



PLANNING COMMISSION AGENDA

Tuesday, April 15, 2025 – 7:00 pm
Deephaven City Council Chambers

1. APPROVAL OF MINUTES

- a) March 18, 2025

2. PUBLIC HEARINGS

- a) Front Yard Setback Variance, Rear Yard Setback Variance and a Conditional Use Permit to Exceed the Hardcover Limit for a New House at 3610 Northome Avenue

3. DISCUSSION ITEMS

- a) Sign Ordinance

4. LIAISON REPORT

5. ADJOURN

Next Council Meeting – Monday, May 5, 2025

Next Planning Commission Meeting – Tuesday, May 20, 2025



**DEEPHAVEN PLANNING COMMISSION
MEETING MINUTES**

TUESDAY, MARCH 18, 2025

CALL TO ORDER: Chair Mike Petersen called the meeting to order at 7:00 p.m.

PRESENT: Commissioners Kendall Carlson, Patrick Donlin, Jerome D'Alessandro and Chair Mike Petersen

ABSENT: Commissioners Dan Goodrich and Kjell Nafstad

OTHERS PRESENT: Planning Director Pat Smith and City Council Liaison Tom Erdmann

**1. APPROVAL OF MINUTES
Minutes of February 18, 2025**

Motion by Commissioner Carlson, seconded by Commissioner Donlin, to approve the minutes of February 15, 2025, as drafted. Motion carried 4/0.

2. PUBLIC HEARINGS

- a) Front Yard Setback Variance, Side Yard Setback Variances and a Conditional Use Permit to Exceed the Hardcover Limit for a New House at 20230 Cottagewood Road

Smith presented the staff report. The property owners, Molly and Per Lagerback, are requesting variances to encroach 12.6 feet into the front yard setback, 4 feet into the side yard setback and a variance for exterior stairs to encroach into the side yard setback and a Conditional Use Permit to exceed the hardcover limit by 9.5% in conjunction with constructing a new house.

The existing house was built in 1946 and has non-conforming front yard setback and non-conforming side yard setbacks on both sides of the house. The new house would improve the side yard setbacks. The existing house has 807 square feet of building encroaching into the building setbacks. The proposed house has 318 square feet encroaching into the required setbacks.

The applicants are also requesting a Conditional Use Permit to exceed the hardcover limit by 9.5%. The applicant is proposing to mitigate the hardcover over 25% by installing two infiltration trenches in the backyard. Most, if not all, of the stormwater drains into Lake Minnetonka. With the proposed improvements, 60% of the stormwater from the lot will be directed to the two infiltration trenches rather than Lake Minnetonka.



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Jeff Konen from Konen homes addressed the Planning Commission. Three-car garage is in high demand and is reducing the non-conforming footprint by over 500 square feet.

Chair Petersen said the existing house is already the closest house to Cottagewood Road, and the proposed house will be even closer to Cottagewood Road. Jeff Konen said as the home is pushed back toward the lake, the side yard setbacks would become exacerbated. Konen said the house is about 125 feet from the water.

Councilmember Erdmann asked about the matter of necessity versus matter of need. Jeff Konen said what the homeowners asking is minimal.

Councilmember Donlin asked if it will be difficult to get trucks to the rear of the house. Konen said trucks will not be able to get to the back of the house.

Chair Petersen opened the public hearing. No one spoke. Chair Petersen closed the public hearing.

Commissioner Carlson said there's a benefit to reducing stormwater drainage to Lake Minnetonka. Commissioner Donlin said the storage shed is disappointing as the storage shed seems to be pushing the envelope, but the improving the side yard setback is significant.

Commissioner D'Alessandro said the project seems to be a net positive. Seems like the homeowner is working within the confines as best as possible.

Chair Petersen said the homeowners bought the lot knowing the setback requirements. Has challenges exacerbating the front yard setback and would not recommend the front yard setback.

Motion by Chair Petersen seconded by Carlson to recommend the City Council deny the requested variance and Conditional Use permit. Motion carried 4-0.

- b) Conditional Use Permit to Exceed the Hardcover Limit for a Swimming Pool at 20395 Park Place

Smith presented the staff report. Cory Lepper of Vine Hill Partners is requesting a Conditional Use Permit to exceed the hardcover limit by 4.9% in conjunction with constructing an inground swimming pool. The house was constructed in 2023, and the existing hardcover is 22.3%. The



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applicant is proposing to install an inground pool that would increase the hardcover to 29.9%. The pool is proposed to be 22' x 42'.

The applicant is proposing to mitigate the additional hardcover by installing an underground infiltration trench in the rear yard. Currently all stormwater drains off the property. With the proposed improvements, 70% of the stormwater will drain towards the infiltration trench. The City Engineer has reviewed and approved the grading and stormwater management plans.

Commissioner Carlson asked about screening. Smith stated that the applicant will have to submit a landscaping plan with the building permit. Commissioner D'Alessandro asked about the maintenance agreement. Smith stated that a maintenance agreement gets recorded with the property.

Cory Lepper, applicant, addressed the Planning Commission.

Chair Petersen opened the public hearing.

Paul Dubruiel, representing his brother Dan Dubruiel who lives at 20365 Park Place, addressed the Commission. He said the pool is an accessory use. He believes that the intent of the area is large, wooded lots. He mentioned that the developer installed a large driveway, which limits other improvements on the property without exceeding the hardcover limit. He believes the pool will negatively impact the neighborhood.

Chair Petersen said that Deephaven has the most restricted hardcover limit around Lake Minnetonka to protect the lake. A development could exceed the hardcover limit with a Conditional Use Permit if the extra hardcover is mitigated with stormwater mitigation measures.

Mike Derosier, 20425 Park Place, lives next door to the subject lot. He supports the plan. Currently the stormwater drains onto his property. With the proposed plan, this would substantially reduce the stormwater draining onto his property.

Chair Petersen closed the public hearing.

Commissioner D'Alessandro said that the applicant is a Conditional Use Permit and the proposal meets the CUP requirements. Commissioner Carlson said what is being commented on is the loss of trees and the size of homes is a general comment. Commissioner Donlin said the larger issue of the character is a tough issue and legislating the proposed pool is not going to solve the issue.



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Motion by Commissioner Carlson, seconded by Commissioner D'Alessandro, to accept the recommendation and findings of staff and recommend the City Council approve a Conditional Use Permit to exceed the hardcover limit by 4.9% in conjunction with building an inground swimming pool at 20395 Park Place as proposed. Motion carried 4/0.

- c) Conditional Use Permit to Exceed the Hardcover Limit for a New House at 20465 Linwood Road

Smith presented the staff report. Mark Williams of Mark D. Williams Custom Homes is requesting a Conditional Use Permit to exceed the hardcover limit by 13.9% in conjunction with constructing a new home with an inground swimming pool. The previous house was constructed in 1900, according to Hennepin County Property Records, and was razed in 2024. The applicant is proposing to build a new house with a footprint of 2,577 square feet with a pool and decking that constitutes 1,580 square feet of hardcover.

The applicant is proposing to mitigate the additional hardcover by installing a rain garden in the southwest corner of the property. Currently all stormwater drains off the property. With the proposed improvements, 55% of the stormwater will drain towards the raingarden. The City Engineer has reviewed and approved the grading and stormwater management plans.

Chair Petersen opened the public hearing.

Brandon and Cortney Swensen, 20450 Carson Road, addressed the Commission. They have a pool. A pump is used to remove rainwater from the cover of a pool. If the pool is left open, water has to be added as the pool water will evaporate. Primary concern is that the low spot is to the southwest of the property. He is concerned that it will not retain the stormwater. His property is lower than the subject lot.

Chair Petersen said the city's engineer will inspect the rain garden every five years to ensure the rain garden is operating correctly.

Cortney Swenson asked if the Planning Commission and City Council differentiate between a spec house and a house owned by a resident. Chair Petersen said no. The new owner will love the house regardless if they were part of the application or not.

Mike Carlson, 20445 Linwood Road, addressed the Planning Commission. Would recommend swapping the 10 and 15-foot side yard setbacks to



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move it farther from his house, which is already close to the shared property line. Would like a six-foot fence, meeting the four-foot setback, would be appreciated. He has had water in his back yard the last two years.

Chair Petersen closed the public hearing.

Mark Williams, developer, addressed the Planning Commission. He had a tree arborist on site to remove the unhealthy trees. He has had two buyers but both backed out for different reasons. He moved the house back 10 feet from the 35-foot front yard setback to be in line with the neighboring houses. If the pool was not included, the house would be 22% hardcover [actually it would be 29%].

Councilmember Erdmann asked about the trees removed. Williams said the trees that were in the footprint of the house were removed and the previous buyer also wanted certain trees removed. Jerome asked about the front yard sidewalk. Williams said that the sidewalk to the street makes the front more inviting and allows people to park on the street and walk to the house. The garage is a tandem garage that holds three cars.

Commissioner Donlin said the proposal seems to be a moving target and may not be the same plan going to the City Council. Chair Petersen said if the plans change substantially, then Smith will direct the development back to the Planning Commission.

Commissioner Carlson said there has been stormwater concerns in the neighborhood. The proposed plantings will help with stormwater runoff but are not included in the stormwater calculations.

Commissioner D'Alessandro stated that the proposed development meets the city requirements regarding stormwater mitigation.

Chair Petersen said he looks at these proposals if the development makes the stormwater runoff better now than previously. He believes this proposal will improve the stormwater runoff from the subject lot.

Motion by Commissioner Donlin, seconded by Commissioner Carlson, to accept the recommendation and findings of staff and recommend the City Council approve a Conditional Use Permit to exceed the hardcover limit by 13.9% in conjunction with building a new house with an inground swimming pool at 20465 Linwood Road as proposed. Motion carried 4/0.



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3. DISCUSSION ITEMS

Smith and Commissioner Carlson gave an update on the Trail and Sidewalk Plan.

4. LIAISON REPORT

Councilmember Erdmann presented the Liaison Report. He updated the Planning Commission on the 125th anniversary of Deephaven. Council continues discussing the hockey rink at city hall park. There is a significant change in the charge for false alarms.

5. ADJOURNMENT

Motion by Commissioner Carlson to adjourn the meeting at 9:20 p.m. Motion seconded by Commissioner Donlin. Motion carried 4/0.

Respectfully submitted,

Patrick Smith
Planning Director

DRAFT

STAFF REPORT
Pat Smith, Planning Director
Deephaven Planning Commission
April 15, 2025



APPLICATION INFORMATION

- APPLICANT:** Ryan Hanson, Sustainable 9 Design + Build
- PROPERTY OWNER(S):** Anthony and Mary Hinton
- LOCATION:** 3610 Northome Road (please see attached Location Map)
- ZONING:** R-3, Residential
- SYNOPSIS:** Applicant is requesting variances to encroach 16.7 feet into the front yard setback and 2.3 feet into the rear yard setback and a Conditional Use Permit to exceed the hardcover limit by 12.34% in conjunction with constructing a new house (please see attached narrative)
- STAFF RECOMMENDATION:** Motion to Recommend Approval to City Council
- 60/120-DAY REVIEW DEADLINE:** May 26, 2025/July 25, 2025

BACKGROUND/REQUEST

The applicant is proposing to raze the existing house, which was built in 1920, according to Hennepin County records, and construct a new house. The existing house has non-conforming front yard setback, a non-conforming side yard setback and non-conforming hardcover amount. The new house would eliminate the non-conforming side yard setback. The existing house does not have a garage. The proposed house would have a two-car, attached garage. (Please see the attached colored survey comparing the existing non-conformities and the proposed encroachments).

Zoning Analysis

The property is 6,282 square feet in area and is zoned R-3, Single Family Residential. The table below compares the required, existing and proposed setbacks, hardcover and building height.

	Permitted/Required	Existing	Proposed
Front Yard Setback	35 feet	18.2 feet	18.3 feet
Side Yard Setback - north	15 feet	41 feet	20 feet
Side Yard Setback - south	10 feet	6.6 feet	10 feet
Rear Yard Setback	15 feet	21.3 feet	House - 12.7 feet Deck - 10.8 feet
Maximum Hardcover	25%	34.5%	37.34%
Building Coverage (max.)	4,500 SF	1,110 SF	1,711 SF
Building Height (max.)	30 feet	--	29.5 feet

Front Yard Setback

Section 1302.05(4) of the zoning ordinance requires a minimum front yard setback of 35 feet. The proposed house would have a front yard setback of 18.3 feet; **thus, a variance of 16.7 feet from the minimum required front yard setback is required.** The existing house was constructed in 1920 with a front yard setback of 18.2 feet.

Rear Yard Setbacks

Section 1302.05(4) of the city ordinance requires a minimum rear yard setback of 15 feet. The proposed house would have a setback of 12.7 feet with a deck that has railings setback 10.8 feet from the rear property line; **thus, a variance of 2.3 feet from the minimum required rear yard setback is required for the house and a variance of 4.2 feet for the deck** (please see attached survey). Originally the house was proposed to be situated on the lot that would not require a rear yard setback, but staff recommended the applicant move the house back to be no closer to the street than the existing house to preserve the current streetscape even if that required a small rear yard setback variance.

Variance Review Criteria

Minn. Stat § 462.357, subd. 6(2) states that variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties" means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. The City’s Board of Appeals and Adjustments evaluating a variance request is required to make the following inquiries:

1) Is the variance in harmony with the purpose and intent of the ordinance and Comprehensive Plan?

Staff Comment: Yes. The purpose and intent of the ordinance is to allow the orderly development and redevelopment of property within the city and when

the ordinance standards cannot be met, it outlines the procedures to vary from these standards. The applicant is seeking to vary from the setback standards on the lot to accommodate a modest sized house. The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourages safe, healthy and quality housing that respects the natural environment of the community.

2) Does the proposal put property to use in a reasonable manner?

Staff Comment: The proposed house is a reasonable use for the property as it has a building footprint of 1,711 square feet, which is 73% under the maximum building footprint of 4,500 square feet for a lot in the R-3 zoning district. The living area is 25 feet wide. The Zoning Ordinance requires a minimum width of 25 feet. The existing house does not have a garage. It is reasonable to have a two-car garage.

3) Are there unique circumstances to the property not created by the landowner?

Staff Comment: Yes, the lot is essentially a triangle, making it impossible to build any house on the lot without a variance.

4) Will the variance, if granted, alter the essential character of the locality?

Staff Comment: No, the proposed house will have essentially the same setback from the street as the existing house. The length of the house does not dramatically change from the length of the current house. The current house is 44.4 feet long, while the proposed house is 49.1 feet long. The current house is 1,110 square feet in area. The proposed house is 1,227 square feet in area without the two-car garage.

The proposed house is comparable to the neighboring houses. The house at 3635 Parkway was built in 1930 with a footprint of 1,577 square feet and a front yard setback of 21.5 feet. The house at 3620 Northome Avenue was built in 2016 with a footprint of 1,572 square feet and a front yard setback of 21.8 feet. (In 2015, the City Council approved a 10-foot front yard setback variance, a 5-foot side yard setback variance and a variance to exceed the 25% hardcover limit by 12%).

The proposed house will improve the non-conforming side yard setback, and the proposed front yard setback is comparable to the existing non-conforming front yard setback.

Conditional Use Permit Request

Section 1302.05(2) of the zoning ordinance limits the maximum allowable impervious surface area on the property to 25%, but allows properties to exceed the limit with a Conditional Use Permit if the following conditions are met:

- (i) Stormwater runoff does not negatively impact adjacent properties;

- (ii) Effective hardcover is mitigated to below 25%; and
- (iii) The proposed stormwater management facilities shall retain one inch of runoff of that portion of the hardcover that exceeds 25%. Performance credit given for stormwater mitigation practices shall be 75% of the calculated volume retained; and
- (iv) The property owner enters into a maintenance agreement with inspections performed by the City at a minimum every five years. The property owner shall reimburse the City for stormwater facility inspections. The maintenance agreement shall be executed and recorded against the parcel.

The current site has a hardcover of 34.5%. The proposed development would increase the hardcover to 37.34%. The applicant is proposing to mitigate the hardcover over 25% by installing an infiltration trench in the southwest corner of the property. The infiltration trench is designed to be 12 feet wide and 12 feet long. Stormwater runoff would be conveyed to the infiltration trenches through connected downspouts and surface drainage. The amount of hardcover that exceeds the 25% limit requires treatment of 103 cubic feet. The applicant is providing 106 cubic feet of stormwater treatment.

The attached stormwater drainage map shows the existing and proposed drainage patterns. Currently all stormwater drains off to the rear of the property to adjacent lots before reaching Parkway Street and flowing to St. Louis Bay. With the proposed development, 30% of the stormwater from the lot will be directed to the underground infiltration trench. The City Engineer has reviewed and approved the grading and stormwater management plans (see attached letter).

PUBLIC COMMENT

Staff sent a public notice to all property owners within 350 feet of the subject site prior to the Planning Commission meeting of April 15, 2025. To date, no public comments have been received.

STAFF RECOMMENDATION

Staff recommends approval of a variance to encroach 16.7 feet into the front yard setback, a variance to encroach 5.2 feet into the rear yard setback for a deck and 2.3 feet for the house, and a Conditional Use Permit to exceed the hardcover limit by 12.34% in conjunction with building a new house at 3610 Northome Avenue as proposed, subject to the following conditions:

1. The proposed house shall be developed in substantial conformance with the plans as approved and as conditionally revised by the City Council.
2. Prior to issuance of a building permit, the property owner enters into a stormwater maintenance agreement with the City.

3. The applicant shall comply with all requirements of City Engineer email dated April 10, 2025.
4. All applicable permits are applied for by the applicants with all supporting documentation and issued prior to the start of construction.
5. The variance shall expire one year from the date of adoption of the resolution if not acted upon; City approval will be required for any subsequent extension.

PLANNING COMMISSION ACTION REQUESTED

Possible motions include:

- 1) I move the Planning Commission accept the recommendation and findings of staff and recommend the City Council approve a variance to encroach 16.7 feet into the front yard setback, a variance to encroach 5.2 feet into the rear yard setback for a deck and 2.3 feet for the house, and a Conditional Use Permit to exceed the hardcover limit by 12.34% in conjunction with building a new house at 3610 Northome Avenue as proposed.

OR

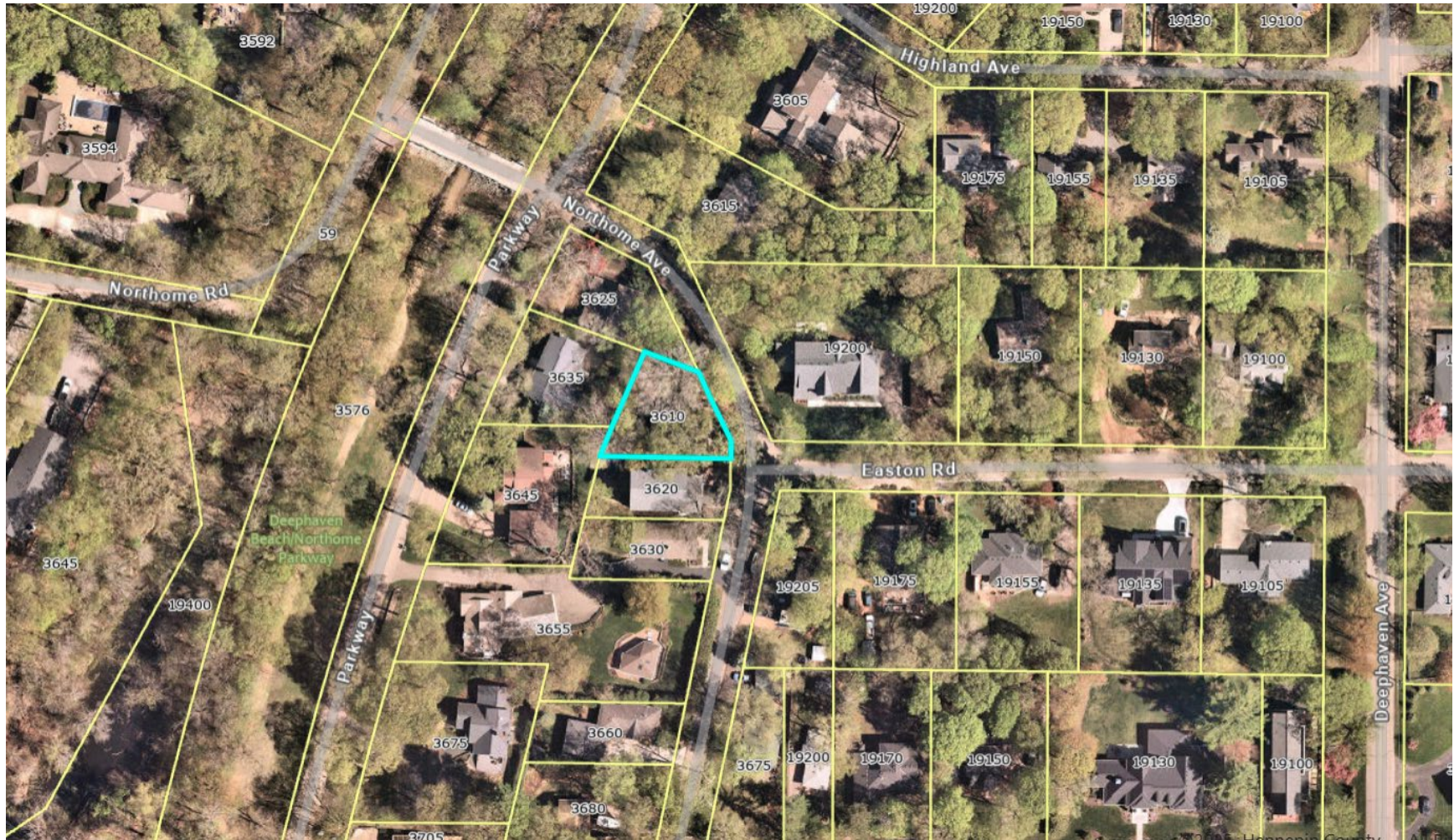
- 2) I move the Planning Commission recommend the City Council deny a variance to encroach 16.7 feet into the front yard setback, a variance to encroach 5.2 feet into the rear yard setback for a deck and 2.3 feet for the house, and a Conditional Use Permit to exceed the hardcover limit by 12.34% in conjunction with building a new house at 3610 Northome Avenue as proposed. The motion is based on the following findings: _____.

