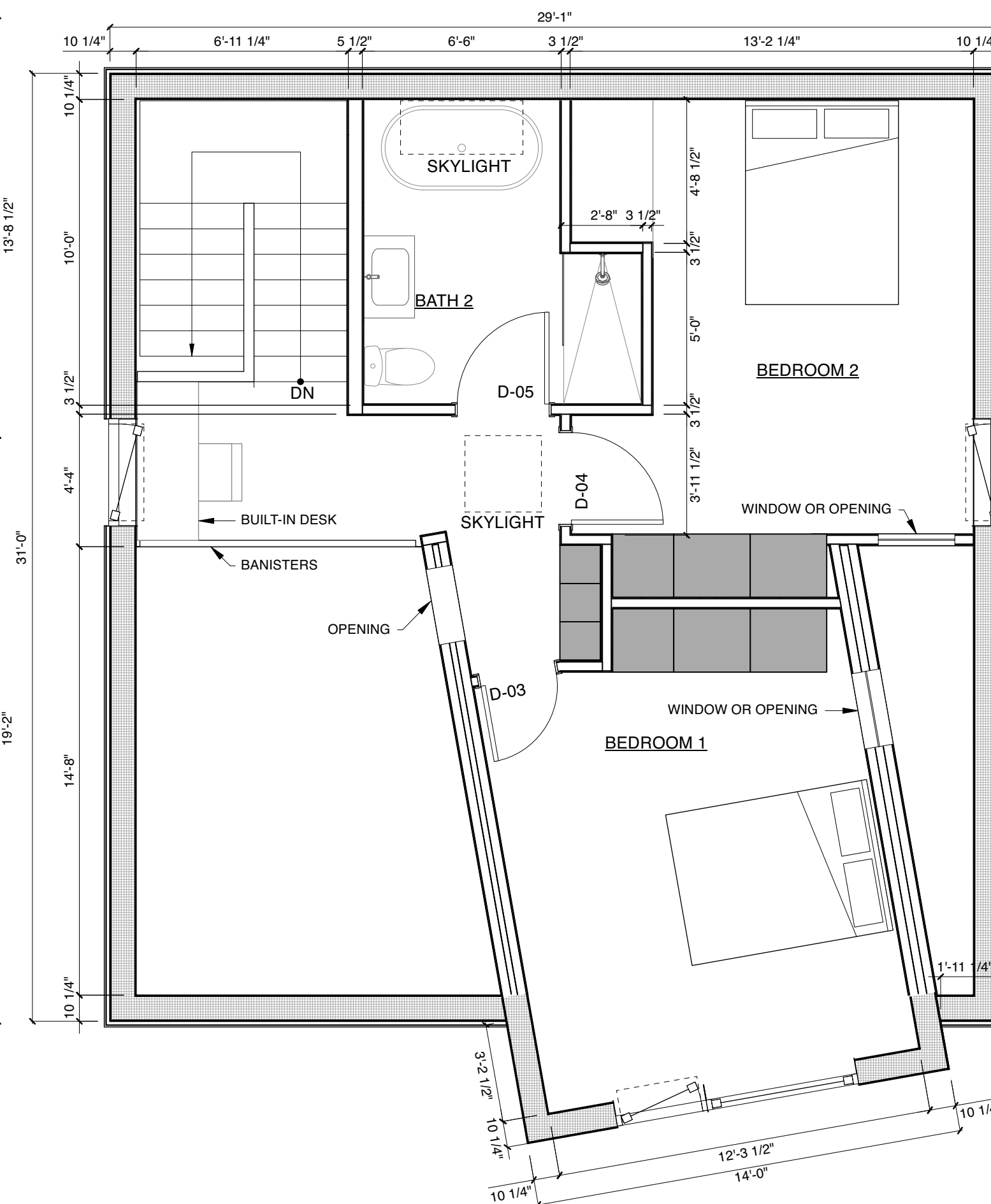
4 BUILDING SECTION
1/4" = 1'-0"



3 BASEMENT PLAN
1/4" = 1'-0"



2 1st FLOOR PLAN
1/4" = 1'-0"



