



CITY COUNCIL MEETING AGENDA
TUESDAY MAY 5, 2020

****PLEASE NOTE****

**6:30 PM – RECONVENE OF THE LOCAL BOARD OF APPEALS AND
EQUALIZATION MEETING**

CITY COUNCIL MEETING TIME: 6:30 PM

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. ****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 April 16, 2020 Special City Council Meeting.
 - b. Approval of City Council Minutes from the April 21, 2020 Regular City Council Meeting.
 - c. Approval of Accounts Payable; Checks Numbered 19600-19627.
 - d. Approval of an Agriculture Preserve Renewal Application for Randal and Colleen Klaers (PID No.s 02-118-24-41-0001 and 02-118-24-42-0003).
 - e. Approval and Award of Annual Dust Control and Gravel Contracts.
 - f. First Quarter Building Permit Summary – For Information.
5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.
6. Reports of Boards and Committees by Council and Staff.
7. Darryl Jorgenson (Applicant) and Mary Jorgenson (Owner) request that the City consider the following action for the property located at 4594 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0029):
 - a. **RESOLUTION 20-0505-01:** Considering a minor subdivision to allow a lot split of to create two properties.
 - b. **RESOLUTION 20-0505-02:** Considering approval of a Preliminary Plat for the subdivision to be known as Shady Beach.

8. Consideration of Approving Lease Agreement and Associated Terms for Wireless Communications Tower on City Hall Property.
9. Consideration of Granting a Temporary Easement to MNDOT for Construction of the Highway 12/CSAH 90 Road Improvements on Property Owned by the City (PID No. 23-118-24-33-0014).
10. Open/Misc.
11. Adjourn.

MINUTES OF A SPECIAL SESSION OF THE
INDEPENDENCE CITY COUNCIL
THURSDAY, APRIL 16, 2020 AT 3:00 PM

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a special session of the Independence City Council was called to order by Mayor Johnson at 3:00 pm via Zoom video.

2. ROLL CALL

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

ABSENT: None

STAFF: Administrative to Administrator Horner, City Administrator Kaltsas,

VISITORS: WHPS Chief Kroells

3. Closed Meeting to Discuss Attorney/Client Privilege:

- a. Discussion relating to the existing land use application for the property located at 3315 CSAH 92 N.

Motion by Grotting, second by Spencer to close the Closed Session. Ayes: Johnson, Betts, Spencer, Grotting and McCoy. Absent: None. Nays: None. MOTION DECLARED CARRIED.

4. Update on High Speed Data Antenna on City Hall Property:

- a. Staff will provide a status update on this topic.

Kaltsas said he asked Xtratyme for more information relating to the structure of the tower which he passed on to the City Engineer. He wanted to know the capacity and possibility of a co-user to lease out the tower. It was determined that it would be unlikely to have a co-user. Kaltsas noted it would be a 5k fee plus the cost of electricity. Once the tower was installed the City would have a 15-year lease on the tower at 0 fee. Kaltsas noted he receives a lot of calls from residents that feel this would benefit them. Horner received a list of references from Xtratyme that are mostly positive, but it is agreed they may be stretched thin.

Betts asked if it would be visible and Kaltsas said it would be particularly to the Fieldstone neighborhood residents. It would be almost as tall as the one on the Bendickson property. Betts said she did not think there would be complaining as people need the service.

Johnson asked if the 5k would be the extent of the cost to the City. Kaltsas noted there would be other costs including electrical service which he estimates around 7-8k. He noted once the fee is paid the City would be getting service provided at no cost for the 15-year lease. Kaltsas said we currently pay around \$850/ month for high-speed internet. Kroells noted the poor service currently in place is a hamper to his department and videos and cameras they need to utilize especially considering the amount paid.

Betts asked if there would be grant money available especially relating to how this affects residents at home trying to work as we deal with COVID-19. Kaltsas noted Kroells is working on a FEMA request for reimbursements and we would submit this item within that request as well. Kaltsas is looking into other grants too.

Kalstas noted the ROI on this would be a year or less if the service is good and Xtratyme stays in business. Grotting noted in this last bail-out there was talk of rural internet issues. He said he is 100% behind this and it is a must but to try and respond today we may end up moving a little to fast and miss something. Grotting asked if the tower could support other hardware down the road. Kalstas said it depended on how many antennas and also as technology evolves other arrangements may be made as well. He said if we could locate a cellular provider to the tower that would have a huge positive impact for the City. He noted one idea was to ask Bendickson if the City could put a dish on his windmill.

Vose said he is a bit leery about lease terms but sees the value for the City and residents. Vose said we could get additional users but that would all be determined by what terms get negotiated with Xtratyme. He noted this wireless technology is the new thing, but he could not predict exactly how this service will play out.

Johnson asked if there is a limit to how close towers may be placed. Vose said there is an FCC licensing limit on height and proximity to other towers regarding signal interference and aviation concerns. Kalstas said he is looking for general direction on how to proceed. Grotting said there is absolutely an appetite due to the large ag zoning and reaching those residents with internet capabilities and relief. McCoy said he would be in favor of looking at something larger but does not want to hold up the process. Betts said residents are dependent on service and need this done as quickly as possible. She noted it is also a safety issue for the police department and not getting adequate service.

8. ADJOURN

Motion by Betts, second by McCoy to adjourn the Special Session of the City Council at 4:07 p.m. Ayes: Johnson, Betts, Spencer, Grotting and McCoy. Absent: None. Nays: None. MOTION DECLARED CARRIED.

Respectfully submitted,

Trish Gronstal, Recording Secretary

City of Independence

Resident Requesting Ag Preserve Action

To: City Council

From: Beth Horner, Assistant City Administrator

Meeting Date: May 5, 2020

Discussion:

The properties identified as PID 02-118-24-42-0003 & 02-118-24-41-0001 and owned by Randal Klaers & Colleen Y. Klaers has expired from the Ag Preserve program December 15, 2019. The property owner is requesting to renew the Ag Preserve status. City Council is being asked to approve the application for renewal of the Ag Preserve status for the subject property owned by Randal Klaers & Colleen Y. Klaers.

PID's 02-118-24-42-0003

02-118-24-41-0001

METROPOLITAN AGRICULTURAL PRESERVES
RESTRICTIVE COVENANT

THIS AGREEMENT, made and entered into this 15th day of December, 2019, by and between Randal Klaers & Colleen Y. Klaers, husband & wife, Record Fee Owner(s);
Contract for Deed Vendor(s) (Sellers), if any;
Contract for Deed Vendee(s) (Buyers), if any;
hereinafter collectively referred to as Landowner(s); AND the City of Independence, Hennepin County, Minnesota,

(NOTE: Above named Landowner(s) must be identified as husband and wife, a single person, a Partnership, a (State) Corporation, a Trustee of a Trust (describe), a Guardian or Administrator of an Estate (describe) — whatever the case might be — If property is homestead — spouse must join whether their name is on record or not — if property is non-homestead and spouse doesn't join — then a statement must be put at end of legal description that it is non-homestead.)

WITNESSETH:

WHEREAS, the Landowner(s) above named are the owners of the tract of land (the Land) in the County of Hennepin, State of Minnesota, legally described as:

(IF TORRENS PROPERTY — Use description from Certificate of Title, verbatim; IF ABSTRACT PROPERTY — Use description from abstract or deed, if possible, or get it from your county auditor. Use an additional sheet if extra space is needed. Be sure to state your parcel identification number and whether or not your property is homesteaded.)

Parcel identification number: 02-118-24-41-0001
02-118-24-42-0003 Homestead or Non-homestead
(Circle one)

Legal Description:

See Exhibit A

WHEREAS, the Landowner desires to receive the benefits of participation in the State of Minnesota Metropolitan Agricultural Preserves Program established by Minn. Stat., Chapter 473H, and has made application for initiating placement of the Land into a Metropolitan agricultural preserve, a copy of which is attached hereto and incorporated herein as Attachment A; and

WHEREAS, the Land described herein is classified as agricultural pursuant to Minn. Stat., Section 273.13 and has (have) approved and certified this Land as being eligible for designation as an agricultural preserve; a copy of the affidavit evidencing that the land is certified long-term agricultural is attached hereto and incorporated herein by reference as Attachment B;

WHEREAS, Minn. Stat., Section 473H.05, requires that the applicant complete and file as part of this application a “restrictive covenant which shall constitute an easement running with the land”;

NOW, THEREFORE, in consideration of receipt of the benefits of participation in the State of Minnesota Metropolitan Agricultural Preserves Program, the Landowner on behalf of himself, his successors and assignees, agrees and covenants as follows:

1. The Land herein described shall be kept in agricultural use. Agricultural use as that is used herein means the production for sale of livestock, dairy animals, dairy products, poultry or poultry products, fur bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, pasture and woodlands accompanying land in agricultural use shall be deemed to be in agricultural use.

For Individual or Husband/Wife:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____
(Print or type exact same name(s) with marital status or identity as on page 1.)

Signature of Notary Public
Commission Expires _____

For Public Officer:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____, the _____ of the _____
(Print name) (Title) (Local Authority)

Signature of Notary Public
Commission Expires _____

For Corporation:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____, its _____ and _____
its _____ of _____, a _____
Corporation, on behalf of the Corporation.

Signature of Notary Public
Commission Expires _____

For Corporation:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____, its _____ and _____
its _____ of _____, a _____
Corporation, on behalf of the Corporation.

Signature of Notary Public
Commission Expires _____

For Partnership:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____, partner of _____ a partnership,
on behalf of the partnership.

Signature of Notary Public
Commission Expires _____

For Partnership:

State of)

Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107
612-296-7686

County of) SS
)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, partner of _____ a partnership,
on behalf of the partnership.

Signature of Notary Public
Commission Expires _____

For Attorney-in-Fact:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, as attorney-in-fact on behalf of _____

Signature of Notary Public
Commission Expires _____

For Trustee or Personal Representative:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, the _____ of the _____

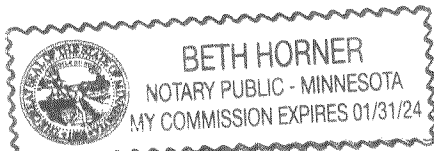
Signature of Notary Public
Commission Expires _____

APPLICATION FOR INITIATING PLACEMENT OF LAND INTO A METROPOLITAN AGRICULTURAL PRESERVE

Page 1

FOR LOCAL AUTHORITY ONLY:

7. This application has been reviewed by this Authority and is determined complete this 5 day of May, 2020. The restrictive covenant and the affidavit from the Authority certifying eligibility of the land are included in this application.



A handwritten signature in black ink, appearing to read "Jill Haney", written over a horizontal line.

Asst. City Administrator of City of Independence
(Signature and Title or Position of Local Authority)

8. DATE OF PLACEMENT OF LAND INTO PRESERVE: December 15, 2019
(Must be thirty days after the date in No. 7 above.)

ATTACHMENT B

STATE OF MINNESOTA)
)
COUNTY OF Hennepin) SS AFFIDAVIT OF "AUTHORITY"
)
)

Beth Horner, being first duly sworn upon oath deposes and says as follows:

1. I am the Asst. City Admin. of City of Independence,
(Title or Position of Local Authority)
State of Minnesota, which unit of government exercises the planning and zoning authority for the
land described herein, and constitutes the "Authority" as that term is defined under Minn. Stat.,
Section 473H.02, Subd. 4.

2. This affidavit is being executed and submitted on behalf of the Authority.

3. The tract of land in the County of Hennepin, State of Minnesota,
legally described as *(must be same as on page 1)*:

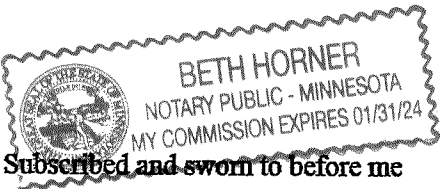
Parcel identification number: 02-118-24-42-0003
02-118-24-41-0001 Homestead or Non-homestead.
(Circle one)

Legal Description: See Exhibit A

is, as of December 15, 2019, designated as long term agricultural land and in accordance
with a resolution adopted by the Authority on May 5, 2020, is certified and
eligible for designation as an agricultural preserve as provided under the provisions of Minn. Stat.,
Section 473H.04.

4. This affidavit is submitted at the request of Randal Klaers & Colleen Y. Klaers,
husband & wife *(Applicant)*
for the purpose of making application for designation and creation of an agricultural preserve in
accordance with Minn. Stat., Chapter 473H.

Dated May 5, 2020.



Subscribed and sworn to before me

this 5 day of May, 2020.

Beth Horner
Signature of Notary Public
Commission Expires 01/31/2024

Signature: Beth Horner
Asst. City Admin. of City of Independence
(Title or Position of Local Authority)

THIS DOCUMENT DRAFTED BY:
Beth Horner, Asst. City Admin.
City of Independence
1920 County Road 90
Independence, MN 55359

Exhibit A

That part of Tract 1, Registered Land Survey No. 1203, of record in the office of the Registrar of Titles in and for said Hennepin County, described as follows: Commencing at the Southeast corner thereof thence North along the East boundary thereof, a distance of 545 feet, thence West at a 90 degree angle 14.5 feet, thence southerly in a straight line to a point on the South Boundary of said Tract 1 located nine feet West of the Southeast corner thereof, thence East along said South boundary 9 feet to the point of beginning. Together with an easement for road and driveway use over the South 545 feet of Tract 1, Registered Lane Survey No 1203.

In Section 2, Township 118, Range 24, Hennepin County, Minnesota, that part of Govt Lot 5 Desc As Beg at a Pt on W Line Thof Dist 476.59 ft N of SW Cor Thof 17 Rods Th E at R/As to Lake Shore Th Sely along Lake Shore to E Line of Govt Lot 5 Th S to SE Cor Thof Th N 89 Deg 40 Min 59 Sec @ along S Line Thof to a Pt Dist 685.76 ft Ely of Sw Cor Thof Th N 54 Deg 59 Min 17 Sec E Dist 837-.27 ft to Beg



May 5, 2020

TO: Mayor and City Council
FROM: Shawn Bode, Public Works Supervisor
RE: Dust Control/Gravel Bids

The City annually bids out dust control and gravel in an effort to obtain the best value to the City for treating the gravel roads. The City typically applies approximately 60,000 - 65,000 gallons of material per year to treat the City roads. This year the City received two bids; one for Magnesium Chloride from Quality Propane and one from Envirotech for Calcium Chloride. Both products have been successfully used by the City in the past. Magnesium chloride requires approximately 2% more material than calcium chloride. Even with the increased quantity, the bid for magnesium chloride is still the best value. Based on the prices provided, it is my recommendation that the City award the dust control bid to Quality Propane.

The City received bids for sand and gravel. The products that each company bid is not identical, and the City prefers the Class 5 product bid by Bryan Rock. The City recommends awarding the sand and gravel as shown below.

Dust Control

Magnesium Chloride:	FOB
Envirotech	2019: \$0.869 per gal. 2020: \$1.07 per gal.
Quality Propane Inc.	2019: No Bid 2020: \$0.93 per gal.

Sand and Gravel

Class 5 Gravel –Bryan Rock:	\$11.10 FOB and \$17.80 Delivered
Recycled Con-bit – Hassen Sand and Gravel:	\$9.25 FOB and \$14.00 Delivered
Sand - Hassen Sand and Gravel:	\$8.95 FOB and \$13.70 Delivered

PROPOSAL

Hassan Sand & Gravel, Inc
13530 Willandale Road
Rogers, Mn 55374

Telephone 763-428-2393
Fax 763-428-4710

PROPOSAL #

2020-25

DATE

4/7/20

CITY OF INDEPENDENCE
1920 COUNTY ROAD 90
INDEPENDENCE, MN 55359
ATTN: SHAWN

RECEIVED
City of Independence

1920 County Road 90
Independence, MN 55359

PROJECT

2020 ROADS

DESCRIPTION	QTY	UOM	COST	Total
CLASS 5-SAND & GRAVEL, F.O.B. PIT		TON	10.00	10.00
CLASS 5-SAND & GRAVEL, DELIVERED		TON	14.75	14.75
CON-BIT - RECYCLED CLASS 5, F.O.B. PIT		TON	9.25	9.25
CON-BIT - RECYCLED CLASS 5, DELIVERED		TON	14.00	14.00
WASHED COARSE SAND, F.O.B. PIT		TON	8.95	8.95
WASHED COARSE SAND, DELIVERED		TON	13.70	13.70
*PRICES DO NOT INCLUDE SALES TAX.				
*DELIVERY IS TO CITY YARD WITH END DUMP TRAILERS.				
*PRICES EFFECTIVE UNTIL APRIL 1, 2021.				
*A 2% DISCOUNT IS ALLOWED IF PURCHASES MADE DURING ANY MONTH ARE PAID FOR IN FULL BY THE 15TH OF THE FOLLOWING MONTH.				

Upon request, Hassan Sand & Gravel shall be provided with the legal description of the property, the name and address of the owner. Hassan Sand & Gravel shall not be obligated to commence or continue subcontract work unless adequate assurance of payment is received.

PLEASE NOTE:

This proposal is valid for 30 days from date of proposal. The proposal must be signed & returned before any material is delivered. Please reference this proposal when ordering.

Signature _____

BRYAN ROCK PRODUCTS, INC.

