



PLANNING COMMISSION MEETING AGENDA  
REGULAR MEETING  
TUESDAY FEBRUARY 18, 2020

**7:30 PM Regular Meeting**

1. Call to Order
2. Swearing in of Newly Appointed Planning Commissioners
3. Roll Call
4. Approval of Minutes:
  - a. January 21, 2020 Planning Commission Meeting
  - b. February 4, 2020 City Council Meeting Minutes (For Information Only)
5. **PUBLIC HEARING:** 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. A variance to allow the subdivision of property zoned RR-Rural Residential that does not meet all applicable requirements. The proposed subdivision would create four (4) lots on the subject property.
  - b. Preliminary Plat approval.
6. Open/Misc.
7. Adjourn.

MINUTES OF A MEETING OF THE  
INDEPENDENCE PLANNING COMMISSION  
TUESDAY, JANUARY 21, 2020 – 7:30 P.M.

1. CALL TO ORDER

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

2. Swearing in of Newly Appointed Planning Commissioner Palmquist.

3. ROLL CALL

PRESENT: Commissioners Palmquist, Thompson, Volkenant and Gardner  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
ABSENT: Commissioner Dumas  
VISITORS: Steve Eckman, Vincent Velie III, Terri Barreiro, Jim Clifford

4. Approval of Minutes:

- a. November 19, 2019 Planning Commission Meeting
- b. January 7, 2020 City Council Meeting Minutes (For Information Only)

**Motion by Thompson to approve the November 19, 2019 Planning Commission minutes, second by Palmquist. Ayes: Gardner, Thompson, Volkenant and Palmquist. Nays: None. Absent: Dumas. Motion Approved.**

5. **PUBLIC HEARING:** Vincent Velie III (Applicant) requests that the City consider the following action for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):

- a. An interim use permit to replace the existing conditional use permit. The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed.

Kaltsas said the City originally granted a conditional use permit for this property in 1994 allowing a landscaping, irrigation and snowplowing business to be operated from the subject property. The City has perennially worked with the previous owner of the property to achieve compliance with the approved conditional use permit and its conditions. In January of 2019, the City notified the property owner that the CUP was going to be revoked due to non-compliance with the existing conditional use permit conditions. The City revoked a number of CUP's in February of 2019 and this property was unintendedly not included in the revocation resolution. The City discovered the error and sent notice that the CUP was going to be revoked at the City Council Meeting on July 30th, 2019. The buyer of the property attended that meeting and asked for the Council to delay any action on the revocation of the CUP. The delay would allow the buyer of the property to clean up the property and make application to the City for an interim use permit to continue to use the property for a commercial business. The City Council acknowledged that the buyer had already begun to clean up the property and agreed to postpone any action on the CUP with the understanding that the buyer would bring forward an application for an interim use permit (IUP) in the future.

Kaltsas said the property has been sold and the current owner has made an application to the City for an IUP to allow a commercial landscaping, tree removal and snowplowing business to operate from the property. The City has the ability to consider approval of the IUP and also impose any conditions relating to the proposed use that are deemed necessary to mitigate potential impacts on the surrounding properties. The applicant would like to utilize the property in a manner consistent with the previously granted conditional use permit. The City has the ability to revoke the current CUP and approve or not approve a new IUP for the property. One of the considerations discussed by the Council was the idea that an interim use permit would allow the City to establish new conditions relating to the use of the property while providing for a known action that would end the commercial use of the property. Staff will be seeking feedback and direction from the Planning Commission and City Council relating to whether or not the City should issue an interim use for this property.

The City has criteria relating to interim use permits. One of the criteria of an interim use permit is that it needs to meet all standards for granting a conditional use permit. In addition, the following criteria have been established for an interim use permit and conditional use permit:

1. The use is deemed temporary and the use conforms to the development and performance standards of the zoning regulations.
2. The date or event that will terminate the use can be identified with certainty.
3. Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
4. The user agrees to any conditions that the city council deems appropriate for allowing the use.
5. The use meets the standards set forth in subsection 520.11 governing conditional use permits.

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

1. The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.
2. The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
3. Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
4. Sufficient off-street parking and loading space will be provided to serve the proposed use.
5. The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city form pollution hazards.
6. The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.

7. The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
8. The proposed condition use is consistent with the comprehensive plan of the City of Independence.
9. The proposed use will not stimulate growth incompatible with prevailing density standards.

The City will need to determine if the requested interim use permit meets all of the aforementioned conditions and restrictions. There are several key considerations relating to the proposed interim use permit that should be noted and further considered by the City.

1. The property has been substantially “cleaned up” since the new owner took possession of the property. There is still a significant amount of remaining equipment and other similar miscellaneous debris strewn about the property (see attached photographs taken on 11.15.2019).
2. The neighboring property owner to the west of this property has provided written and verbal correspondence to the City relating concerns about the proposed use of the property.
3. Should the City consider granting an IUP for the proposed use of the property, it is recommended that the following conditions be considered:

- a. An interim use permit (IUP) will be granted for the property and allow a Landscape, Tree and Snow Removal business to be operated on the subject property.
- b. The IUP shall remain effective for so long as Velie possesses and resides at the 3315 County Road 92 N. property and owns and operates the approved business.
- c. No more than five (5) employees, in addition to Velie, may originate, regularly visit and or park at the subject property. Each of the foregoing employees shall be allowed to park their personal vehicles on the Property while present at the property. Velie agrees to screen said vehicles from view from the public roadway.
- d. The applicant is proposing to construct a new approximately 4,800 SF detached accessory structure on the property. The new detached accessory structure would be used for the business. The existing detached accessory structures would not be used for any business purposes or storage. No outdoor storage of any equipment, materials or similar products will be permitted on the property. One commercial vehicle used by Velie on a daily basis shall be permitted to be parked outside on the property along with two landscape trailers. No equipment or materials shall be stored on the trailers when parked outside. The trailers shall be screened from public view. Velie shall provide the City with a description and registration number of the vehicle and trailers permitted to be stored outside on the property.
- f. The existing evergreen and deciduous plant screen located along the property perimeters shall be maintained in perpetuity. No removal of the existing trees shall be permitted with the exception of dead or diseased trees. In the event a tree is removed due to death or disease, a replacement tree (which provides a similar screening effect and meets the minimum tree planting size of the City at the time of planting) shall be installed by Velie.

g. No business signs shall be permitted on the premise.

h. Hours of operation shall be limited to Monday through Saturday between 7:00 am to 8:00 pm. No expansion of the existing buildings or construction of new accessory structures shall be permitted on the property without the approval of the City Council by an amendment to the IUP.

j. No materials generated off of the subject property shall be brought back to the property at any time or for any time period. This includes, but is not limited to trees, brush, leaves, organic materials and similar.