1 2nd FLOOR PLAN
1/4" = 1'-0"

ALCHEMY
ARCHITECTS

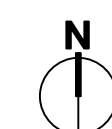
856 RAYMOND
SAINT PAUL,
MN 55114
651.647.6650

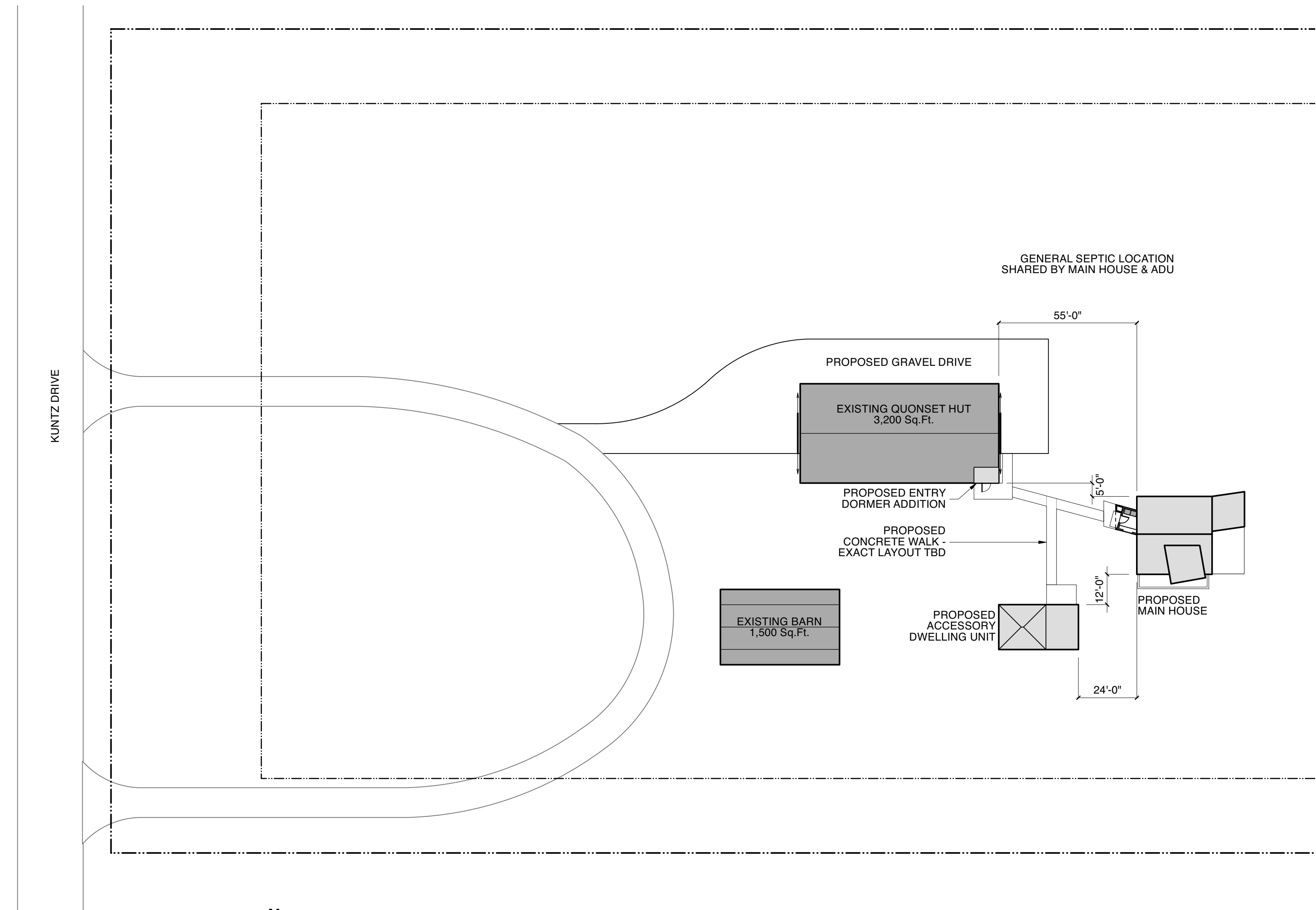
Prairie barnHouse
438 Korte Drive
Maple Plain, MN 55359