Attachments:

- 1) Location Map
- 2) Applicant's Narrative
- 3) Existing Photos
- 4) Existing Survey
- 5) Proposed Survey
- 6) Existing and Proposed Encroachments
- 7) Existing and Proposed Drainage Maps
- 8) Proposed Floor Plans
- 9) Proposed Elevations
- 10) City Engineer Letter

LOCATION MAP

3610 Northome Avenue





3610



Sustainable 9 Design + Build
MN License # BC653457
3511 W 44th St
Minneapolis, MN 55410
(612) 234-4194

March 18th, 2025

RE: 3610 Northome Avenue, PID: 1311723440056 – Variance Application Written Statement

SPECIFIC VARIANCE REQUESTS

- 1) A variance from the 35ft minimum front yard setback to 18.3ft.
- 2) A variance from the 15ft minimum rear yard setback to 10.8ft.

PRACTICAL DIFFICULTIES & IMPACTS

1. Why is the variance request needed to relieve practical difficulties in complying with the zoning ordinance and how will the variance request result in a reasonable use of the property?

With the subject lot's small size relative to most of the surrounding lots, the tight hexagon shape of the lot, especially toward the north end of the block, and the elevation change from the front to the rear of the lot, multiple practical difficulties are created in complying with the zoning ordinance when constructing a new single-family home on this lot. The removal of the existing single-family home that would need extensive remodeling, and the construction of a new single-family home instead, is in line with the existing zoning ordinance and reasonable use of the property per the code. The existing home on the lot built in 1920 already has a front yard setback of 18.3 feet, so the front yard setback variance request is in line with what already exists on the property, and the rear yard setback variance is to allow a livable single-family home and floor plan to be constructed on the lot, yet still abiding by the minimum 25ft width for any new home constructed per the code.

2. Compared to similarly sized lots in the neighborhood, what is unique about the size, shape, topography or location of your lot that prohibits reasonable use of the property?

At only 6,282 square feet, the subject lot is significantly smaller than the majority of lots in the immediate and surrounding neighborhoods. Additionally, the restrictive hexagon shape of the lot, and the significant elevation change from the front to rear of the lot, are all practical difficulties that prohibit reasonable use of the property without the above requested variances. The minimum 25ft width of any single-family home per the zoning ordinance requires the new proposed single-family home to be almost twice as deep as it is wide and pushes the only logical location for a 2-car garage to the north side of the lot where the front and rear property lines close in to almost to a triangle shape. The elevation change from the front to the rear of the lot only allows for an elevated deck off the main level, and with that deck being higher than 36in off the ground, railings will be required by building code. Whereas a deck without railings would be permitted in the rear yard setback per the zoning ordinance, the significant elevation changes from front to the rear reasonable use of the property, and the subsequent required railings on any deck, create a practical difficulty that prohibits reasonable use of the property without the rear-yard setback variance.

3. How is the requested variance the minimum necessary to provide your property reasonable use?

The two requested variances are necessary so that a livable-floor plan for a single-family home can be constructed, and an attached 2-car garage, can both exist on this oddly shaped lot. Without the variances to the 35ft minimum front yard setback and 15ft rear yard setback, this lot is essentially unbuildable other than a very small triangle-shaped buildable area that would not even allow for a 25ft minimum width home to be built, which prevents reasonable use of the property.

4. What alternatives to a variance have been considered? Why are these alternatives not acceptable?

The only other alternatives considered to these two variances would be to build a “tiny home” of 350-400 square feet which would not be in line with the surrounding homes or character of the neighborhood, and smaller than the existing home on the property built in 1920, let alone the 25ft minimum width for any new home that is built.

5. Has the property owner created the situation necessitating the need for a variance? Explain in detail.

No, the size, shape, and elevation changes of the lot have created the situation necessitating the need for the two variances.

6. Will the variance alter the essential character of the neighborhood? Explain in detail.

The footprint of the primary structure and attached garage at 1,711 square feet is in line with the other 2016-built home directly to the south at 3620 Northome Ave, which is also on a slightly smaller lot but still has a 1,609 square foot primary structure on it. Both homes to the south encroach into the 35ft front yard setback, and the structure two lots to the south has only a 18.2ft front yard setback, which is even less than what the subject property’s proposed front yard variance is at 18.3ft. With the multiple new construction homes either constructed, or currently being built, this smaller single-family home will not alter the essential character of the neighborhood.

7. Describe why the needed variance is not solely based on economic considerations.

The needed variances are based on having a smaller, but livable, floor plan and standard 2-car garage for the new proposed home and are not based solely on economic considerations. The front yard setback variance requested is in line with the existing home on the lot, and with the surrounding homes that already encroach into the minimum front yard setback. Due to the almost triangle shape of the lot to the north, and the significant slope/elevation change from the front to the rear of the lot, the rear yard setback variance is required.

Thank you for your time and consideration.

Sincerely,



Ryan Hanson
Sustainable 9 Design + Build
Partner / Owner



Sustainable 9 Design + Build
MN License # BC653457
3511 W 44th St
Minneapolis, MN 55410
(612) 234-4194

March 18th, 2025

RE: 3610 Northome Avenue, PID: 1311723440056 – Conditional Use Permit Written Statement

SPECIFIC CONDITIONAL USE PERMIT REQUESTS

- 1) To exceed the 25% maximum hardcover requirement by 920 square feet and offset that overage by constructing a 106 cubic foot rain garden with a French drain in the SW corner of the lot, reducing the effective hardcover to only 24.5%

WRITTEN STATEMENT

1. The use is or will be compatible with present and future land uses of the area.

The removal of the existing 1920-built single-family home that would need extensive remodeling to bring up to code, and the construction of a new single-family home instead, is in line with the existing zoning ordinance and future land uses of the area.

2. The use or structure housing the use will be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.

The proposed new single family 4bd/4ba, ~3200 square foot home with a walk-out basement is in line with the other homes in the immediate neighborhood, and considerably smaller than some of the other larger new construction homes in the area. The Scandinavian Modern design of the home with wood exterior and interior accents will blend in with the other existing cabins, and eclectic mix of new and existing homes in the neighborhood.

3. The use will not have an undue, adverse impact on the health, safety and welfare of occupants of surrounding lands.

The existing hardcover on the property is 36.90% (which is also the maximum 25% allowed) and the proposed hardcover is only slightly more at 39.65%. By reducing the maximum hardcover overage of 920 square feet through mitigation via a newly constructed rain garden with a French drain in the SW corner of the lot, the effective hardcover on the lot will go down to only 24.5%, which is less than what the existing structure and hardcover are at. The existing home will not merely be demolished but instead be deconstructed using a Hennepin County deconstruction grant, and with our firm's partnership with Better Futures, a non-profit deconstruction company. This will significantly reduce the impact on surrounding landfills and allow a significant portion of the existing home to be re-used and recycled.

4. Traffic generated by the proposed use is within capabilities of streets serving the property.

With only a 2-car garage proposed, and a single-family home, the proposed use will not generate anymore traffic than what already exists in the neighborhood.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal tail extending to the right.

Ryan Hanson
Sustainable 9 Design + Build
Partner / Owner

Surveyors Certificate

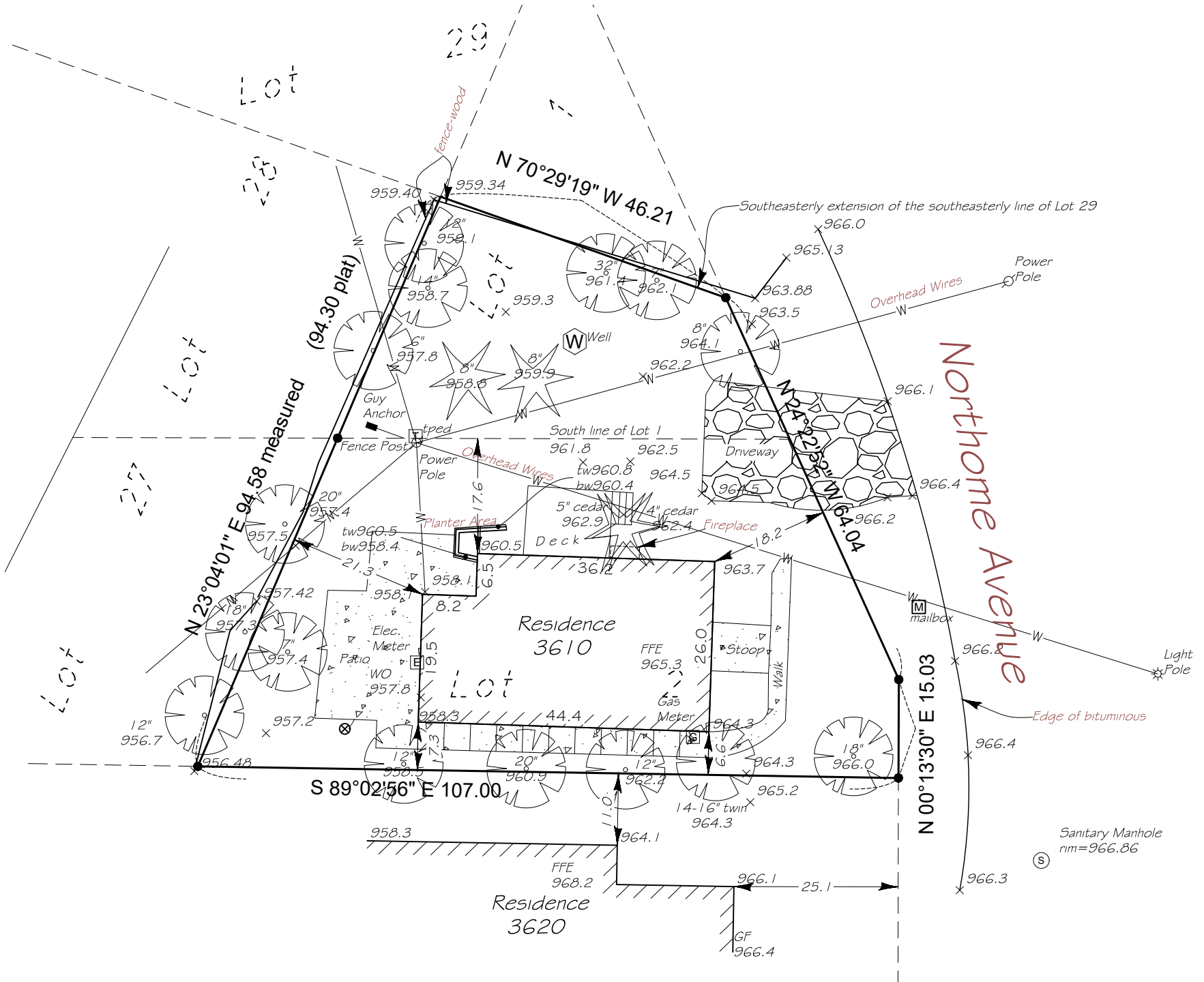
Existing Conditions Survey For:

SUSTAINABLE 9 DESIGN & BUILD

Property located in Section
13, Township 117, Range 23,
Hennepin County, Minnesota



Basis for
bearings is
assumed



"Property Set Backs"

Property Zoned as R3

Front: 35'

Side: 25' total with 10' min

Rear: 15'

Legal Description

Lot 2 and that part of Lot 1 lying southerly of the southeasterly extension of the southeasterly line of Lot 29, all in Block 9, Deephaven Park Subdivision No. 3, Hennepin County, Minnesota.

- Denotes Found Iron Monument
- Denotes Iron Monument
- Denotes Wood Hub Set for excavation only
- - - Denotes Existing Contours
- ~ ~ ~ Denotes Proposed Contours
- x000.0 Denotes Existing Elevation
- 000.0 Denotes Proposed Elevation
- ← Denotes Surface Drainage

Existing-Hardcover

Lot Area	6,282 sq ft
Building	1,110 sq ft
Driveway-Gravel	246 sq ft
Deck	151 sq ft
Stoop-Concrete	65 sq ft
Walk/Patio-Concrete	746 sq ft
Total	2,318 sq ft
Percentage	36.90%

NOTE: Proposed grades are subject to results of soil tests. Proposed building information must be checked with approved building plan and development or grading plan before excavation and construction. Proposed grades shown on this survey are interpolations of proposed contours from the drainage, grading and/or development plans.

NOTE: The relationship between proposed floor elevations to be verified by builder.

NOTE: The only easements shown are from plats of record or information provided by client.

Project No. 90974

Scale: 1" = 20'

F.B.No. 1138-04

Drawn By *AR*

Address: 3610 Northhome Avenue
Wayzata, MN 55391

I 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
Surveyed this 11th day of March 2025.

DEMARC

LAND SURVEYING & ENGINEERING
7601 73rd Avenue North (763) 560-3093
Minneapolis, Minnesota 55428 DemarcInc.com

rev

Signed

Gregory R. Prasch, Minn. Reg. No. 24992

Surveyors Certificate

Site Plan Survey For:

SUSTAINABLE 9 DESIGN & BUILD

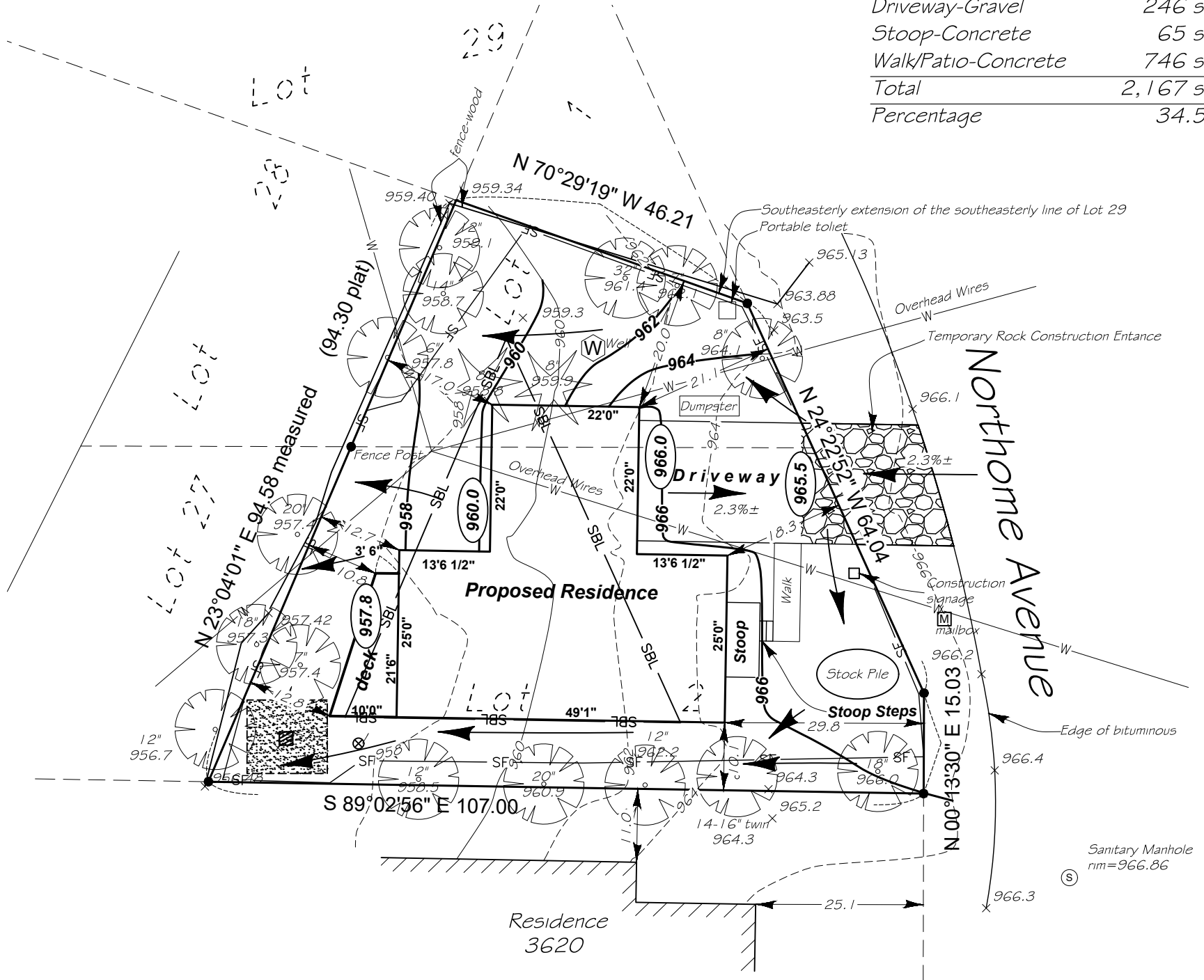
Property located in Section
13, Township 117, Range 23,
Hennepin County, Minnesota



Basis for
bearings is
assumed

Proposed-Hardcover	
Lot Area	6,282 sq ft
Prop-Building	1,711 sq ft
Prop-Stoop/Stairs	62 sq ft
Prop-Walk	59 sq ft
Prop-Driveway	514 sq ft
Total	2,346 sq ft
Percentage	37.34%

Existing-Hardcover	
Lot Area	6,282 sq ft
Building	1,110 sq ft
Driveway-Gravel	246 sq ft
Stoop-Concrete	65 sq ft
Walk/Patio-Concrete	746 sq ft
Total	2,167 sq ft
Percentage	34.50%



"Property Set Backs"

Property Zoned as R3

Front: 35'

Side: 25' total with 10' min

Rear: 15'

Legal Description

Lot 2 and that part of Lot 1 lying southerly of the southeasterly extension of the southeasterly line of Lot 29, all in Block 9, Deephaven Park Subdivision No. 3, Hennepin County, Minnesota.

- SBL — Denotes Setback Line
- Denotes Found Iron Monument
- Denotes Iron Monument
- Denotes Wood Hub Set for excavation only
- - - Denotes Existing Contours
- ~ ~ ~ Denotes Proposed Contours
- x000.0 Denotes Existing Elevation
- 000.0 Denotes Proposed Elevation
- Denotes Surface Drainage

968.0 Proposed First Floor Elevation

966.3 Proposed Top of Foundation

966.0 Proposed Garage Floor

958.3 Proposed Basement Floor

Type of Building

FULL BASEMENT WALKOUT

NOTE: Proposed grades are subject to results of soil tests. Proposed building information must be checked with approved building plan and development or grading plan before excavation and construction. Proposed grades shown on this survey are interpolations of proposed contours from the drainage, grading and/or development plans.

NOTE: The relationship between proposed floor elevations to be verified by builder.

NOTE: The only easements shown are from plats of record or information provided by client.

Project No. 90974A

Scale: 1" = 20'

F.B.No. -

Drawn By *AL*

Address: 3610 Northhome Avenue
Wayzata, MN

rev 03-18-25 Client comments. Changed deck
03-19-25 Client comments. Changed deck
04-10-25 City comments.

I 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
Surveyed this 13th day of March 2025.

Signed

Gregory R. Prasch
Gregory R. Prasch, Minn. Reg. No. 24992

DEMARC

LAND SURVEYING & ENGINEERING

7601 73rd Avenue North (763) 560-3093
Minneapolis, Minnesota 55428 DemarcInc.com

Surveyors Certificate

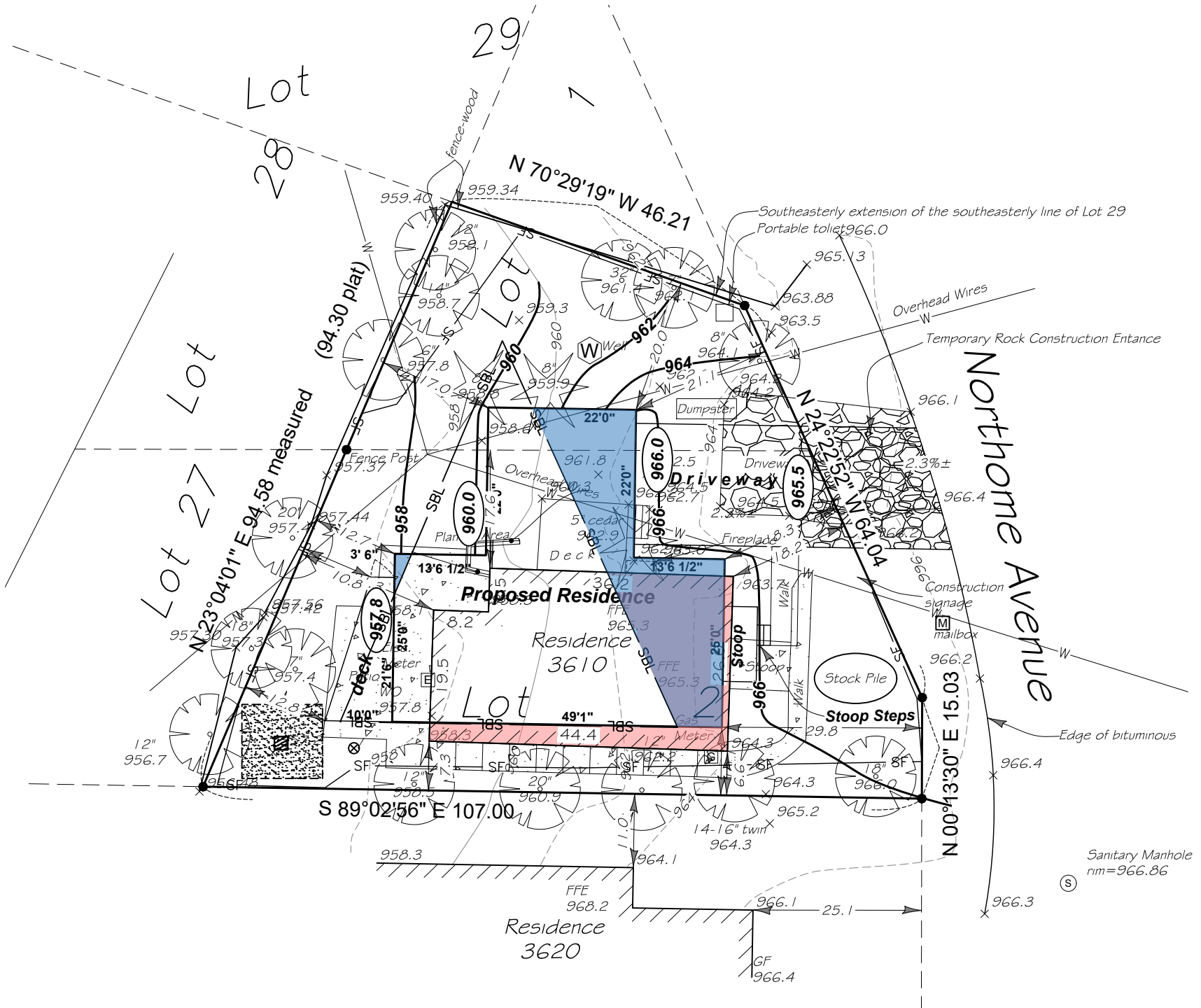
Existing Conditions Survey For:

SUSTAINABLE 9 DESIGN & BUILD

Property located in Section
13, Township 117, Range 23,
Hennepin County, Minnesota



Basis for
bearings is
assumed



"Property Set Backs"

Property Zoned as R3

Front: 35'

Side: 25' total with 10' min

Rear: 15'

RED = EXISTING HOME OUTSIDE OF SETBACKS
393SF

BLUE = PROPOSED HOME OUTSIDE OF SETBACKS
587SF

Existing-Hardcover

Lot Area	6,282 sq ft
Building	1,110 sq ft
Driveway-Gravel	246 sq ft
Deck	151 sq ft
Stoop-Concrete	65 sq ft
Walk/Patio-Concrete	746 sq ft
Total	2,318 sq ft
Percentage	36.90%

Legal Description

Lot 2 and that part of Lot 1 lying southerly of the southeasterly extension of the southeasterly line of Lot 29, all in Block 9, Deephaven Park Subdivision No. 3, Hennepin County, Minnesota.