The City will need to determine if the requested interim use permit meets all of the aforementioned conditions and restrictions. Staff is seeking a recommendation from the Planning Commission for the request for an interim use permit. Should the Planning Commission recommend approval of the interim use permit, the following findings and conditions should be considered:

1. The proposed interim use permit request meets all applicable conditions and restrictions stated in Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
2. The IUP shall be subject to the following conditions:
  - a. The interim use permit (IUP) will allow a landscape, tree and snow removal business to be operated on the subject property.
  - b. The IUP shall remain effective for so long as Velie possesses and resides at the 3315 County Road 92 N. property and owns and operates the approved business.
  - c. No more than five (5) employees, in addition to Velie, may originate, regularly visit and or park at the subject property. Each of the foregoing employees shall be allowed to park their personal vehicles on the Property while present at the property. Velie agrees to screen said vehicles from view from the public roadway.
  - d. The applicant is proposing to construct a new, approximately 4,800 SF, detached accessory structure on the property. The new detached accessory structure would be used for the business. The existing detached accessory structures shall not be used for any business purposes or storage. The proposed building shall be generally constructed on the site in the location shown in this report. Prior to City Council consideration of the requested IUP, the applicant shall provide the City with a site and grading plan which will be incorporated by attachment to the resolution. Interim use permit approval will be subject to the applicant completing construction of the proposed detached accessory structure within 12 months from the date of City Council approval. Failure to complete the construction within this timeframe will result in nullification of the IUP.
  - e. No outdoor storage of any equipment, materials or similar products will be permitted on the property. One commercial vehicle used by Velie on a daily basis shall be permitted to be parked outside on the property along with two landscape trailers. No equipment or materials shall be stored on the trailers when parked outside. The trailers shall be screened from public view. Velie shall provide the City with a description and registration number of the vehicle and trailers permitted to be stored outside on the property.
  - f. The existing evergreen and deciduous plant screen located along the property perimeters shall be maintained in perpetuity. No removal of the existing trees shall be permitted with the exception of dead or diseased trees. In the event a tree is removed due to death or

disease, a replacement tree (which provides a similar screening effect and meets the minimum tree planting size of the City at the time of planting) shall be installed by Velie.  
g. No business signs shall be permitted on the premise.

h. Hours of operation shall be limited to Monday through Saturday between 7:00 am to 8:00 pm.

i. No expansion of the existing buildings or construction of new accessory structures shall be permitted on the property without the approval of the City Council by an amendment to the IUP.

j. No materials generated off of the subject property shall be brought back to the property at any time or for any time period. This includes, but is not limited to trees, brush, leaves, organic materials and similar.

k. The business operation shall not be conducted in a manner that, in the determination of the City Council, unreasonable interferes with the neighboring property owners' peaceful use and enjoyment of their property.

3. The applicant shall pay for all costs associated with the City's review and processing of the requested interim use permit.

Thompson asked if the property was non-compliant as it is today. Kaltsas said it is not compliant. Council suggested moving forward with an IUP instead of a CUP. Kaltsas noted the CUP has to be revoked in order to move forward with an IUP. Volkenant asked if the property owner was indeed living on the property. Kaltsas said he was living on site and he noted that he is taking the necessary steps to make it compliant with the CUP. Volkenant said it sounded like the property was forgotten in the process and she felt it was not fair to the current owner to suffer. Thompson asked if this would be denied based on current ordinance and Kaltsas said it likely would be.

### **Public Hearing Open**

Velie stated he was born and raised in Independence and wants to raise a family here. He wants to contribute be a positive asset to the City. Velie said an IUP limits him if he would want to sell the property. He would be grateful for an IUP but feels he is not being treated fairly.

Gardner asked what Velie planned on doing with the old buildings on the property including the existing barn. Velie said he wants to put a steel roof and new foundation on the barn. He noted he has completely redone the existing home and cleaned up the entire property. Velie plans on having goats and llamas. Velie said he could park his trucks elsewhere if needed.

Jim Clifford who lives west of the property said Velie has vastly improved the property and has been working very hard on it. Kaltsas noted the business would only be in the new barn.

Steve Eckman who lives across from Velie said the history of this property had been a terrible mess with the previous owner. He said he is concerned in that he does not want to see an industrial area spring up by initiating this IUP. Eckman said this is nothing personal and he welcomes Velie to the community, but he would encourage Velie to search out an industrial area to run his business. Eckman said the original CUP should never have been approved in the first place.

Clifford asked if a certificate of occupancy had been granted. Velie said he is living there and has temporary occupancy in place. Clifford said the trees that are supposed to screen his property have not been put in place yet. Clifford said he wants the City to enforce the IUP. He said Velie is doing a great job.

**Motion by Thompson, second by Palmquist to close the Public Hearing.**

**Public Hearing Closed**

Palmquist asked if there was a concern about equipment and other debris on the property. He wondered if that was no longer an issue. Kaltsas stated there would be an inspection. Volkenant asked if this property was inspected as all CUP's must be. Kaltsas said the owner would never respond to notifications so it was not inspected. Velie noted the house would be compliant within the year as well.

Gardner asked about the plant screening. Kaltsas said there were trees in place previously but Leo Poole (previous owner) took them down. Palmquist said he would punt that issue to Kaltsas. Thompson said they could come up with something between the applicant and the neighbor and then give it to the City Council for a recommendation.

**Motion by Palmquist to approve an interim use permit to replace the existing conditional use permit for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004). The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed. Staff will work on a screening agreement with neighbors and that will be presented to City Council for approval. Debris will be removed within a deadline that coincides with the certificate of occupancy; second by Gardner. Ayes: Gardner and Palmquist. Nays: Thompson and Volkenant. Absent: Dumas. Abstain. None. Motion failed due to lack of majority vote.**

6. **PUBLIC HEARING:** Theresa Marple (Applicant/Owner) requests that the City consider the following action for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003):

- a. A variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel.

Kaltsas stated the applicant is seeking to subdivide the subject property into two parcels and ultimately sell both parcels. In 2009, the subject property was combined into one property from two existing properties. The property historically was comprised of a 5-acre parcel located along CSAH 11 and the remaining 75-acre parcel. There was an existing home located on each parcel. The City granted approval of a minor subdivision and conditional use permit to allow the existing home on the smaller 5-acre parcel to be converted to a guest house for the use of the property owners.

The applicant recently met with the City to discuss the subdivision of this property. It was noted that the City would allow a minor subdivision of the property which would permit a new parcel to be created with a minimum lot size of 2.5 acres and maximum lot size of 10 acres. The City and the applicant looked at various configurations that would allow for a 10-acre parcel to be split off from the property and incorporate various configurations that would allow for a 10-acre parcel to be split off from the property and incorporate the existing second house and detached accessory structures. The applicant ultimately determined that than carving out a smaller 10-acre parcel. The City does not allow the subdivision of property zoned Agriculture with the exception of lot line rearrangements and rural view lot splits. The City would have to consider granting a variance from the accommodate requisite side yard building setbacks for the existing detached accessory structures.

The City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not create a situation that is not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property.

The standards for granting a variance are as follows:

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;
- (c) the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08) 520.23.

Conditions and restrictions. The board of adjustments may recommend, and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

Consideration of the standards for granting a variance:

- a. The applicants are proposing to split the property so that there is an existing residence on both properties. The use of the property as residential is consistent with the AG Agriculture Zoning District.
- b. The properties created by the subdivision are similar in nature and character to the surrounding properties. There are many existing properties located along County Road 11 that are similar in size and configuration.
- c. The character of the surrounding area is mixed residential/agricultural and guided for long term agriculture. The City’s current comprehensive plan guides this area for long term agriculture. The City will need to determine if the proposed subdivision is in keeping with the intent of the City’s comprehensive plan.
- d. The requested variance to allow the subdivision of the property must be found to be unique to this property. The property was historically split into two parcels. The presence of two principle structures on the property is generally unique to just a handful of properties in the City. The significant number and size of detached accessory structures on this property is also, unique.



The City should note that the property is able to realize a rural view lot subdivision of the property. The rural view lot subdivision would allow a maximum of a 10- acre parcel to be subdivided from the whole. In reviewing the property frontage, lot depth acre parcel to be subdivided from the whole. In reviewing the property frontage, lot depth subdivision appears to be a reasonable request. The conditional use permit for the guest house will be revoked as a part of the subdivision and the properties will both be conforming in the after condition.

The Planning Commission will need to determine if the requested variance to allow the minor subdivision of meets the requirements for granting a variance. The proposed subdivision, if approved, would have the following setbacks and accessory building square footage would all meet requisite standards.

Min. Lot Frontage Required:

300 Lineal Feet

Lot Frontage Proposed:

(Parcel A) - 703 Lineal Feet

(Parcel B) - 607 Lineal Feet

The applicant has provided locations for an alternative septic site on Parcel B. The septic system for Parcel A is relatively new. The City would require a secondary site to be identified. The City has historically asked for additional County right of way easement that has been requested is 17 feet wide.