Box 215 • Shakopee, MN 55379
Phone (952) 445-3900 • (800) 382-3756 • Fax (952) 445-0809
www.bryanrock.com

Quote: **76183**
Quote Date: 3/10/2020
Expire Date: 4/15/2021

Page 1 of 1

Quotation

Bill To:

1190 CITY OF INDEPENDENCE
1920 COUNTY ROAD 90

MAPLE PLAIN, MN 55359

Contact:

Phone: 763 479-0527

Fax:

Ship To:

2020 PRICE QUOTE
EFFECTIVE 4/16/2020 THRU 4/15/2021

P.O.#

Quote Description : CITY YARD 2020

Product ID	Product Description	Quarry	Quantity	Material Rate/Ton	Freight Rate/Ton	Total/Ton
155	3/4" With Fines	103	As Need	\$11.10	\$ 6.70 Semi	\$17.80
160	1" With Fines (CL-5)	103	As Need	\$11.10	\$ 6.70 Semi	\$17.80
195	3/8" Screened Clean	103	As Need	\$20.10	\$ 6.70 Semi	\$26.80
220	1 3/4" Screened Clean	103	As Need	\$20.10	\$ 6.70 Semi	\$26.80

TAX MAY APPLY IF APPLICABLE

Shakopee Locations = Quarry 103 and 104, Bayport Location = Quarry 102, Denmark Location = Quarry 105

Prices and Quantities Based Per Ton Unless Otherwise Noted

Straight Truck/Tandem Deliveries Subject to Extra Charge Plus Sales Tax

Partial Loads Subject to Minimum Haul Charges

Prices Subject to Change with Major Fuel Increases or Road Closures Due to Flooding

The Truck Portion of Our Quote Does Not Cover Any Prevailing Wage Rate Requirements That May Be Required On This Job

Prices Subject to Transit Improvement Tax and Additional Aggregate Tax Increase

Prices Subject to Change with Any Irregular Loading or Delivery Hours (Mon-Fri 7:00AM to 4:00PM)

All Products Meet Current MNDOT Specs

Terms: Net 30

\$.25/Ton Contractor Discount May Apply

Comments:

Accepted by:

Seller:


Eric Bryan/Bryan Rock Products

Date:

BID BOND

KNOW ALL BY THESE PRESENTS, That we, Bryan Rock Products, Inc.

of PO Box 215, Shakopee, MN 55379

(hereinafter called the Principal), as Principal, and Liberty Mutual Insurance Company

(hereinafter called the Surety), as Surety are held and firmly bound unto City of Independence

1920 County Road 90, Independence, MN 55359

(hereinafter called the Oblgee) in the penal sum of Five Percent of Amount Bid

Dollars (5%)

for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That WHEREAS, the Principal has submitted or is about to submit a proposal to the Oblgee on a contract for Road Materials - Class 2 Limestone

NOW, THEREFORE, If the said Contract be timely awarded to the Principal and the Principal shall, within such time as may be specified, enter into the Contract in writing, and give bond, if bond is required, with surety acceptable to the Oblgee for the faithful performance of the said Contract, then this obligation shall be void; otherwise to remain in full force and effect.

Signed and sealed this 19th day of March, 2020.

Michael Puncocha
Witness

Bryan Rock Products, Inc. (Seal)
Principal
VP Operations
Title

Pam Fromm
Witness

Liberty Mutual Insurance Company
By Crystal Duberstein
Crystal Duberstein Attorney-in-Fact





Quotation

Our Reference: Customer Number:
John Johansen 14012
Customer RFQ Number:

Quotation Date: Date Printed: Expiration Date:
3/24/20 3/24/20 9/30/20
Quotation Number: Revision No:
S2365 1
Your Reference:
Accounts

Delivery Address:
City of Independence
1920 County Road 90
Independence MN 55359

Document Address:
City of Independence
1920 County Road 90
Independence MN 55359

Ship Via:
Any

Terms of Delivery:
FOB Destination

Salesman:
John Johansen

Delivery Terms Location:
Various Roads @.27 gallons per sq yd

Label Note:
Applied on various roads @.27 per yard

Wanted Delivery Date:

Payment Terms:
15 Days Net

Pos	Part No	Sale Qty	Unit	Price	Disc. %	Net Amount
Del	Description	Price Qty	Unit		Planned Delivery Date	USD
1	3638-APP	70,000	gal	1.07	0.00%	74,900.00
1	Calcium Chloride 38%-Applied	70,000	gal			

Sub Total: **74,900.00**

TOTAL: **74,900.00**

Tax Total **0**

Gross Total **74,900.00**

Visit Address	Invoice Address	Phone	Fax	Bank Giro	Postal Giro	Tax Number
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Notarial Acknowledgement – Attorney in Fact

STATE OF Wisconsin
County of Marathon } S.S.

On this 19th day of March, 2020, before me, Derek Menard a Notary Public in and for said
Marathon County, State aforesaid, residing therein, duly
commissioned and sworn, personally appeared Crystal Duberstein
know to me to be the person whose name is subscribed to the within instrument as the attorney in fact of

Liberty Mutual Insurance Company

and acknowledged to me that he subscribed the name of Liberty Mutual Insurance Company thereto as surety, and his
own as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in said county of

Marathon the day and year in this certificate first above written.

Derek Menard

Notary Public in and for the county of Marathon

State of Wisconsin

My commission expires 04/29/2022

DEREK MENARD
Notary Public
State of Wisconsin

QUALITY PROPANE of MN

12650 Zenith Ave S. Burnsville MN. 55337

PHONE (612) 788-6906

April 7, 2020

City of Independence
Shawn Bode
1920 CR 90
Independence, MN 55359
763-923-4284

RE: Dust Control

On behalf of Quality Propane, I am pleased to present this proposal for your consideration.

Quality Propane will apply Magnesium Chloride to the roads within the City of Independence as directed. All bid specifications regarding timing, application, and water content will be followed with directions from the City of Independence. Quality Propane will charge the City of Independence a rate of \$.93 per gallon applied.

Should you have any questions, please feel free to contact me at 612-357-8085. Thank you for the opportunity to service your dust control needs. We very much look forward to working with you this year!

Best Regards,

Mark Austin
General Manager
www.qualitypropanemn.com
maustin@qualitypropanemn.com
12650 Zenith Ave
Burnsville MN. 55337
612-788-6906 phone
952-767-2633 fax



Commercial

New House

Septic

DATE	#	Applicant	ADDRESS	PID #	PERMIT TYPE	O	M	P	BV	Septic	Sewer	Total Fees includes surcharge	Total Surcharge	Total Fees w/o Surcharge	VALUE	FINAL
1/2/2020	20-01	Comfort Matters	3976 County Line Rd	07-22-0005	Furnace			1				401	1	400	\$10,000.00	
1/6/2020	20-02	Mid. All Weather	2864 County Rd 92	16-13-0004	Re-roof		1					101	1	100	\$6,000.00	
1/6/2020	20-03	Cinegy Homes	6915 Dylan Lane	03-13-0006	Remodel				67			2251	67	2184	\$130,000.00	
1/7/2020	20-04	Hearth & Home	499 Nelson Road	31-24-0004	Fireplace			1				101	1	100	\$5,910.00	
1/7/2020	20-05	Kothrade	6465 Olstad Dr.	15-14-0011	Septic							300			\$22,500.00	
1/9/2020	20-06	Mayday Restoration	2026 Copeland	20-23-0003	Re-roof		1					201	1	200	\$33,500.00	
1/10/2020	20-07	Aquarius Home serv	5645 Lake Sarah Hgts	02-11-0004	Boiler			1				101	1	100	\$10,000.00	
1/13/2020	20-08	Carol Bros	3658 County Road 90	11-31-0004	Re-roof		1					101	1	100	\$9,700.00	
1/16/2020	20-09	Service West	7888 County Road 6	33-22-0018	Fuel Tank							100			\$3,800.00	
1/21/2020	20-10	Gonyea	217 Hamilton Hills	35-41-0007	New home			1	1			8862.28	2	8860.28	\$691,250.00	
1/22/2020	20-11	Jim Morrison	6075 Stone Ct.	23-24-0005	Plumbing				1			101	1	100	\$2,800.00	
1/23/2020	20-12	K & S Heating	3250 Brei Kessel	11-43-0002	Mech.			1				101	1	100	\$2,995.00	
1/28/2020	20-13	Velocity LLC	823 Copeland Rd	31-11-0003	Antennas				7.5			434.5	7.5	427	\$15,000.00	
1/29/2020	20-14	Mileski	6075 Stone Ct.	23-24-0005	Remodel				20			1132.73	20	1112.73	\$45,000.00	
1/30/2020	20-15	Hoffman Weber	1786 Copeland Rd	20-33-0001	Re-roof/side		2					202	2	200	\$113,230.00	
1/30/2020	20-16	Bradley Hivila	7535 County Rd 6	33-12-0004	Remodel				1			118.69	1	117.69	\$2,000.00	
1/31/2020	20-17	Nick Lecy	6175 Stone Ct	23-24-0008	Re-side		1					101	1	100	\$30,000.00	
2/5/2020	20-18	Uppal Group	1395 County Rd 83	26-14-0001	Mech.			1				201	1	200	\$6,700.00	
2/6/2020	20-19	Gonyea	5844 Robert Rd	New	New home				342			8463.69	342	8121.69	\$684,298.00	
2/10/2020	20-20	Randy Kyrola	4725 Lake Sarah Hgt	02-12-0008	Sewer							3860				
2/10/2020	20-21	Randy Kyrola	4725 Lake Sarah Hgts	02-12-0008	Kitchen remo							1363.98			\$70,000.00	
2/11/2020	20-22	Fireside Hearth	1626 Nelson Rd	19-42-0002	Fireplace			1				101	1	100	\$2,594.25	
2/11/2020	20-23	B&D Plumbing	4725 Lake Sarah Hgts	02-12-0008	Plumbing			1	1			202	2	200	\$3,000.00	
2/12/2020	20-24	Wenzel Plumbing	6240 Waldemar Way	14-23-0013	Plumbing				1			101	1	100	\$5,000.00	
2/12/2020	20-25	Wenzel Hgt	6240 Waldemar Way	14-23-0013	Htg			1				101	1	100	\$12,500.00	
2/12/2020	20-26	Travis Schaver	5745 Lake Sarah Hgts	02-11-0010	Remodel-bath				1			101	1	100	\$5,000.00	
2/13/2020	20-27	Randy O'Brien	8038 Cty Rd 6	32-11-0003	Water htr			1				51	1	50	\$400.00	
2/18/2020	20-28	Nate Hinkle	9482 County Rd 6	31-33-0001	Add stairs				0.5			40.44	0.5	39.94	\$500.00	
2/19/2020	20-29	Overland Contract	3310 County Line	07-330004	Cell Tower			1				1043.4	1	1042.4	\$40,000.00	
2/20/2020	20-30	All Around	1488 Copeland Rd	29-22-0011	Re-roof/side		2					202	2	200	\$97,209.09	
2/20/2020	20-31	Budget Exterior	7565 Pioneer Creek	28-12-0001	Windows		1					131	1	130	\$3,544.00	
2/20/2020	20-32	Gary Frazier	5085 Fern Dr.	01-42-0013	Re-decking				0.5			66.36	0.5	65.86	\$1,000.00	
2/20/2020	20-33	Gonyea Homes	5809 Robert Rd	35-42-0006	New home			1	1			9369.53	2	9367.53	\$800,000.00	
2/24/2020	20-34	D&D Property	2455 County Rd 92	17-44-0002	Windows		1.5					142.98	1.5	141.48	\$3,000.00	
2/26/2020	20-35	Safe Basements	2920 Nelson Rd	18-13-0003	Anchors				1.5			142.98	1.5	141.48	\$3,250.00	
3/3/2020	20-36	Brad Radtke	1915 Copeland	19-41-0005	Re-roof		1					201	1	200	\$50,000.00	
3/3/2020	20-37	All Star	15 Ingerson Rd	34-34-0004	Re-roof		1					101	1	100	\$5,700.00	
3/4/2020	20-38	Craftsman	2245 S Lakeshore	24-12-0002	Windows		1					251	1	250	\$15,108.40	
3/5/2020	20-39	Jesse Toutges	4395 Woodhill	01-32-0001	Water htr		1					51	1	50	\$1,800.00	
3/10/2020	20-40	Frank Mastro	5054 S Lakeshore	24-12-0010	Addition				15.5			877.66	15.5	862.1	\$30,000.00	

3/11/2020	20-41	All Around	6275 Co Rd 11	11-22-0002	Re-side	1			101	1	100	\$64,071.17
3/11/2020	20-42	All Around	2389 Nelson Rd	19-21-0006	Re-roof/side	2			202	2	200	\$35,034.20
3/11/2020	20-43	Purcell Plumbing & Ht	4955 Deer Ridge	25-31-0004	2-unit htr		1		201	1	200	\$9,000.00
3/11/2020	20-44	James	725 County Rd 92	32-11-0001	Re-roof	1			101	1	100 ??	
3/13/2020	20-45	Justin Short	6240 Waldemar Way	14-23-0013	Tank				100			\$7,000.00
3/18/2020	20-46	Robert Cheney	685 Nelson Rd	31-21-0004	Porch deck			15	765.75	15	750.75	\$30,000.00
3/18/2020	20-47	Garbeck	4555 Townline	01-11-0005	Re-roof/side	2			202	2	200	\$59,119.00
3/18/2020	20-48	All Around Roofing	2091 Nelson Rd	19-24-0005	Re-roof	1			101	1	100	\$18,165.00
3/18/2020	20-49	All Star Construction	7036 Pagenkopf Rd	15-32-0001	Re-roof	1			101	1	100	\$19,000.00
3/18/2020	20-50	All Around Roofing	2863 County Rd 92	16-13-0002	Re-roof	1			101	1	100	\$22,513.73
3/18/2020	20-51	All Around Roofing	5876 County Road 6	26-43-0011	Re-roof	1			101	1	100	\$44,141.49
3/23/2020	20-52	All Around Roofing	2275 Fieldstone Pl	23-21-0008	Re-roof	1			101	1	100	\$19,429.59
3/23/2020	20-53	All Around Roofing	5950 Fieldstone Pl	23-12-0018	Re-roof	1			101	1	100	\$25,530.09
3/23/2020	20-54	All Around Roofing	1575 Copeland	30-11-0001	Re-roof	1			201	1	200	\$51,583.72
3/23/2020	20-55	Aquarius Water Cond.	4655 S. Lake Sarah Dr.	02-23-0009	Furnace/AC	1			201	1	200	\$13,000.00
3/24/2020	20-56	All Star Construction	261 County Road 92	32-42-0020	Re-roof	15			470	15	455	\$40,000.00
3/24/2020	20-57	Les Jones Roofing	4895 Broadmoor Dr	25-44-0014	Re-roof	1			101	1	100	\$65,456.00
3/24/2020	20-58	Flare Heating & Air	3920 County Road 90	11-12-0007	Furnace/AC	1			201	1	200	\$7,551.00
3/26/2020	20-59	Peter Hail Constr.	6425 Pagenkopf	22-11-0016	Re-roof	1			101	1	100	\$8,760.00
3/26/2020	20-60	The Kingdom Bldrs	2076 Copeland Rd	20-23-0002	Re-roof	1			201	1	200	\$35,527.03
3/26/2020	20-61	Hamel Bldg Ctr	5465 Timber Trail	25-23-0016	Windows-3	1			121	1	120	\$12,000.00
3/31/2020	20-62	All Star Construction	7275 Turner Rd	28-41-0004	Re-roof	1			301	1	300	\$91,000.00
3/31/2020	20-63	Maloooy Homes	5270 Moline Rd	36-31-0012	Alterations		1	1	30	2	28	\$65,600.00

\$3,717,770.76

City of Independence

Request for a Minor Subdivision and Preliminary Plat for the Property Located at 4594 Shady Beach Circle

To: City Council
From: Mark Kaltsas, City Planner
Meeting Date: May 5, 2020
Applicant/Owner: Daryl Jorgenson/Mary Jorgenson
Location: 4594 Shady Beach Circle

Request:

Darryl Jorgenson (Applicant) and Mary Jorgenson (Owner) request that the City consider the following actions for the property located at 4594 Shady Beach Circle, Independence, MN (PID No. 02-118-24-21-0029):

- a. A minor subdivision to permit a lot split creating two (2) lots).
- b. Preliminary Plat approval for a two (2) lot subdivision to be known as Shady Beach Park.

Property/Site Information:

The subject property is located on Lake Sarah and at the end of Shady Beach Circle. There is an existing home and accessory garage and accessory shed located on the property. The property also has an existing pond and bituminous trail. The parcel is currently separated by the right of way of Shady Beach Circle. The property has the following site characteristics:

Property Information: 4594 Shady Beach Circle

Zoning: Rural Residential (Shoreland Overlay)

Comprehensive Plan: Rural Residential

Acreage: (BEFORE) 4.18 acres

Acreage: (AFTER) Parcel A – 1.82 acres

Parcel B – 2.47

Platted Lots: Lot 1, Block 1 – 1.0 acres

Lot 2, Block 1 – 1.4 acres



Discussion:

The applicants approached the City about the possibility of subdividing their property into a total of four (4) lots. The property is zoned RR-Rural Residential and is governed by the S-Shoreland Overlay District. The property is currently bisected by the Shady Beach Circle right of way. Historically, the southern portion of the property was a part of the overall campground that existed on the property prior to the current residential developing occurring. Within the S-Shoreland Overlay zoning district, the City allows the subdivision of properties connected to City sewer into lots with a minimum size of one acre. The City has historically allowed lots that are within 1,000 feet from the OWHL and connected to sewer to be subdivided as long as they meet all other applicable criteria.

The applicant initially requested that the City consider a subdivision of the property into four lots, one of which would have captured the existing home that is located across the street and on

Lake Sarah. In order for the City to consider approval of the four lots, a variance to allow a lot that is less than one acre in size would have been required for the existing home. Initially, an application was submitted to the City for the Preliminary Plat and Variance and was considered by the Planning Commission in February. Since that time, the applicant has been considering alternative scenarios that would eliminate the need for the variance and allow the existing detached garage that is located across the cul-de-sac from their home to remain on the property. The applicant is now proposing an alternative submittal that would achieve a very similar result without the need for the variance.

The alternative request would first require a minor subdivision to split the existing property into two parcels (Parcels A and B). Parcel A would have the existing lake home and detached accessory garage across the street. Parcel B would subsequently be platted into two new buildable lots. The total number of new lots created by the proposed subdivision would be two.