REVISION
DATE

SCALE 1/8" = 1'-0"
IF PRINTED ON 24X36
DATE: 11/2/2020

PLANS & SECTION
1.0





1 PRELIMINARY SITE PLAN - PARTIAL
Scale: 1/32" = 1'-0"

House and Accessory Dwelling Unit

INDEPENDENCE, MINNESOTA

PROJECT TEAM:

ARCHITECT:
ALCHEMY ARCHITECTS
856 RAYMOND AVE, SUITE G
SAINT PAUL, MN 55114
651.647.6650

CONTRACTOR:
EROTAS CUSTOM BUILDING
21930 MINNETONKA BLVD
EXCELSIOR, MN 55331
952.956.6626

PROJECT DATA:

MAIN HOUSE
+ 1479 SF 1st & 2nd FLOORS
+ 737 SF BASEMENT
+ 194 SF SCREENED PORCH
+ 252 SF DECK

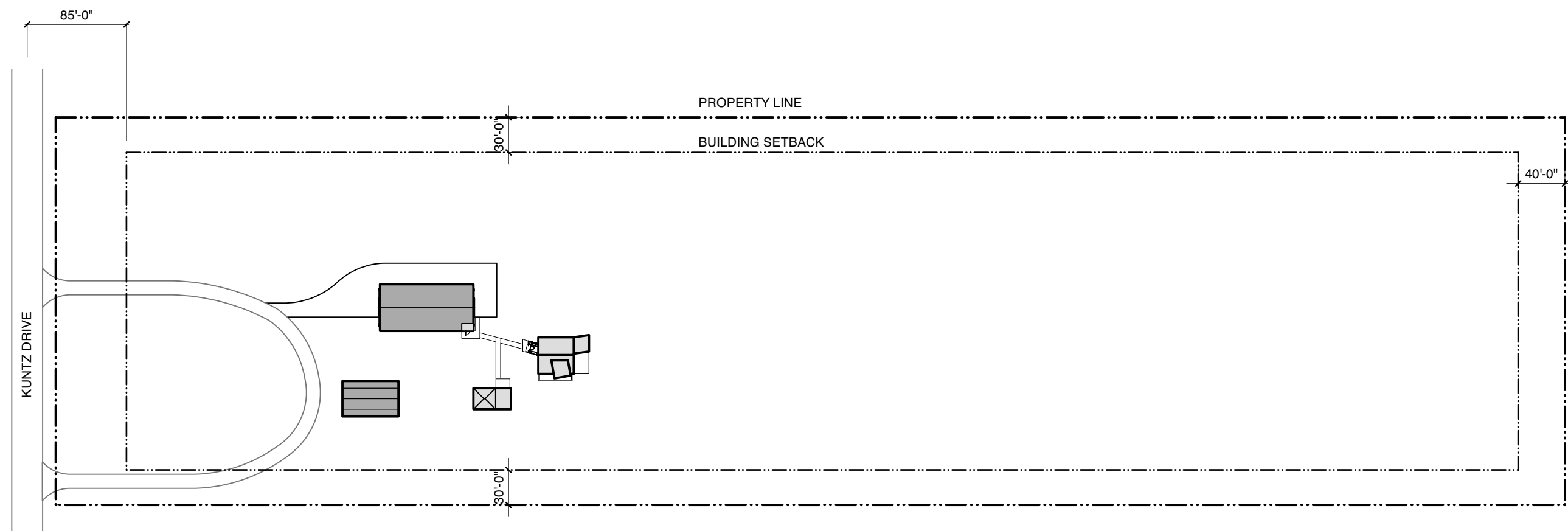
BED ROOMS 3