Staff is recommending that the City require the additional 17 feet of right of way along the south side of County Road 11. The additional right of way the additional 17 feet of right of way along the south side of County Road 11. The additional right of way would be dedicated in the form of an easement. The additional right of way does not appear to impact the proposed subdivision. The creation of a new parcel typically requires the payment of a park dedication fee to the City. In this case, the property was historically subdivided prior to the combination of the properties in 2009. If applied, the park dedication fee would be based on the creation of a new 39-acre parcel. The park dedication fee for this subdivision would be approximately \$29,255.

Staff is seeking from the Planning Commission relating to the requirement for park dedication for this property. The City has not received any written comments regarding the proposed subdivision or conditional use permit.

Staff is seeking a recommendation from the Planning Commission for a variance to allow a minor subdivision and with the following findings:

1. The proposed variance and minor subdivision 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 provide, execute and record the requisite drainage and utility easement.
3. The Applicant shall dedicate 17 feet of right of way to the City along County Road 11. The Applicant shall prepare the requisite easement exhibit and legal description and execute and record the document with the county within six (6) months of approval.
4. The City will revoke the existing conditional use permit for a guest house on the property.
5. The Applicant shall pay for all costs associated with the City's review of the requested variance and subdivision
6. The Applicant shall record the subdivision and City Council Resolution with the county within six (6) months of approval.

Thompson asked if rural view lots follow the same lot line preference. Kaltsas said they are trying to abide by the 39.35-acre requirement, and it is very subtle skew of the lot line. He noted they are trying to keep the building setbacks compliant. Thompson asked if the rural view lot followed by lot line address the park dedication fee. Kaltsas said a lot of the rural view lots are charged this way. Kaltsas said everything is compliant with the exception that we are not able to create two 40-acre lots. Thompson said he would use the 10-acre rural view lot for the park dedication fee. Marple said they bought it as 80 acres but did not know when the 5 acres came out. Kaltsas noted this is unique with the two houses on one lot so it propels us to make two separate lots. Gardner said there could be an easement to run a driveway. Kaltsas said it could cause an issue as it would be a flag lot with no frontage.

### **Public Hearing Open**

Theresa Marple said they built the house in 1986 and had an approach to the driveway and also an approach in the middle to the lots.

**Motion by Palmquist, second by Thompson to close the Public Hearing.**

### **Public Hearing Closed**

Thompson said there is enough uniqueness with this lot to support a variance and he felt comfortable with it. He said he would amend recommendation to have the park dedication fee based off 10 acres. Palmquist said he did not see the need for the park dedication but would go with Thompson's recommendation. Gardner thought the park dedication fee needed further legal interpretation as this was not a new homestead. He wondered if it was appropriate in this instance. Kaltsas said it could be recommended to go with no fee.

**Motion by Palmquist to approve a variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003). The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel. Parcel A would be the primary and secondary septic site. It is also recommended to not charge a park dedication fee; second by Thompson. Ayes: Gardner, Palmquist, Thompson and Volkenant. Nays: None. Absent: Dumas. Abstain. None. Motion Approved.**

7. Open/Misc.

8. Adjourn.

**Motion by Thompson, second by Volkenant to adjourn at 9:20 p.m.**

Respectfully Submitted,

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Trish Gronstal/ Recording Secretary

MINUTES OF A REGULAR MEETING OF THE  
INDEPENDENCE CITY COUNCIL  
TUESDAY, FEBRUARY 4, 2020 –6:30 P.M.

1. CALL TO ORDER.

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

2. Pledge of Allegiance

3. ROLL CALL

PRESENT: Mayor Johnson, Councilors Betts, Grotting and Spencer  
ABSENT: Councilor McCoy, City Attorney Vose  
STAFF: City Administrator Kaltsas, Assistant to Administrator Horner  
VISITORS: Anita Volkenant, Bob Volkenant

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 January 21, 2020 Regular City Council Meeting.
- b. Approval of Accounts Payable; Checks Numbered 19404-19444.
- c. Approval of Election Judge Appointment for the 2020 Presidential Nominating Primary Election.
- d. Approval of annual liquor license renewals for the following establishments:
  - i. Ox Yoke Inn - Off Sale, On Sale and Sunday License
  - ii. Windsong Farm Golf Club LLC - Off Sale, On Sale and Sunday License
  - iii. Pioneer Creek Golf LLC - On Sale and Sunday License

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

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

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

**Spencer attended the following meetings:**

- Planning Commission Meeting

**Grotting attended the following meetings:**

- Mediacom call regarding expansion

**McCoy attended the following meetings:**

**Betts attended the following meetings:**

- Sensible Land Use Committee Conference

- Elected Officials Conference in Plymouth
- Police Commission Meeting
- West Hennepin Chamber of Commerce Meeting
- Maple Plain Fire Commission Meeting
- West Hennepin Chamber of Commerce Board Meeting for the Mayor

**Johnson attended the following meetings:**

- Planning Commission Meeting
- Mayors Breakfast with Congressman Phillips
- Sensible Land Use Committee Conference
- Senator Osmek Official Committee Hearing on Energy
- Senior Community Services Meeting
- Elected Officials Conference in Plymouth
- Orono School Board Meeting
- Police Commission Meeting
- Highway 55 Coalition Corridor Meeting
- West Hennepin Chamber of Commerce Meeting
- National League of Cities Energy Committee Meeting
- Maple Plain Fire Commission Meeting
- Highway 12 Corridor Coalition Meeting
- Received a letter from the Commissioner of Transportation Margaret Kelliher dedicating an additional 2M to fill the funding gap on the round-about (option 3A)

**Horner attended the following meetings:**

- Planning Commission Meeting
- West Hennepin Chamber of Commerce Board Meeting
- Met with BKV Architects on building renovation

**Kaltsas attended the following meetings:**

7. **(REQUESTED TO BE CONTINUED TO FEBRUARY 18, 2020)** Vincent Velie III (Applicant) requests that the City consider the following action for the property located at 3315 County Road 92 N, Independence, MN (PID No. 09-118-24-34-0004):
  - a. To consider granting an interim use permit to replace the existing conditional use permit. The new interim use permit would allow a landscape business to operate from the subject property. The interim use permit would add new conditions to the property and the existing conditional use permit would be removed.
8. **(REQUESTED TO BE CONTINUED TO FEBRUARY 18, 2020)** Theresa Marple (Applicant/Owner) requests that the City consider the following action for the property located at 7825 County Road 11, Independence, MN (PID No. 09-118-24-22-0003):

- a. To consider granting a variance to allow a minor subdivision of property zoned AG-Agriculture that does not meet all applicable requirements. The subdivision proposed would create two approximately 40-acre parcels from the existing 80-acre parcel.
9. Consideration of a Reimbursement Resolution relating to the proposed City Hall and the street reconstruction project.
- a. **RESOLUTION 20-0204-01** – Declaring the official intent of the City to reimburse certain expenditures from the proceeds of bonds to be issued by the City.

Kaltsas said the City is in the process of preparing plans and specifications for the 2020 Bituminous Street Overlay Project and possibly a City Hall improvement project. If the City determines it necessary and appropriate to issue bonds for the projects, certain costs associated with the development and preparation of plans and the projects in general could be reimbursed with proceeds from bonds. This enabling resolution does not obligate the City to issue bonds and or move forward with either of the potential projects. The majority of the potential costs to be reimbursement include professional services fees such as engineering and architecture which are required to prepare plans and specifications. The resolution allowing the City to reimburse certain costs was prepared by the City's legal counsel.

Johnson asked about Nelson Road and Kaltsas said he would check on that to see if it was already tiled. Johnson said it was important to check as it was not on this list.