The revised plan would establish two new lots that meet all applicable requirements and allow the existing home and adjoining property to continue to meet all applicable requirements. The existing home is connected to City sewer. There is one sanitary sewer stub that connects to Lot 1, Block 1 that can likely be used for a new home. One additional sanitary sewer connection would be required to serve Lot 2, Block 1. The new lots as proposed would have the following detail:

<u>Parcel</u>	<u>Area</u>	<u>Frontage</u>	<u>Lot Frontage to Lot Depth</u>
Parcel A	1.82 acres	102.50 LF	1:1.5

<u>Block 2</u>	<u>Area</u>	<u>Frontage</u>	<u>Lot Frontage to Lot Depth</u>
Lot 1	1.0 acres	235 LF	~1:1
Lot 2	1.4 acres	261 LF	~1:1

The City requires the following setbacks/lots standards for lots zoned RR-Rural Residential and in the S-Shoreland:

Side Yard Setback:	30 feet
Front Yard Setback:	85 feet from the centerline of road
Rear Yard Setback:	40 feet
Wetland Buffer Setback:	10 feet
Maximum Impervious Coverage:	25%

The City has reviewed the proposed minor subdivision and subsequent preliminary plat and offers the following comments and notes for further consideration:

1. The Planning Commission considered a similar request at February meeting and public hearing. The revised plans eliminate the need for a variance and removes one lot from the plat. The elimination of the need for a variance and the removal of one lot is partially in response to comments made at the public hearing and by the Planning Commission. Council is being asked to consider approval of this alternative without the variance and additional lot.
2. The applicant is proposing to connect Lots 1 and 2, Block 1 to the existing sewer line running along Shady Beach Circle. There is one existing sewer stub that will serve Lot 1. Lot 2 will require a new service stub. In order to make the connection, it will be necessary to cut into the existing bituminous street. The two new proposed lots would be subject to applicable sewer fees. The sewer assessment of \$9,550 per lot is applicable to Lot 2, Block 1. Parcel A is currently connected to City sewer and was previously assessed for the sewer connection.
3. The proposed home on Lot 1, Block 1 would be a slab on grade home with no basement. This is a result of the high-water table, existing grades and adjacent pond elevation. Lot 2, Block 1 is shown as a walk out basement that utilizes the natural grade of the lot.
4. The City has reviewed the proposed grading and has minor comments pertaining to the proposed driveway culverts, grading and swales. The City is working with the applicant to revise the construction plans and address all comments provided. The City will continue to work with the applicant to revise the grading plan prior to City Council approval of the final plat.
5. The City has reviewed the stormwater plans and provided comments to the applicant. A few of the key issues that still need to be addressed are as follows:
 - a. A wetland delineation for the property will need to be completed.
 - b. The existing culvert that runs beneath Shady Beach Circle will need to be inspected.
 - c. Additional stormwater details and calculations will need to be provided for further review.
 - d. The plat will need to be revised to accommodate an overland flow easement between the pond and the existing culvert that runs beneath Shady Beach Circle.
6. There is an existing accessory shed located on the proposed Lot 1, Block 1. The shed does not meet applicable setbacks and will need to be removed. The applicant is asking the City to allow the shed to remain on the property until such time as a building permit is

pulled to construct a new home. The City could add a condition to the Final Plat resolution to require the structure to be removed prior to issuance of a certificate of occupancy for a new home on the property.

7. The applicant will be required to enter into a Development Agreement with the City and submit and received approval for a final plat at a future meeting. The Agreement will stipulate maintenance of the existing pond, park dedication fees, sewer connection fees, public improvement conditions and requisite security.
8. Lots 1 and 2, Block 1 will be subject to applicable park dedication fees. The current park dedication fee is \$3,500 per lot for all property up to 5 acres in size.

The proposed minor subdivision will split the property into two lots. The proposed preliminary plat with split Parcel B into two new lots. The two lots created along with the existing Parcel A would meet all applicable criteria of the City's zoning and subdivision ordinance. If recommended for approval, the City will work with the applicant to revise the construction plans to address all advised comments prior to Council consideration of the Final Plat.

Planning Commission Discussion:

Planning Commissioners discussed the requested preliminary plat and variance. At the time of review, Commissioners primarily asked questions pertaining to the requested variance and potential issues of non-conformity that would be created for the existing home. Commissioners also discussed the existing detached accessory structures on the property and whether or not they should remain in the after condition. Commissioners ultimately recommended approval of the variance and preliminary plat to the City Council.

Recommendation:

The Planning Commission recommended approval of the requested variance and preliminary plat with the following findings and conditions. Council is being asked to consider approval of the proposed minor subdivision to create Parcels A and B and then approval of the Preliminary Plat of Shady Beach Park with the conditions noted below and found within the attached resolutions.

1. The proposed minor subdivision and preliminary plat request meet all applicable conditions and restrictions stated in Chapter V, Section 520.19, Procedures on variances, and Chapter V, Section 500, Subdivisions, in the City of Independence Zoning Ordinance.
2. The Applicant shall address all comments made within this report, recommended by the Planning Commission and required by the City's Engineer review of the subdivision.
3. The City shall add a condition to the final plat approval that allows the detached accessory

structure on Lot 1, Block 1 to be removed prior to issuance of a certificate of occupancy for a new home on the property.

4. The Applicant shall enter into a Development Agreement with the City.
5. The Applicant shall pay for all costs associated with the City's review of the requested variance, minor subdivision and preliminary plat.
6. The Applicant shall submit final plat application within 90 days of the City Council approval of the preliminary plat.

Attachments:

- **RESOLUTION No. 20-0505-01** – Minor Subdivision
- **RESOLUTION No. 20-0505-02** – Preliminary Plat
- Application
- Engineer Review Letters
- Survey
- Utility Plan
- Grading Plan
- Minor Subdivision Plan
- Preliminary Plat



RESOLUTION NO. 20-0505-01

A RESOLUTION GRANTING APPROVAL OF A MINOR SUBDIVISION TO ALLOW THE SUBDIVISION OF PROPERTY LOCATED AT 4594 SHADY BEACH CIRCLE

WHEREAS, the City of Independence (the “City”) is a municipal corporation under the laws of Minnesota; and

WHEREAS, the City adopted a comprehensive plan in 2010 to guide the development of the community; and

WHEREAS, the City has adopted a zoning ordinance and other official controls to assist in implementing the comprehensive plan; and

WHEREAS, Darryl Jorgenson (the “Applicant”) and Mary Jorgenson (the “Owner”) have submitted a request for a minor subdivision to allow the subdivision of the property located at 4594 Shady Beach Circle and identified by (PID No. 02-118-24-21-0029) (the “Property”); and

WHEREAS, the Property is legally described on Exhibit A attached hereto; and

WHEREAS, the subdivision is further depicted on Exhibit B attached hereto; and

WHEREAS, the Property is zoned RR-Rural Residential with the S-Shoreland Overlay; and

WHEREAS the requested Minor Subdivision meets all requirements, standards and specifications of the City of Independence zoning ordinance for Rural Residential lots; and

WHEREAS the Planning Commission held a public hearing on February 18, 2020 to review the application for the Subdivision, following mailed and published noticed as required by law; and

WHEREAS, the City Council has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by

Darryl Jorgenson for a minor subdivision to permit the subdivision of the property per the City's subdivision regulations with the following conditions:

1. The proposed minor subdivision request meets all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions, in the City of Independence Ordinances.
2. City Council approval shall be subject to the following:
 - If applicable and the preliminary plat of Shady Beach Circle is not approved, the Applicant shall provide, execute and record the requisite drainage and utility easements with the county within six (6) months of approval.
 - The Applicant shall pay for all costs associated with the City's review of the requested minor subdivision.
3. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

This resolution was adopted by the City Council of the City of Independence on this 5th day of May 2020, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

EXHIBIT A
(Legal Description)

PROPOSED PROPERTY DESCRIPTIONS

Parcel A:

Tract A, REGISTERED LAND SURVEY NO. 1139, Hennepin County, Minnesota, according to the files of the Registrar.

AND

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Northwesternly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

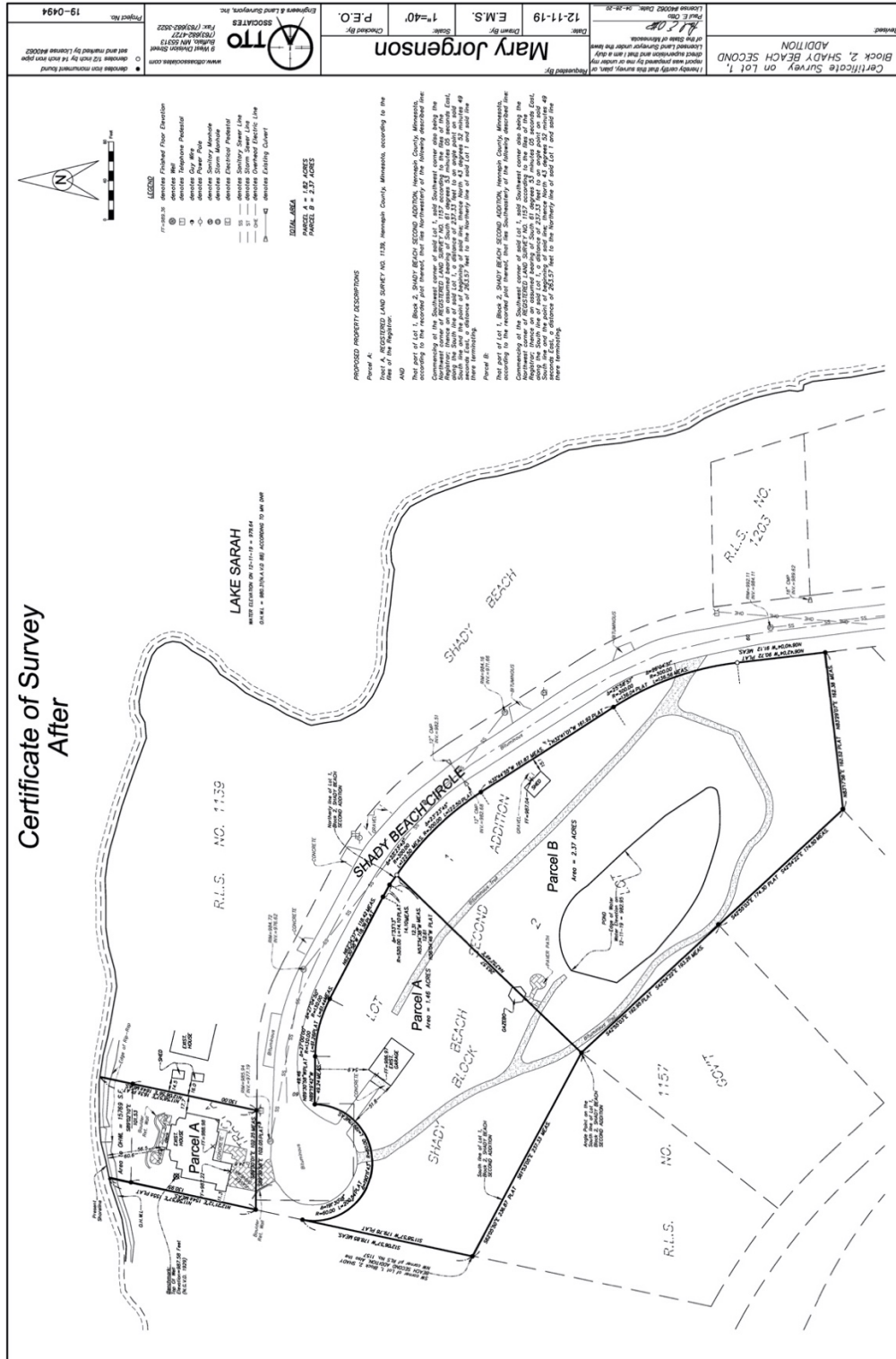
Parcel B:

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Southeasterly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

(Subdivision)

Certificate of Survey
After





RESOLUTION NO. 20-0505-02

A RESOLUTION GRANTING APPROVAL OF A PRELIMINARY PLAT TO BE KNOWN AS SHADY BEACH PARK

WHEREAS, the City of Independence (the “City”) is a municipal corporation under the laws of Minnesota; and

WHEREAS, the City adopted a comprehensive plan in 2010 to guide the development of the community; and

WHEREAS, the City has adopted a zoning ordinance and other official controls to assist in implementing the comprehensive plan; and

WHEREAS, Darryl Jorgenson (the “Applicant”) and Mary Jorgenson (the “Owner”) have submitted a request for a Preliminary Plat to the allow the subdivision of the property located at 4594 Shady Beach Circle and identified by (PID No. 02-118-24-21-0029) (the “Property”); and

WHEREAS, the Property is legally described on Exhibit A attached hereto; and

WHEREAS, the Preliminary Plat is further depicted on Exhibit B attached hereto; and

WHEREAS, the Property is zoned RR-Rural Residential with the S-Shoreland Overlay; and

WHEREAS the requested Preliminary Plat meets all requirements, standards and specifications of the City of Independence zoning ordinance for Rural Residential lots; and

WHEREAS the Planning Commission held a public hearing on February 18, 2020 to review the application for the Subdivision, following mailed and published noticed as required by law; and

WHEREAS, the City Council has reviewed all materials submitted by the Applicant; considered the oral and written testimony offered by the applicant and all interested parties; and has now concluded that the application is in compliance with all applicable standards and can be considered for approval; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MINNESOTA, that it should and hereby does approve the application by

Darryl Jorgenson for a Preliminary Plat to permit the subdivision of the property per the City's subdivision regulations with the following conditions:

1. The proposed Preliminary Plat request meets all applicable conditions and restrictions stated in Chapter V, Section 500, Subdivisions, in the City of Independence Ordinances.
2. City Council approval shall be subject to the following:
 - a. The Applicant shall address all comments made within the preliminary plat staff report, recommended by the Planning Commission and City Council and required by the City's Engineer review of the subdivision.
 - b. The City shall add a condition to the final plat approval that allows the detached accessory structure on Lot 1, Block 1 to be removed prior to issuance of a certificate of occupancy for a new home on the property.
 - c. The Applicant shall enter into a Development Agreement with the City.
3. The Applicant shall pay for all costs associated with the City's review of the requested preliminary plat.
4. The Applicant shall submit final plat application within 90 days of the City Council approval of the preliminary plat.

This resolution was adopted by the City Council of the City of Independence on this 5th day of May 2020, by a vote of ____ ayes and ____ nays.

Marvin Johnson, Mayor

ATTEST:

Mark Kaltsas, City Administrator

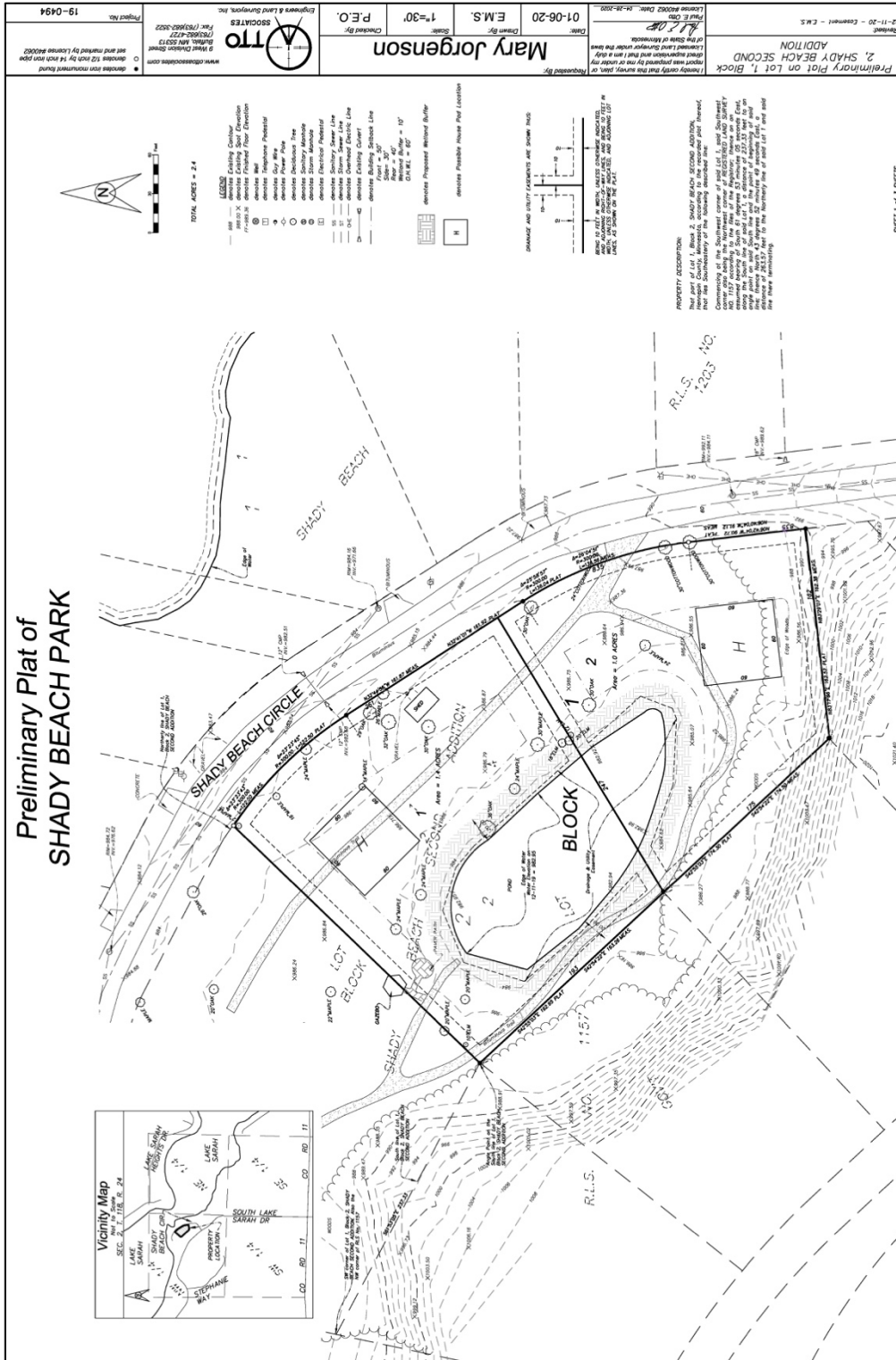
EXHIBIT A
(Legal Description)

Parcel B:

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Southeasterly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

(Subdivision)





\$12,000.00
~~22,000.00~~
\$13,250

PLANNING APPLICATION

Case No. _____

Type of application

- ☐ Standard ☐ Staff Approval ☐ Plan Revision ☐ Amended ☐ Reapplication
- ☐ Rezoning ☐ Conditional Use Permit ☐ Variance ☐ Ordinance Amendment ☐ Subdivision
- ☐ Preliminary Development Plan ☐ Interim Use Permit ☐ Comprehensive Plan Amendment
- ☒ Final Development Plan ☐ Final Site & Building Plan ☐ Other _____

Site Location— Additional addresses on back and legal description attached

Property address 4594 Shady Beach Cir PID 0211824210029

Proposal -Full documentation must accompany application

Concept Plan

Applicant

Name Darryl Jorgenson Email darryl.jorgenson@gmail.com

Address 13480 96th St NE Otsego MN 55330

Phone 763 286-9682 Additional phone/contact _____

Printed Name Darryl Jorgenson Signature [Signature]

Owner Information (if different from applicant)

Name Mary Jorgenson Email _____

Address 4594 Shady beach Cir Maple Plain MN

Phone 763-479-3994 Additional phone/contact _____

Printed Name Mary Jorgenson Signature [Signature]

Office Use Only

Date _____

Application Amount _____

Check # _____

Accepted By _____

Escrow Paid _____

Check # _____

Date Accepted by Planner _____

City of Independence

The Independence City Code was established to protect both current and future residents from the negative impacts of improper development and to ensure a positive future for the city. The land use application review is the mechanism that allows the city to examine proposed uses to ensure compatibility with the surrounding environment, natural or otherwise. It is important to understand that a proposed use may be acceptable in some circumstances, but unacceptable in others— all applications are reviewed on a case-by-case basis.