- Denotes Found Iron Monument
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NOTE: Proposed grades are subject to results of soil tests. Proposed building information must be checked with approved building plan and development or grading plan before excavation and construction. Proposed grades shown on this survey are interpolations of proposed contours from the drainage, grading and/or development plans.

NOTE: The relationship between proposed floor elevations to be verified by builder.

NOTE: The only easements shown are from plats of record or information provided by client.

Project No. 90974

Scale: 1" = 20'

F.B.No. 1138-04

Drawn By *AL*

Address: 3610 Northome Avenue
Wayzata, MN 55391

rev 04.01.25 SETBACK LINES

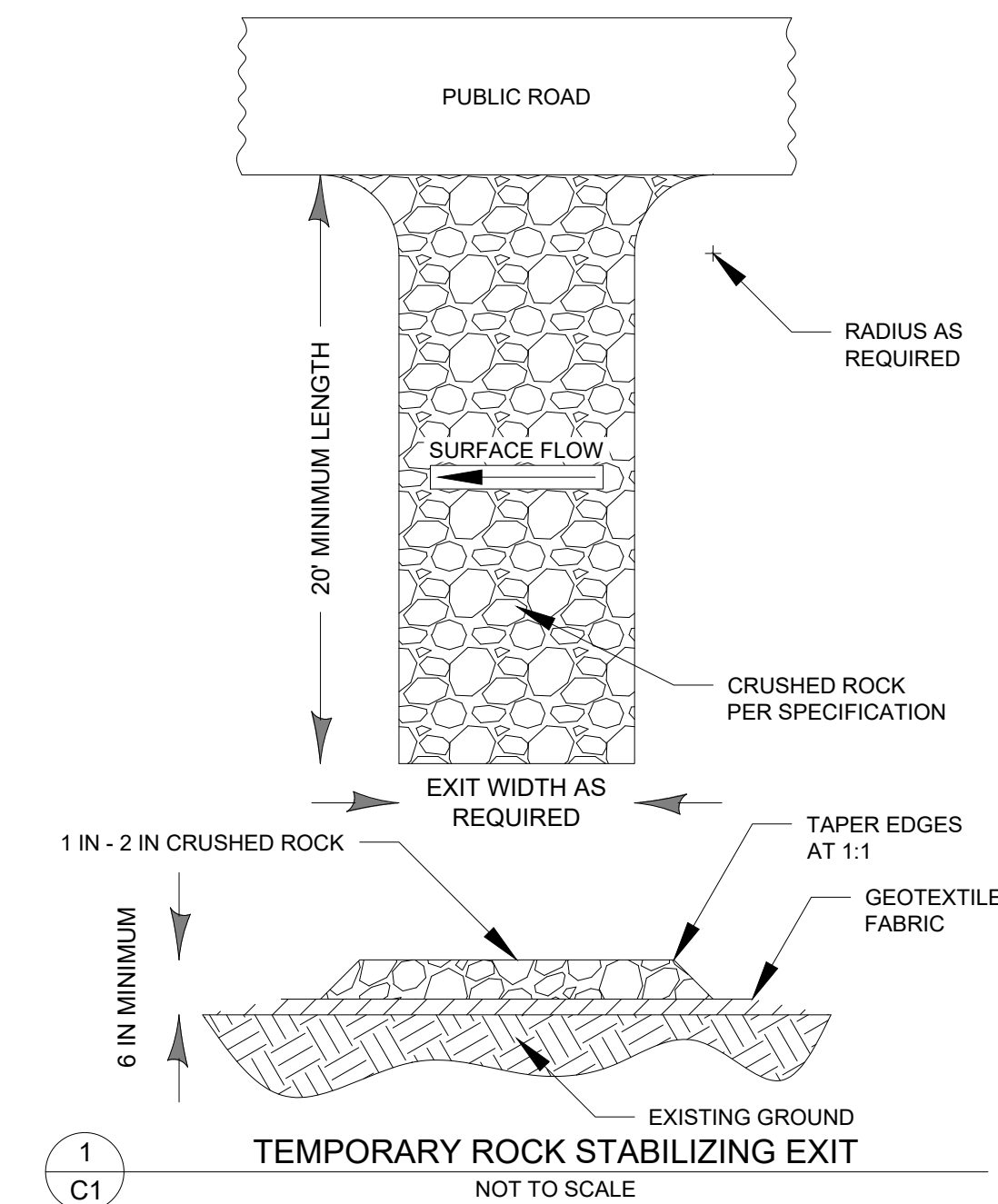
I certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota
Surveyed this 11th day of March 2025.

DEMARC

LAND SURVEYING & ENGINEERING
7601 73rd Avenue North (763) 560-3093
Minneapolis, Minnesota 55428 DemarcInc.com

Signed

Gregory R. Prasch, Minn. Reg. No. 24992



STORMWATER MANAGEMENT REQUIREMENTS:

ONSITE RETENTION REQUIREMENT: 1.0-INCH STORM EVENT OVER PROPOSED IMPERVIOUS AREA EQUAL TO AREA OVER 25%
 MAXIMUM HARDCOVER REQUIREMENT:

6,282 SF (TOTAL AREA) X 0.25 = 1,571 SF (MAXIMUM HARDCOVER)
 2,491 SF (PROP. HARDCOVER) - 1,571 SF = 920 SF (OVERAGE)

REQUIRED STORAGE FOR 1.0-INCH STORM EVENT:
 920 SF X (1.0/12) FT = 77 CF

75% REDUCTION PER CITY CREDIT:
 77 CF / 0.75 = 103 CF

INFILTRATION WILL PROVIDE ONSITE RETENTION IN PROPOSED RAIN GARDEN PER DETAIL 2/C1:

VOLUME OF RAIN GARDEN = 106 CF

EFFECTIVE HARDCOVER = 24.5%

Proposed-Hardcover

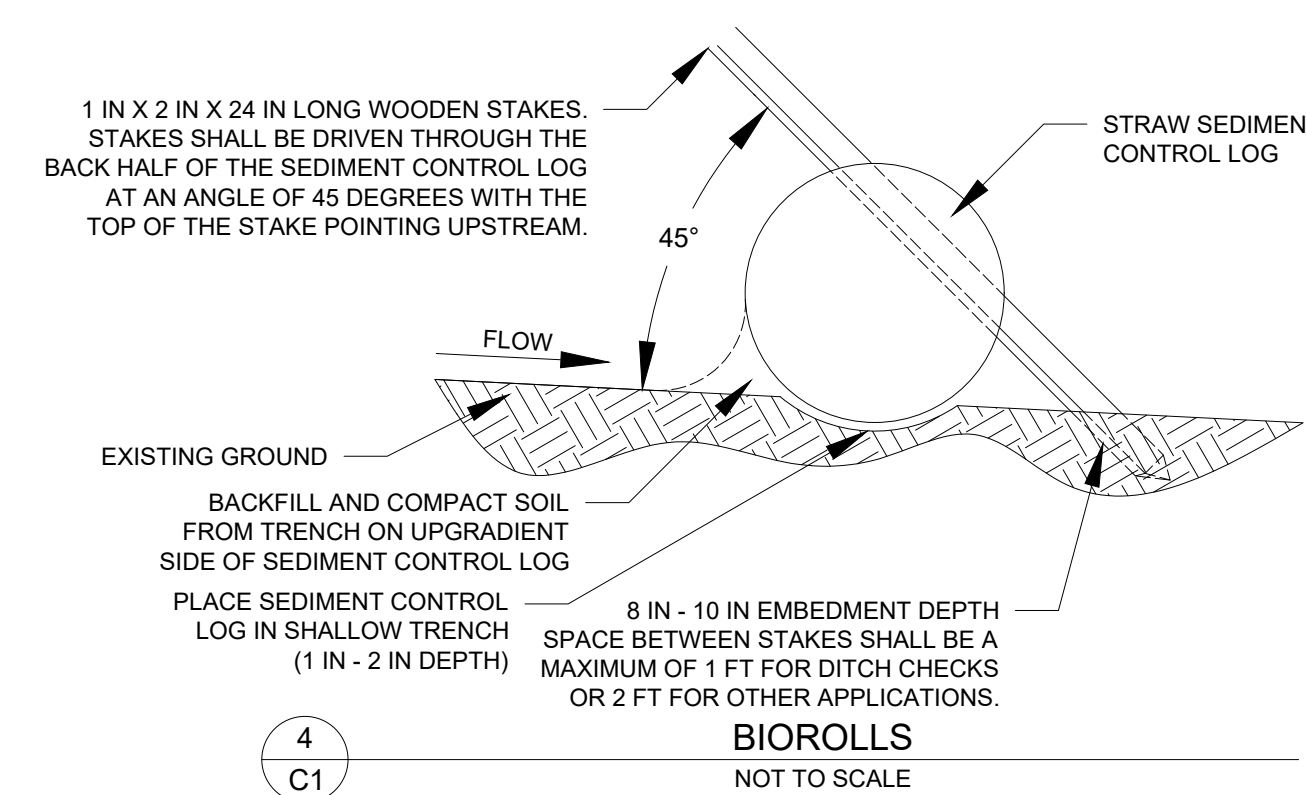
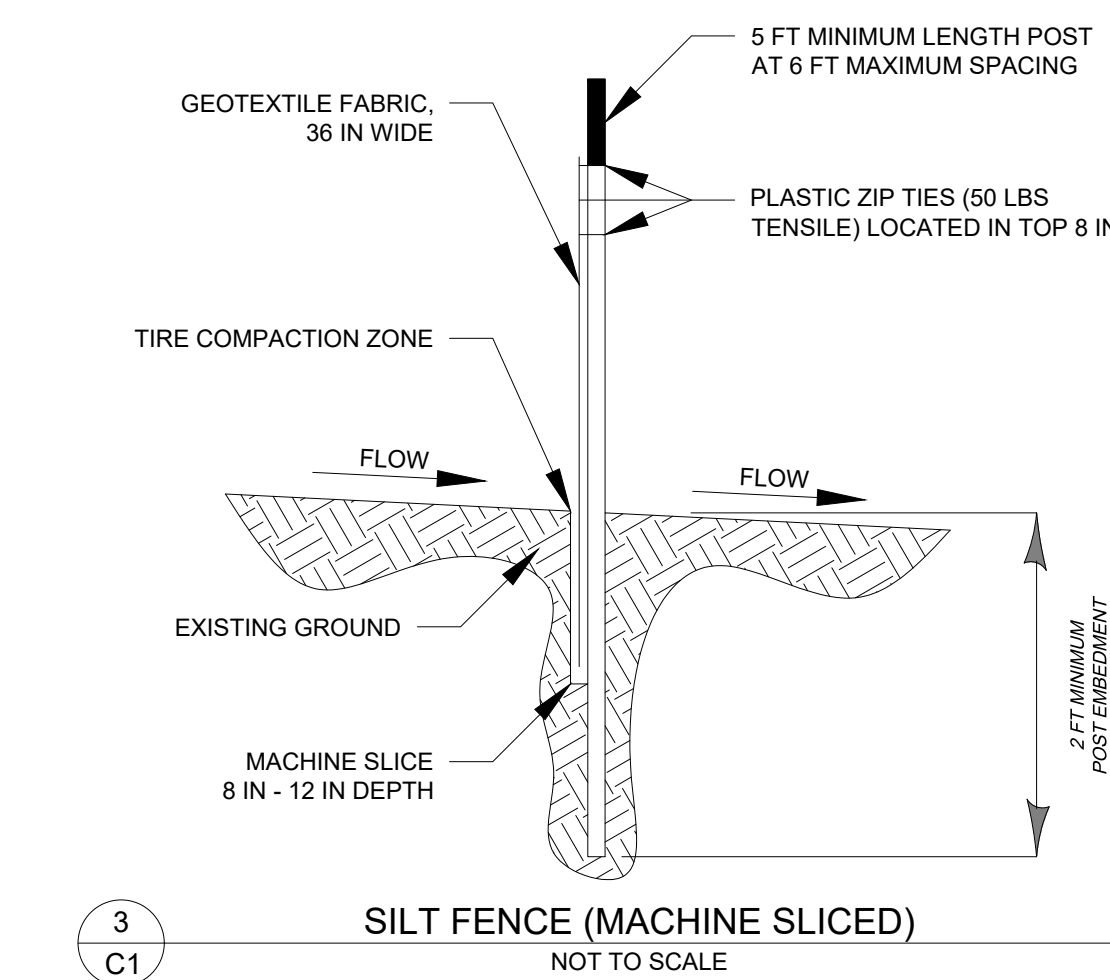
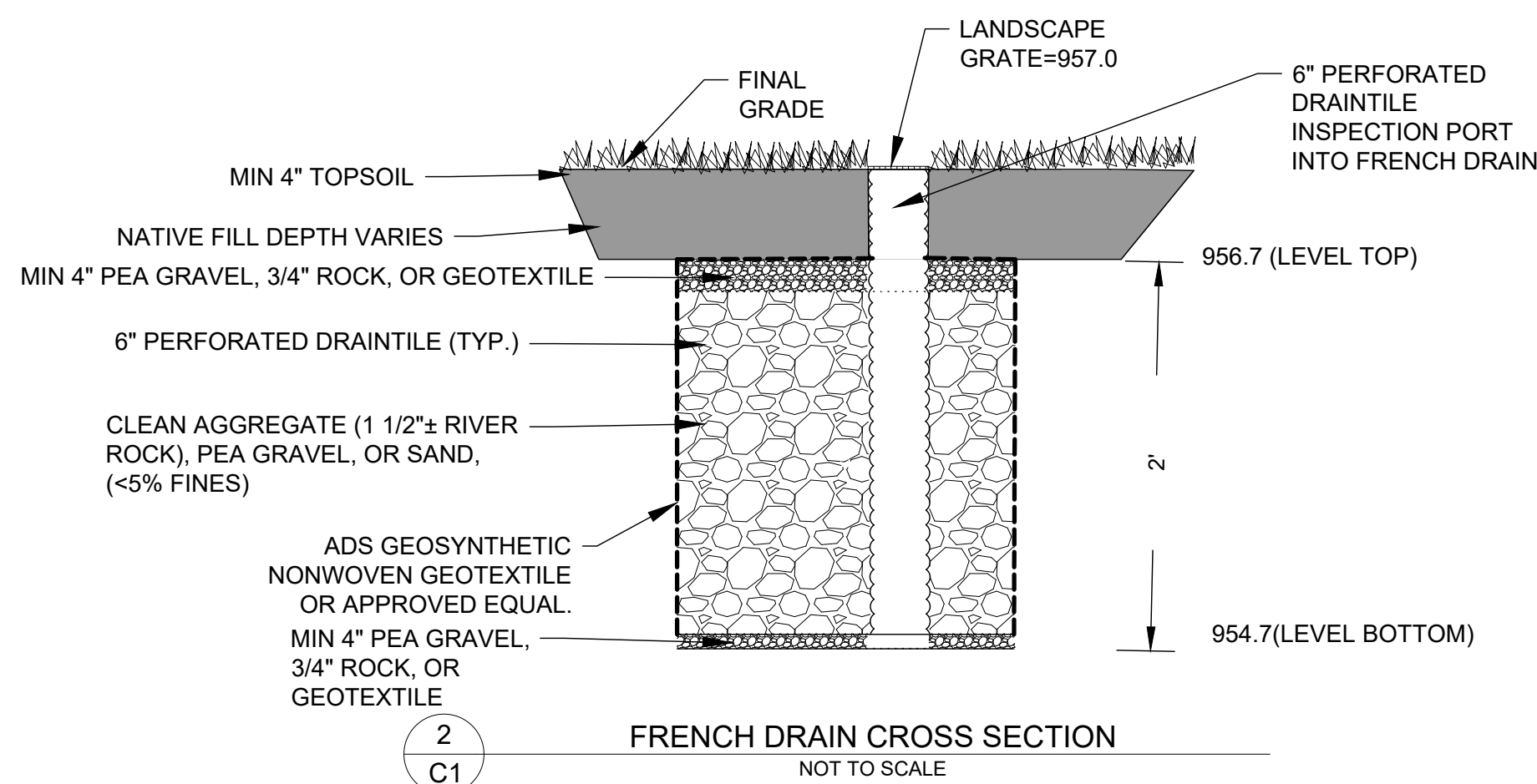
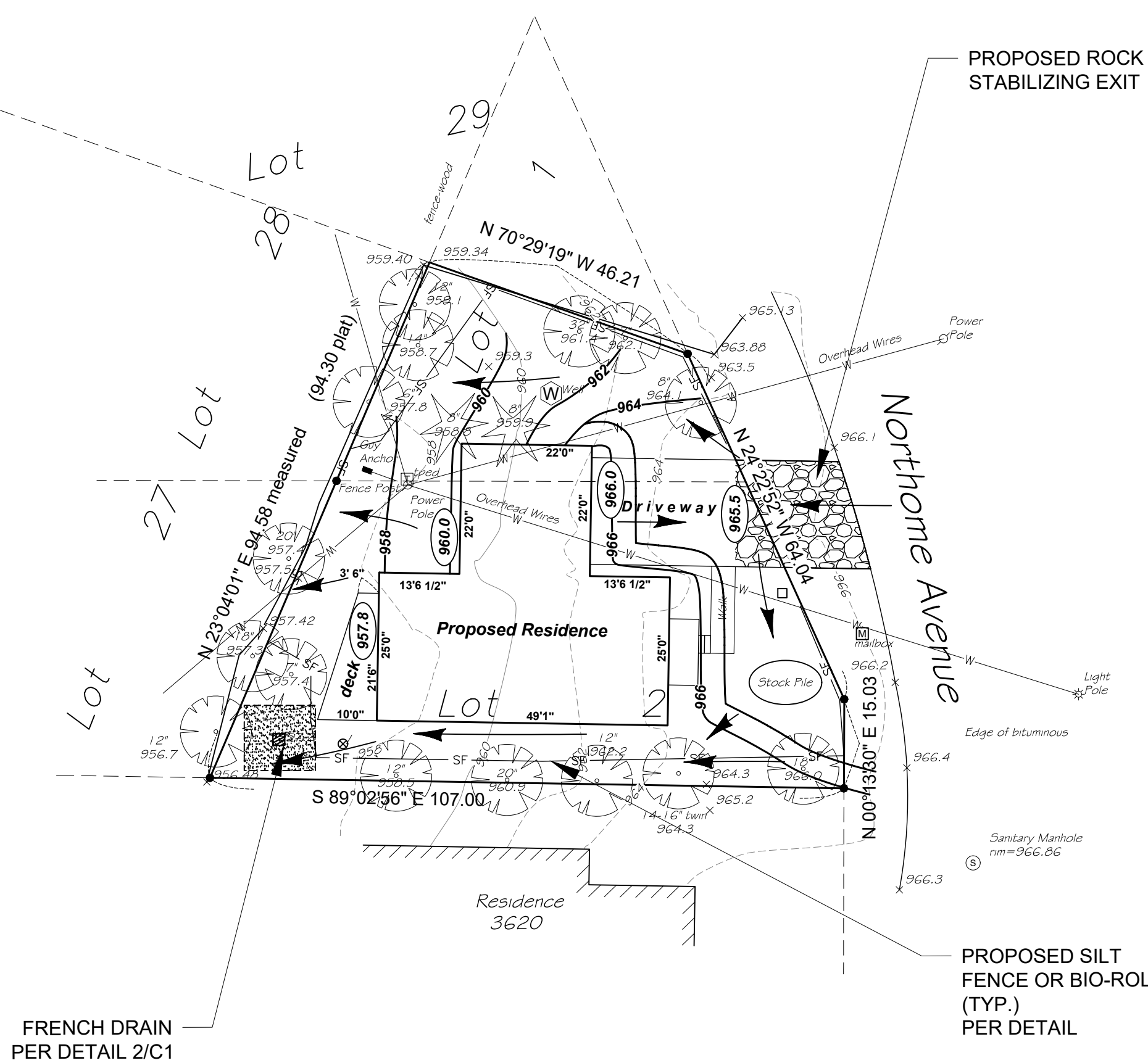
Lot Area	6,282 sq ft
Prop-Building	1,711 sq ft
Prop-Deck	145 sq ft
Prop-Stoop/Stairs	62 sq ft
Prop-Walk	59 sq ft
Prop-Driveway	514 sq ft
Total	2,491 sq ft
Percentage	39.65%