**Motion by Spencer, second by Betts to approve RESOLUTION 20-0204-01 – Declaring the official intent of the City to reimburse certain expenditures from the proceeds of bonds to be issued by the City. Ayes: Johnson, Betts, Spencer and Grotting. Nays: None. Absent: McCoy. Abstain. None. MOTION DECLARED CARRIED.**

10. Open/ Misc.

11. Adjourn.

**Motion by Spencer, second by McCoy to adjourn at 6:54 p.m. Ayes: Johnson, Betts, Spencer and McCoy. Nays: None. Absent: Grotting. Abstain. None. MOTION DECLARED CARRIED.**

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Respectfully Submitted,  
Trish Gronstal/ Recording Secretary

## City of Independence

### ***Request for a Variance and Preliminary Plat to Permit the Subdivision of the Property Located at 4595 Shady Beach Circle***

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*To:* Planning Commission  
*From:* Mark Kaltsas, City Planner  
*Meeting Date:* February 18, 2020  
*Applicant/Owner:* Daryl Jorgenson/Mary Jorgenson  
*Location:* 4595 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 variance to allow the subdivision of property zoned RR-Rural Residential that does not meet all applicable requirements. The proposed subdivision would create four (4) lots on the subject property.
- b. Preliminary Plat approval.

#### ***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 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: 4595 Shady Beach Circle**

*Zoning: Rural Residential (Shoreland Overlay)*

*Comprehensive Plan: Rural Residential*

*Acreage: (BEFORE) 4.26 acres*

*Acreage: (AFTER)*

Lot 1, Block 1	– 0.36 acres
Lot 1, Block 2	– 1.0 acres
Lot 2, Block 2	– 1.4 acres
Lot 3, Block 2	– 1.5 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, there were several cabins located on the southern portion (non-lakefront side) of the property. Within the S-Shoreland Overlay zoning district, the City allows the subdivision of properties connected to City sewer into lots with a minimum lot 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 City has also historically considered granting a variance to allow the subdivision of property that does not meet all applicable criteria if the property is separated by an existing road right of way. In this case, the existing home located on Lake Sarah is separated from the remaining property by the right of way of Shady Beach Circle.

The proposed subdivision would create three new undeveloped lots and one lot with the existing home on Lake Sarah. The existing home and lot in the after condition would not meet all applicable criteria of the City's zoning ordinance for Shoreland lots. The existing home is connected to City sewer. The proposed lots would have the following detail:

<u>Block 1</u>	<u>Area</u>	<u>Frontage</u>	<u>Lot Frontage to Lot Depth</u>
Lot 1	0.36 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
Lot 3	1.5 acres	1135 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 subdivision and offers the following comments and notes for further consideration:

1. The application is for a variance and preliminary plat to allow the subdivision of property that does not meet all applicable criteria. The issue requiring the variance is the existing homesite in the after condition. The existing homesite will be less than 1 acre in overall size in the after condition. It should be noted that the existing homesite does not meet requisite setbacks and is currently considered legal non-conforming. The City will require an impervious surface calculation for the existing house to verify compliance with the 25% maximum impervious surface requirement.
2. The applicant is proposing to connect Lots 1-3, Block 2 to the existing sewer line running along Shady Beach Circle. In order to make the connections, it will be necessary to cut into the existing bituminous street. The proposed lots would be subject to all applicable sewer fees and Lots 1 -3, Block 2 will also be subject to the initial sewer assessment of \$9,550 per lot. Lot 1, Block 1 is currently connected to City sewer and was assessed for the sewer connection.



3. The proposed homes on Lots 2 and 3, Block 2 would be slab on grade homes with no basement. This is a result of the high-water table, existing grades and adjacent pond elevation. The City is requesting additional information relating to the separation between the 100-year high water elevation and the top of foundation for the proposed home sites. It appears from the initial review that the proposed home sites would meet applicable standards for separation. Additional grading to provide for a dedicated overland flow route and associated easements may be required.
4. The City has reviewed the proposed grading and has minor comments pertaining to the proposed driveway culverts, grading and swales. The City will work with the applicant to revise the grading plan prior to City Council approval of the final plat.
5. The existing culvert that runs beneath Shady Beach Circle will need to be inspected.
6. There are several existing accessory structures located on the portion of property that will be split off from the existing home site. These structures will not be permitted to remain in the after condition and will need to be removed.
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 1-3, Block 2 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 City has standards for granting a variance which need to be considered prior to making a recommendation relating to the application. The standards established by the City require the applicant to demonstrate that the requested variance does not cause a condition not in keeping with the character of the surrounding area. In addition, the applicant must demonstrate that the requested variance is unique to the subject property. The standards for granting a variance are as follows:

*520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)*

*Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in*

*complying with the zoning code. For such purposes, “practical difficulties” means:*

*(a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;*

*(b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;*

*(c) the variance, if granted, will not alter the essential character of the locality.*

*Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)*

*Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)*

*520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)*

Consideration of the standards for granting a variance:

- a. The applicants are proposing to use the property for residential which is consistent with the RR-Rural Residential Zoning District.
- b. The properties created by the subdivision are similar in nature and character to the surrounding properties and in most cases larger than surrounding properties.
- c. The requested variance to allow the subdivision of the property must be found to be unique to this property. The City has historically found that properties separated by a public right of way are limited in number and unique to the City. In this instance the existing homesite has historically functioned as an individual lot. In the after condition, the existing home site would be similar in size and character to the properties adjacent to and located on Lake Sarah.

The City will need to determine if the requested variance to allow the subdivision of the property meets the requirements for granting a variance. The proposed subdivision, if approved, would create three (3) properties that meet all applicable criteria of the City’s zoning ordinance. The existing home site does not meet applicable criteria and would continue to be a legal non-conforming property.

***Planning Commission Recommendation:***

Staff is seeking a recommendation from the Planning Commission for the requested variance and preliminary plat with the following findings and conditions:

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

**Attachments:**

- Application
- Survey
- Utility Plan
- Grading Plan
- Preliminary Plat



\$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 96<sup>th</sup> 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.

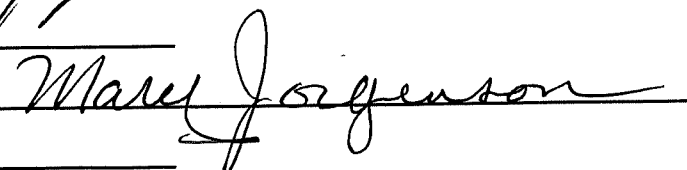
### ***Application for Planning Consideration Fee Statement***

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:** 

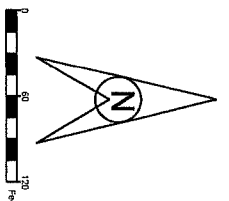
**Date:** 1-3-2020

**Owner Signature (if different):** 

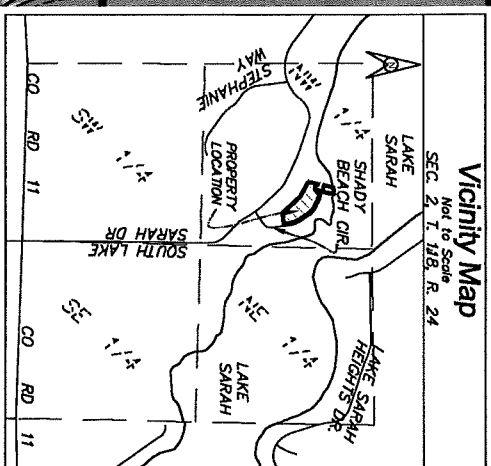
**Date:** 1-3-20



# Concept Plan



PID: 021824210029  
 TOTAL ACRES = 3.82  
 PROPERTY ADDRESS:  
 4304 SHADY BEACH CIR  
 INDEPENDENCE, MINNESOTA



Property Description:  
 Lot 1, Block 2, SHADY BEACH SECOND  
 ADDITION, Hennepin County, Minnesota,  
 according to the recorded plat thereof, and  
 to the plat of the same, as the same is shown  
 and recorded in the office of the Register,  
 Hennepin County, Minnesota according to the  
 files of the Register.