Minnesota State Statute 15.99 requires local governments to review an application within 15 days of its submission to determine if an application is complete and/ or if additional information is needed to adequately review the subject request. ***To ensure an expedited review, applicants shall schedule a pre-application meeting with the City Planner/ Administrator at least one week prior to submittal.*** Most applications have a review period of 60 days, with the City's ability to extend an additional 60 days if necessary due to insufficient information or schedule.

Application for Planning Consideration Fee Statement

The City of Independence has set forth a fee schedule for the year 2019 by City Ordinance. However, projects of large scope that include two or more requests will be required to provide a larger deposit than the resolution sets forth as set by the City Administrator. The fees collected for land use projects are collected as deposits. All invoices associated with each land employ application will be billed to the applicant within 30 days upon receipt by the City for each project. The City of Independence often utilizes consulting firms to assist in the review of projects. The consultant and City rates are noted on the current fee schedule. By signing this form, the applicant recognizes that he/ she is solely responsible for any and all fees associated with the land use application from the plan review stage to the construction monitoring stage through to the release of any financial guarantee for an approved project. If a project is denied by the City Council or withdrawn by the applicant, the fees associated for the project until such denial or withdrawal, remain the applicant's responsibility.

I UNDERSTAND THE FEE STATEMENT AND RESPONSIBILITIES ASSOCIATED WITH THIS LAND USE APPLICATION:

Applicant Signature: 

Date: 1-3-2020

Owner Signature (if different): 

Date: 1-3-20



Property Description:
 Lot 1, Block 2, SHADY BEACH SECOND
 ADDITION, Hennepin County, Minnesota,
 according to the recorded plat thereof and
 Tract A, Registered Land Survey No 1139,
 Hennepin County, Minnesota according to the
 files of the Registrar.

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:

Mary Jorgenson

Date:

Drawn By:

Scale:

Checked By:

**Engineers & Land Surveyors, Inc.**

www.otbassociares.com

9 West Division Street

Buffalo, MN 55313

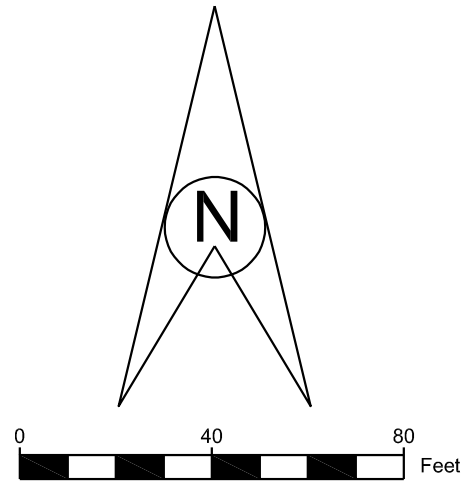
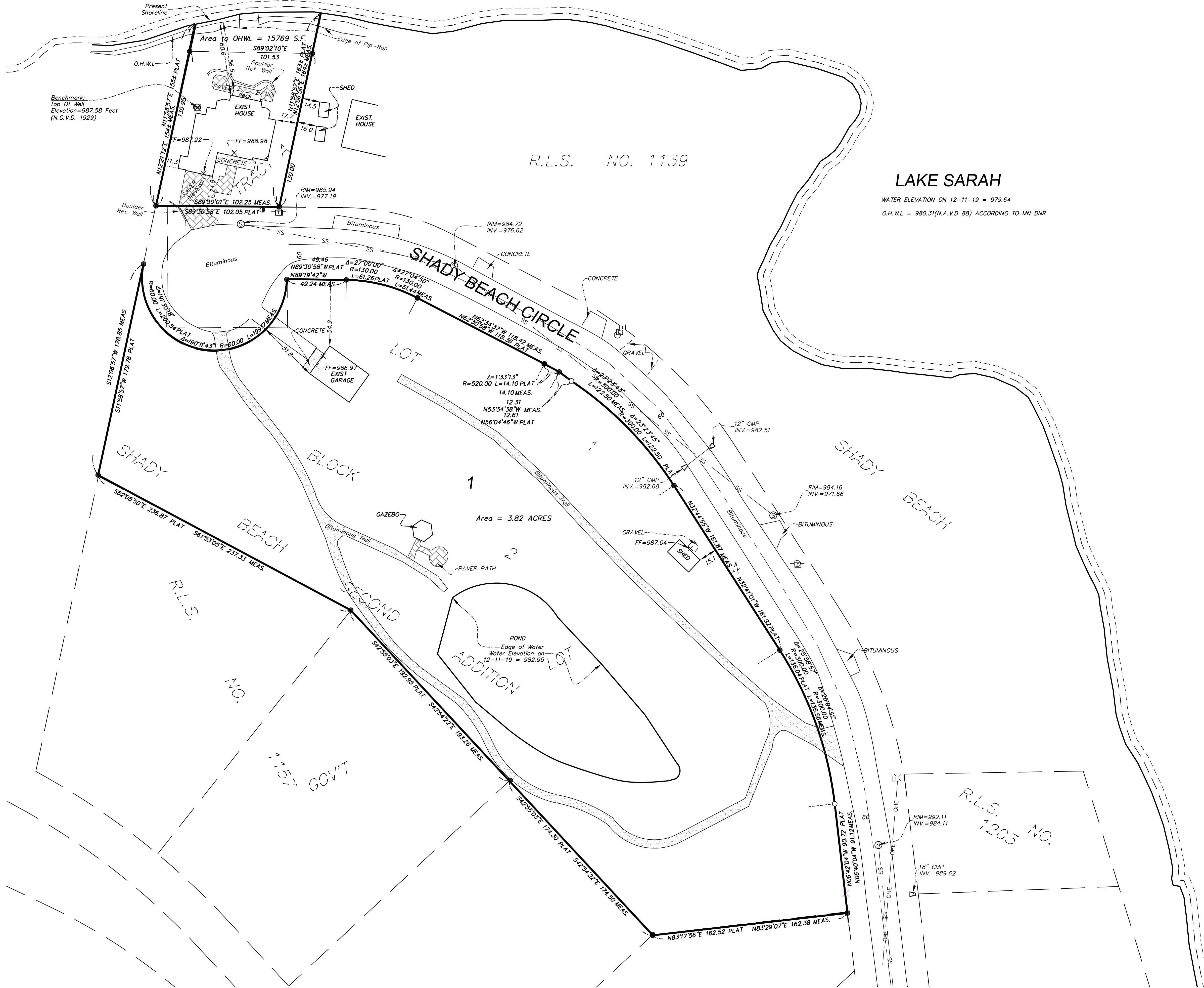
(763) 682-4727

• denotes from measurement round
 ○ denotes 1/2 inch by 1/4 inch iron pipe set and marked by License #40062

Project No. **10-0404**

Project No.
19-0494

Certificate of Survey
Before

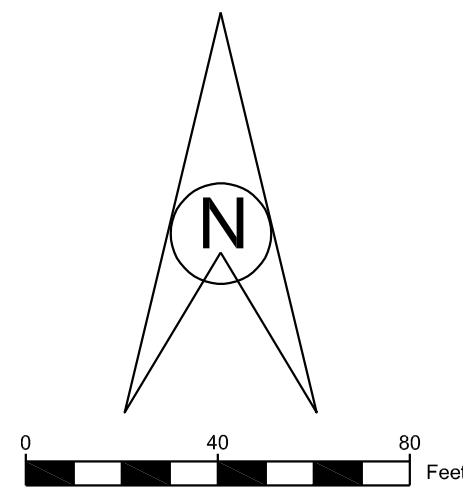
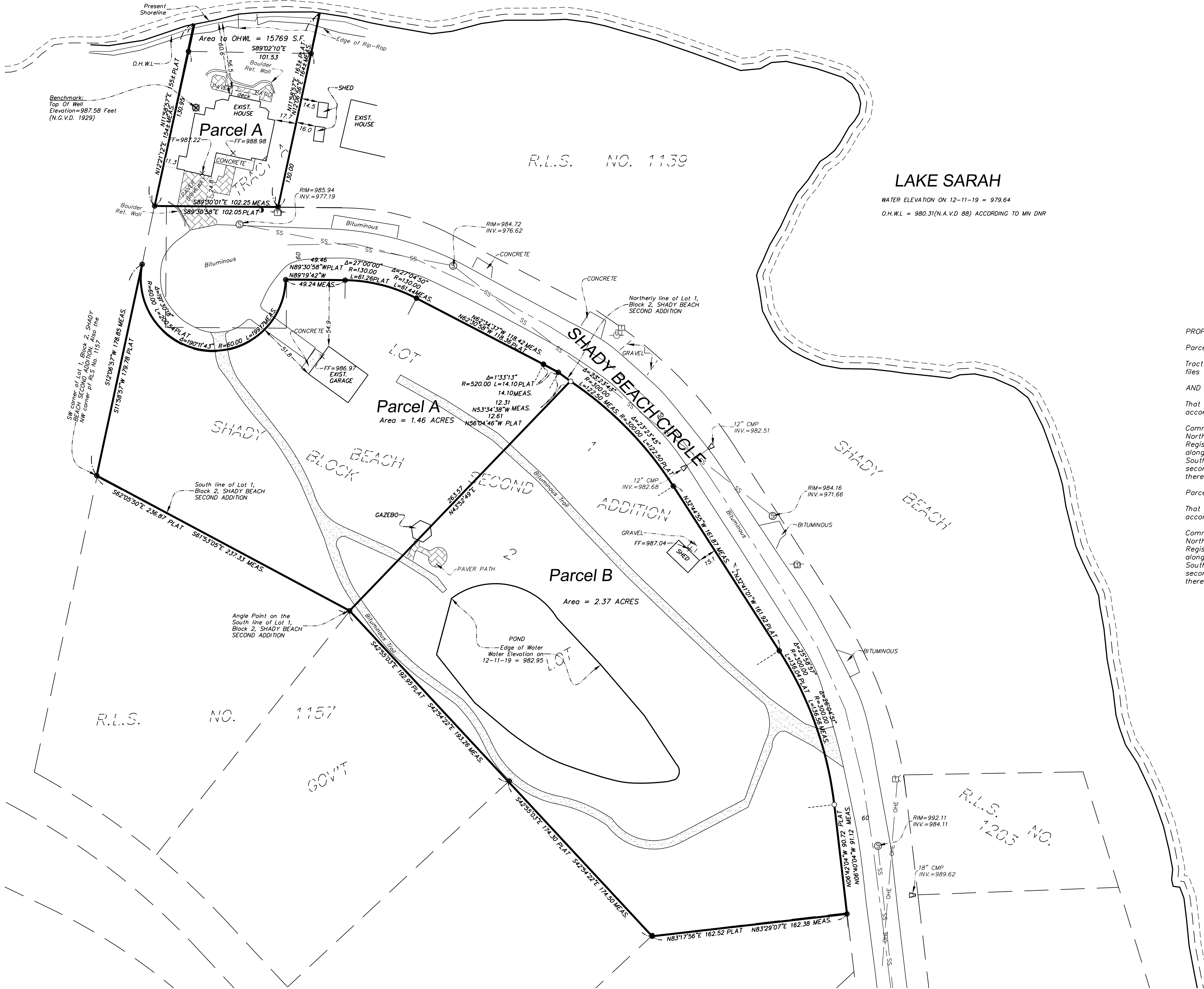


- LEGEND**
- FF=989.36 denotes Finished Floor Elevation
 - ⊙ denotes Well
 - ⊞ denotes Telephone Pedestal
 - ⦿ denotes Guy Wire
 - ⊖ denotes Power Pole
 - ⊙ denotes Sanitary Manhole
 - ⊙ denotes Storm Manhole
 - ⊞ denotes Electrical Pedestal
 - SS denotes Sanitary Sewer Line
 - ST denotes Storm Sewer Line
 - OHE denotes Overhead Electric Line
 - denotes Existing Culvert

Property Description:
Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof and Tract A, Registered Land Survey No 1139, Hennepin County, Minnesota according to the files of the Registrar.

Certificate Survey on Lot 1, Block 2, SHADY BEACH SECOND ADDITION	Requested By: Mary Jorgenson			Checked By: P.E.O.	
	Date: 12-11-19			Scale: 1"=40'	
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. Paul E. Otto License #40062 Date: 04-27-20			www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763) 662-4727 Fax: (763) 662-3522 OTTO ASSOCIATES Engineers & Land Surveyors, Inc.		
Revised:			Project No. 19-0494		

Certificate of Survey
After



- LEGEND**
- FF=989.36 denotes Finished Floor Elevation
 - ⊕ denotes Well
 - ⊞ denotes Telephone Pedestal
 - ⊙ denotes Guy Wire
 - ⊖ denotes Power Pole
 - ⊗ denotes Sanitary Manhole
 - ⊕ denotes Storm Manhole
 - ⊞ denotes Electrical Pedestal
 - SS denotes Sanitary Sewer Line
 - ST denotes Storm Sewer Line
 - OHE denotes Overhead Electric Line
 - denotes Existing Culvert

TOTAL AREA
PARCEL A = 1.82 ACRES
PARCEL B = 2.37 ACRES

PROPOSED PROPERTY DESCRIPTIONS

Parcel A:

Tract A, REGISTERED LAND SURVEY NO. 1139, Hennepin County, Minnesota, according to the files of the Registrar.

AND

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Northwesterly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

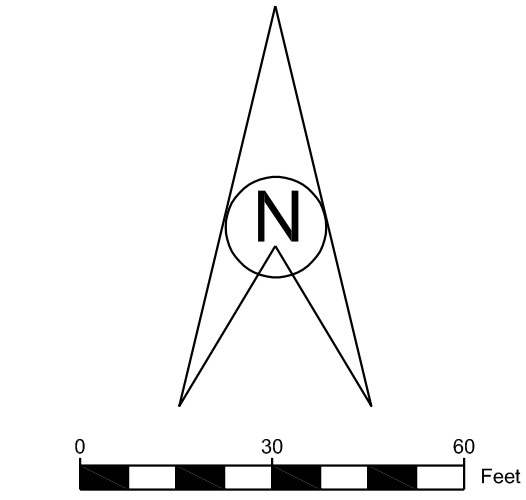
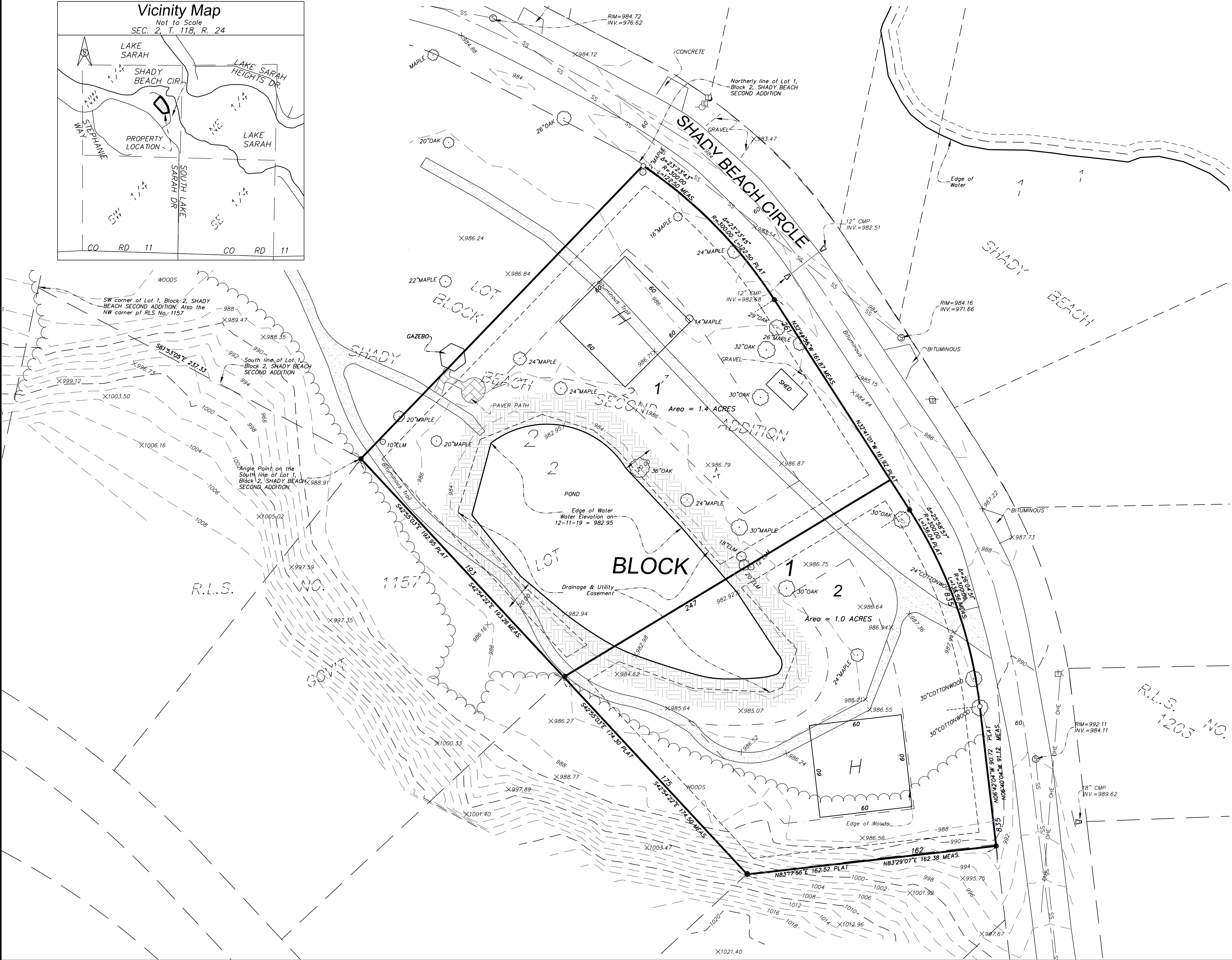
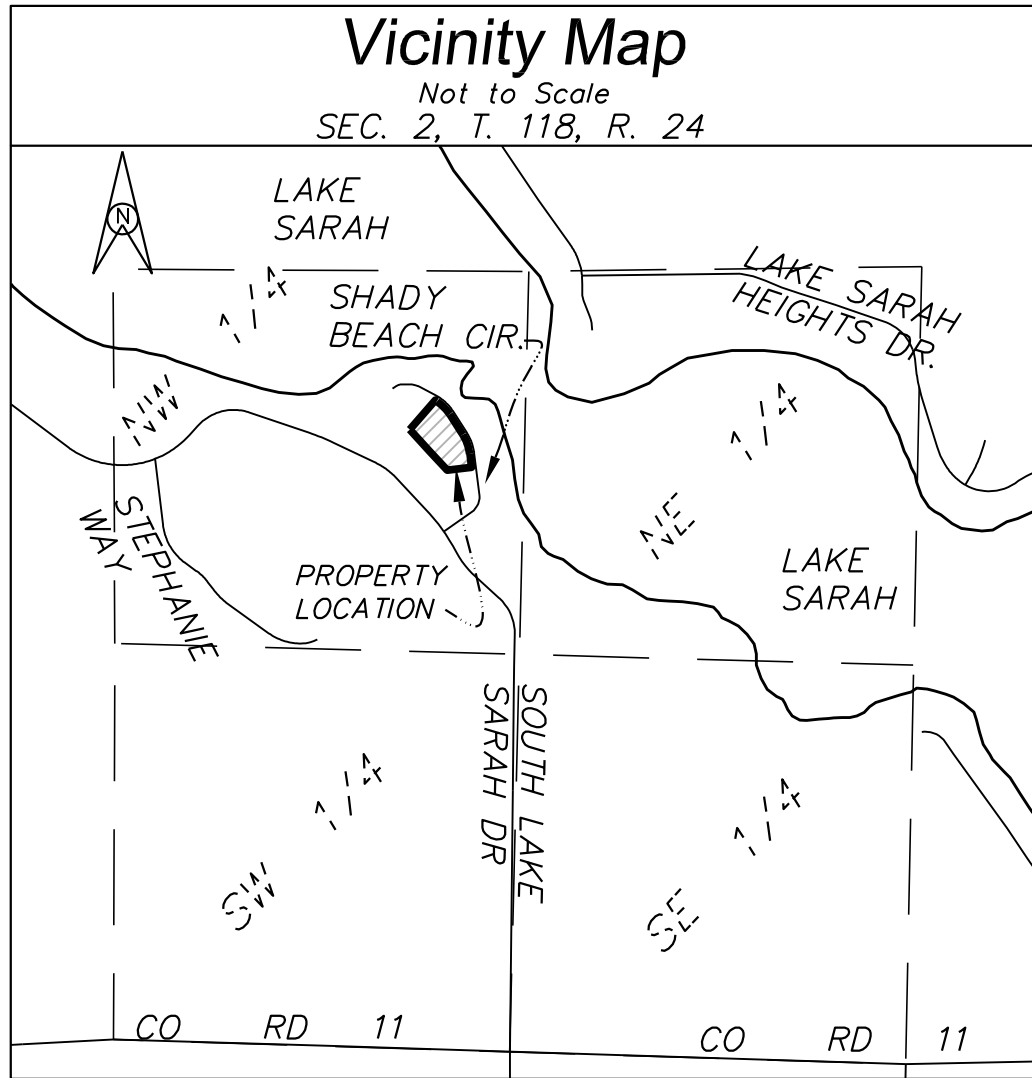
Parcel B:

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Southeasterly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

Certificate Survey on Lot 1, Block 2, SHADY BEACH SECOND ADDITION	Revised:	Requested By: Mary Jorgenson			Date: 12-11-19		Drawn By: E.M.S.		Scale: 1"=40'		Checked By: P.E.O.	
		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. Paul E. Otto License #40062 Date: 04-28-20										
www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763) 662-4727 Fax: (763) 662-3522 SSOCIATES Engineers & Land Surveyors, Inc.												
denotes iron monument found denotes 1/2 inch by 14 inch iron pipe set and marked by License #40062 Project No. 19-0494												

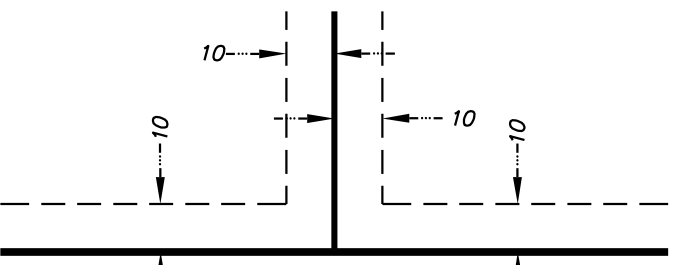
Preliminary Plat of
SHADY BEACH PARK



TOTAL ACRES = 2.4

- LEGEND**
- 988 — denotes Existing Contour
 - 988.00 X denotes Existing Spot Elevation
 - FF=989.36 denotes Finished Floor Elevation
 - ⊕ denotes Well
 - ⊞ denotes Telephone Pedestal
 - ⊙ denotes Guy Wire
 - ⊖ denotes Power Pole
 - ⊙ denotes Deciduous Tree
 - ⊙ denotes Sanitary Manhole
 - ⊙ denotes Storm Manhole
 - ⊞ denotes Electrical Pedestal
 - SS — denotes Sanitary Sewer Line
 - ST — denotes Storm Sewer Line
 - OHE — denotes Overhead Electric Line
 - denotes Existing Culvert
 - denotes Building Setback Line
 - Front = 50'
 - Side = 30'
 - Rear = 40'
 - Wetland Buffer = 10'
 - O.H.W.L. = 60'
 - denotes Proposed Wetland Buffer
 - H denotes Possible House Pad Location

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



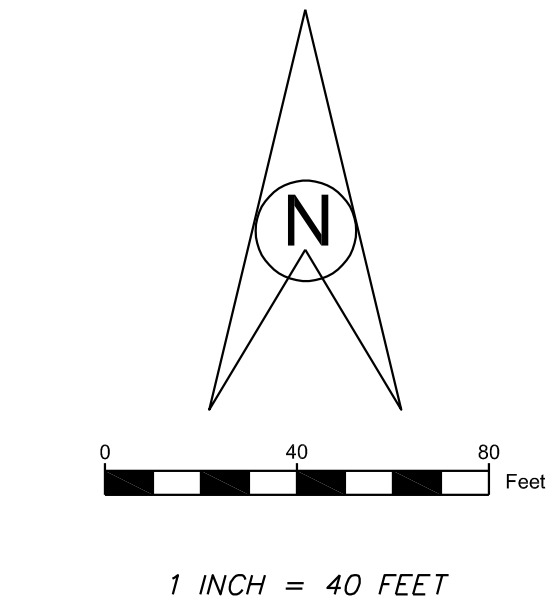
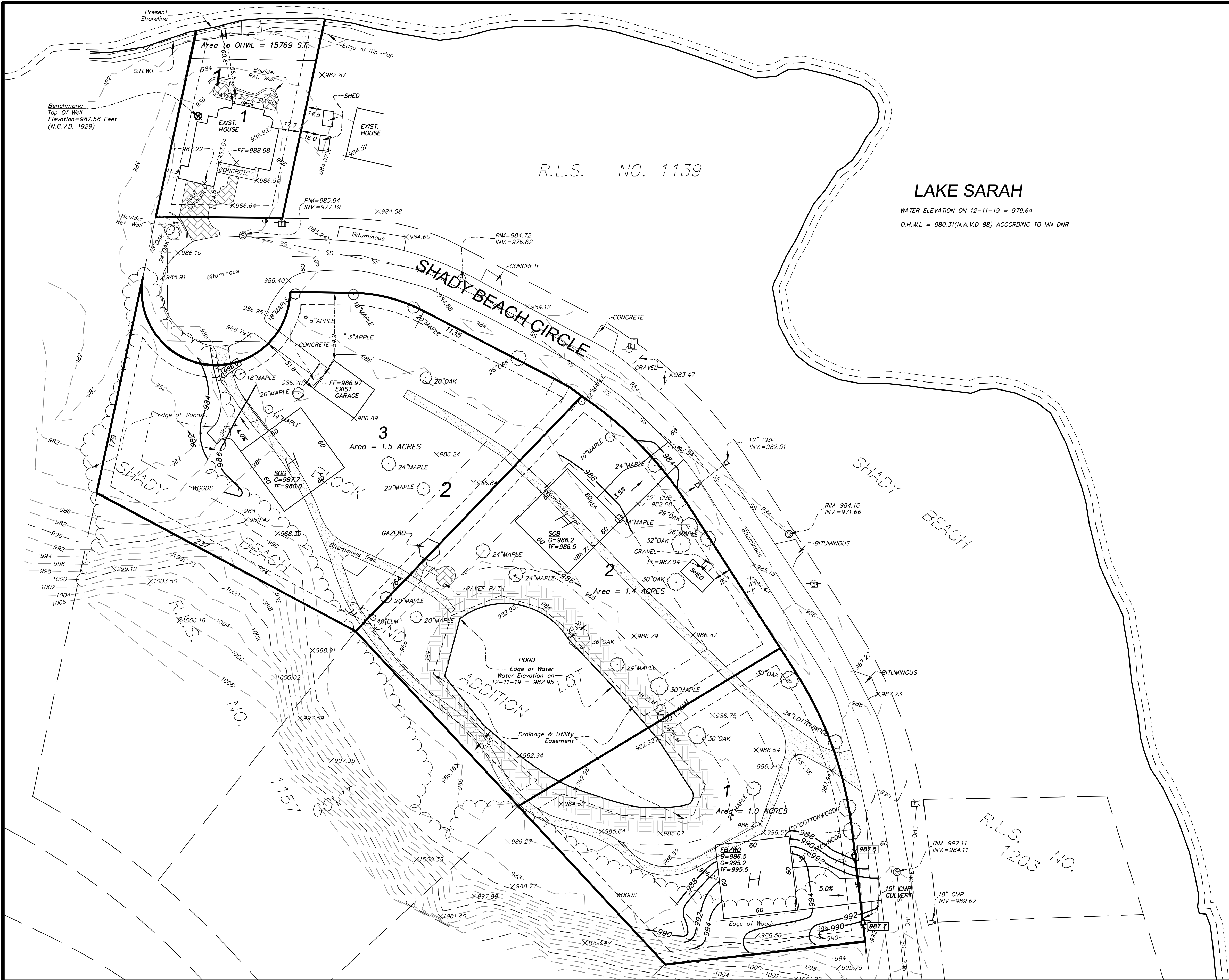
BEING 10 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING RIGHT-OF-WAY LINES, AND BEING 10 FEET IN WIDTH, UNLESS OTHERWISE INDICATED, AND ADJOINING LOT LINES, AS SHOWN ON THE PLAT.

PROPERTY DESCRIPTION:

That part of Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof, that lies Southeastly of the following described line:

Commencing at the Southwest corner of said Lot 1, said Southwest corner also being the Northwest corner of REGISTERED LAND SURVEY NO. 1157 according to the files of the Registrar; thence on an assumed bearing of South 61 degrees 53 minutes 05 seconds East, along the South line of said Lot 1, a distance of 237.33 feet to an angle point on said South line and the point of beginning of said line; thence North 43 degrees 52 minutes 49 seconds East, a distance of 263.57 feet to the Northerly line of said Lot 1 and said line there terminating.

www.ottoassociates.com 9 West Division Street Buffalo, MN 55313 (763) 662-4727 Fax: (763) 662-3522		SSOCIATES Engineers & Land Surveyors, Inc.	
Requested By: Preliminary Plat on Lot 1, Block 2, SHADY BEACH SECOND ADDITION		Checked By: P.E.O.	
Date: 01-06-20		Scale: 1"=30'	
Drawn By: E.M.S.		Project No. 19-0494	
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. Paul E. Otto License #40062 Date: 04-28-2020		Revised: 02-11-20 - Easement - E.M.S.	



- LEGEND**
- 988 — denotes Existing Contour
 - 988.00 X denotes Existing Spot Elevation
 - FF=989.36 denotes Finished Floor Elevation
 - 1010 — denotes Proposed Contour
 - 1017.5 X denotes Proposed Spot Elevation
 - denotes Proposed Drainage
 - denotes Deciduous Tree
 - ⊙ denotes Well
 - ⊞ denotes Telephone Pedestal
 - ⊙ denotes Guy Wire
 - ⊙ denotes Power Pole
 - ⊙ denotes Sanitary Manhole
 - ⊙ denotes Storm Manhole
 - ⊞ denotes Electrical Pedestal
 - denotes Drainage and Utility Easement
 - SS — denotes Sanitary Sewer Line
 - ST — denotes Storm Sewer Line
 - OHE — denotes Overhead Electric Line
 - ▭ denotes Existing Culvert
 - H denotes Possible House Pad Location

Note:
This Grading Plan denotes possible grading on lots. The lots are proposed to be custom graded at the time of house construction.

REV. NO.	DATE	BY	DESCRIPTION

DESIGNED P.E.O.	DRAWN E.M.S.	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. <i>Paul E. Otto</i> Paul E. Otto License #40062
CHECKED P.E.O.		
		Date: 01-07-2020

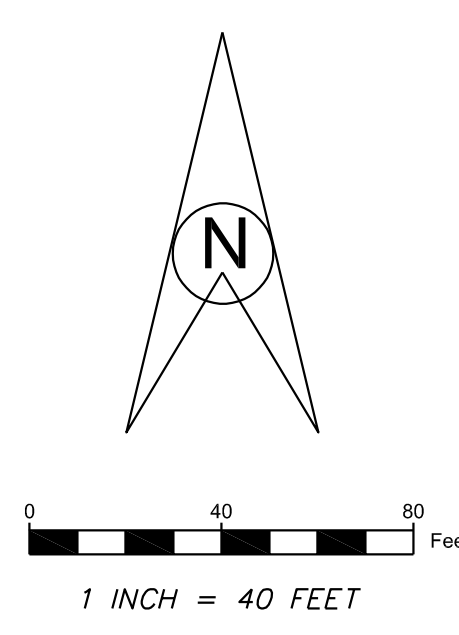
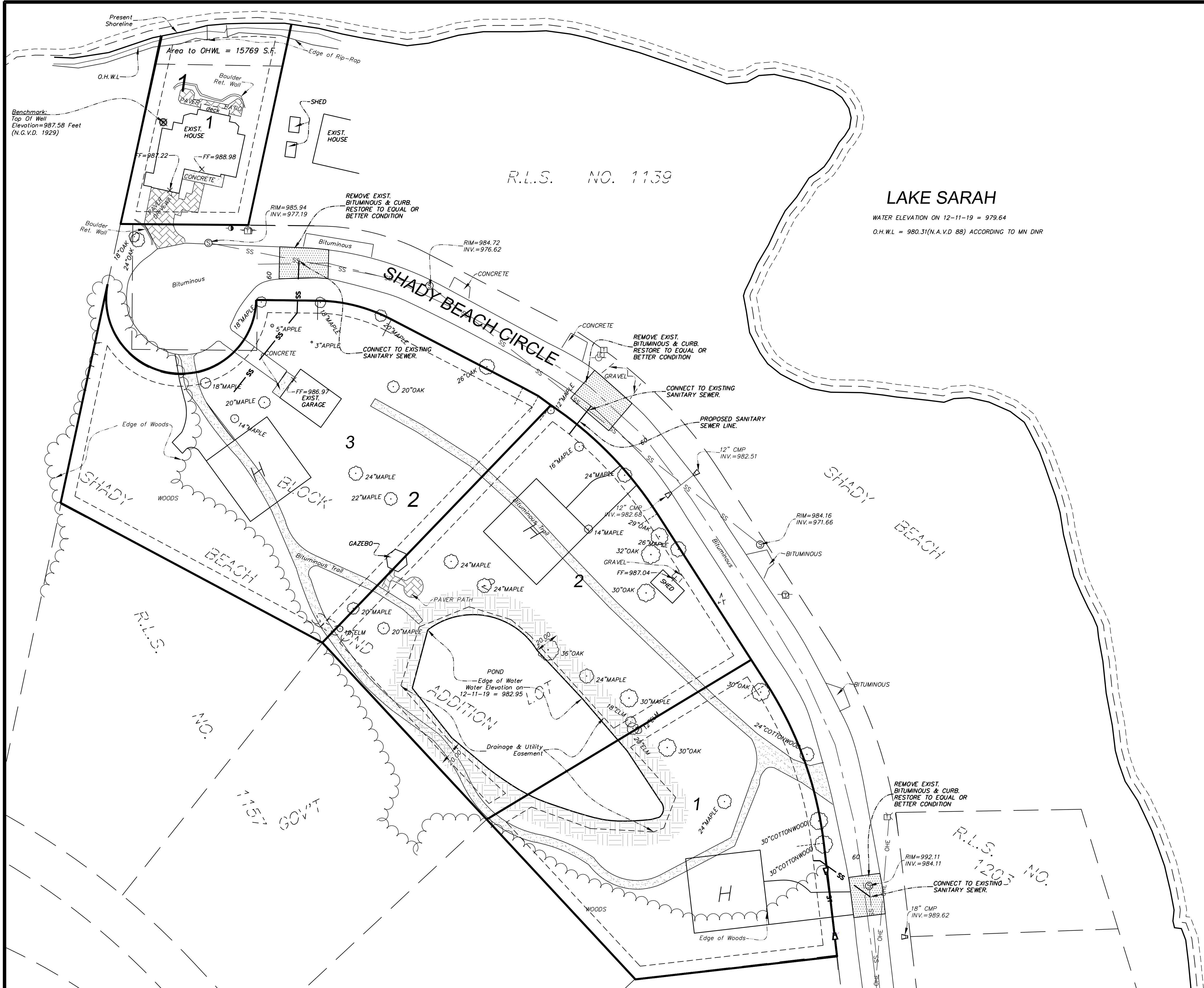


Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522
Engineers & Land Surveyors, Inc.