Existing-Hardcover

Lot Area	6,282 sq ft
Building	1,110 sq ft
Driveway-Gravel	246 sq ft
Deck	151 sq ft
Stoop-Concrete	65 sq ft
Walk/Patio-Concrete	746 sq ft
Total	2,318 sq ft
Percentage	36.90%

EROSION CONTROL NOTES:

- ALL EROSION AND SEDIMENT CONTROL BMP'S (I.E. SILT FENCE, BIO-ROLLS, ROCK CONSTRUCTION EXIT, INLET PROTECTION, ETC.) SHALL BE INSTALLED PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ACTIVITY.
- INLET PROTECTION SHALL BE INSTALLED AT ANY INLET THAT MAY RECEIVE RUNOFF FROM THE DISTURBED AREAS OF THE PROJECT. INLET PROTECTION MAY BE REMOVED FOR A PARTICULAR INLET IF A SPECIFIC SAFETY CONCERN (FLOODING / FREEZING) HAS BEEN IDENTIFIED. THE PERMITTED MUST RECEIVE WRITTEN CORRESPONDENCE FROM THE CITY ENGINEER VERIFYING THE NEED FOR REMOVAL.
- INSTALL SEDIMENT CONTROL BMP'S, SUCH AS SILT FENCE, AROUND ALL STOCKPILES.
- RETAIN AND PROTECT AS MUCH NATURAL VEGETATION AS FEASIBLE. WHEN VEGETATION IS REMOVED DURING DEVELOPMENT, THE EXPOSED CONDITION OF LAND SHALL BE KEPT TO THE SHORTEST PRACTICAL PERIOD OF TIME, BUT NOT LONGER THAN 60 DAYS. ANY EXPOSED AREAS EXCEEDING THIS TIME-FRAME SHALL BE TEMPORARILY STABILIZED (STRAW MULCH, WOODCHIPS, ROCK). AREAS BEING USED FOR MATERIAL STORAGE AND AREAS UNDER CONSTRUCTION ARE EXEMPT FROM TEMPORARY STABILIZATION.
- ANY STEEP SLOPES (3H : 1V OR STEEPER) EXPOSED DURING CONSTRUCTION SHALL BE PROTECTED WITH TEMPORARY VEGETATION, MULCHING OR BY OTHER MEANS ACCEPTABLE TO THE BUILDING OFFICIAL WITHIN 14 DAYS OF CEASING LAND DISTURBING ACTIVITIES ON THE STEEP SLOPES. STOCKPILES MAY BE PROTECTED BY AN ANCHORED TARP OR PLASTIC SHEET.
- PROVIDE DUST CONTROL AS NECESSARY. DUST CONTROL CAN INCLUDE WATER.
- REMOVE ALL SOILS AND SEDIMENTS TRACKED OR OTHERWISE DEPOSITED ONTO PUBLIC PAVEMENT AREAS ON A DAILY BASIS OR AS NEEDED.
- ALL EROSION AND SEDIMENT CONTROL BMP'S SHALL BE INSPECTED EVERY 7 DAYS, OR WITHIN 24 HOURS OF ALL RAIN EVENTS GREATER THAN 1.0" IN 24 HOURS. CORRECTIVE ACTION REQUIRED SHALL BE INITIATED WITHIN 24 HOURS.
- SILT FENCE, BIO-ROLLS AND INLET PROTECTION DEVICES MUST BE REPAIRED, REPLACED OR SUPPLEMENTED WHEN THEY BECOME NONFUNCTIONAL OR THE SEDIMENT REACHES 1/3 THE HEIGHT OF THE DEVICE. THESE REPAIRS MUST BE MADE WITHIN 24 HOURS OF DISCOVERY, OR AS SOON AS FIELD CONDITIONS ALLOW.
- AFTER FINAL GRADING HAS BEEN COMPLETED, EXPOSED SOILS MUST BE PERMANENTLY STABILIZED AS SOON AS POSSIBLE. PERMANENT STABILIZATION SHALL CONSIST OF 4 INCHES TOPSOIL, AND SEED, MULCH AND FERTILIZER APPLIED BY METHODS AND RATES RECOMMENDED IN MN/DOT SPECIFICATION 2575 AND MN/DOT SEEDING MANUAL, OR SOD. THE SEED MIX SHALL BE MN/DOT 25-151.
- NO CONCRETE WASHOUT ALLOWED ON SITE, TRUCK BASED SELF CONTAINMENT WASHOUT DEVICES REQUIRED.
- OIL STAINS ON CITY STREETS SHALL BE CLEANED UP WITH FLOOR DRY, AND DISPOSED OF AS A HAZARDOUS WASTE MATERIAL.
- ALL HAZARDOUS WASTE SHALL BE STORED CLEANED UP AND DISPOSED OF PER EPA STANDARDS.
- ALL EROSION AND SEDIMENT CONTROL DEVICES SHALL BE MAINTAINED UNTIL ALL DISTURBED AREAS HAVE BEEN PERMANENTLY STABILIZED.
- ALL EROSION AND SEDIMENT CONTROL DEVICES SHALL BE REMOVED FROM THE SITE AFTER PERMANENT STABILIZATION HAS BEEN ESTABLISHED.
- TEMPORARY PUMPED DISCHARGE POLLUTION PREVENTION TECHNIQUES: "DANDY DEWATERING BAG" BROCK WHITE CO. USA.



F:\survey\deephaven park subdivision no 3 - hemepj\2-19-deephaven park.su no 301 Surveying - 9097401 CAD\01 Source\01 Survey Base.dwg

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

DRAWN BY: JPF

CHECKED BY: JEFFREY A. PRASCH, P.E.

DATE: 03.17.25 LIC. NO.: 52706

REVISIONS	
03.18.25	CLIENT COMMENTS
03.19.25	CLIENT COMMENTS

DEMARC
 LAND SURVEYING & ENGINEERING
 7601 73rd Avenue North (763) 560-3093
 Minneapolis, Minnesota 55428 Demarcinc.com






SUSTAINABLE 9 DESIGN & BUILD
 3511 W 44TH STREET
 MINNEAPOLIS, MINNESOTA 55410

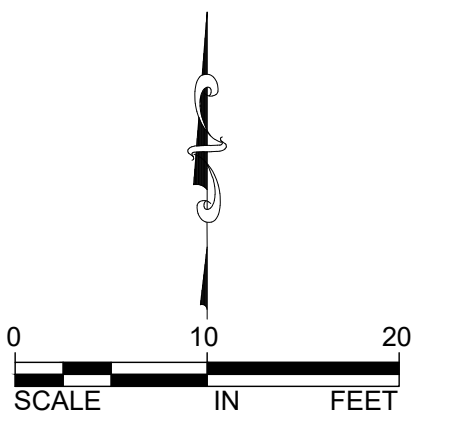
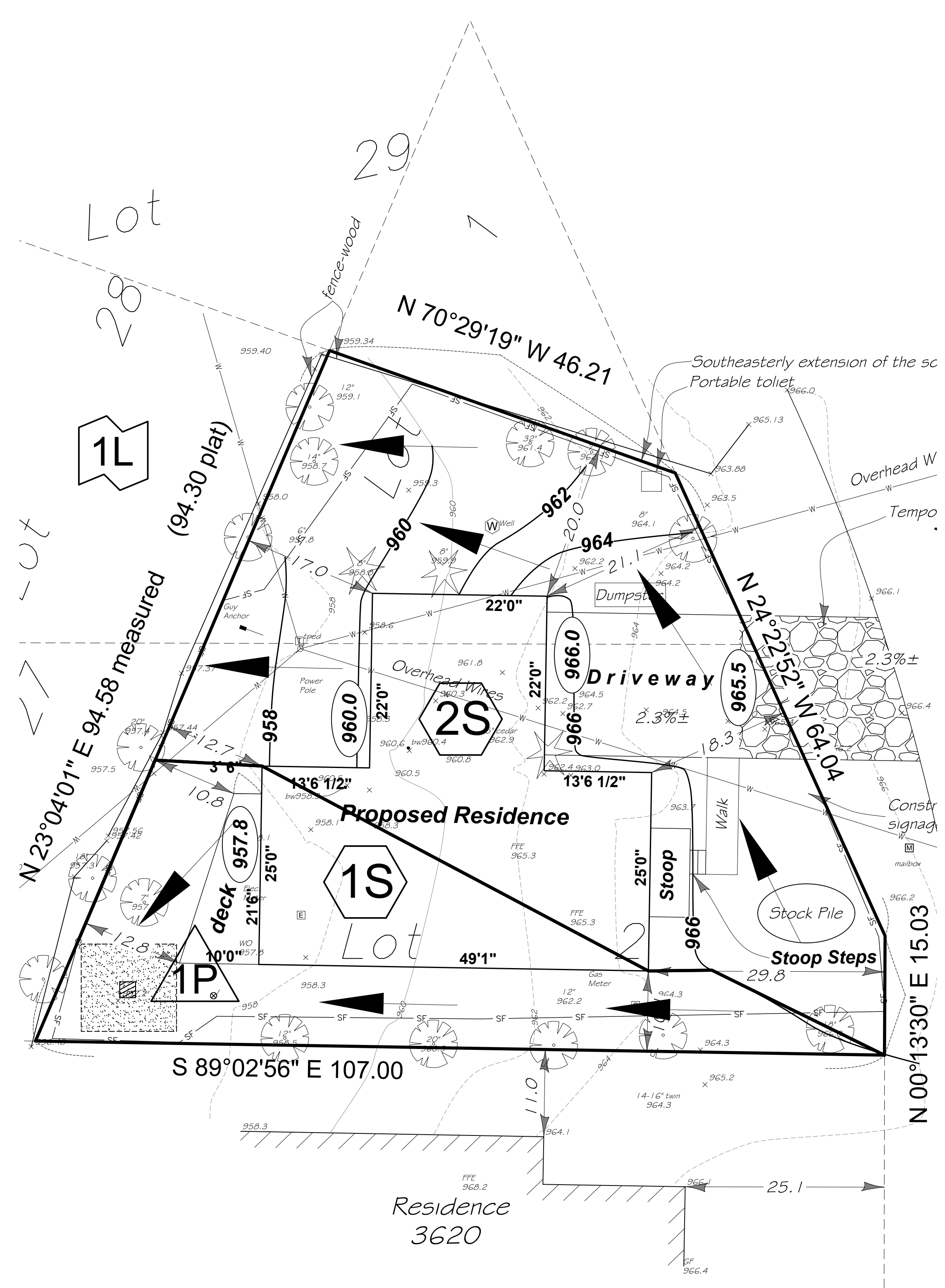
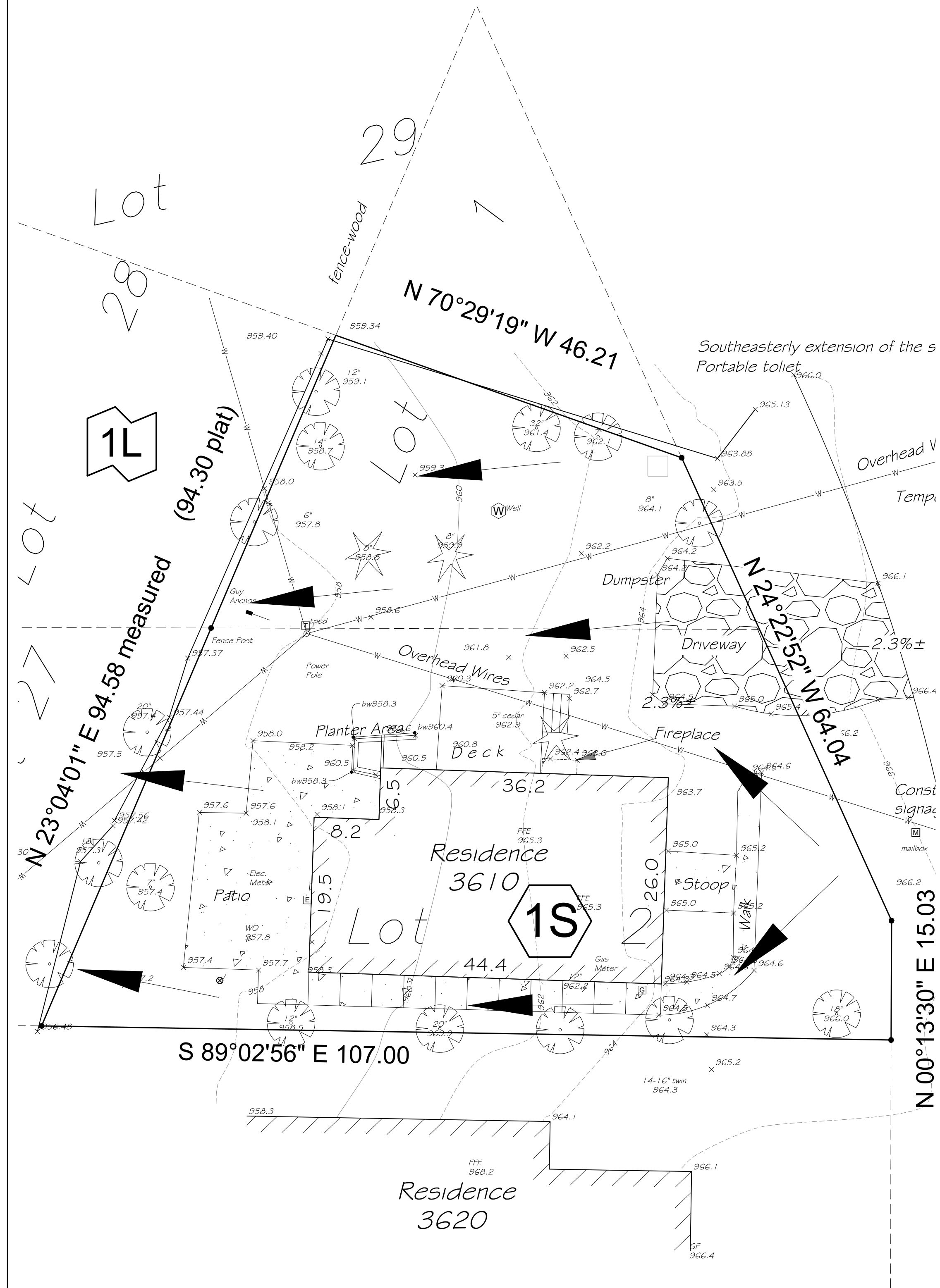
LOT 2 AND PART OF LOT 1, BLOCK 9, DEEPHAVEN PARK SUB DIVISION NO. 3
 3610 NORTHOME AVENUE
 WAYZATA, MN

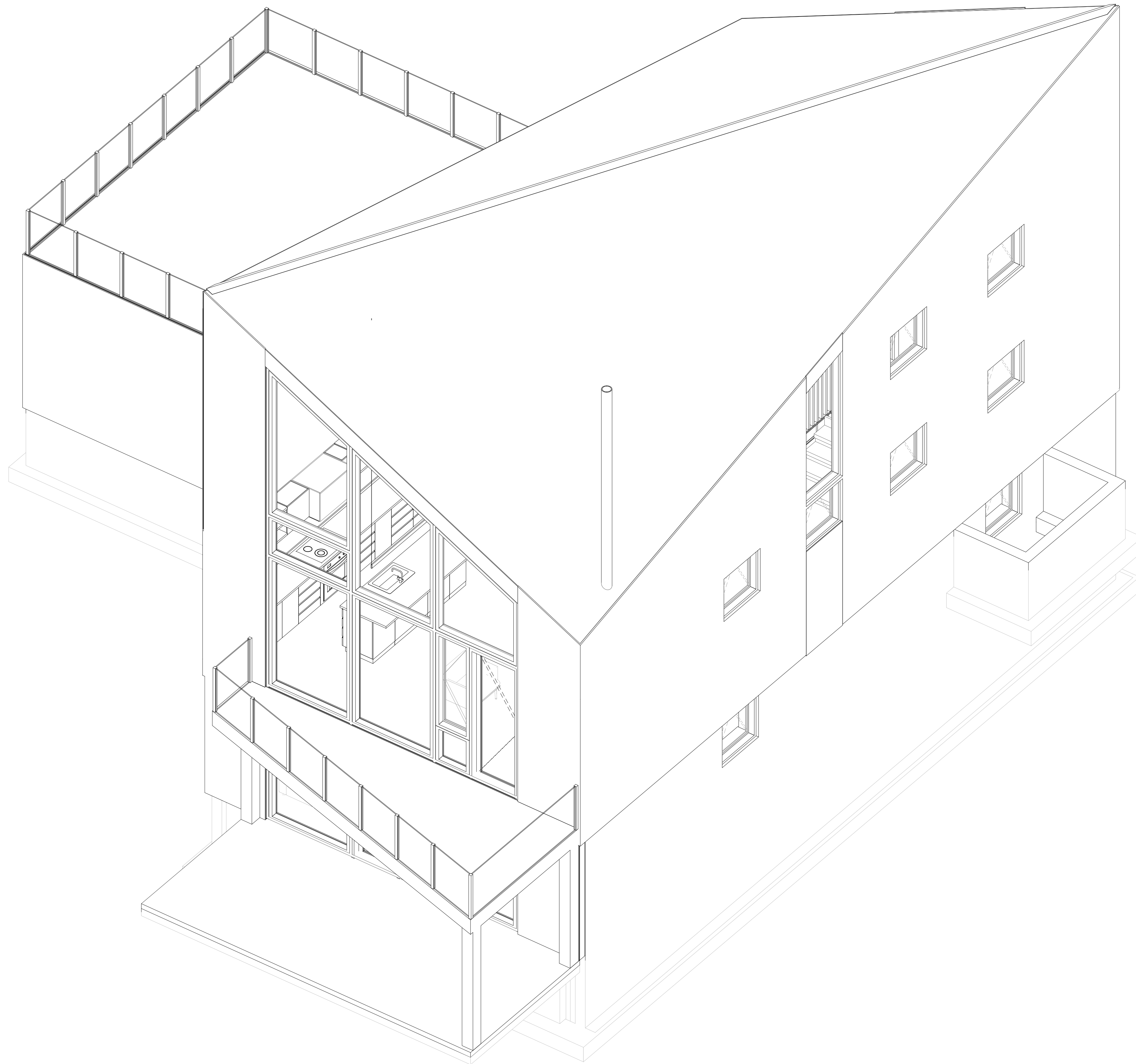
STORMWATER AND EROSION CONTROL PLAN

PROJECT: 90974
 SHEET NO. C1 OF C1

LEGEND

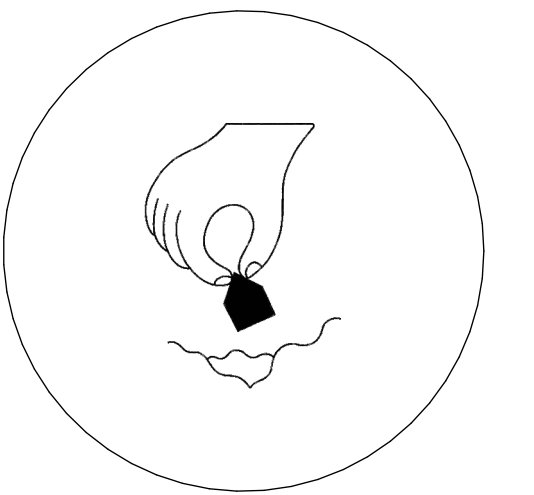
-  SUBCATCHMENT NUMBER
-  POND/CATCH BASIN NUMBER
-  LINK NUMBER
-  REACH NUMBER
-  DRAINAGE ARROW





DEN

**OUTPOST
MEDIUM**



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

NO.	DESCRIPTION
1	

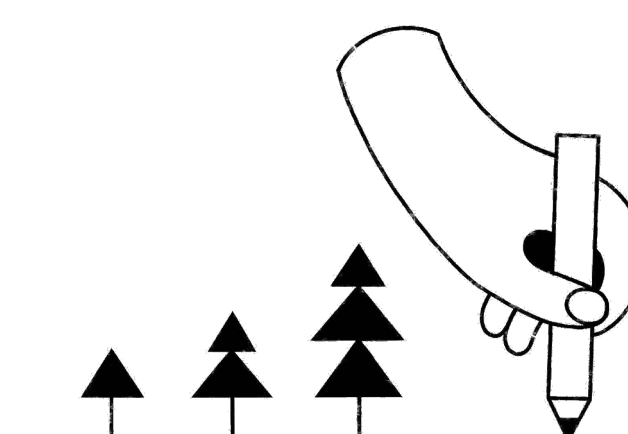
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COVER PAGE

A0-00

**You've decided to build a DEN,
congratulations!**

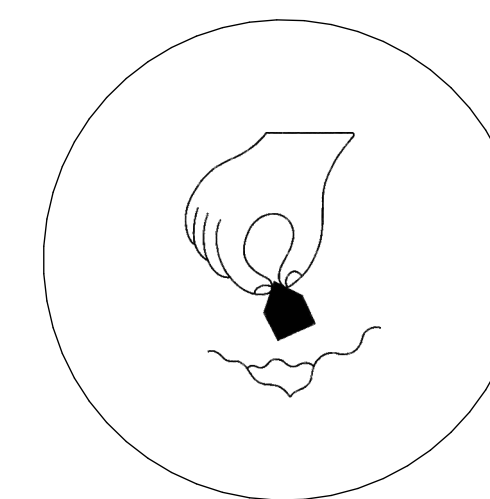
Employ these plans to build a beautiful place close to nature that cultivates deeper connections to the natural world and to those you cherish.