**Mary Jorgenson**

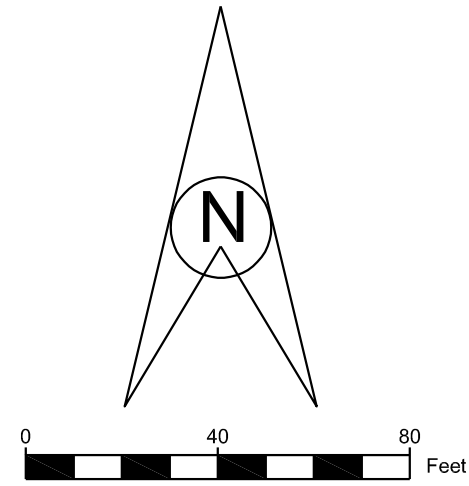
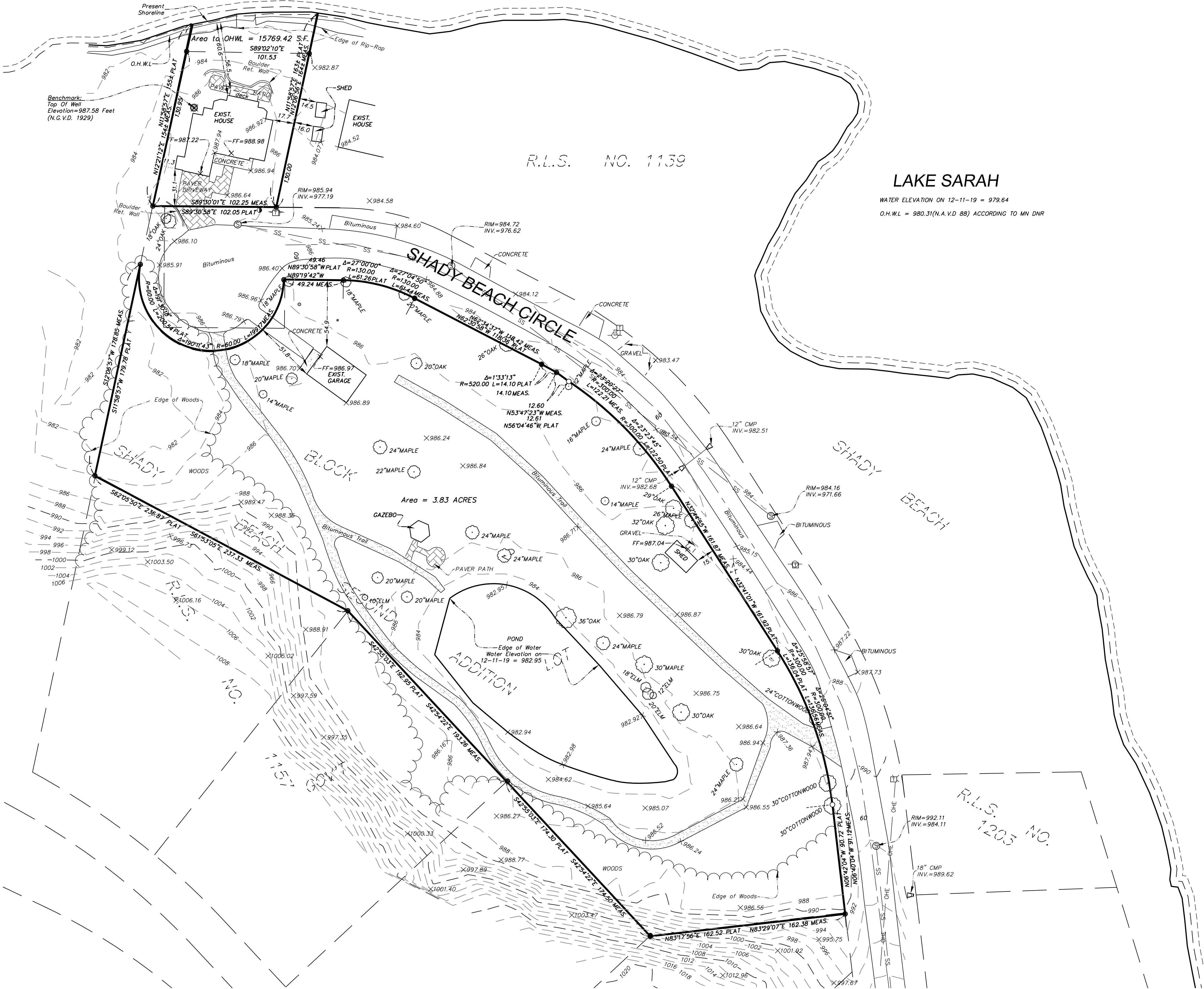
Requested By:  
 Date: 11-07-19  
 Drawn By: E.M.S.  
 Scale: 1"=60'  
 Checked By: P.E.O.

**OTTO**  
 SSOCIATES  
 Engineers & Land Surveyors, Inc.  
 www.ottoassociates.com  
 9 West Division Street  
 Buffalo, MN 55313  
 (763) 982-4127  
 Fax: (763) 982-3522

● denotes iron monument found  
 ○ denotes 1/2 inch by 1/4 inch iron pipe  
 set and marked by License #40062  
 Project No. 19-0494

Concept Plan on Lot 1, Block 2,  
 SHADY BEACH SECOND ADDITION  
 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: 11-07-2019