MARY JORGENSEN PARK
MARY JORGENSEN
INDEPENDENCE, MN

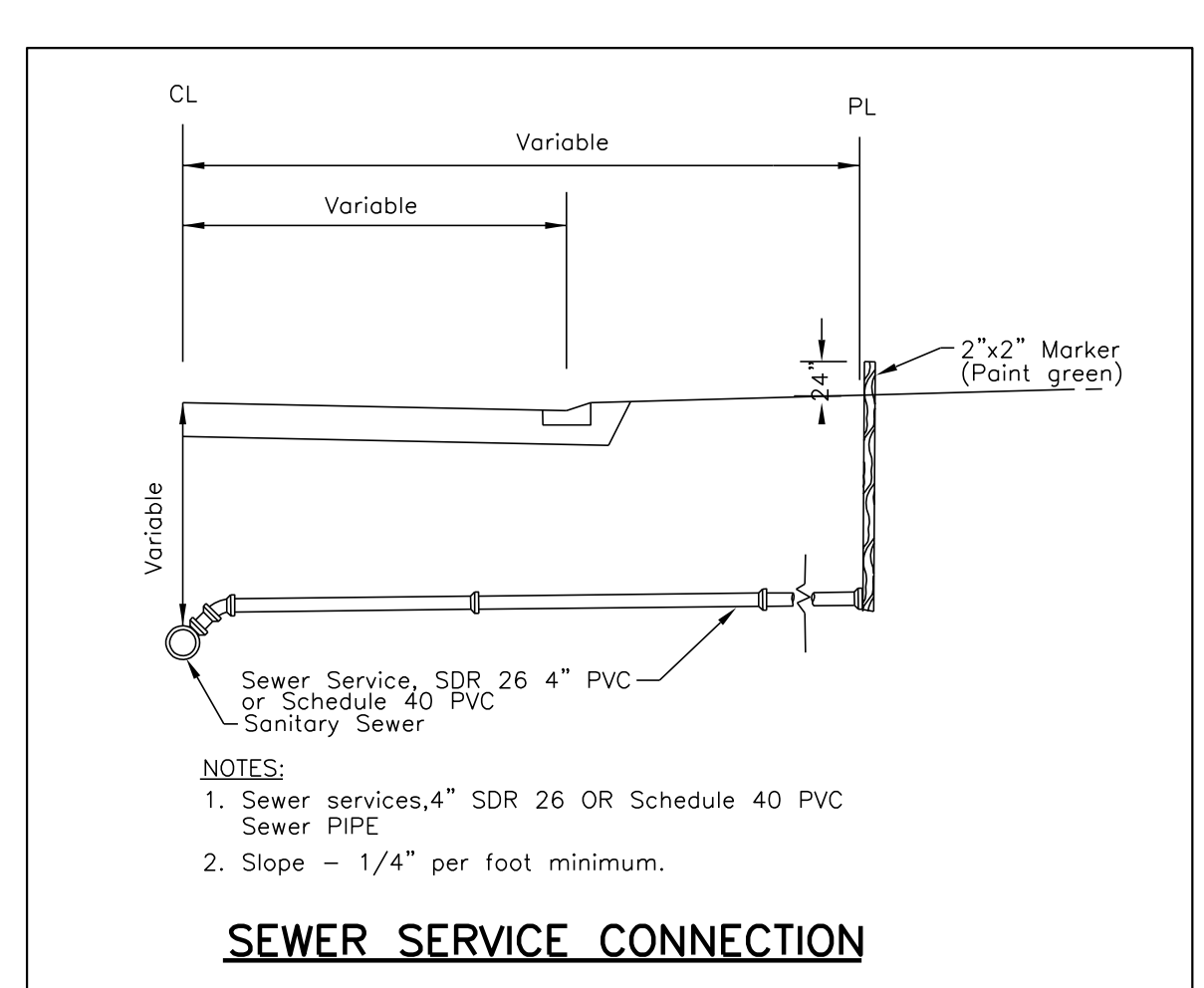
PRELIMINARY GRADING PLAN
SHEET NO. 2 OF 3 SHEETS

PROJECT NO:
19-0494
DATE: 01-06-20



- LEGEND**
- ⊕ denotes Well
 - ⌈ denotes Telephone Pedestal
 - ⚡ denotes Guy Wire
 - ⊖ denotes Power Pole
 - ⊙ denotes Sanitary Manhole
 - ⊕ denotes Storm Manhole
 - ⌈ denotes Electrical Pedestal
 - SS denotes Sanitary Sewer Line
 - ST denotes Storm Sewer Line
 - OHE denotes Overhead Electric Line
 - denotes Existing Culvert
 - SS denotes Proposed Sanitary Sewer Line

Note:
SANITARY SERVICES SHALL BE 4" PVC SDR 26.



REV. NO.	DATE	BY	DESCRIPTION

DESIGNED DRAWN
P.E.O. E.M.S.
CHECKED
P.E.O.
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.
Paul E. Otto
Paul E. Otto
License #40062 Date: 01-07-2020

OTTO ASSOCIATES
Engineers & Land Surveyors, Inc.
www.ottoassociates.com
9 West Division Street
Buffalo, MN 55313
(763)682-4727
Fax: (763)682-3522

MARY JORGENSEN PARK
MARY JORGENSEN
INDEPENDENCE, MN

PRELIMINARY UTILITY PLAN	PROJECT NO: 19-0494
SHEET NO. 3 OF 3 SHEETS	DATE: 01-06-20



April 14, 2020

Mark Kaltsas
City Administrator
City of Independence
1920 County Rd 90
Independence, N 55359

RE: Shady Beach Circle
City of Independence
Project No.: C16.120784

Dear Mr. Kaltsas,

The proposed subdivision consists of three new lots on the southwest side of Shady Beach Circle plus the lot with an existing home on the north side of the cul-de-sac which is a lakeshore lot on Lake Sarah. Following are my review comments:

A. Subdivision -

- a. The three new lots have areas of 1.0, 1.4 and 1.5 acres. All lots front on Shady Beach Circle. A pond/wetland exists in the rear yards of Lots 1 and 2. The only site grading proposed is filling of the house pad on Lot 1 to allow a walkout house. The house pads on Lots 2 and 3 are proposed as slab-on-grade. Erosion control BMP's will be required.

B. Sanitary Sewer Service -

- a. The survey shows existing sanitary sewer in Shady Beach Circle. There is a lift station on the southwest side of the street by Lot 2. No details on the lift station are included in the City plans, but it has a 4" forcemain which indicates this station has sewage pumps, not a grinder pump. It serves about 12 lots so serving the three new lots should not be a problem. There is an existing service to Lot 2. I have sketched the sanitary sewer on the preliminary utility plan and this is attached. The preliminary plan should be revised to accurately show the sewer. Sewer services will need to be constructed for the other new lots which will require excavation of the street.

C. Drainage

- a. No information on stormwater management is provided. Drainage calculations are needed for the HWL on the pond. No existing outlet from the pond is shown on the survey. An outlet should be provided to the existing culvert under the street. This outlet would require a drainage and utility easement.
- b. A wetland delineation is required. The wetland buffer should then be established from the delineated edge and the drainage and utility easement expanded to include the buffer.
- c. A permit from the PSCWMO will be required if disturbance is over one acre.

Name: Shady Beach Subdivision

Date: April 14, 2020

Page: 2

This review only addresses the engineering related issues. Please contact me with questions.

Sincerely,

Bolton & Menk, Inc.

A handwritten signature in black ink that reads "And Bud". The signature is written in a cursive, flowing style.

Andrew Budde
Principal Engineer

MEMORANDUM

TO: Mark Kaltsas, Independence City Planner/Administrator

FROM: Shane Nelson, Water Resources Engineer
Kaci Fisher, Environmental Specialist

DATE: April 16, 2020

RE: Mary Jorgenson Park – Stormwater and Wetland Review Comments

We have received and reviewed the Preliminary Grading Plan for Mary Jorgenson Park, dated January 7, 2020 prepared by Otto Associates and would offer the following comments:

1. The grading plan depicts three proposed lots on the south side of Shady Beach Road. We understand the grading plan is for information only, and no grading is proposed until each lot is individually built on. The proposed house grades appear to agree with the natural topography.
2. Since no grading is proposed initially, the subdivision of the parcel does not trigger City Code requirements in regards to Erosion and Sediment control. However, each lot will individually be required to comply with City Code requirements at the time of Building Permit issuance.
3. Lake Sarah is impaired for nutrients, and therefore stringent Erosion and Sediment Control requirements will be enforced at such time that grading and excavation activities occur on the lots. Erosion and Sediment Control BMPs will include inlet protection for the culverts, rock construction entrances, and sediment control devices (i.e. silt fence) around the ponds and low areas.
4. It appears that there is an excavated pond that spans across proposed Lot 1 and 2. The outlet to the pond is not clearly depicted on the Grading Plan. There is a 12" CMP culvert depicted at the road crossing of Shady Beach Circle with an invert elevation of 982.68 and it is assumed that the pond outlets towards Lake Sarah via this culvert. However, it is unclear if the pond has a pipe outlet or an overland outlet. We recommend that the Grading Plan is revised to depict the outlet path and type, and additional drainage and utility easement dedicated over said location (20' minimum width) of the outlet. Further, the HWL of the pond shall be determined or estimated to ensure freeboard protection of the proposed Lot 1 walkout elevation.
5. Available LIDAR contours depict a low spot to the west of Lot 3, which may become inundated with stormwater until it reaches an outlet or overland overflow. Additional easement is recommended on Lot 3 to encompass the area that may be subject to occasional ponding of stormwater.
6. We recommend that natural buffer strips (unmowed vegetation) are maintained around excavated ponds and/or wetlands on the site to filter the stormwater before entering the receiving waters.

In summary, we recommend that the Grading Plan is revised as discussed herein as a condition of approval of the subdivision. We further recommend that Erosion and Sediment Control plans for the individual lots shall be submitted for review at the time of building permit application/issuance.

City of Independence
Consideration to Approve Lease Agreement and Tower Construction
and Sale Agreement with Xtratyme Technologies, Inc.

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: May 5, 2020

Discussion:

The City has been in discussions with Xtratyme Technologies, Inc. about the possibility of expanding high speed data coverage to the City Hall/WHPS building and also a high percentage of properties within the City. Xtratyme believes that they can wirelessly serve residents within the City by installing a new wireless communications tower on the City Hall property. The tower would initially receive a data signal from their existing tower located in Franklin Township. The new tower would eventually be back fed with high speed fiber that currently exists along Highway 12.

The City would allow Xtratyme to construct a 170' tall tower on the City Hall property. Once complete, the tower would become the property of the City and owned by Independence. The City can approve the construction of wireless communications towers located on City property and serving the City.

The City has negotiated the following terms with Xtratyme:

- A new 170' tower with requisite guy wires will be constructed on the City Hall property.
- The City will pay \$5,000 dollars to Xtratyme which will offset a portion of the cost of the new tower.
- The City will be required to provide an electric service to the base of the tower.
- The City will take over ownership of the tower once finished and accepted.
- The City will lease a space on the tower to Xtratyme for their wireless equipment for a period of 15 years.
- Xtratyme will provide high speed internet service to the City at a minimum speed of 300 mbs download and upload for the duration of the lease period at no cost to the City.
- The proposed tower will be generally located in the location shown on the

attached exhibit.

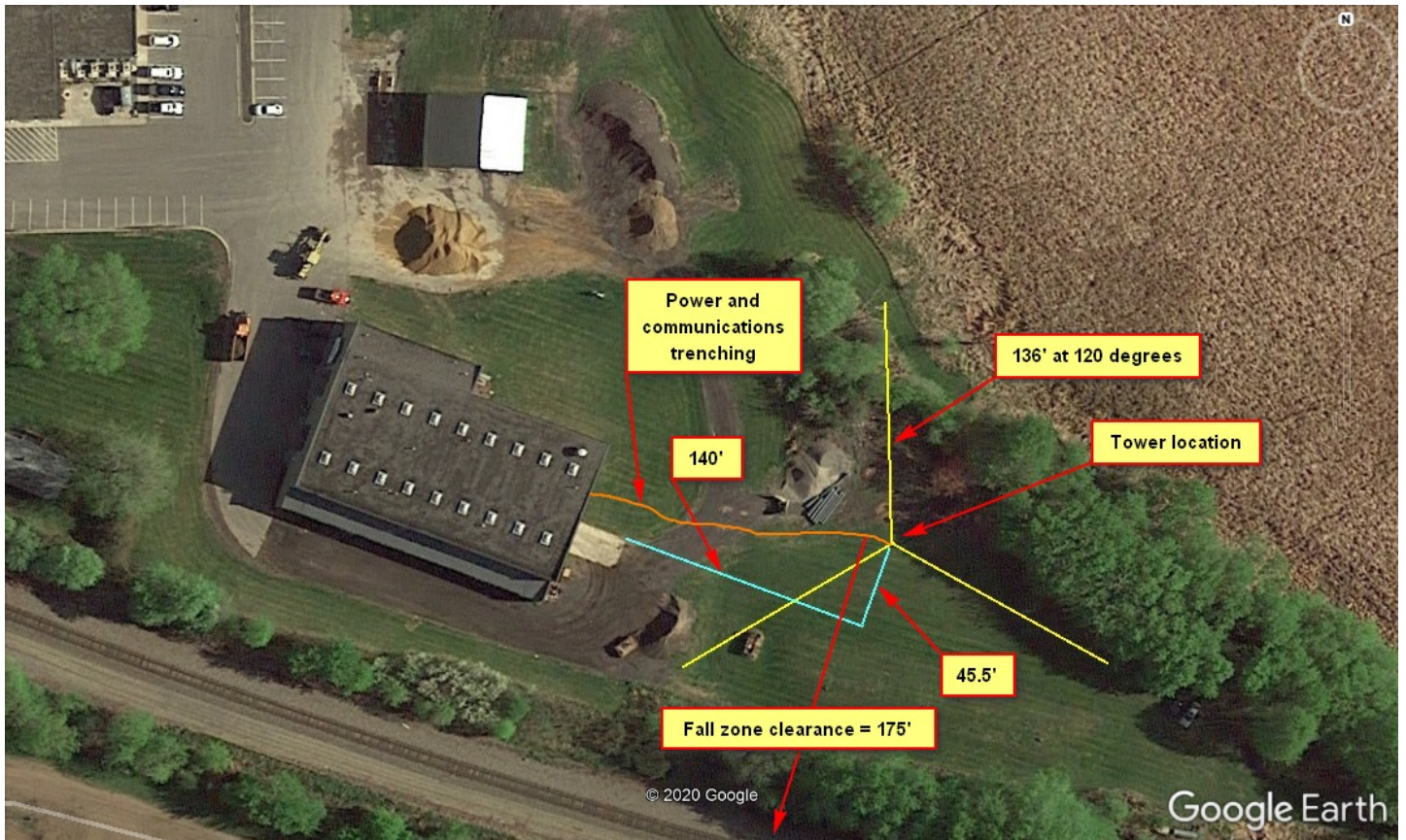
The City's Attorney has drafted a lease agreement and tower construction and sale agreement for consideration by the City Council.

Council Recommendation:

City Council is asked to consider approval of the Tower Construction and Sale Agreement and Lease Agreement. If approved, the Council will be permitting the construction of the new 170' wireless communications tower on the City Hall property.

Attachments: Tower Construction and Sale Agreement
 Lease Agreement
 Tower Site Exhibit
 Tower Construction Plans

Tower Site Exhibit



TOWER SITE LEASE AGREEMENT

This TOWER SITE LEASE AGREEMENT ("Lease") is entered by and between the City of Independence, a municipal corporation of the State of Minnesota (the "City"), lessor, and Xtratyme Technologies, Inc., a Minnesota corporation ("Xtratyme"), as lessee.

WITNESSETH:

WHEREAS, Xtratyme has constructed, with a City contribution of \$5,000, a **170'** wireless communication tower on and at City Hall property as legally described and depicted in Exhibit A, attached ("Site");

WHEREAS, Xtratyme has conveyed ownership of the tower on the Site to the City, and the City is the fee owner of the tower and has the power and authority to enter this Lease;

WHEREAS, Xtratyme seeks to install wireless antennas and transmission equipment and facilities on the tower at the Site as depicted in Exhibit A, attached ("Xtratyme's Equipment");

WHEREAS, Xtratyme desires to Lease that portion of the Site, including space on the tower, the right of access, and right to install utilities, all as depicted in Exhibit A, attached (collectively, the "Premises");

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City grants to Xtratyme use of the Premises, together with the right of access and right to install utilities, under the following terms and conditions:

1. **USE:** Xtratyme may use the Premises for the installation, operation, maintenance, repair and use of Xtratyme's Equipment as described in Appendix A, attached. Any modification to the Xtratyme's Equipment must be approved, in writing and in advance, by City, which approval shall not be unreasonably withheld.
2. **TERM; RENEWAL TERMS:** This Lease shall commence upon execution by both parties and shall expire on December 31, 2035. This initial term shall be automatically renewed on a year-to-year basis thereafter unless either party notifies the other in writing of intent to not renew no less than 90 days prior to the end of the then-current term.
3. **RENT/LEASE CONSIDERATION**
 - (a) Xtratyme shall, at all times, provide high speed internet connectivity to residents of the City within the area around the Site then-serviceable by Xtratyme's Equipment.
 - (b) Xtratyme shall provide to the City, and any other governmental users occupying the City Hall building at the Site, internet connectivity at an upload and download speed not less than 300 MBPS. The City may distribute and extend service to other users within City Hall, at the City's capital expense, and Xtratyme shall, at all times, ensure continued connectivity at 300 MBPS to all such users. Xtratyme may meet this requirement via any available technology provided that, Xtratyme will extend a fiber connection from its Premises to provide a direct, facilities-based connection to City Hall within 12 months from execution of this lease.
 - (c) Xtratyme acknowledges and agrees that its use of the Premises and tower is non-exclusive and the City may lease additional space to other users, including competitors of Xtratyme, as the City may wish.
4. **ACCESS:** City shall provide Xtratyme with reasonable access to the Premises 24 hours, 7 days a week, 365 days a year provided, however, that Xtratyme shall give City at least 24 hours advance notice prior to making access to the Site.
5. **UTILITIES:** City shall provide a 120 V service to the base of the tower. Xtratyme shall be responsible for providing any additional utilities for operation of Xtratyme's Equipment. Xtratyme's utilities shall be separately metered. In the event Xtratyme requests installation of new utility facilities, the location and terms under which such utilities are installed shall be approved, in writing and in advance, by the City. Xtratyme shall promptly pay all utilities charges, costs, or fees associated with Xtratyme's Equipment.

6. **INTERFERENCE:** Xtratyme's Equipment shall not cause interference to the equipment in operation on the Premises and, if Xtratyme's Equipment causes any such interference, Xtratyme will take all steps necessary to immediately correct and eliminate such interference. If the interference continues for a period in excess of twenty-four (24) hours following notification, City shall have the right to cause Xtratyme to cease operating the offending equipment or to reduce the power sufficiently to remove the interference until the condition can be remedied. If City leases space on the Premises and equipment operated by such additional lessee causes measurable interference to the Xtratyme's Equipment, the City will notify such party to immediately, upon notice, correct and eliminate such interference.
7. **INSURANCE:** Other than intentional conduct by City employees or agents, in no event shall City be liable for damage to Xtratyme's Equipment. Xtratyme shall at all times have Workers Compensation and Commercial General Liability Insurance. Xtratyme's Commercial General Liability Insurance shall name the City as an additional insured and require at least thirty (30) days advance written notice to City prior to cancellation or termination. Xtratyme's Commercial General Liability Insurance shall include coverages in the following amounts:
- (a) Policy Form Occurrence- General Aggregate Limit- \$2,000,000.00
 - (b) Products & Completed Operations Limit- \$2,000,000.00
 - (c) Personal Injury & Advertising Injury Limit- \$1,500,000.00
 - (d) Each Occurrence Limit- \$1,500,000.00

Xtratyme shall provide a certificate of insurance evidencing such coverages to City.