DEN

**OUTPOST
MEDIUM**



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

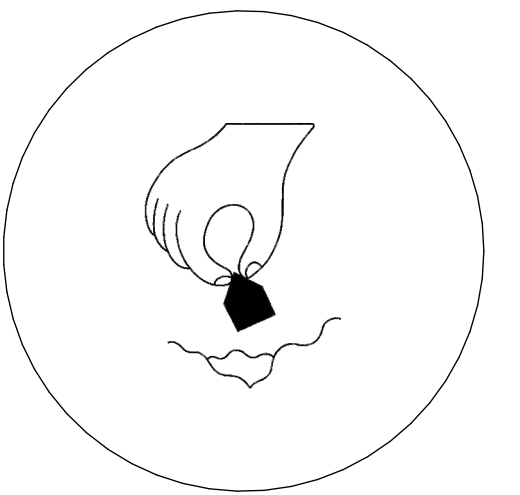
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3D VIEWS

A9-00

OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

NO.	DESCRIPTION
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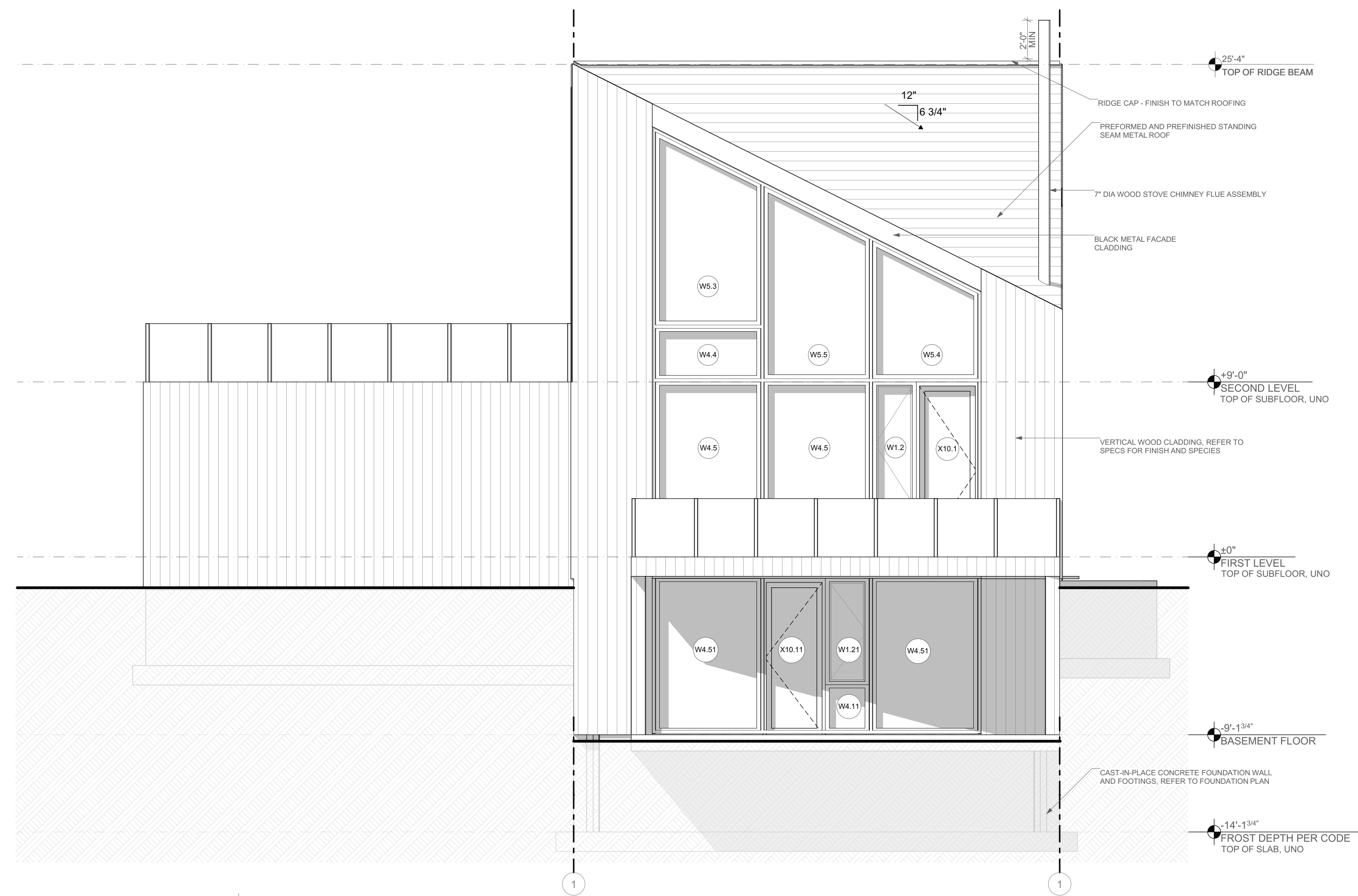
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BUILDING
ELEVATIONS

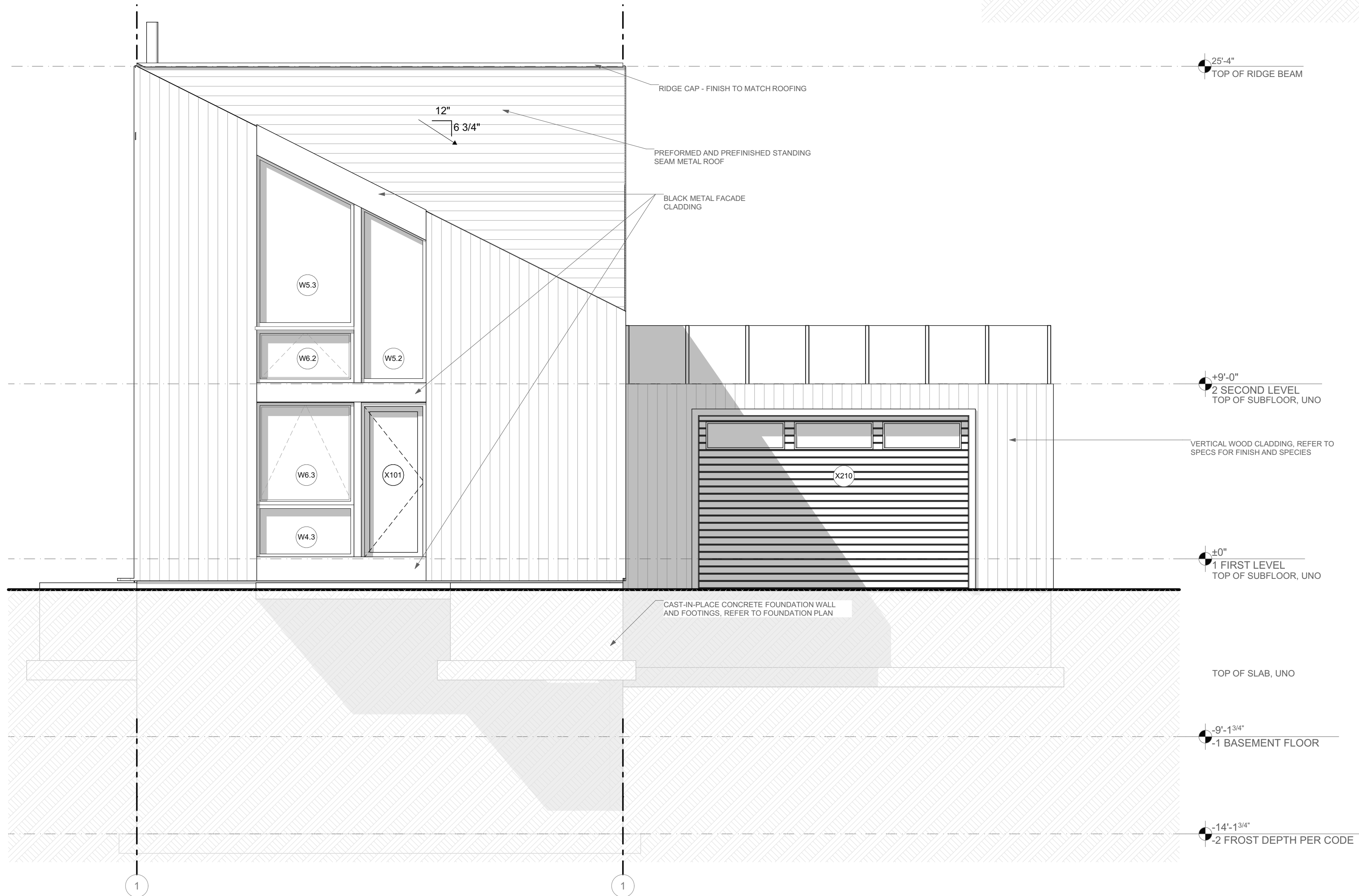
A2-00

SHEET

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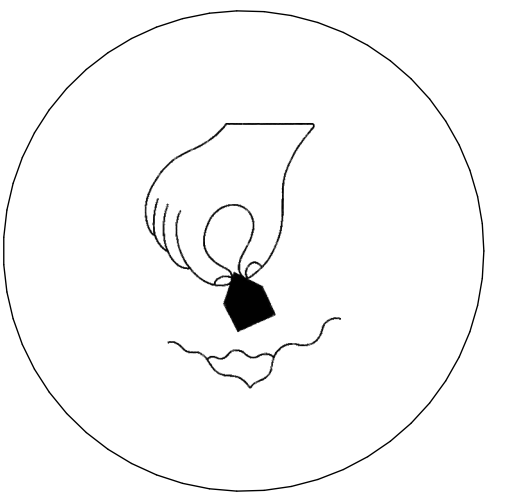


3 RIGHT ELEVATION
SCALE: 1/4" = 1'-0"



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

OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

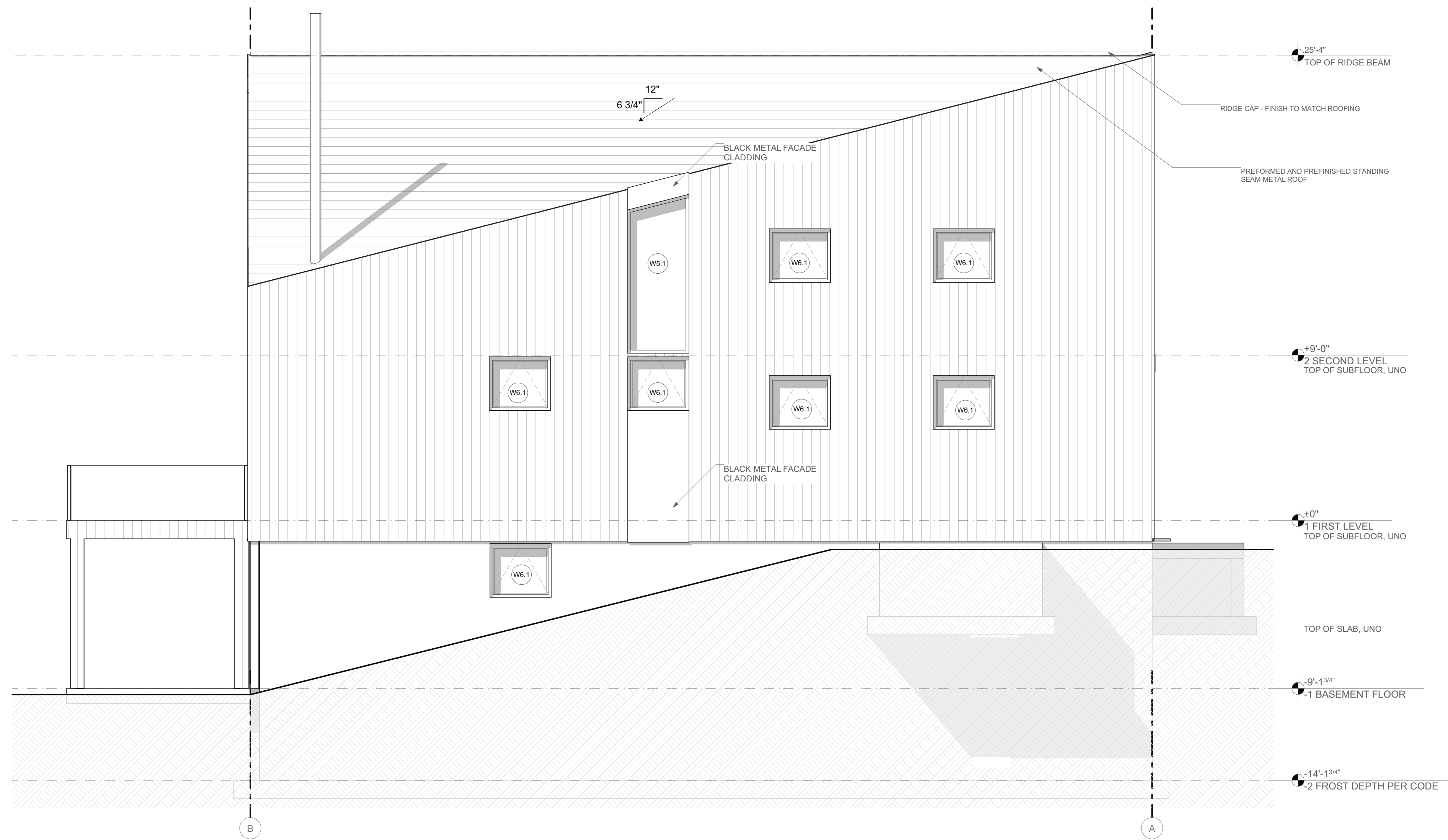
REVISIONS

NO.	DESCRIPTION
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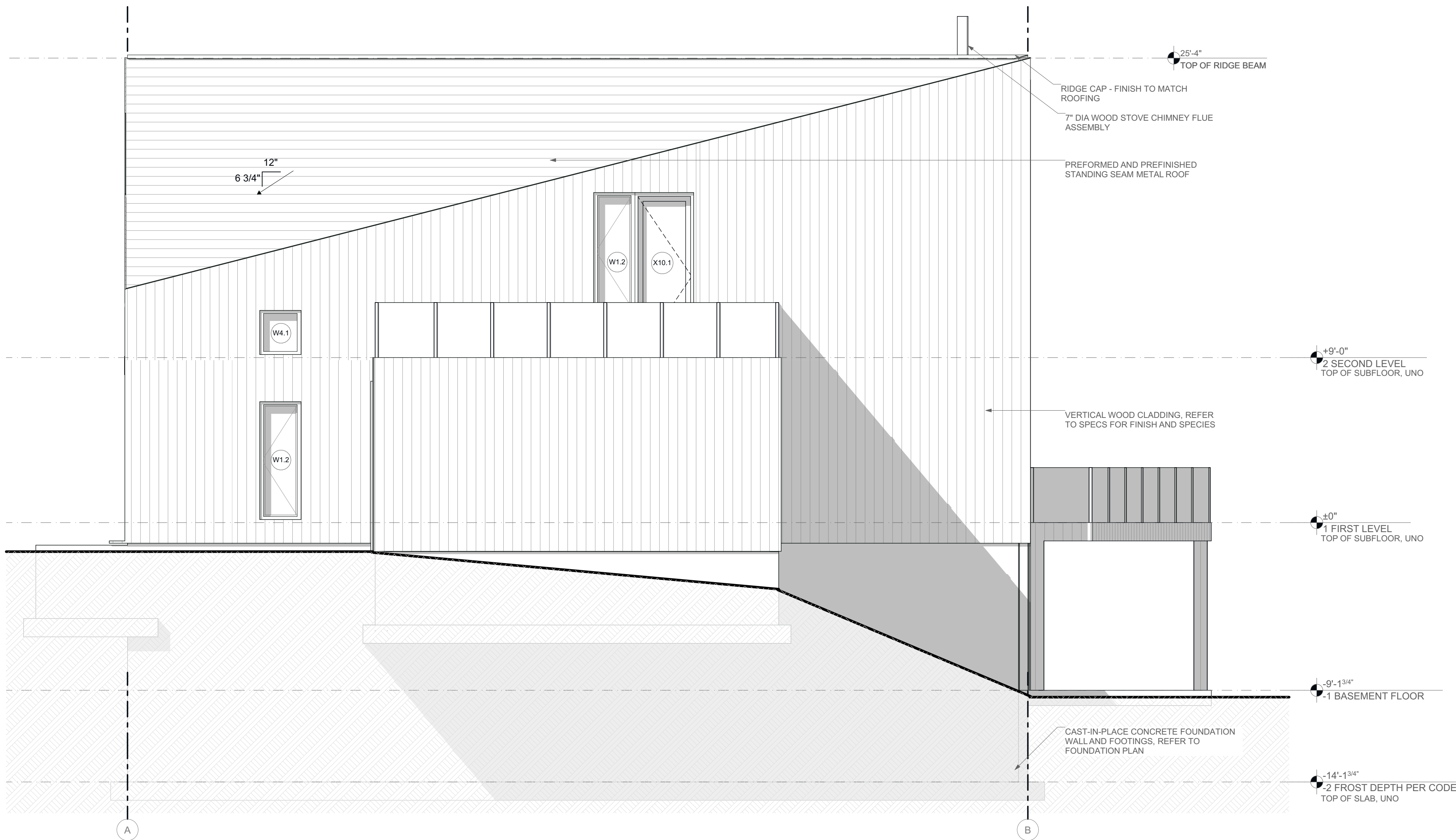
BUILDING
ELEVATIONS

A2-01

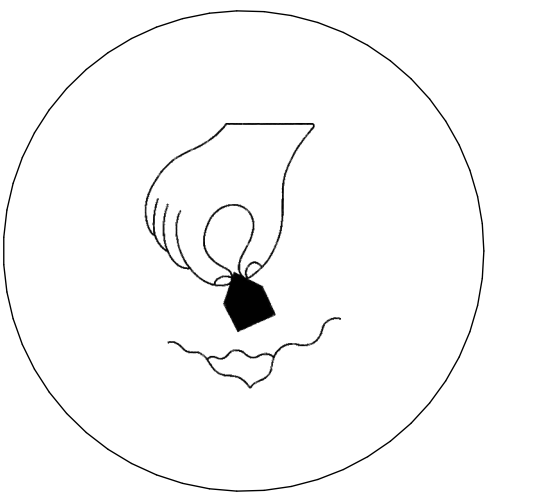


2 FRONT ELEVATION
SCALE: 1/4" = 1'-0"

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



OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

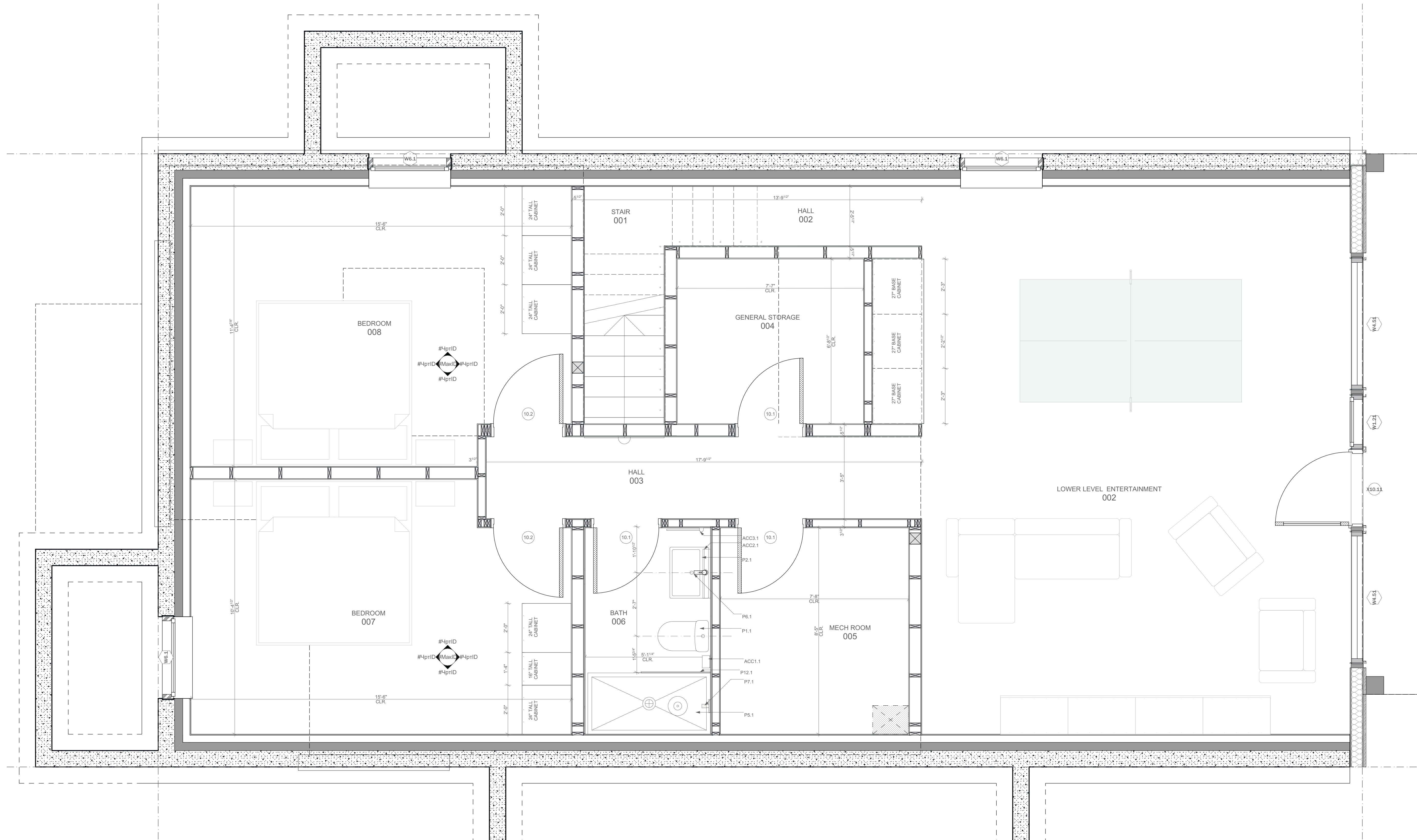
REVISIONS

NO.	DESCRIPTION
1	

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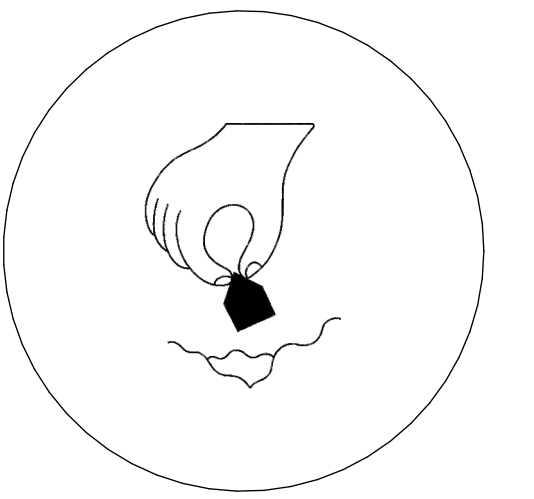
ENLARGED
GROUND FLOOR
PLAN