Certificate of Survey and Topographic Survey



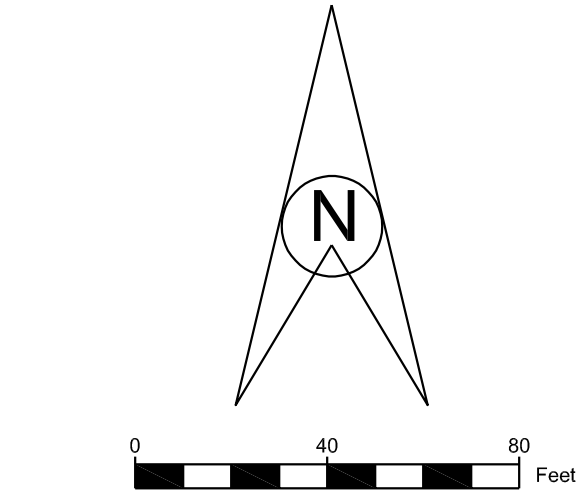
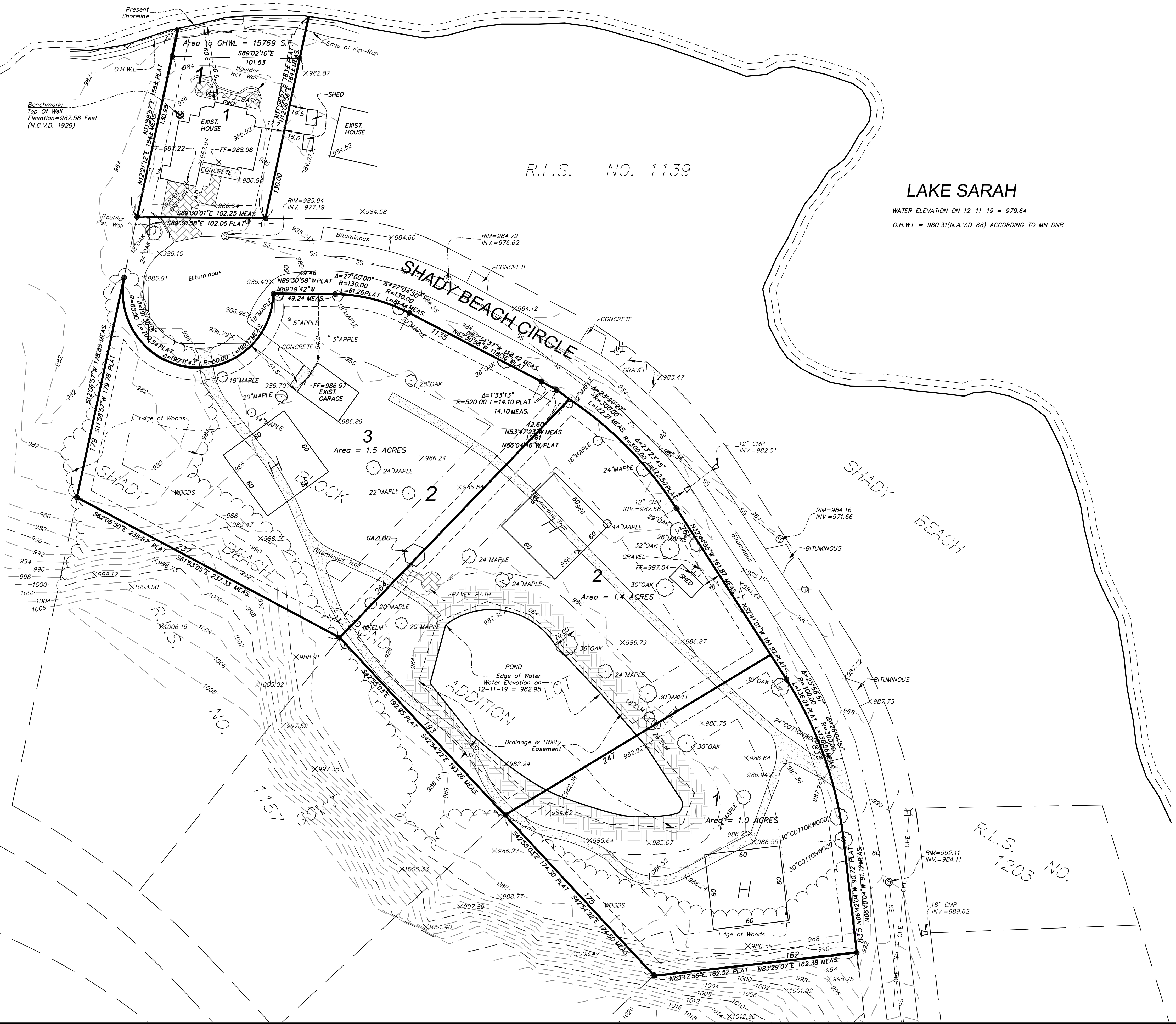
- LEGEND**
- 988 — denotes Existing Contour
  - 988.00 X denotes Existing Spot Elevation
  - FF=989.36 denotes Finished Floor Elevation
  - ⊕ denotes Well
  - ⊕ denotes Telephone Pedestal
  - ⊕ denotes Guy Wire
  - ⊕ denotes Power Pole
  - ⊕ denotes Deciduous Tree
  - ⊕ denotes Sanitary Manhole
  - ⊕ denotes Storm Manhole
  - ⊕ denotes Electrical Pedestal
  - SS — denotes Sanitary Sewer Line
  - ST — denotes Storm Sewer Line
  - OHE — denotes Overhead Electric Line
  - denotes Existing Culvert

**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 & Topographic Survey on Lot 1, Block 2, SHADY BEACH SECOND ADDITION	Revised:	Requested By: <b>Mary Jorgenson</b>			Checked By: <b>P.E.O.</b>	
		Date: <b>12-11-19</b>	Drawn By: <b>E.M.S.</b>	Scale: <b>1"=40'</b>	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: 12-31-2019		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. <b>19-0494</b>				

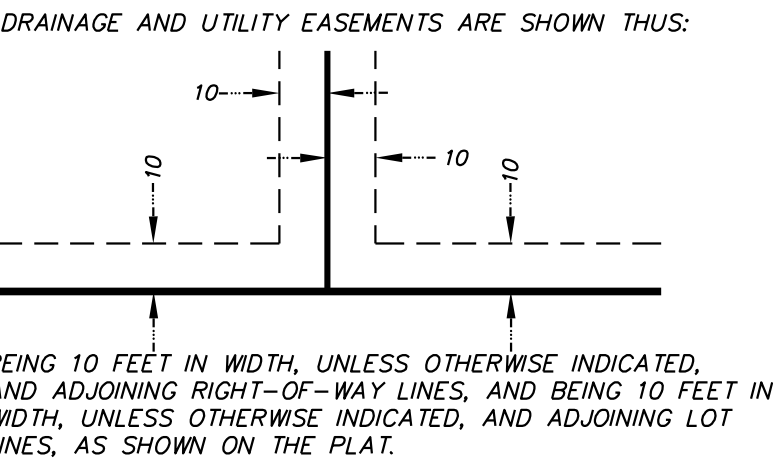


Preliminary Plat of  
MARY JORGENSEN PARK



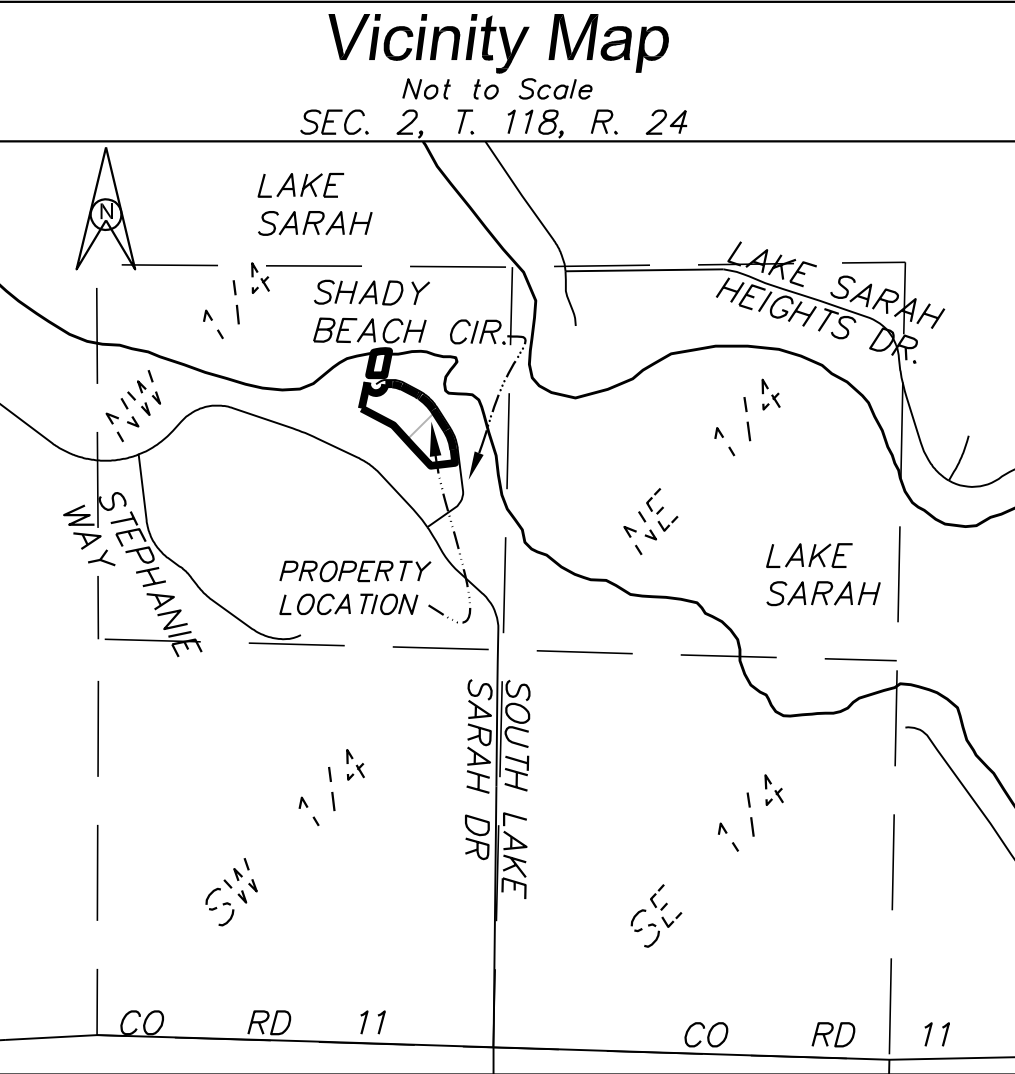
TOTAL ACRES = 3.83

- LEGEND**
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  - ⊙ — 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