8. INDEMNIFICATIONS

- (a) CITY shall indemnify Xtratyme against any claim, liability, or loss (including reasonable attorney's fees and court costs) resulting from injury to or death of any person, or any damage to property due to (i) the acts or omissions of City, its contractors, subcontractors, agents or representatives; (ii) any breach of this Lease by City, its contractors, subcontractors, agents or representatives; or (iii) the negligence or willful misconduct of City or its contractors, subcontractors, agents, or representatives. In the event that Xtratyme seeks indemnification hereunder, City shall have no obligation to indemnify as provided herein unless Xtratyme provides prompt written notice to City of any such claims and allows City the right (but not the obligation) to control the defense, negotiations, and/or settlement of such claim. Xtratyme and its counsel may participate in such proceedings at its own expense but not control such proceedings, negotiations, or defense as counsel of record if City chooses to control the defense. Nothing in this Lease waives or limits City's limitations on or exclusions from liability under Minnesota Statutes, Chapter 466 or other applicable law.
- (b) XTRATYME shall indemnify City against any claim, liability, or loss (including reasonable attorney's fees and court costs) resulting from injury to or death of any person, or any damage to property due to (i) the acts or omissions of Xtratyme, its contractors, subcontractors, agents or representatives; (ii) any breach of this Lease by Xtratyme, its contractors, subcontractors, agents or representatives; or (iii) the negligence or willful misconduct of Xtratyme or its contractors, subcontractors, agents, or representatives. In the event that City seeks indemnification hereunder, Xtratyme shall have no obligation to indemnify as provided herein unless City provides prompt written notice to Xtratyme of any such claims and allows Xtratyme the right (but not the obligation) to control the defense, negotiations, and/or settlement of such claim. City and its counsel may participate in such proceedings at its own expense but not control such proceedings, negotiations, or defense as counsel of record if Xtratyme chooses to control the defense.

9. EQUIPMENT INSTALLATION AND REMOVAL; MAINTENANCE

- (a) **INSTALLATION:** Xtratyme's Equipment located on the Premises, whether installed overhead, above ground, or underground, shall remain the personal property of the Xtratyme, and shall not be considered a fixture to the real estate. Xtratyme's installation, and any associated costs including necessary permits or Leases shall be at Xtratyme's sole cost and expense. Xtratyme may not install equipment without City's prior consent, which consent shall not be unreasonably withheld.
- (b) **REMOVAL:** No later than 90 days after expiration or termination of this Lease, Xtratyme shall, at its sole cost and expense, remove its equipment from the Premises. If Xtratyme fails to timely remove its equipment, City shall have, to the full extent of the law: (i) the right to immediate possession of the Premises without invoking legal process; and, (ii) the right (but not the obligation) to immediately disconnect and remove Xtratyme's Equipment in

which case Xtratyme shall pay City upon demand an amount equal to the cost of such disconnection, including removal and storage expenses, if any.

- (c) **XTRATYME MAINTENANCE.** Xtratyme shall, at its own expense, reasonably maintain the Premises and Xtratyme's Equipment in a safe condition and in good repair and in a manner that does not materially conflict with use by City or its other lessees. Any modifications to the Premises for Xtratyme's benefit shall be at the Xtratyme's expense. In the event Xtratyme fails to reasonably maintain the Premises, City may complete such maintenance and Xtratyme shall reimburse all expenses incurred within thirty (30) days of receipt of an invoice for such expenses.
- (d) **CITY MAINTENANCE.** Xtratyme shall temporarily remove Xtratyme's Equipment, at Xtratyme's cost, upon at least sixty (60) days' notice, to permit maintenance, repair, repainting, restoration of the tower. Xtratyme may place temporary transmission and reception facilities on the Premises during the City's work provided that, upon completion, Xtratyme shall return the facilities to the tower and remove the temporary facilities within thirty (30) days of written notice of completion of the work. Any additional expense of maintaining the Premises caused by the Xtratyme's Equipment shall be paid by Xtratyme within thirty (30) days of receipt of an invoice from City.

10. FORCE MAJEURE AND SITE DAMAGE

- (a) **FORCE MAJEURE:** The time for performance by City or Xtratyme of any term, provision, or warranty of this Lease shall be deemed extended by time lost due to delays resulting from acts of God, strikes, civil riots, floods, material or labor restrictions by governmental authority, or other cause not within the reasonable control of City or Xtratyme.
- (b) **SITE OR PREMISES DAMAGE:** If the Site or Premises are fully or partially destroyed or damaged, and as a result thereof Xtratyme is unable to conduct its operations for a period of at least seventy-two (72) hours in a manner that is functionally equivalent to Xtratyme's operations before such event, Xtratyme may request that City notify Xtratyme, within ten (10) days after such event, whether or not it intends to consider rebuilding or otherwise restoring the applicable Site and/or Premises. If City elects not to rebuild or otherwise restore the Site or Premises, this Lease shall automatically terminate effective the date of notice by Xtratyme. However, if City elects to rebuild or repair the Site or Premises, it shall notify Xtratyme of that election. If City elects to repair or rebuild the Site or Premises, this Lease shall remain in force with respect to such Site

11. DEFAULT

- (a) **GENERALLY:** A party shall be in default hereunder if it fails to make any payment on or prior to the date due, and does not cure such non-payment within thirty (30) days after receiving written notice. A party shall also be in default hereunder if it fails to comply with any other term of this Lease and does not cure such other failure within thirty (30) days after the non-defaulting party provides the defaulting party with written notice thereof; provided however, that if any such non-monetary default is not capable of being cured within the requisite period of time, then so long as the party charged with the default has diligently pursued such cure of the default within the prescribed period, such party shall be given reasonable time to cure the default, such time not to exceed ninety (90) days, unless a shorter period is expressly required under the terms of this Lease.
- (b) **CITY REMEDIES:** Upon the occurrence of any Xtratyme default that is not timely cured, City may, subject to the terms of this section, seek any remedy available at law or equity, including disconnection and eviction of Xtratyme's Equipment from the Site, at the expense of Xtratyme. Xtratyme shall be liable to City for any costs, expenses, or fees, including legal fees, incurred by City in successfully enforcing its remedies under this Lease.
- (c) **XTRATYME REMEDIES:** Upon the occurrence of any City default that is not timely cured, Xtratyme may, subject to the terms of this section, seek any remedy available at law or equity, including the right to specific performance or the right to terminate the Lease.

12. TERMINATION

- (a) Xtratyme may terminate this Lease during the current term upon ninety (90) days prior written notice to City, without further liability, if through no act or omission of Xtratyme:
 - i. any license, permit, or other governmental approval necessary for the installation or operation of Xtratyme's Equipment at the Premises is terminated with no right of appeal; or
 - ii. Xtratyme is unable to continue its use of the Premises due to a final action of the FCC.
- (b) City may terminate this Lease:

- i. If any law, rule, regulation, ordinance or directive of any governmental agency prohibits or otherwise restricts the use of all or any portion of the Site or Premises, including any tower or structure thereon, for the purposes contemplated by this Lease.
- ii. Upon written notice to Xtratyme of damaged caused by Xtratyme equipment or installation.
- iii. For any reason or no reason upon a vote of the City Council.

13. ASSIGNMENT: Xtratyme shall not assign this Lease, in whole or in part, or sublet the Premises, its Permitted Equipment, or any part thereof, to others without the express written approval of City, in its sole discretion. No assignment, sublease, or authorized use by others shall relieve Xtratyme of its obligations under this Lease. Xtratyme shall not mortgage or encumber this Lease without the express written approval of City, which consent shall not be unreasonably withheld or delayed.

14. MISCELLANEOUS PROVISIONS

- (a) All Exhibits attached hereto are incorporated herein by this reference.
- (b) This Lease may be executed in counterparts, and any number of counterparts signed in the aggregate by the parties will constitute a single, original instrument.
- (c) This Lease, including the exhibits, schedules, lists and other documents referred to herein, contain the entire understanding of the parties with respect to its subject matter. No modification of this Lease shall be effective unless contained in a written instrument executed by both parties.
- (d) All notices, requests, claims, demands, and other communications hereunder shall be in writing and shall be delivered to the respective parties at the addresses first written above, and as may be amended from time to time. Any such notice may be hand delivered (provided the deliverer provides proof of delivery) or sent by nationally-established overnight courier that provides proof of delivery, or certified or registered mail (postage prepaid, return receipt requested). Notice shall be deemed received on the date of delivery as demonstrated by the receipt of delivery.
- (e) Any action brought relating to this Lease shall be brought in Carver County, Minnesota district court.
- (f) The individuals executing this Lease represent that they are authorized to do so by requisite action of the party to this Lease.
- (g) This Lease shall be construed in accordance with the laws of the State of Minnesota.
- (h) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.
- (i) Either party may record a Memorandum of this Lease and the other party will promptly execute such Memorandum reflecting the terms herein upon request.

CITY OF INDEPENDENCE:

XTRATYME:

Date ____/____/____

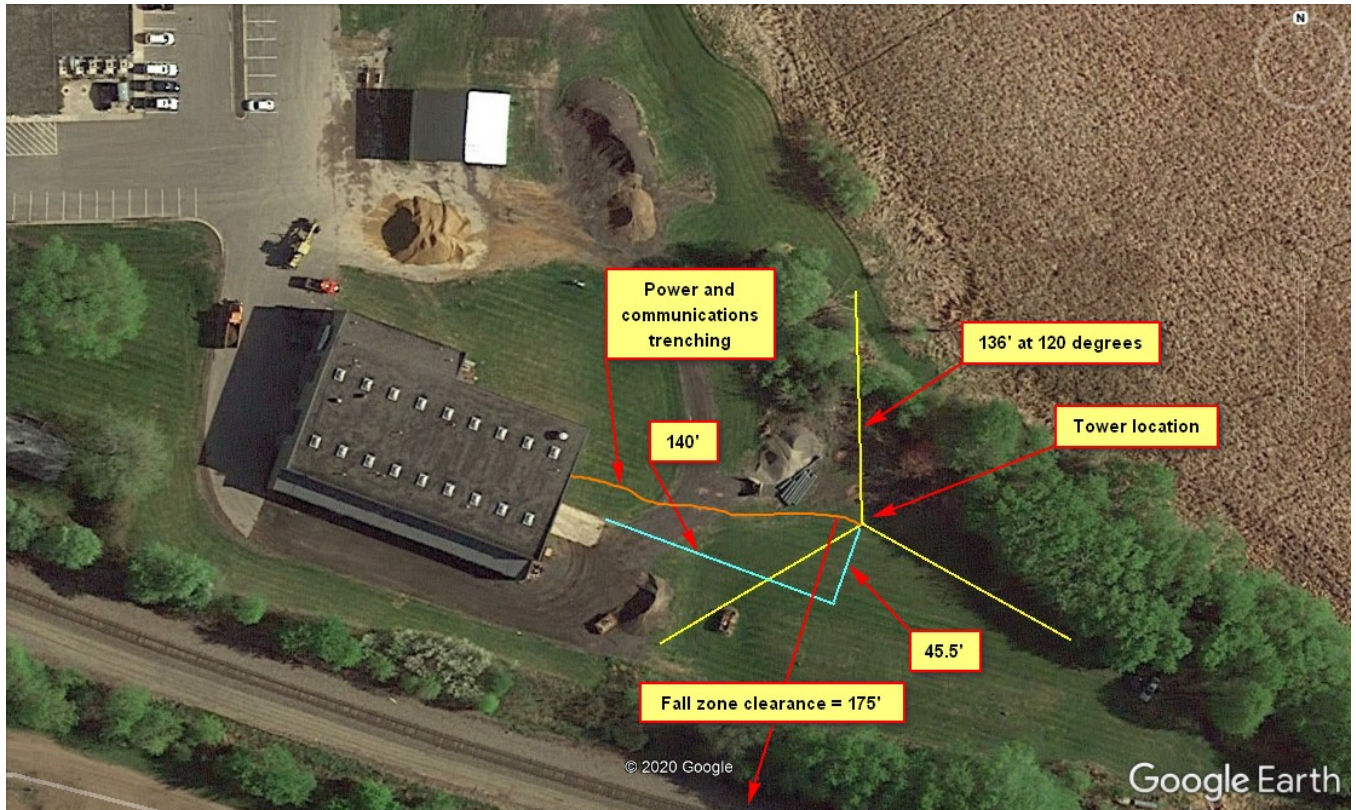
Date ____/____/____

ATTEST:

Date ____/____/____

Exhibit A

Legal Description of City Property and Depiction of Leased Premises and Antenna Equipment on Tower



TOWER CONSTRUCTION AND SALE AGREEMENT

THIS TOWER CONSTRUCTION AND SALE AGREEMENT ("Agreement") is made and entered as of the ____ day of May, 2020, by and between the City of Independence, a municipal corporation of the State of Minnesota (the "City" or "Buyer"), and Xtratyme Technologies, Inc., a Minnesota corporation ("Xtratyme" or "Seller"). The parties to this Agreement are sometimes individually referred to as a "Party" and together the "Parties."

WITNESSETH:

WHEREAS, Xtratyme will construct, at a cost of \$5,000.00 paid by the City, a 170 foot tall wireless communication tower on and at City Hall as described and depicted in Exhibit A, attached ("Tower");

WHEREAS, upon completion of the Tower as approved by the City, Xtratyme will convey ownership of the Tower to the City;

WHEREAS, the City is the fee owner of the City Hall property and site and will enter the lease attached hereto as Exhibit B ("Lease") authorizing Xtratyme to install, own and operate certain wireless antennas and transmission equipment ("Xtratyme's Equipment") on and beneath the Tower for a period of 15 years;

WHEREAS, the Lease afford Xtratyme the right of access, and right to install utilities, to the Tower, all as depicted in Exhibit A;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT:

1. Seller shall construct the Tower by no later than _____, 2020. Seller shall obtain a building permit and all other required permits, licenses, and approvals necessary for construction and operation of the Tower as contemplated herein prior to initiating construction.

2. Seller hereby represents and warrants to Buyer as follows:

(a) Seller is a Minnesota municipal corporation under applicable Minnesota state law. Seller has all requisite power and authority to execute and deliver this Agreement, construct the Tower and carry out the transactions contemplated herein.

(b) This Agreement constitutes the legal, valid and binding obligation of Seller enforceable in accordance with its terms except that the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefore may be brought.

(c) To Seller's knowledge, there is no lawsuit or judicial or administrative proceeding pending or threatened against Seller relating to construction of the Tower nor, to Seller's knowledge, is there any judgment, decree, injunction, rule, order or investigation of any court or governmental department, agency or instrumentality involving or affecting Seller's ability to convey the Tower to Buyer.

(d) To Seller's knowledge, Seller's construction of the Tower and operation of Xtratyme's Equipment on the Tower will be in compliance with applicable federal, state and local laws, rules and regulations.

3. Seller will provide notice to Buyer that construction is complete. Thereafter, Buyer will provide written notice of approval of the Tower, or requirements for correction of defects, within fifteen (15) days of receipt of such notice.

4. The closing of the transaction contemplated herein shall take place at such date as the Parties may agree. At closing, Buyer shall pay to Seller the total amount of \$5,000.00, and Seller shall sell, assign, transfer, and deliver to Buyer, all of Seller's right, title and interest in and to the Tower. Buyer and Seller each shall execute and deliver all such further instruments that the other may reasonably require in order to more fully effectuate Seller's conveyance of the Tower to Buyer.

5. The City may terminate this Agreement for breach including failure to timely complete construction of the Tower. In the event of termination, Seller shall remove all improvements made and restore the property to its original condition unless the City requires abandonment of the improvements and assumes ownership thereof. Any such determination shall be in writing.

6. Buyer agrees to assume, as of the closing, all obligations associated with ownership of the Tower, but not any other liabilities or obligations of Seller with respect to the Tower. Buyer shall acquire the Tower free of any liens, security interests or similar encumbrances.

7. The representations and warranties contained herein shall survive for a period of one (1) year from the Closing Date. Neither Party shall be liable to the other for any incidental, special, punitive or consequential damages or damages for any lost opportunity.

8. Buyer shall be responsible for any federal, state and local transfer, sales, use and similar taxes, if any, arising as a result of this Agreement or the sale and transfer of the Tower. Except as otherwise expressly provided, each Party shall be individually responsible for all other costs and expenses incurred by it in connection with this Agreement.

9. This Agreement shall be interpreted in accordance with Minnesota law. This Agreement cannot be amended nor can any of the terms or provisions hereof be waived except in a writing signed by the party affected thereby. No waiver shall operate as a waiver of, or estoppel with respect to, any subsequent breach.

10. Any notice given hereunder shall be in writing and shall be delivered by hand, by overnight courier, by U.S. mail or by e-mail to the address(es) noted. Any such notice may be given by a party's counsel. Each notice shall be deemed effective upon its receipt or refusal.

Notice to Seller:

Notice to Buyer:

IN WITNESS WHEREOF, each Party has caused this Bill of Sale and Assignment and Assumption Agreement to be duly executed as of the date first set forth above. This Agreement may be executed in counterparts which, taken together, shall be considered one instrument and deemed an original.

BUYER: CITY OF INDEPENDENCE, MN

By: _____

Its Mayor

By: _____

Its City Clerk

SELLER: XTRATYME TECHNOLOGIES, INC.