A5-00



1 BASEMENT FLOOR (6)
SCALE: 1/2" = 1'-0"

* ALL FURNITURE AND CASEWORK
OWNER FURNISHED, BUILDER
INSTALLED



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

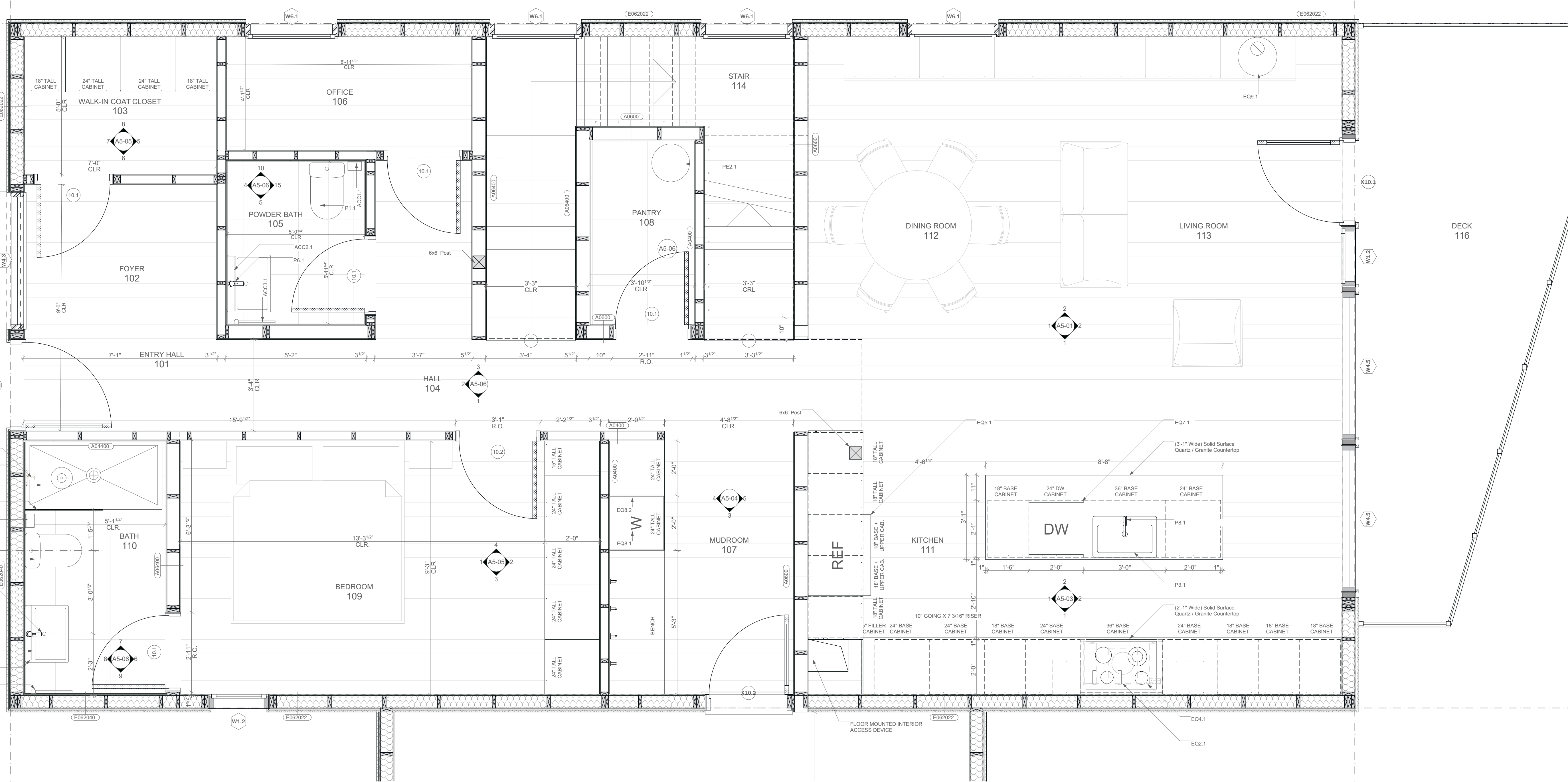
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SCALE 1/2" = 1'-0", 1" = 1'-0"

ENLARGED
BASEMENT FLOOR
PLAN

A5-01

SHEET © 2024 DEN OUTDOORS



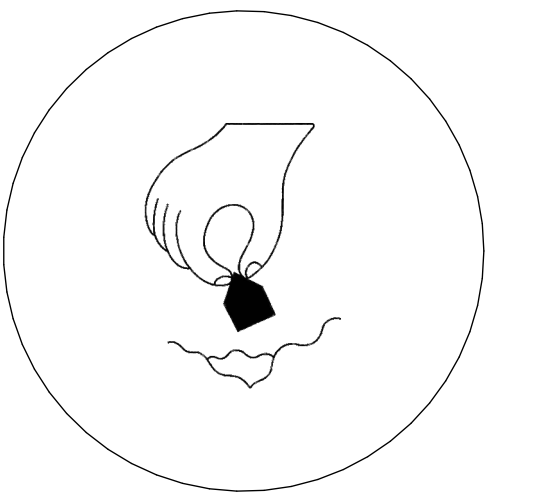
1 ENLARGED GROUND FLOOR PLAN
SCALE: 1/2" = 1'-0"

* ALL FURNITURE AND CASEWORK
OWNER FURNISHED, BUILDER
INSTALLED

SCHEDULE

11.11 APPLIANCES		
TYPE MARK	DESCRIPTION	QTY
EQ1.2	RANGE (30") ELECTRIC	1
EQ2.1	RANGE TOP (36")	1
EQ4.1	RANGE HOOD (36" CABINET)	1
EQ5.1	FRIDGE (36")	1
EQ7.1	DISHWASHER (24" CABINET)	1
EQ8.1	WASHER	1
EQ8.2	DRYER	1

10. SPECIALTIES		
TYPE MARK	DESCRIPTION	QTY
10.21 Bath and Laundry Accessories		
ACC1.1	WALL HUNG TOILET PAPER HOLDER	4
ACC2.1	SINGLE DOOR MEDICINE CABINET	5
ACC3.1	TOWEL BAR	4
10.30 Fireplace and Stoves		
EQ9.1	WOOD STOVE (MORSO)	1
EQ9.1.2	7" DIA WOOD STOVE CHIMNEY FLUE ASSEMBLY	1



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

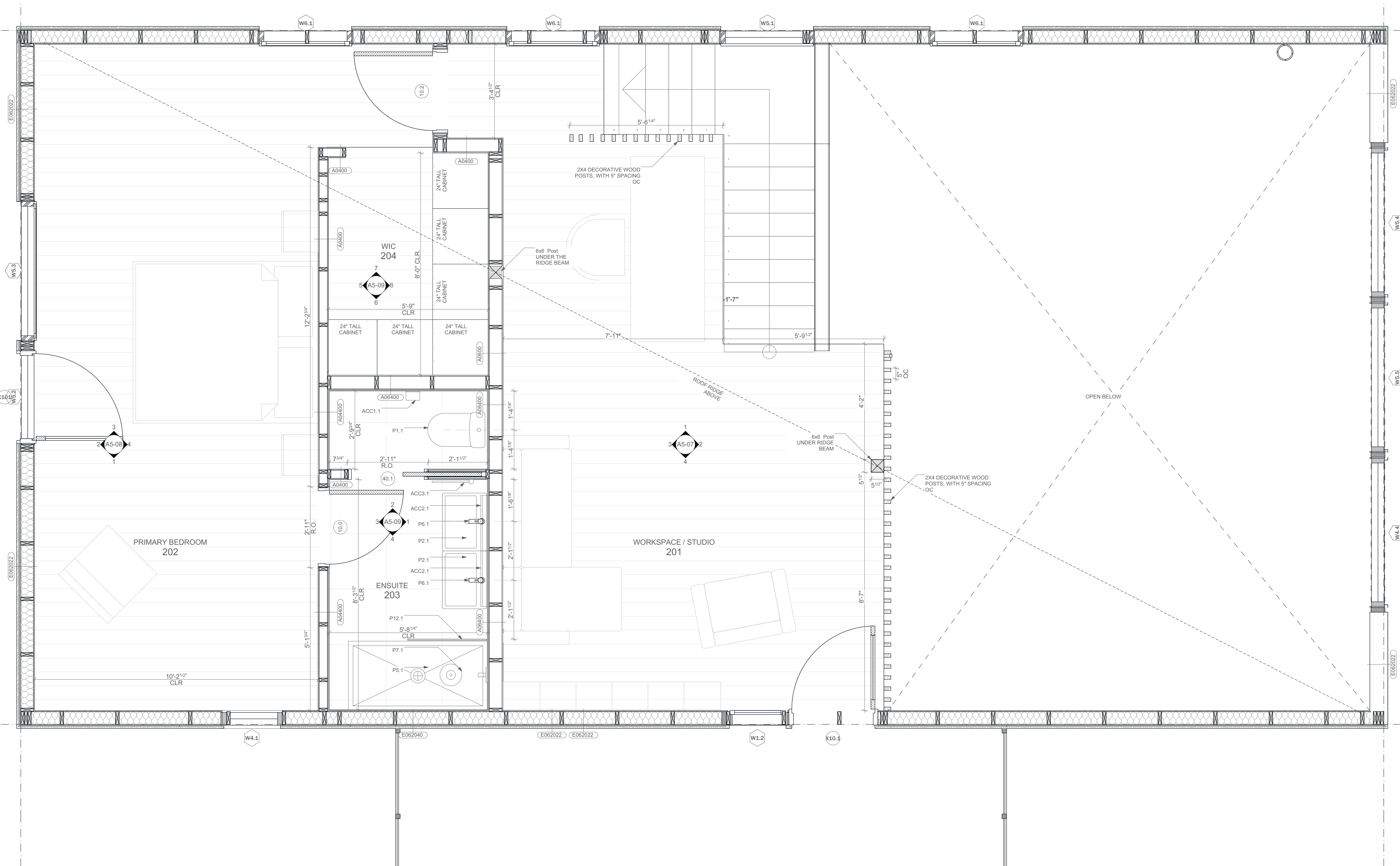
REVISIONS

NO.	DESCRIPTION
1	

SCALE 1/2" = 1'-0", 1" = 1'-0"

ENLARGED LOFT
FLOOR PLAN

A5-02



* ALL FURNITURE AND CASEWORK
OWNER FURNISHED, BUILDER
INSTALLED

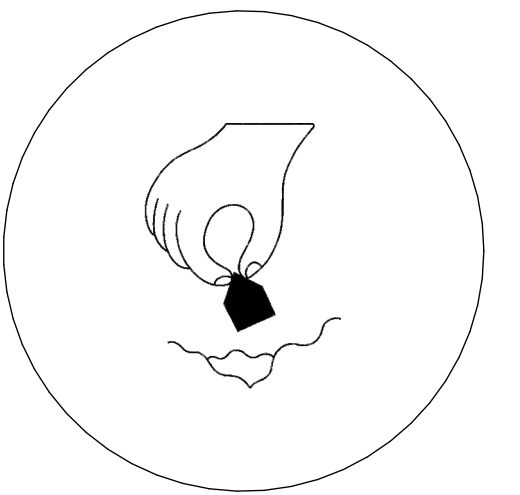
1 ENLARGED LOFT FLOOR PLAN
SCALE: 1/2" = 1'-0"

SCHEDULE

11.11 APPLIANCES		
TYPE MARK	DESCRIPTION	QTY
EQ1.2	RANGE (30") ELECTRIC	1
EQ2.1	RANGE TOP (36")	1
EQ4.1	RANGE HOOD (36" CABINET)	1
EQ5.1	FRIDGE (36")	1
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EQ8.1	WASHER	1
EQ8.2	DRYER	1

10. SPECIALTIES		
TYPE MARK	DESCRIPTION	QTY
10.21 Bath and Laundry Accessories		
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10.30 Fireplace and Stoves		
EQ9.1	WOOD STOVE (MORSO)	1
EQ9.1.2	7" DIA WOOD STOVE CHIMNEY FLUE ASSEMBLY	1

OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

NO.	DESCRIPTION
1	

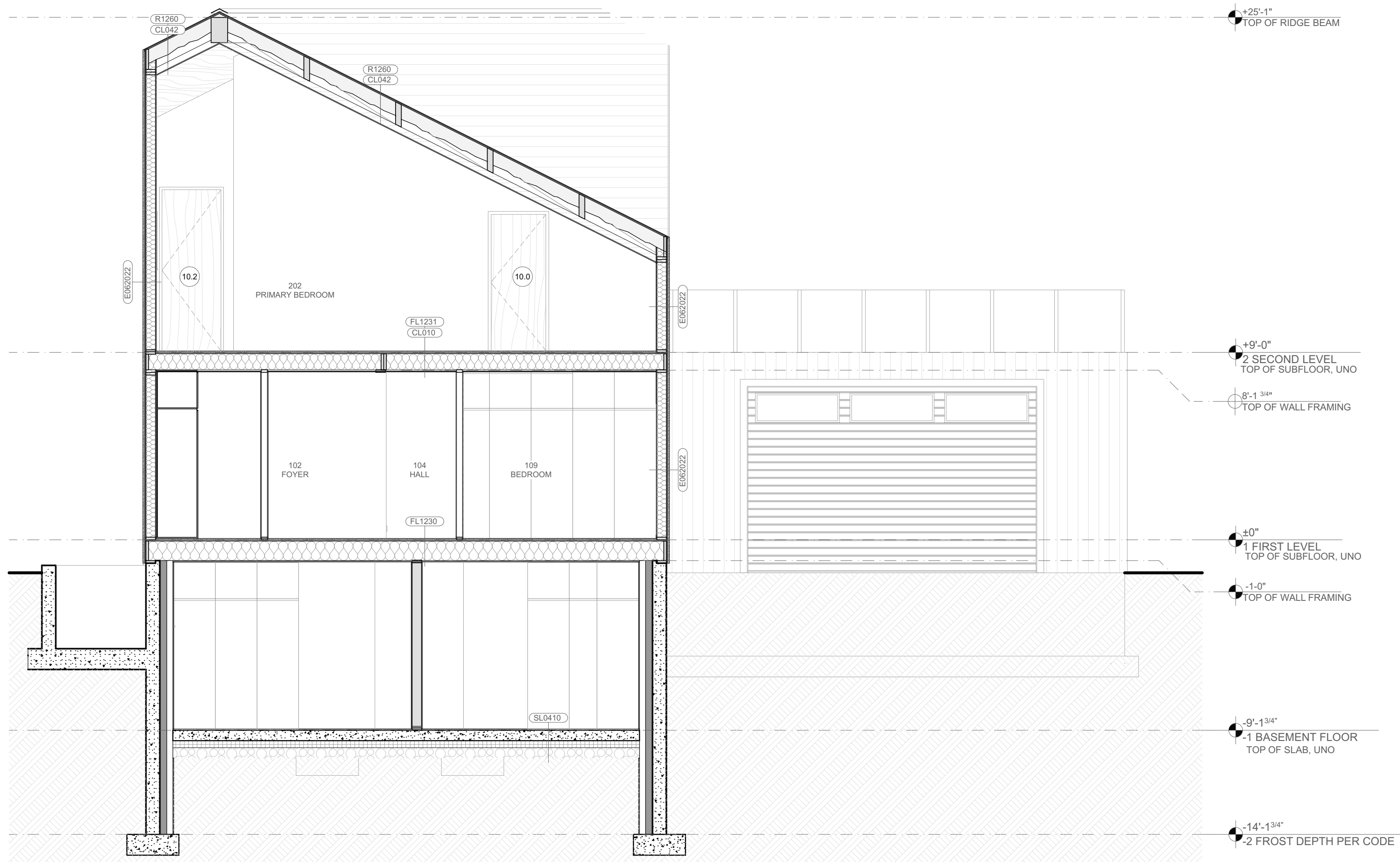
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BUILDING
SECTIONS