**Property Description:**

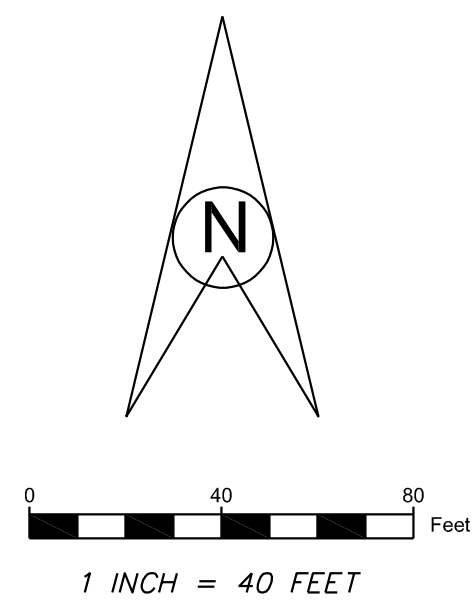
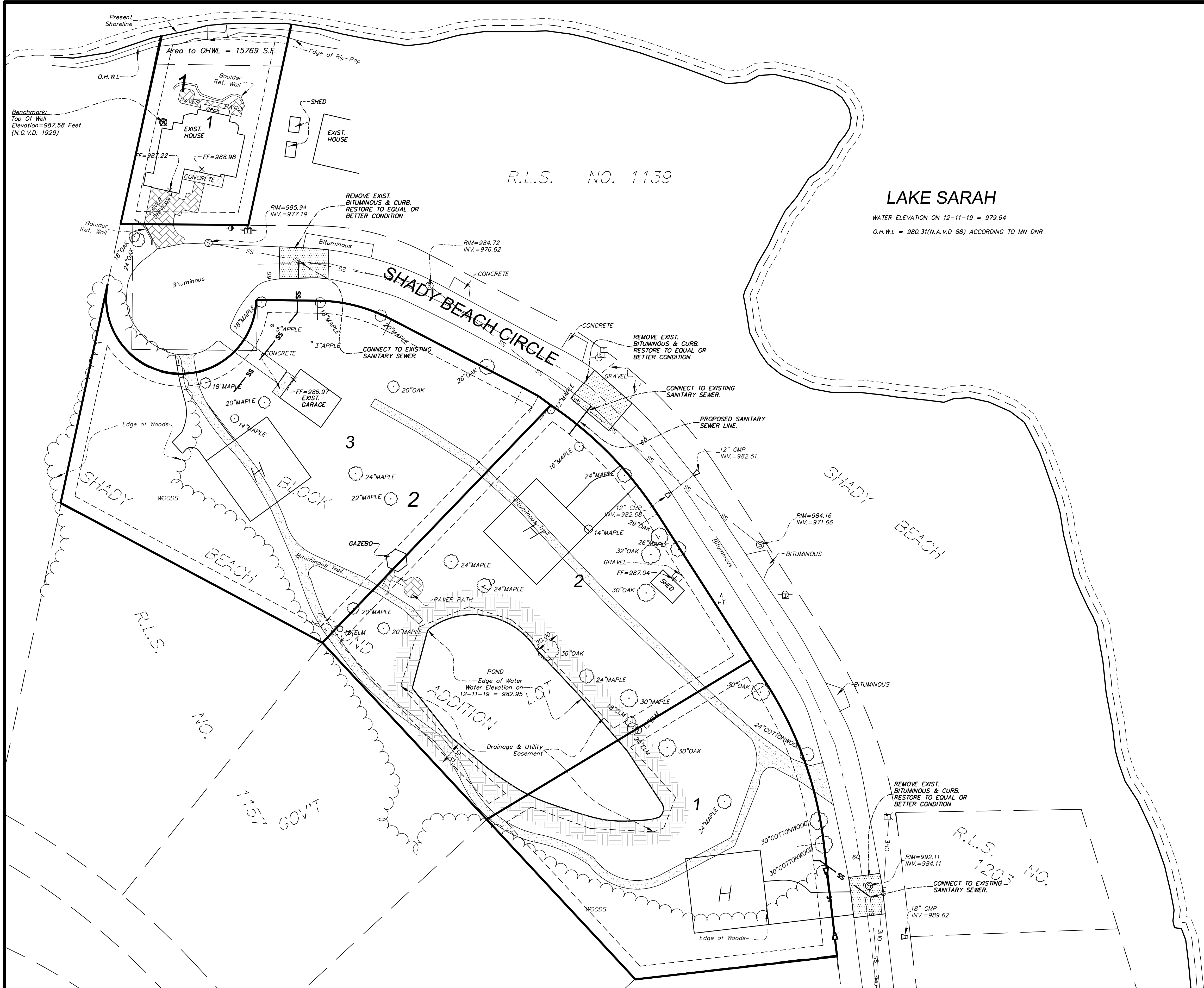
Lot 1, Block 2, SHADY BEACH SECOND ADDITION, Hennepin County, Minnesota, according to the recorded plat thereof and Tract A, Registered Land Survey No 1139, Hennepin County, Minnesota according to the files of the Registrar.