By: _____

Its President

EXHIBIT A
SITE PLAN

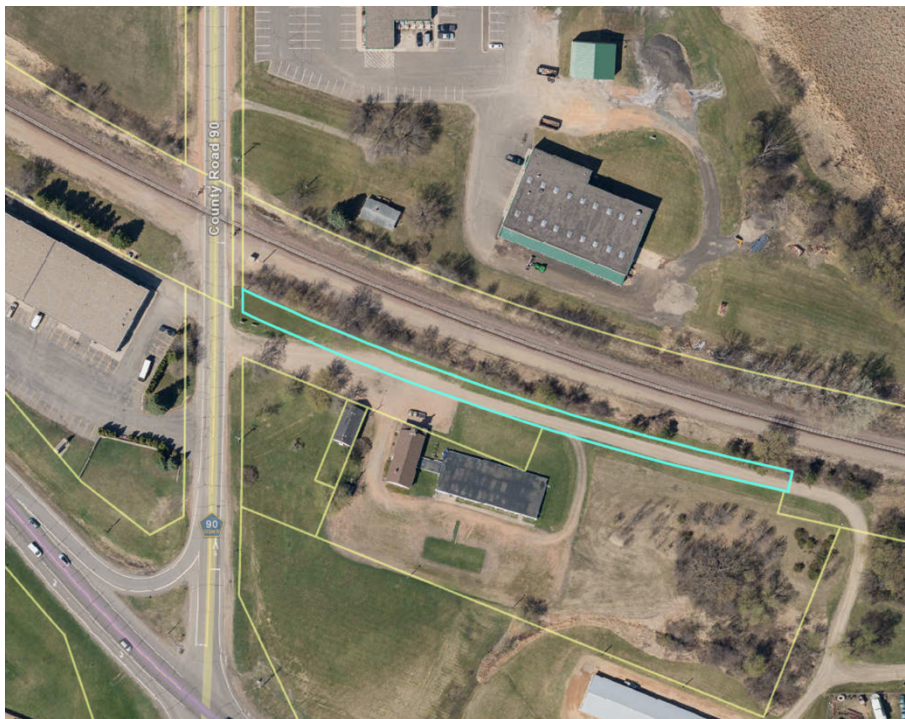
EXHIBIT B
LEASE

City of Independence
Consideration to Grant a Temporary Easement to MNDOT
for the Highway 12/CSAH 90 Roundabout Project

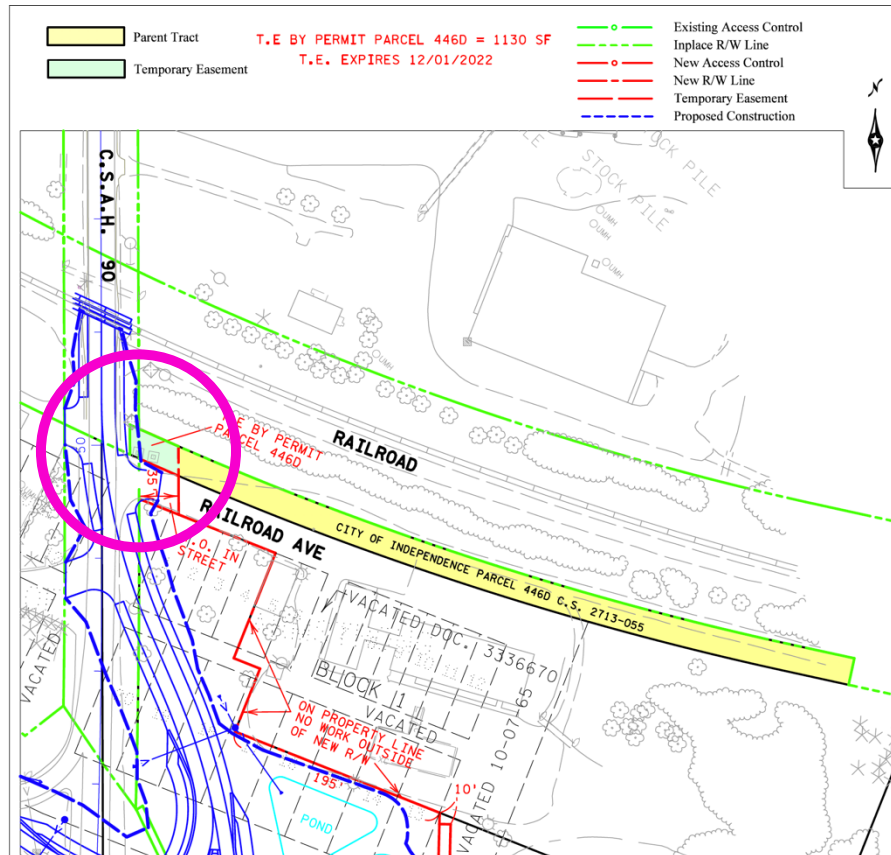
To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: May 5, 2020

Discussion:

MNDOT is in the process of finalizing plans for the proposed Highway 12/CSAH 90 roundabout project. As a part of the plans, MNDOT has identified the limits of construction and property impacts. The City owns a small strip of property directly adjacent to the BNSF railroad and near the old City Hall/Museum Property.



MNDOT would like the City to grant a temporary easement to facilitate construction of the improvements. The easement is approximately 1,130 SF in size. MNDOT is asking the City to grant the easement for zero cost. Staff has reviewed the proposed construction plans and easement and believes that there would be little to no public impact if the easement is granted.



Council Recommendation:

City Council is asked to consider granting a temporary easement to facilitate the construction of the Highway 12/CSAH 90 roundabout improvements and authorize the Mayor and City Administrator to execute the documents.

Attachments:

Easement Agreement
Highway 12/CSAH 90 Improvement Plan

ZERO DOLLAR PERMIT TO CONSTRUCT FOR GOVERNMENTAL ENTITIES

Dated: August 28, 2019

C.S. 2713 (12=10) 055
Parcel 446D
County of Hennepin

The State of Minnesota, by its Commissioner of Transportation, has established and designated the route of Trunk Highway No. 12 in Hennepin County, Minnesota.

It is necessary that the State of Minnesota use for highway purposes real property situated in Hennepin County, Minnesota as shown on "**Exhibit A**".

The undersigned, having an interest in the above described real property, understand that they are not required to surrender possession of the property until the purchase price has been made available and are not required to surrender lawfully occupied real property without at least 90 days notice. By signing this Permit, the undersigned waives these rights and grants to the State of Minnesota the immediate right to enter the above described property for grading for drainage purposes during construction of a roundabout.

This Permit will expire on December 1, 2022 or when construction is completed.

Name/Title

Signature

Date

Name/Title

Signature

Date

"EXHIBIT A"



C.S. 2713(12=10-55)

S.P. 2713-122

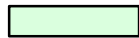
COUNTY: Hennepin

PARCEL NUMBER: 446D

OWNER: City of Independence

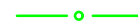





SCALE 1" = 100 ft.

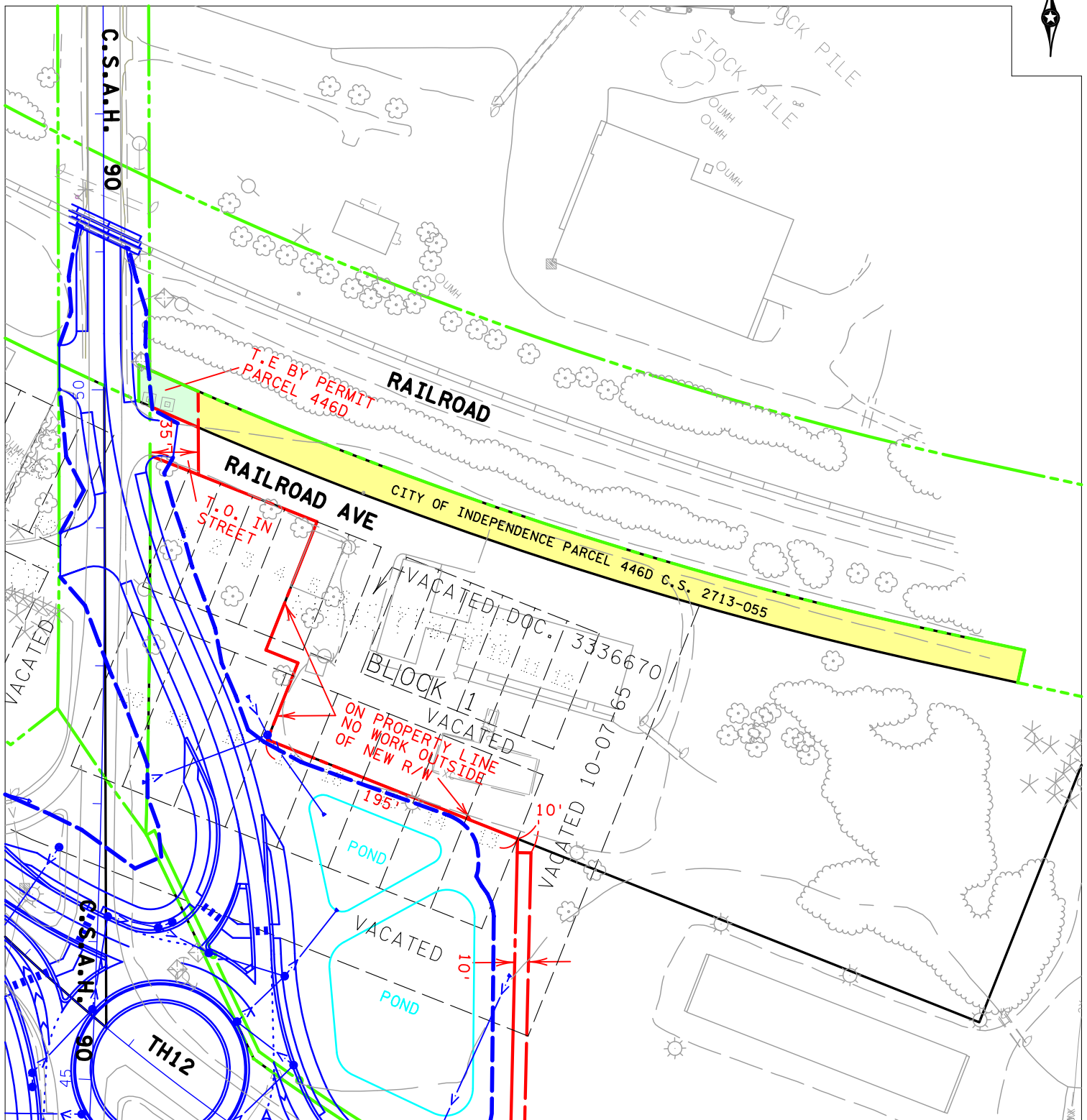
 Parent Tract

 Temporary Easement

T.E BY PERMIT PARCEL 446D = 1130 SF

T.E. EXPIRES 12/01/2022

-  Existing Access Control
-  Inplace R/W Line
-  New Access Control
-  New R/W Line
-  Temporary Easement
-  Proposed Construction

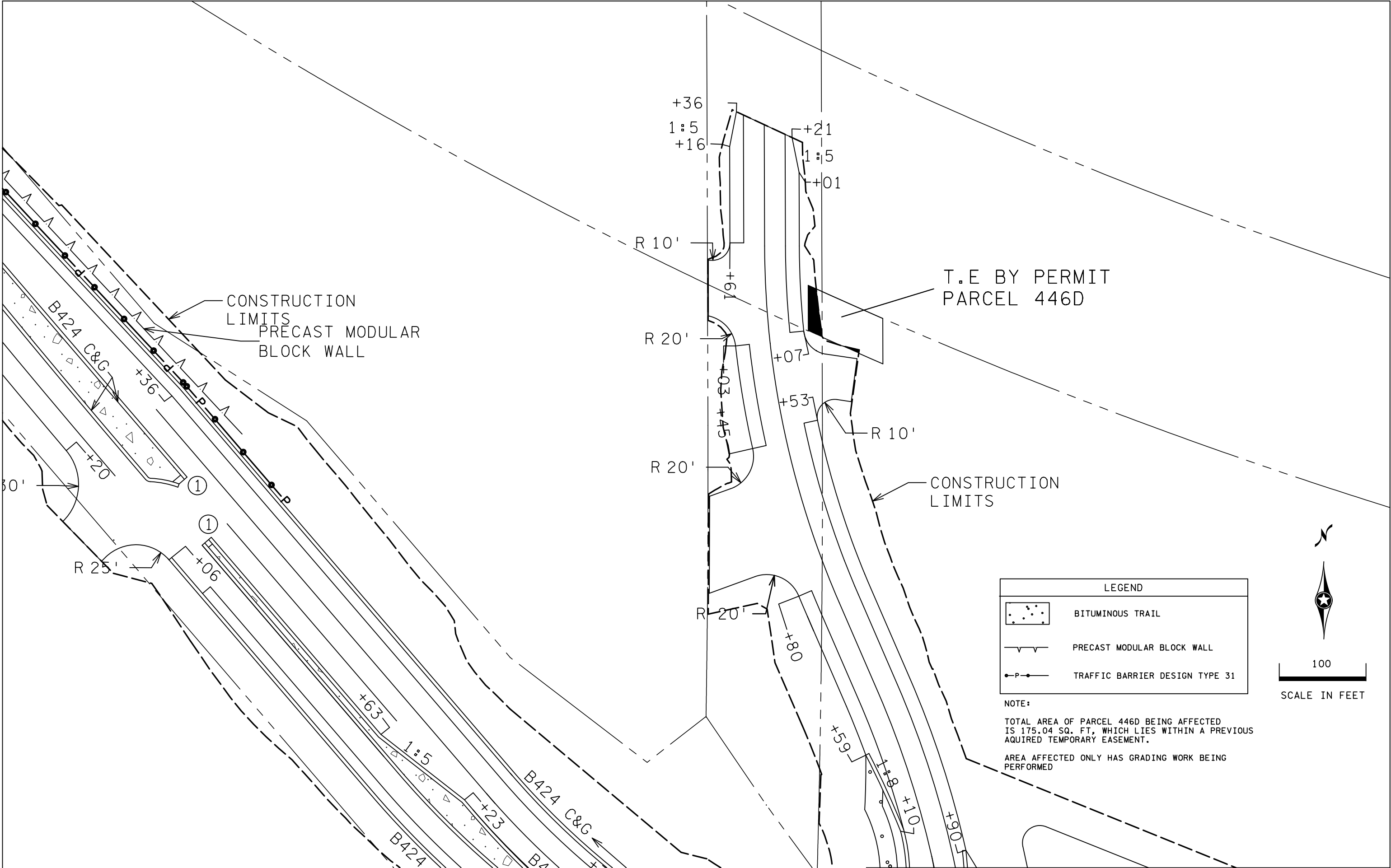


LAYOUT SKETCH BY: KAH

DATE: 8/28/2019

PLOTTED/REVISED: 1-APR-2020

DISTRICT *: Metro
I/PLOT NAME: CONSTRUCTION
FILENAME: Projects\DM_ROS\012\2713\22\Design\PlanSheets\ZDPVCONSTRUCTION.dgn

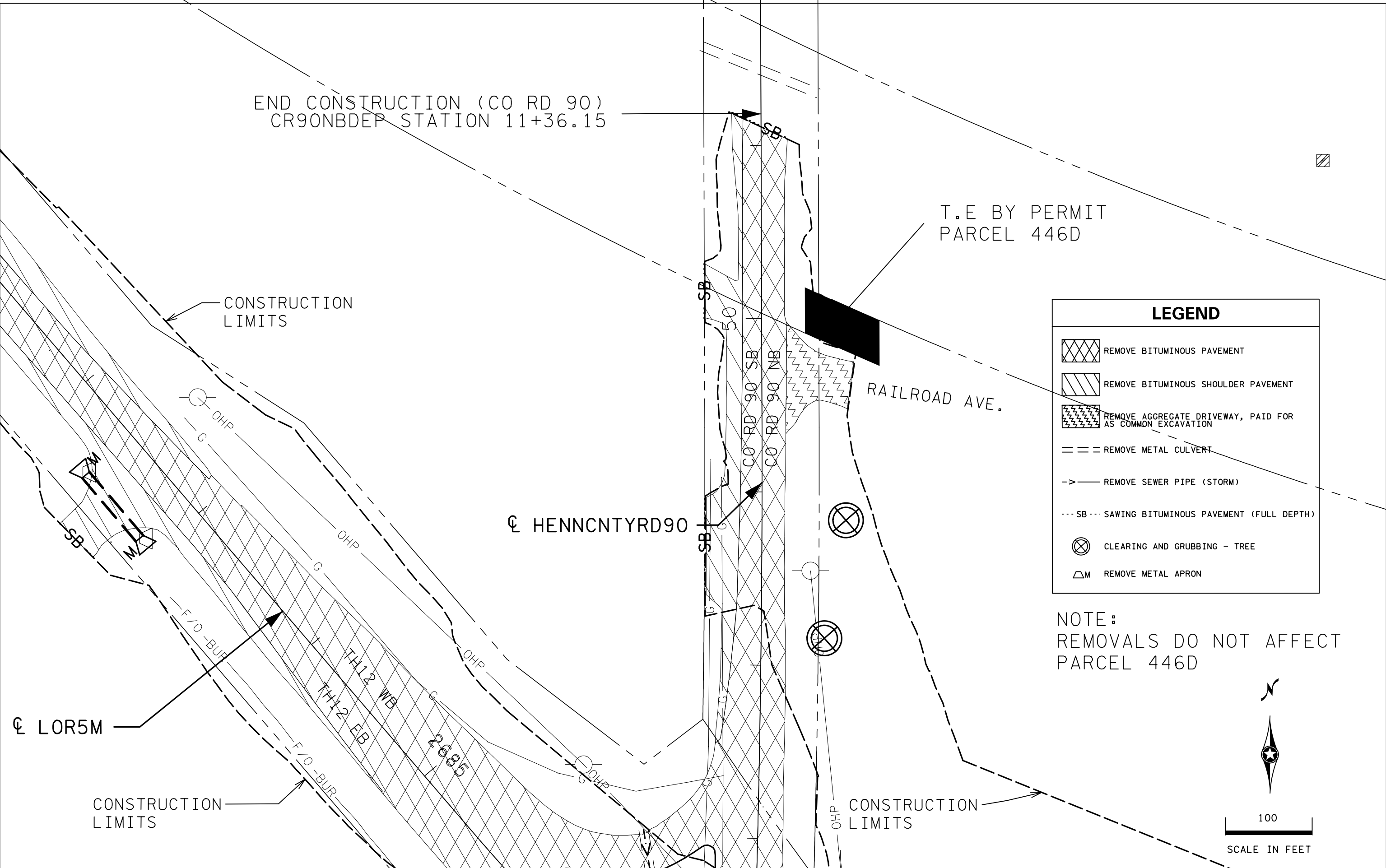


LEGEND	
	BITUMINOUS TRAIL
	PRECAST MODULAR BLOCK WALL
	TRAFFIC BARRIER DESIGN TYPE 31

NOTE:
TOTAL AREA OF PARCEL 446D BEING AFFECTED IS 175.04 SQ. FT, WHICH LIES WITHIN A PREVIOUS ACQUIRED TEMPORARY EASEMENT.
AREA AFFECTED ONLY HAS GRADING WORK BEING PERFORMED

100
SCALE IN FEET

DISTRICT *: Metro
PLOT NAME: REMOVALS
FILENAME: Projects\DM_ROS\012\2713\22\Design\PlanSheets\ZDPVREMOVALS.dgn
PLOTTED/REVISED: 1-APR-2020



DISTRICT #: Metro
PLOT NAME: xs
PATH & FILENAME: Projects\DM_R05\012\2713\122\Design\PlanSheets\ZDP\xs.dgn

PLOTTED/REVISED: 1-APR-2020

EXCAVATION
CU.YD.

EMBANKMENT
CU.YD.

1000
990
980

INP. R/W

CHEANCTY RD 990
50+00.00 R-1

PARCEL
446D

INP. R/W

50

0

50

STA. 50+00.00 - 50+00.00