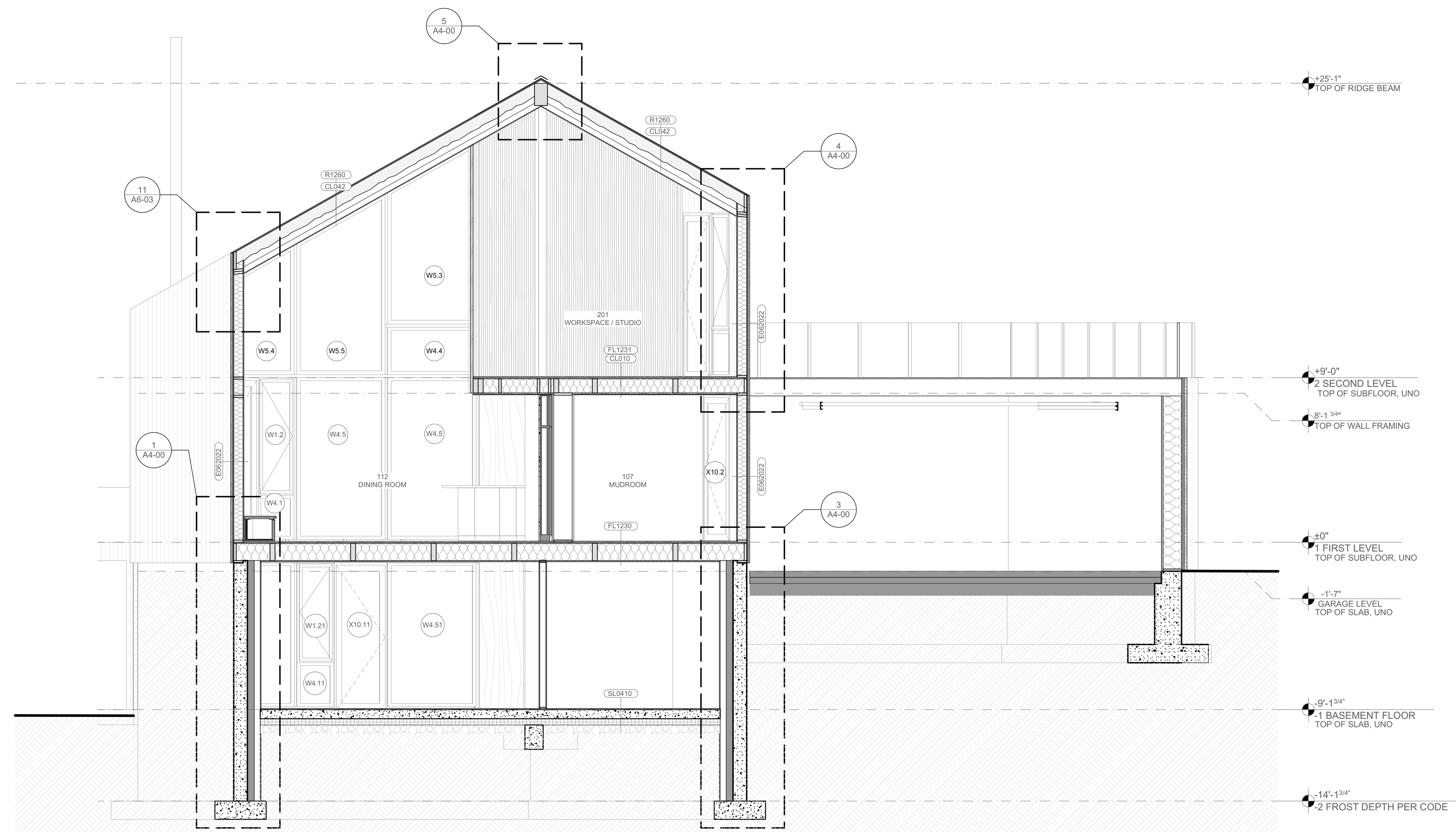
A3-00

SHEET

© 2024 DEN OUTDOORS

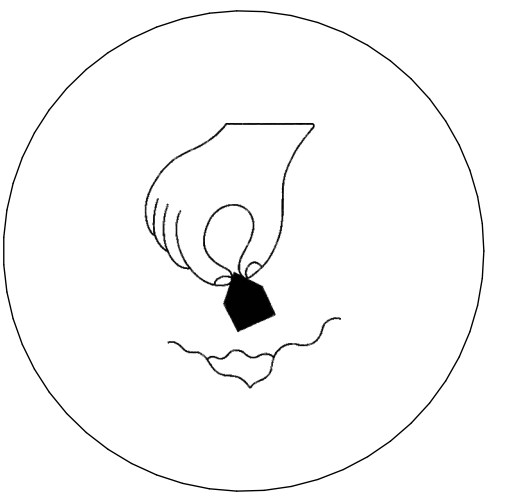


4 SECTION @ BEDROOM
SCALE: 1/4" = 1'-0"



2 SECTION @ LIVING ROOM
SCALE: 1/4" = 1'-0"

OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

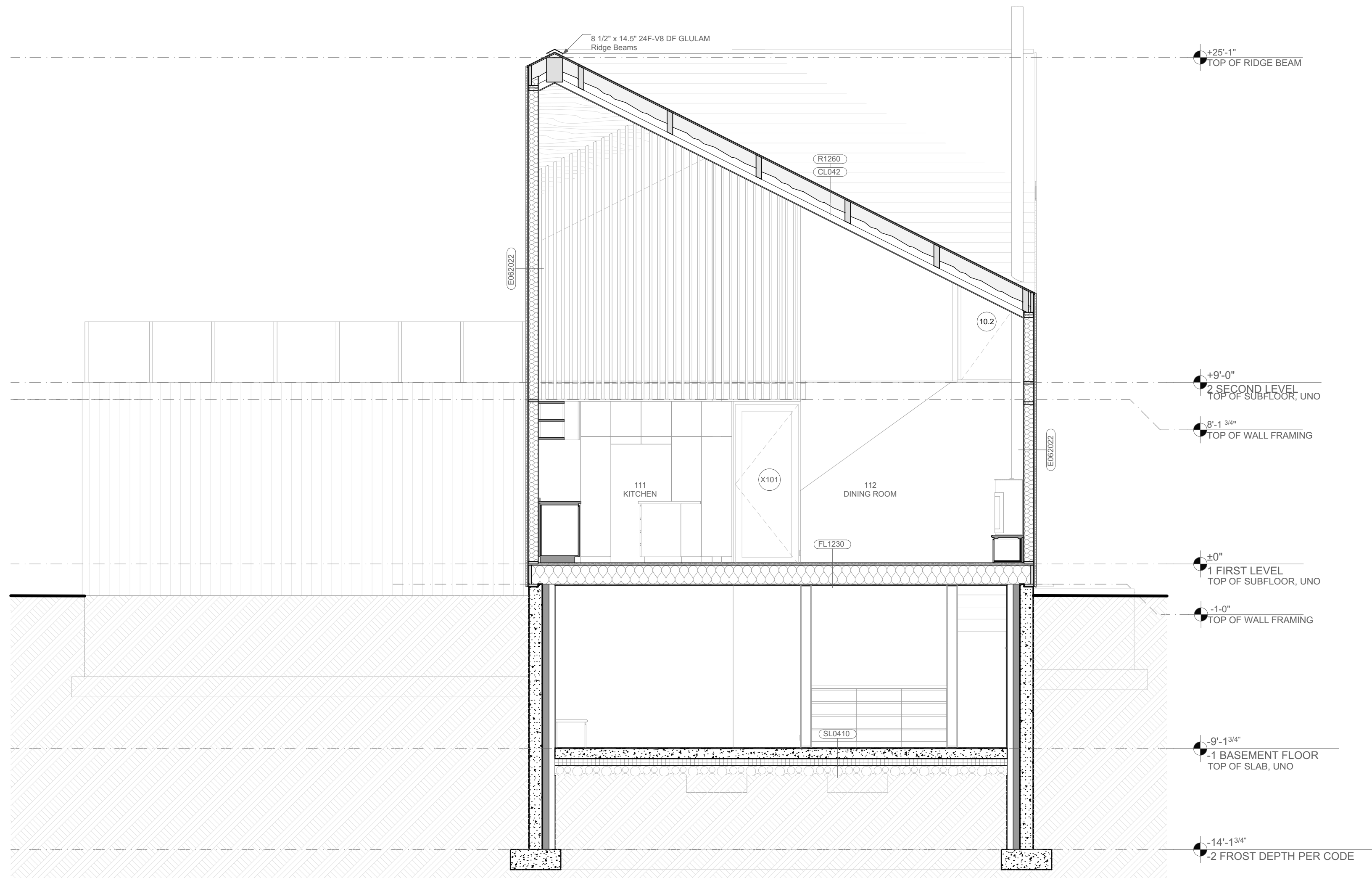
REVISIONS

NO.	DESCRIPTION
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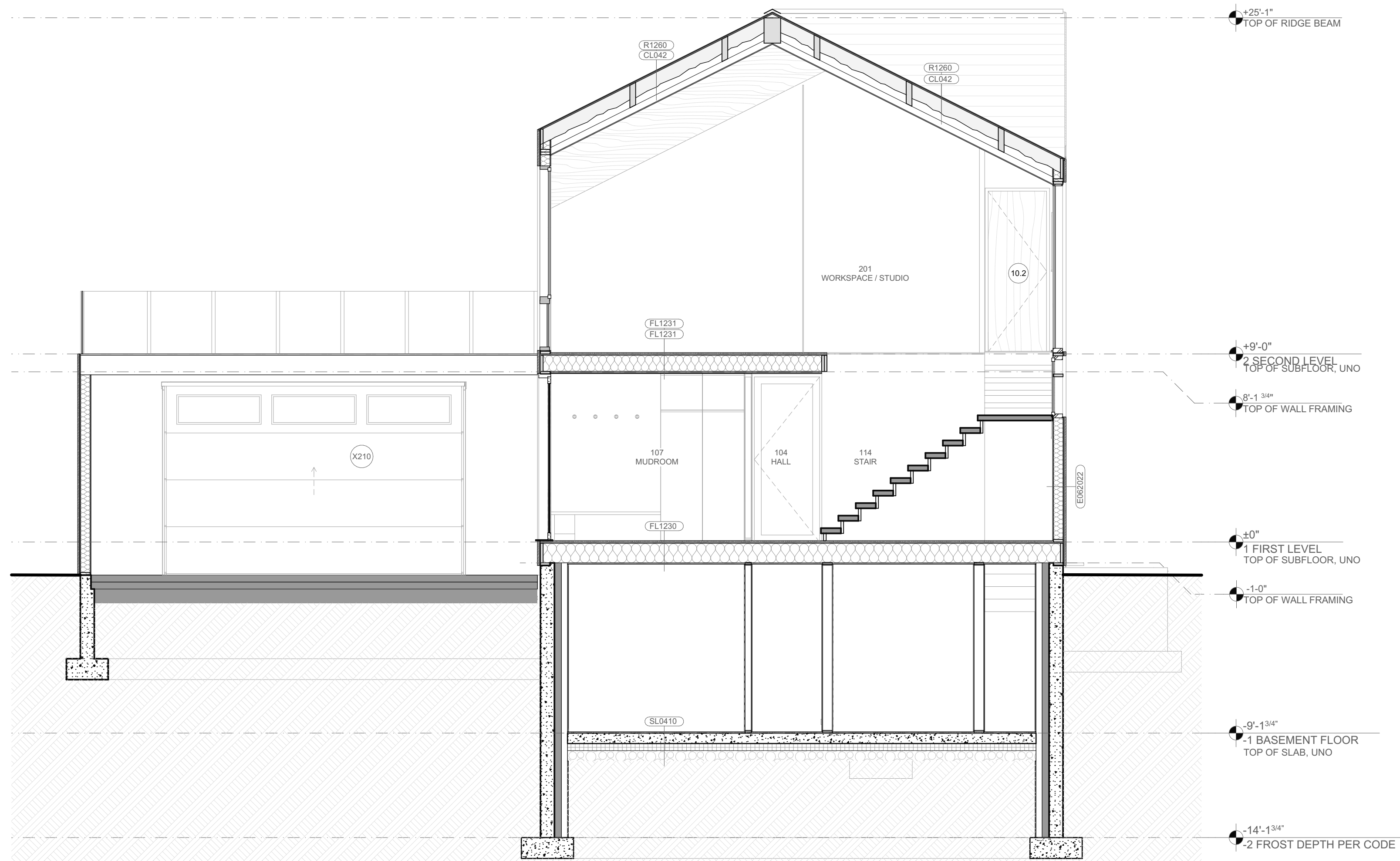
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BUILDING
SECTIONS

A3-00

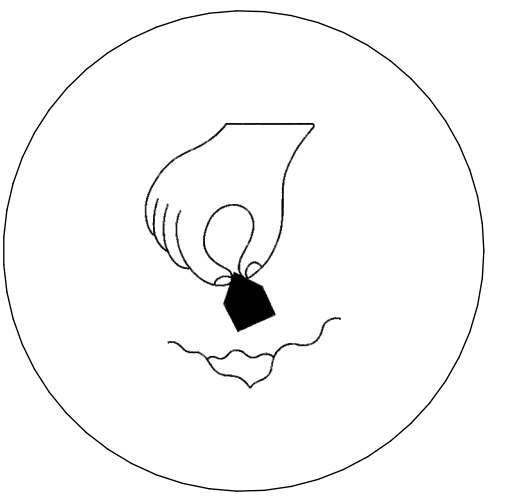


3 SECTION @ KITCHEN AND LIVING ROOM
SCALE: 1/4" = 1'-0"



1 SECTION @ ENTRY AND STAIR
SCALE: 1/4" = 1'-0"

OUTPOST MEDIUM



DESIGN PROFESSIONAL

DATE Issue Date

NOT FOR CONSTRUCTION

REVISIONS

NO.	DESCRIPTION
1	

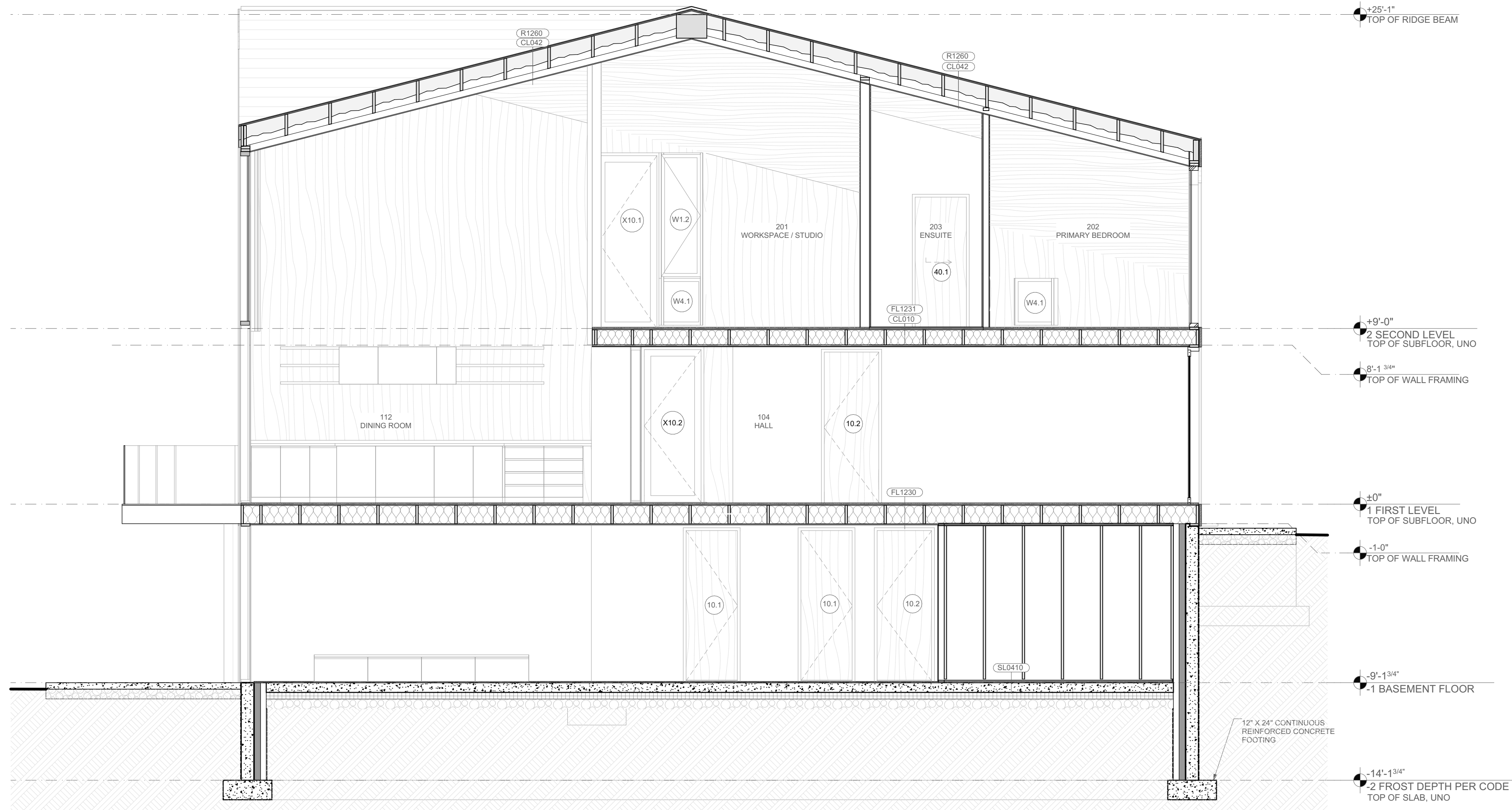
SCALE 1/4" = 1'-0"

BUILDING
SECTIONS

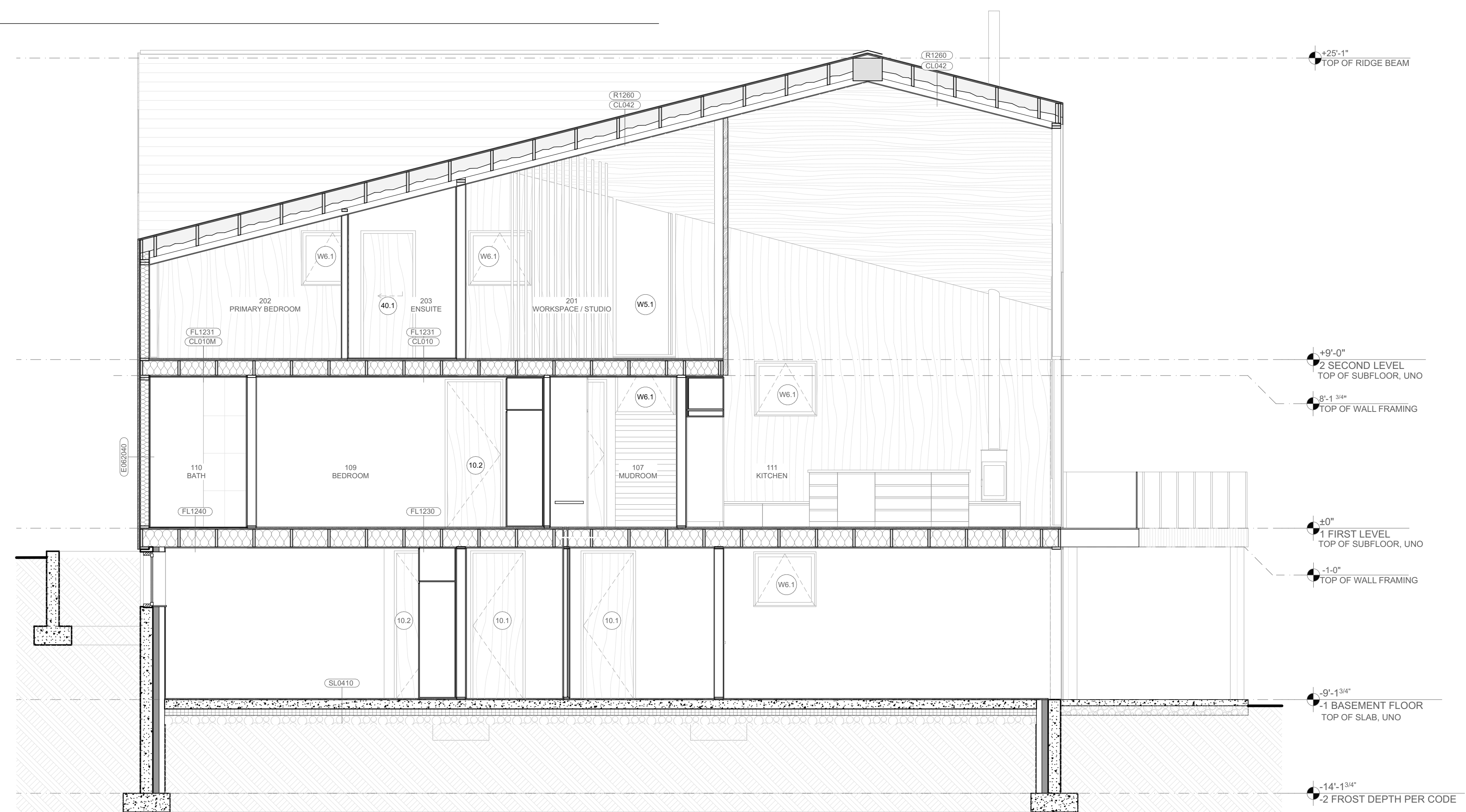
A3-01

SHEET

© 2024 DEN OUTDOORS



2 LONG SECTION
SCALE: 1/4" = 1'-0"



1 LONG SECTION
SCALE: 1/4" = 1'-0"



April 10, 2025

Patrick Smith
Planning Director
City of Deephaven
20225 Cottagewood Road
Deephaven, MN 55331

Re: 3610 Northome Ave – New Home and Hardcover Exceedance CUP Application
Engineering Plan Review

Dear Mr. Smith:

We have reviewed the 3610 Northome Ave site plans dated March 17, 2025 (revision March 19, 2025), for the construction of a new dwelling, submitted with a Conditional Use Permit for the proposed hardcover exceedance. At this address, the property owner proposes to tear down the existing home and construct a new home on the lot.

The documents were reviewed for general conformance with the City of Deephaven's general engineering and stormwater management standards in consideration of the proposed new dwelling and CUP application. More detailed engineering comments will be provided at the time of building permit submittals.

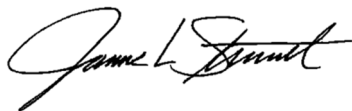
1. In general, drainage patterns will be maintained with the proposed improvements. In existing conditions, site runoff drains west through the backyard to adjacent yards (3645 Parkway Street and 3635 Parkway Street) before reaching Parkway Street and flowing to Saint Louis Bay. In the proposed conditions this pattern is maintained, but 30% of the hardcover area is first directed into an underground infiltration trench with an emergency overflow directed to the west.
2. The proposed grading does *not* appear to increase the elevations of the site by more than 3 feet.
3. The existing hardcover on the site is 36.9% (2,318 sqft). The proposed improvements to the site result in 39.7% hardcover (2,491 sqft). This proposed hardcover exceeds the 25% allowable hardcover as described in Section 1302.05 of the City Zoning Ordinance by 920 sqft.
4. The proposed stormwater mitigation practice for the site is an underground infiltration trench. The infiltration trench receives drainage from a hardcover portion of the dwelling and deck through overland flow and a downspout connection and surface drainage from the backyard.
5. The sizing of the proposed infiltration trench satisfies the calculation requirements listed in Section 1302.05(3) of the City Zoning Ordinance. Performance credit given for stormwater mitigation practices shall be 75% of the calculated volume retained. Thus, for an exceedance of 920 sqft hardcover, 103 cuft of stormwater mitigation shall be provided. The proposed infiltration trench provides 106 cuft of stormwater mitigation. The applicant

should be consistent in naming the BMP. The detail shows a French drain, but calculations refer to a rain garden.

6. Via the Natural Resources Conservation Science (NRCS) soils data available (onsite soil borings not provided), it is expected that the on-site soils are hydrologic group A. These soils are generally favorable for infiltration with an infiltration rate of 0.8 inches per hour. The proposed infiltration system depth is 2 feet with 40% void space, which draws down within the required 48 hours. Typically, infiltration systems are designed to drawdown within 48 hours to prevent issues with vegetation establishment, odors, and to maintain readiness for frequent storms.
7. The EOF of the proposed trench is 957.0'. The applicant should report the proposed dwelling's *low opening* on the plan and ensure adequate separation (>2') from the proposed trench EOF.
8. Include note on the plans that after grading, no equipment shall be allowed on the infiltration trench area to mitigate any unnecessary compaction of in-situ soils.
9. The applicant will be required to obtain a Minnehaha Creek Watershed District (MCWD) permit for the proposed improvements under the Erosion & Sediment Control Rule. It is expected that the applicant may proceed under a MCWD General Permit in accordance with the Rule. A copy of the permit must be provided to the City, conditional to final approval.
10. A Maintenance Agreement must be submitted for the stormwater mitigation practice. The agreement must define maintenance responsibilities following completion of the project, specify types of maintenance activities, designate who will conduct inspection and maintenance activities, and outline reporting requirements.
11. Construction of the proposed infiltration device must be observed by the City Engineer to ensure it is constructed in accordance with the approved plan.

Feel free to contact me at 612-419-1549 if you have any questions or comments regarding the engineering review.

Sincerely,
WSB



James L. Stremel, P.E.
City Engineer

STAFF REPORT
Pat Smith, Planning Director

Deephaven Planning Commission
April 15, 2025



BACKGROUND

At the City Council/Planning Commission joint work session, one of the items that the City Council wanted the Planning Commission to discuss was updating the City's sign ordinance. Attached is a table comparing sign regulations of surrounding communities.

Key Questions:

Section 1115.04, Subd. 2 states, "No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a special use permit from the city."

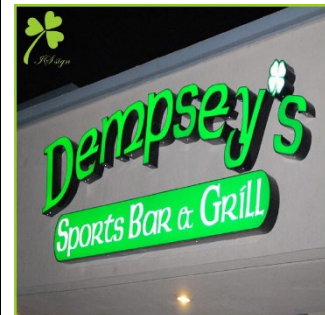
- Should all new signs be required to go through the Conditional Use Permit process if the signs meet size and placement standards? For all other cities, signs are approved administratively if the signs meet the sign ordinance regulations. Wayzata requires free-standing signs in the downtown to be approved through a CUP process.
- Should internally-illuminated signs be prohibited in Chowen's Corner? Only a few of the existing signs are internally-illuminated. Excelsior prohibits internally-illuminated signs.



Externally-Illuminated



Externally-Illuminated



Internally-Illuminated

- Should the number of signs be limited for each business? Currently there is no limit, just an overall size limit of 100 square feet.



- Current temporary sign permit regulations gives the Zoning Coordinator the authority to issue permits based on keeping with the character of the property. This is subjective and should be changed.
- How to regulate multi-tenant buildings? Deephaven limits the amount of signage to 100 square feet for all signs regardless of how many tenants are located in a building.

Chaska requires businesses sharing the same façade, must use the same or similar method of signing.

- How to regulate electronic message boards?