BATHROOMS 2

ACCESSORY DWELLING UNIT
+ 480 SF
+ 96 SF PATIO

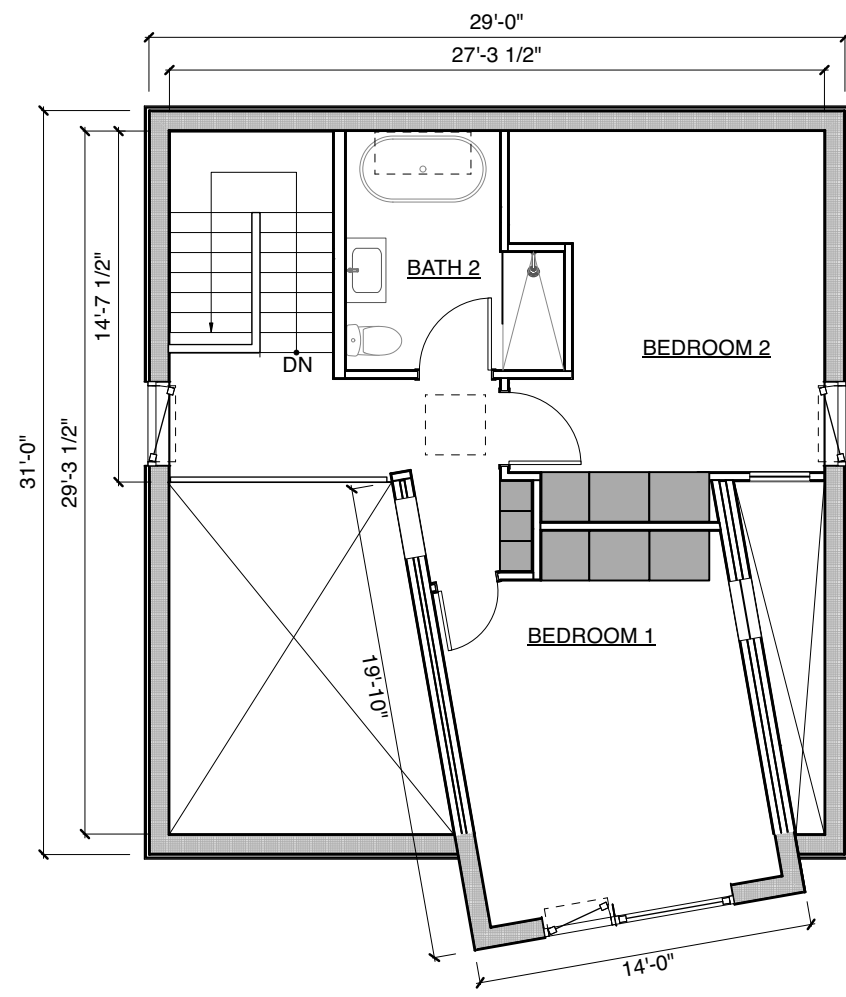
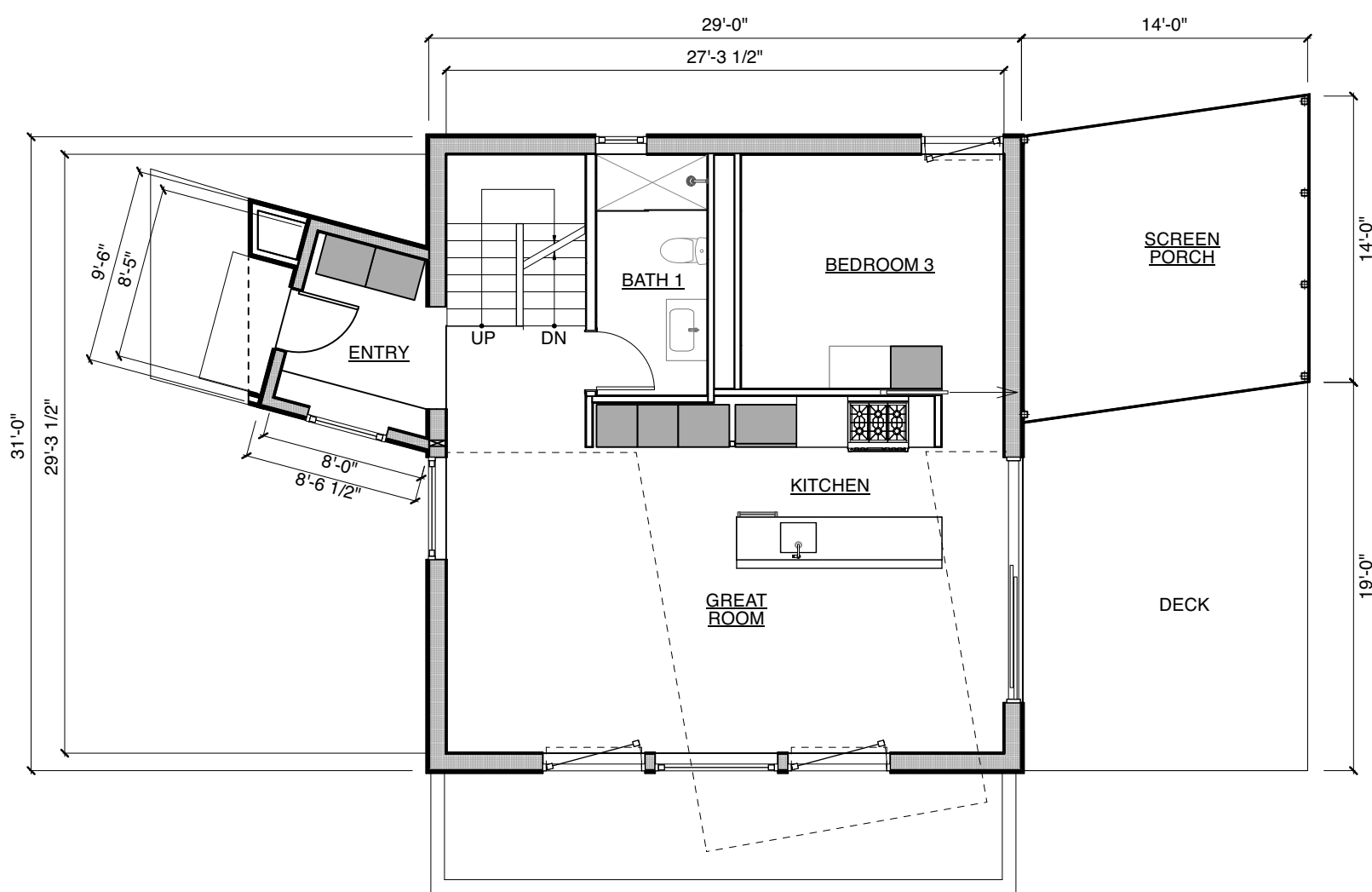
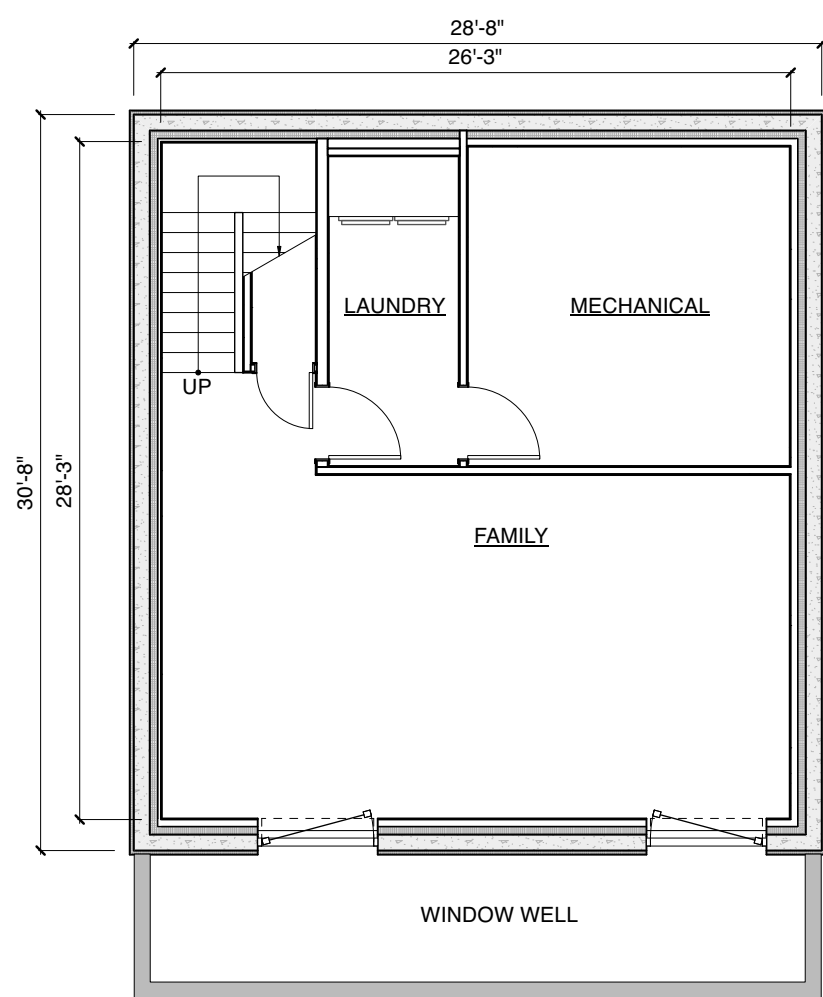
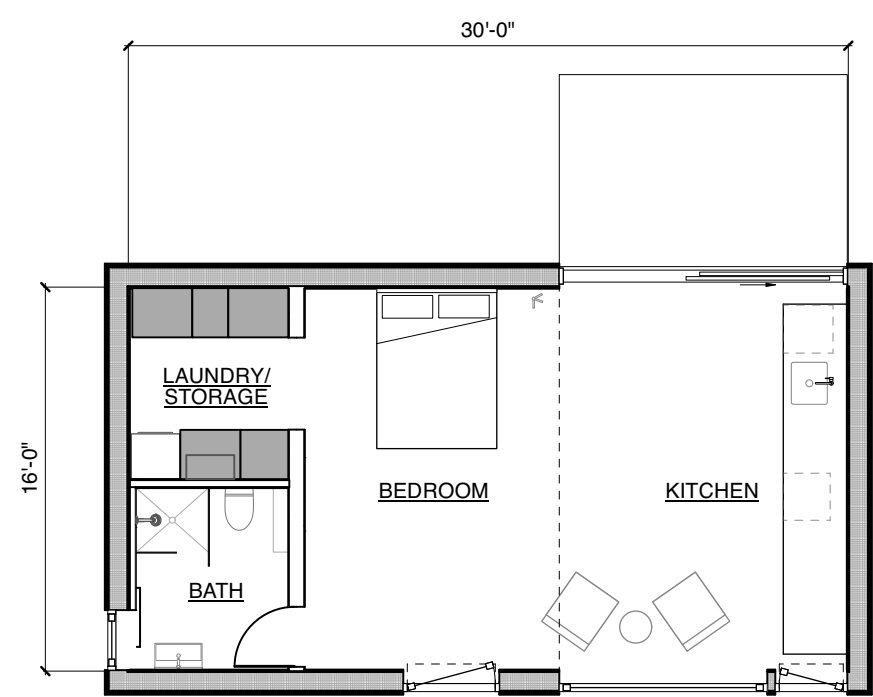
BED ROOMS 1
BATHROOMS 1

ZONING: AGRICULTURAL

PARCEL AREA: 9.87 ACRES / 430,102 SQ.FT.



2 PRELIMINARY SITE PLAN
Scale: 1" = 100'-0"



ALCHEMY
ARCHITECTS

856 RAYMOND
SAINT PAUL,
MN 55114
651.647.6650

Healy House & ADU
438 Kuntz Drive
Maple Plain, MN 55359

REVISION
DATE

SCALE 1/8" = 1'-0"
IF PRINTED ON 24X36
DATE: 11/5/2020

HOUSE & ADU