SHEET 1 of 3 SHEETS

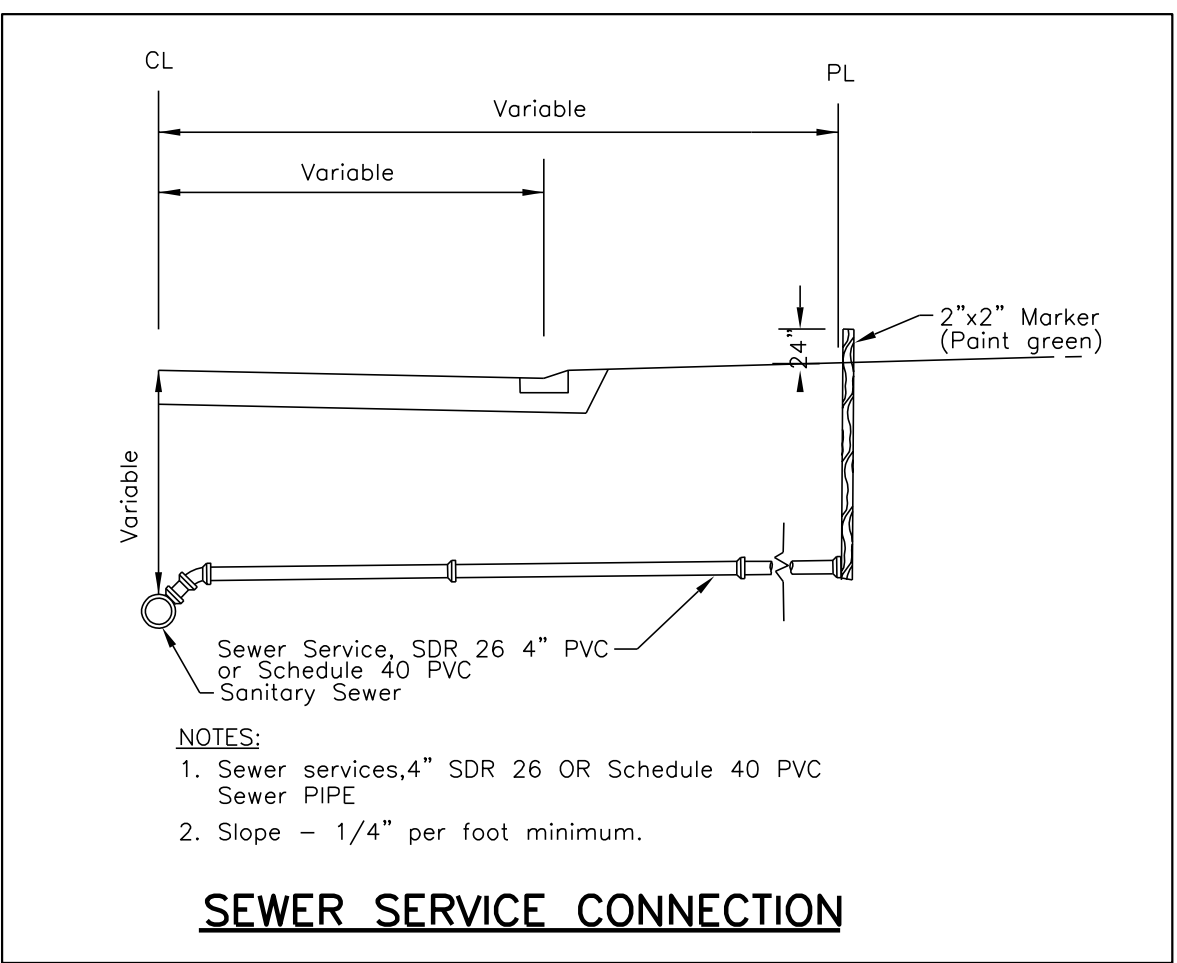
www.ottoassociates.com 9 West Division Street Burlington, MN 55313 (763) 662-4727 Fax: (763) 662-3522		Project No. 19-0494	
Requested By: Mary Jorgenson		Checked By: P.E.O.	Revised:
Date: 01-06-20	Drawn By: E.M.S.	Scale: 1"=40'	
I hereby certify that this survey, plan, or report was prepared by me or 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: 01-07-2020			





- 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

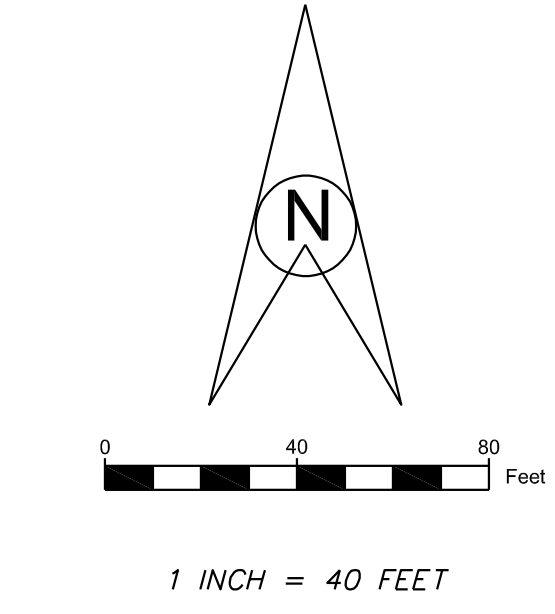
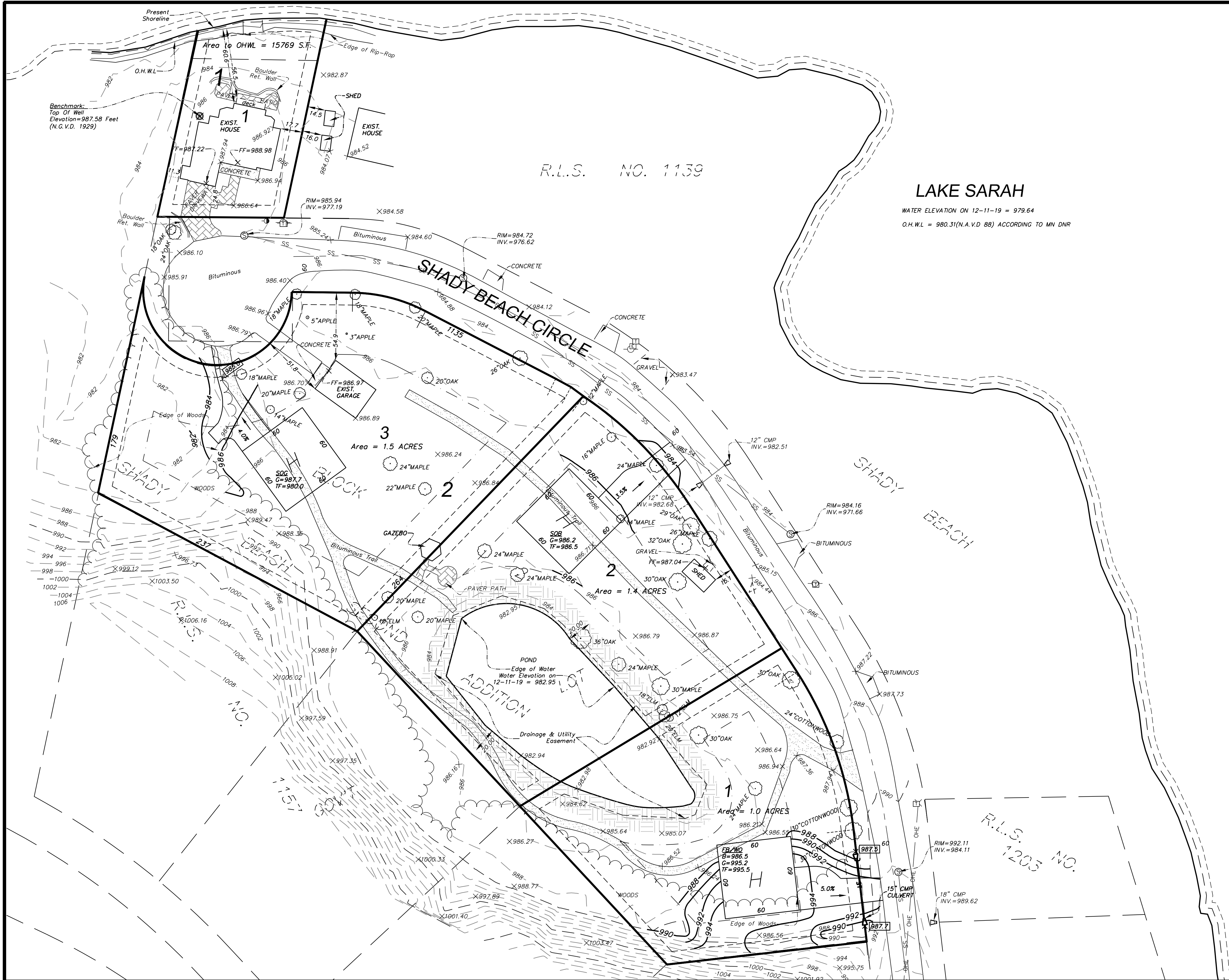
DESIGNED DRAWN  
P.E.O. E.M.S.  
CHECKED  
P.E.O.  
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
*Paul E. Otto*  
Paul E. Otto  
License #40062 Date: 01-07-2020

**OTTO**  
SSOCIATES  
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





- 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	DRAWN	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 Date: 01-07-2020
P.E.O.	E.M.S.	
CHECKED		
P.E.O.		



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

**MARY JORGENSEN PARK**  
MARY JORGENSEN  
INDEPENDENCE, MN

**PRELIMINARY GRADING PLAN**  
**SHEET NO. 2 OF 3 SHEETS**

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