Most cities prohibit electronic readerboard signs (Excelsior, Mound and Chaska). Deephaven allows changeable copy signs that can be changed only one in a 24-hour period. A CUP was approved for the Midas electronic message board with a condition that the LED changeable copy not change more than twice in a 24-hour period. This is difficult to enforce for new staff members who may not be

aware of the requirement. The CUP for the Midas business allows the vinyl signs permanently.

- Currently, Deephaven limits political signs to 12 SF in area and displayed no earlier than 56 days before an election and must be removed 7 days after the election.
- State law allows any size political sign no earlier than 46 days before a state primary and must be removed 10 days after the election.
- Allow or prohibit open house signs?

PLANNING COMMISSION ACTION REQUESTED

Discuss the key questions and schedule a public hearing for the May 20, 2025 Planning Commission meeting.

Attachment:

- 1) Existing Ordinance Key Questions from Other Cities
- 2) Draft Ordinance

SECTION 1115 REGULATION OF SIGNS

1115.01 Findings, purpose and effect.

- a. Findings. The City Council hereby finds as follows:
1. Exterior signs have a substantial impact on the character and quality of the environment.
 2. Signs provide an important medium through which individuals and organizations may convey a variety of messages.
 3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
 4. The city's ordinances have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.
- b. Purpose and intent. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed outside a building. The purpose and intent of this article is to:
1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
 2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
 3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
 4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the city.

- c. Effect. A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, it to:
1. Allow a wide variety of signs types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.
 2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.
 3. Prohibits signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having lessen impact on the environment and the public health, safety and welfare.
 4. Provide for the enforcement of the provision of this sign ordinance.

1115.02 **Severability**

If any section, subsection, sentence, clause or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

1115.03 **Definitions**

The following words and terms, when used in this Sign Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

Subd. 1. **Abandoned sign.** Any sign and/or supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

Subd. 2. **Animated Sign.** A sign which includes action or motion.

Subd. 3. **Awning.** A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which

projects from a wall or roof of a structure primarily over a window, walk or the like. Any part of an awning that also projects over a door shall be counted as awning.

Subd. 4. Awning sign. A building sign or graphic printed on or in some fashion attached directly to the awning material.

Subd. 5. Balloon sign. A sign consisting of a bag made of lightweight material supported by helium, hot or pressurized air which is greater than twenty-four (24) inches in diameter.

Subd. 6. Billboard. A sign erected for the purpose of advertising a product, event, person, or subject not entirely related to the premises on which the sign is located.

Subd. 7. Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Subd. 8. Building sign. Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

Subd. 9. Cabinet sign. Any wall sign that is not of channel or individually mounted letter construction.

Subd. 10. Canopy. A roof-like cover, often of fabric, plastic, metal or glass on a support, which provides shelter over a doorway.

Subd. 11. Canopy sign. Any sign that is part of or attached to a canopy made of fabric, plastic or structural protective cover over a door or entrance.

Subd. 12. Changeable copy sign. A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face of the surface of the sign. Changeable copy signs does not include signs upon which characters, letters or illustrations change or rearrange only once in a 24-hour period.

Subd. 13. Commercial Speech. Speech advertising a business, profession, commodity, service or entertainment.

Subd. 14. Elevation. The view of the side, front or rear of a given structure(s).

Subd. 15. Erect. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

Subd. 16. Flag. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices.

Subd. 17. Flashing Sign. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling or sparkling.

Subd. 18. Freestanding sign. Any sign that has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

Subd. 19. Grade. Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

Subd. 20. Ground sign. Any freestanding sign with its face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

Subd. 21. Height of sign. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

Subd. 22. Illuminated sign. Any sign, whether exterior or interior, which contains an element designed to emanate artificial light internally or externally.

Subd. 23. Interior sign. A sign which is located within the interior of any building, or within an enclosed lobby or court of any building.

Subd. 24. Issuing Authority. The City of Deephaven Planning/Zoning Department.

Subd. 25. Legally established nonconforming sign. Any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a special use permit or variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Subd. 26. Monument sign. Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

Subd. 27. Non-commercial speech. Dissemination of messages not classified as Commercial Speech, which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Subd. 28. Off-premise sign. A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel

of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

Subd. 29. On-premise sign. Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed. On-premise signs located within residential districts are not permitted.

Subd. 30. Parapet (wall). That portion of building wall that rises above the roof level.

Subd. 31. Pole sign. See Pylon Sign.

Subd. 32. Political Sign. Any sign which includes the name or picture of an individual seeking election or appointment to public office, or pertaining to a forthcoming public election or referendum, or pertaining to or advocating political views or policies, which is erected on private property by a bonafide candidate for political office or by a person or group supporting such a candidate and which contains the name of the person or group responsible for the erection and removal of the sign.

Subd. 33. Portable sign. Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

Subd. 34. Porte cochere. A roofed structure or roof-like cover, extending from the entrance of a building and which provides shelter over a doorway.

Subd. 35. Principal building. The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

Subd. 36. Projecting sign. Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.

Subd. 37. Property owner. Legal owner of property as officially recorded by Hennepin County.

Subd. 38. Public notices. Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

Subd. 39. Public street right-of-way. The planned right-of-way for a public street.

Subd. 40. Pylon sign. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

Subd. 41. Real Estate Sign. A sign pertaining to the sale, lease, or rental of the real estate upon which it is located.

Subd. 42. Residential district. Any district zoned for residential uses.

Subd. 43. Roof. The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering section of the Uniform Building Code.

Subd. 44. Roof line. The upper-most edge of the roof or in the case of an extended façade or parapet, the upper-most height of said façade.

Subd. 45. Roof sign. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure and extending vertically above the highest portion of the roof.

Subd. 46. Roof sign, integral. Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Subd. 47. Rotating sign. A sign or portion of a sign which turns about on an axis.

Subd. 48. Shimmering signs. A sign that reflects an oscillating sometimes distorted visual image.

Subd. 49. Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Subd. 50. Sign face. The surface of the sign upon, against, or through which the message of the sign is exhibited.

Subd. 51. Sign structure. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Subd. 52. Site. A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated and/or approved to function as an integrated unit.

Subd. 53. Stringer. A line of string, rope, cording or an equivalent to which is attached a number of pennants.

Subd. 54. Suspended sign. Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Subd. 55. Temporary Sign. Any sign, banner, pennant, balance, spinners, balloons or advertising display intended to be displayed for no more than 45 days.

Subd. 56. Total site signage. The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

Subd. 57. Visible. Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Subd. 58. Wall. Any structure which defines the exterior boundaries of courts or a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

Subd. 59. Wall sign. Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one (1) sign surface.

Subd. 60. Window sign. Any building sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

1115.04 Administration and enforcement

Subd. 1. Compliance with Section 1115 and Code. No person shall erect or cause to be erected, placed, altered or moved, any sign, unless in conformity with Section 1115. Nothing in this Section will relieve any person from complying with the provisions of any other ordinance of the City of other provisions of this Code.

Subd. 2. Permit required. No sign shall be erected, (altered), reconstructed, (maintained) or moved in the city without first securing a special use permit from the city in accordance with Section 1320 of the City's Ordinances. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information:

- a. Names and addresses of the owners of the display structure and property.
- b. The address at which any signs are to be erected.
- c. The lot, block and addition at which the signs are to be erected and the street on which there are to front.
- d. A complete set of plans showing the necessary elevations, distances, sizes and details to fully and clearly represent the construction and place of the signs.

- e. The cost of the sign.
- f. The type of sign (i.e. wall sign, monument sign, etc.)
- g. Certification by applicant indicating the application complies with all requirements of the sign ordinance.

The issuing authority shall approve or deny the sign permit in an expedited manner no more than sixty (60) days from the receipt of the complete application, including applicable fee.

No special use permit for a sign may be transferred or assigned to anyone other than the owner of the property on which the sign is located.

Subd. 3. Placement. No sign may be placed or maintained on rocks, fences, or trees, nor so as to interfere with any electric lights, or electrical or telephone wires or their supports, or placed in a manner which is deemed a detriment to public safety.

Subd. 4. Maintenance. All signs, together with all supports, braces, guys and anchors, must be kept neatly painted and posted. Every sign must be maintained by the owner of the property on which it is located in a clean and inoffensive condition. The owner of the property on which any ground sign is located must keep all grass, weeds or other growth cut around the sign, and will keep all rubbish, paper and debris cleaned up around the sign and removed from the property on which the sign is located.

1115.05 Exemptions. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

- a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
- b. Signs six (6) square feet or less in size, approved by Zoning Coordinator.
- c. Political Signs. Freestanding political signs, not exceeding a sign surface area of 12 square feet each, displayed for a period of not more than eight weeks prior to the pertinent election date and not more than one week after that election date.
- d. Residential Identification Sign. One identification sign per residential dwelling unit, which sign must not exceed a sign surface area of 4 square feet.
- e. Garage Sale Signs. Freestanding signs for garage sales or similar events occurring within the corporate limits of the City, not exceeding 4 square feet in sign surface area, erected on private property with permission of the landowner, or erected in that portion of a public right-of-way outside of the traveled portion of the right-of-way, and displayed for not more than 3 days.

- f. Signs at Construction Sites. Signs denoting the architect, engineer, or contractor, when placed upon work under construction, provided that the total sign surface area of all such signs does not exceed 32 square feet in a district zoned for commercial uses or 6 square feet in a district zoned for residential uses, and provided that the sign is removed upon completion of construction or prior to a date six months after the sign is first placed on the property, whichever is earlier.
- g. Temporary Signs. Temporary signs (other than political signs) pertaining to drives or events of civic, philanthropic, educational or religious organizations, provided permission of the Council must be obtained to erect such signs upon or over streets or other public property, and provided further that such signs must not be erected or posted for a period of more than 14 days prior to the date of the event and must be removed within 3 days after the event.
- h. Real Estate Signs. Real estate signs, provided the total sign surface area for real estate signs on a property is not greater than 6 square feet and the sign is located on the property to be leased or sold. Real estate signs must be removed within 3 days after closing of the sale or leasing of the property on which they are located.
- i. Interior Signs. Non-illuminated sign within the interior of a building, so long as it is not a prohibited sign under Subsection 1115.06.
- j. Business Identification Signs. One business identification sign which is designed to replace an existing business identification sign for which a valid sign permit exists, so long as the new sign has the same dimensions and is in the same location as the existing sign, and is neither a lighted sign or a prohibited sign under 1115.06.

1115.06 Prohibited Signs. Unless a sign is specifically permitted under this Section, or a temporary sign permit has been issued for the sign under this Section, or a special use permit has been issued for the sign under the City's Zoning Ordinance, the sign is prohibited. By way of example and not by way of limitation, the following signs are specifically prohibited:

- (a) Billboards.
- (b) Flashing signs, searchlights, flags, or whirling devices.
- (c) Animated signs.
- (d) Signs which emit sound, odor or visible matter.
- (e) Signs attached to a vehicle parked primarily for use as a sign for a period of more than 14 days.
- (f) Balcony signs and signs mounted or supported on a balcony.
- (g) Any sign that obstructs any part of a doorway, stairway or fire escape.

- (h) Signs within the public right-of-way, public property or public easement.
- (i) Any sign projecting above the roofline of the structure to which it is affixed.
- (j) Signs which project beyond the property line of the property upon which the sign is located.
- (k) Signs which have a structural member or other portion closer than 10 feet to a side lot line.
- (l) Signs intended to be for the purpose of business advertising in any residentially zoned areas, including window signs.
- (m) Any sign which by reason of its location, color, or intensity, creates a hazard to the safe and efficient movement of vehicles or pedestrian traffic, including any sign which might be construed as a traffic control or which otherwise resembles any official marker erected by a governmental body or agency.
- (n) Window signs which obstruct the window to the point where the interior of the building cannot be observed by police or other security personnel.
- (o) Wall signs having a sign surface area exceeding 15% of the area of the wall surface (including doors and windows) to which it is affixed.
- (p) Signs constructed so that the message or communication is not flat against the sign structure.
- (q) Off-premise commercial signs whether located in a commercially or residentially zoned property.
- (r) On-premise sign located within residential districts identifying or advertising an establishment, person, activity, goods, products or services located on the premises where the sign is installed.
- (s) Signs defined in this chapter as Changeable Copy Signs, Portable Signs, Rotating Signs, Shimmering Signs, Stringers or Suspended Signs.
- (t) Signs which contain any indecent or offensive picture or written matter.
- (u) Abandoned Signs as defined by Section 1115.03(1).

1115.07 Temporary Sign Permit.

The Zoning Coordinator will have the authority to issue permits for temporary signs upon payment of the temporary sign permit fee specified in Section 405.05 if the sign is:

- (a) in keeping with the character and development of the property on which it is located;

(b) is reasonably necessary for the proposed use of the property on which it is located;
and

(c) not likely to have a detrimental effect on values of property in the surrounding area.

No individual property, leased space or business may obtain more than six (6) temporary sign permits in a calendar year. Each temporary sign permit shall be valid for a period of thirty (30) days.

Subd. 2. Application for a temporary sign permit will be provided by the Zoning Coordinator and all valid applications shall include the following information:

- (a) name, address and phone number of individual placing the sign.
- (b) Name and phone number of sign contractor.
- (c) Type of construction.
- (d) Type of sign: ground, wall, projecting, etc.
- (e) Type of proposed illumination and hours of illumination
- (f) Dimensions and area of sign
- (g) Proposed location on property of proposed sign.
- (h) A sketch of proposed sign, including dimensions, lettering/message and colors to be used on the proposed temporary sign.

Subd. 3. Assignment and Transfer. No temporary sign permit may be assigned or transferred to anyone other than the owner of the property on which the sign is located.

1115.08 Non-Conforming Signs.

Subd. 1. Existing Signs Which Comply with Section 1115. Signs existing on the effective date of this Ordinance which conform to the requirements of this Ordinance and which do not require a permit may be maintained so long as they continue to comply with this Ordinance, as it may from time to time be amended.

Subd. 2. Existing Signs Which Do Not Comply with Section 1115. Signs existing on the effective date of this ordinance which would be prohibited by this ordinance, or which would require a special use permit under this ordinance but which have not received a permit under this ordinance or prior ordinances, will be deemed to be legal non-conforming signs. Legal non-conforming signs may continue to exist without a permit and without constituting a violation of this Section until one or more of the following occurs:

- (a) The sign is structurally altered (except for normal maintenance) in a way which makes the sign less in compliance with this Section than it was before the alteration.
- (b) The sign is relocated to a position making it less in compliance with this Section than it was before the relocation.
- (c) The sign is replaced.
- (d) Any new primary sign is erected or placed in connection with the enterprise using the legal non-conforming sign.

1115.09 General Provisions.

- (a) The size of a sign may not exceed 15 percent of the wall area of the front façade of the structure in which it is located and in no case exceed 100 square feet for all other types of signs.
- (b) The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding twelve (12) inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage.
- (c) Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicle, or placed within a structure and visible from outside the structure shall considered a sign and are included in calculation the overall square footage.
- (d) Monument and V-shaped signs shall be permitted only by special use permit. Monument signs shall not exceed one hundred (100) total square feet of display area and shall not exceed eight (8) feet in height as measured from grade five (5) feet from the base of the monument or V-shaped sign. The total permitted square foot display area includes all faces of a monument or V-shaped sign.
- (e) Canopies and fixed awnings are to be considered an integral part of the structure to which they are attached. They will be permitted only by special use permit provided they meet the following requirements;

1. The awning or canopy may not project into the public right-of-way.
2. Awnings or canopies may have no part of the structure other than supports nearer the ground surface than seven feet.
3. The architectural style of the awning or canopy must be consistent with the building being served.
4. Awnings and canopies proposed to be built as to encroach into a required yard setback must obtain a special use permit.

Enforcement. If a sign is in violation of this Section, or is rotted or in danger of falling, or is otherwise unsafe or unsightly, the City Building Inspector may give to the owner of the property on which the sign is located written notice specifying the violation, and requiring either the removal of the sign or remedial work in the time and manner specified in the notice. In the event of failure to comply with the notice within 30 days, the City may remove the sign or cause such remedial work to be done, and the cost of the work will be paid to the City by the owner of the property on which the sign is located. If payment is not made within 30 days after a statement for such costs is sent to the owner, the costs may be assessed against the property by certifying the costs to the County Treasurer for collection in the same manner as the real estate taxes. If a sign which has been removed is not reclaimed and costs paid within 30 days after its removal, the sign may be sold or otherwise disposed of by the City. If a sign is found to be an immediate danger to the public because of its unsafe condition, it may be removed without notice, and written notice of removal and reasons for such will be given to the owner of the property on which it is located as soon as possible.

1115.10 Penalty. Violation of this Section is a petty misdemeanor. Each day that the violation is permitted to exist will constitute a separate offense.

Key Questions

	Deephaven	Excelsior	Mound	Wayzata	Chaska
Approval	CUP for all signs	Administrative	Administrative	Administrative except freestanding signs in the downtown by CUP	Administrative
Temporary Signs	6 x 30 (180 days)	60 days No more than three at a time	4 x 30 days (120 days)	Banners 3 x 14 days (42) Search lights, spinners, etc 3 x 3 (9)	55 days maximum 32 sf maximum
Wall Size Limits	15% up to 100 for ALL signs	2 SF/linear foot of front façade plus 1 SF/linear foot of façade on a corner No sign greater than 27 SF Maximum number - 3	15% up to 175 SF total. No sign to exceed 100 SF One wall sign for each façade that faces a street or parking lot with 25 cars or more	15% up to 150 SF for all signs (including freestanding)	50 sf or 10% 40 sf or 8% for cabinet signs Maximum two wall signs in C2 for each activity Maximum 1 wall sign in C1 for each activity
Freestanding Sign Limits	100 SF 8' height	4.5' in height Pylon signs prohibited	One sign/street frontage, 48 SF in area and 25' in height	35 SF 20' in height Pylon signs prohibited	32 sf 6' in height
Multi-Tenant Signs	No provisions for multi-tenant buildings	Need Comprehensive Sign Plan	A sign plan is required for all new, multi-tenant buildings		One wall sign for each distinct activity
Political Signs	12 SF not more than 56 days before and 7 days after	No limit on size. 46 days before primary and 13 days before special election	No limit on size. 46 days before the state primary and removed 10 days following election	6 SF outside of an election period. No size limit during August 1 and 10 days after election	16 SF in residential 32 SF in commercial 45 days before and 5 days after
Electronic Message Signs	Allows changeable copy signs that can be changed only one in a 24-hour period	Only allowed for time, date, temp or similar public service	Only allowed for time, date, temp or similar public service	Only allowed for time, date, temp	Only allowed for time, date, temp or similar public service
Open House Signs	prohibited	Prohibited	Allowed on Tues, Thurs, Sat and Sundays	prohibited	allowed

Chaska – sign regulations based on commercial zoning districts

Cabinet signs that are internally illuminated shall have an opaque face with reversed lettering.

Under Design Guidelines, businesses sharing the same façade, must use the same or similar method of signing

Wayzata – buildings including more than one business shall submit a signage plan demonstrating signage compatibility between different businesses. A sign program shall be developed for buildings which house more than one business. Signs need not match, but shall be compatible in color, material, and size with one another.

Signs shall be architecturally compatible with the style, composition, materials, colors and details of the building, and with other signs on nearby buildings.

Excelsior –No internally-illuminated signs.

Display signs – why should Midas be different than any other? Should those standards be written in the sign ordinance?

Should sign regulations be different in C1 and C2 zoning districts?

How many signs/business?

Political sign regulations

Current Temp Sign Permit gives zoning coordinator the authority to issue permits based on keeping with the character of the property.
Subjective.

211B.045 NONCOMMERCIAL SIGNS EXEMPTION.

All noncommercial signs of any size may be posted in any number beginning 46 days before the state primary in a state general election year until ten days following the state general election. Municipal ordinances may regulate the size and number of noncommercial signs at other times.

1. General
2. Signs Allowed without a Sign Permit
3. Signs Allowed with a Permit is Zoning Districts
4. Temporary Signs requiring a permit
5. Prohibited Signs
6. Administration and Permits
7. Non-Conforming signs
8. Illumination
9. Maintenance
10. Permits and Permit Fees
11. Enforcement
12. Severability

1) **General**

a. Findings. The City Council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals and organizations may convey a variety of messages.
3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
4. The city's ordinances have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

b. Purpose and Intent. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed outside a building. The purpose and intent of this article is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.

3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
4. Provide for fair and consistent enforcement of the sign regulations set for herein under the zoning authority of the city.

Definitions

- a) **Activity:** Any business or institutional, professional, or religious entity that provides products or services.
- b) **Architectural Detail:** Any projection, relief, cornice, column, change of building material, window, or door opening on any building.
- c) **Awning Sign:** A sign that is affixed to a roof-like cover designed for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Awning signs are counted as wall signs for the computation of allowed signage on a building.
- d) **Backlit Awning Sign:** An internally illuminated awning sign.
- e) **Building Facade:** The height of the facade as measured from the base of the building to the eaves line or top of the uppermost inhabitable level by the width of the facade. When there is more than one activity in a building, width shall be defined as the width of the activity as it relates to the facade.
- f) **Business Center:** A development of three (3) or more principal structures with common characteristics as determined by the city. Common characteristics may include shared access, similar architecture, single ownership or history of site plan review approval.
- g) **Business Center Identification Sign:** Ground signs stating the name of a business center or industrial park and/or the names of the activities or tenants located within the business center or industrial park.
- h) **Cabinet Sign:** Any wall sign that is not of channel or individually mounted letter construction, (also referred to as a Canister Sign).
- i) **Canopy Sign:** Any sign that is affixed to a projection or extension of a building or structure of a building, erected in such a manner as to provide a shelter or cover over the approach to any entrance of a building. Canopy signs are counted as wall signs for the computation of allowed signage on a building.
- j) **Changeable Copy Sign:** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.
- k) **Commercial Sign:** A sign which advertises or identifies a product, business, service, event, or any other matter of a commercial nature, even though the matter may be related to a nonprofit organization.
- l) **Construction Sign:** A temporary sign identifying the project under construction and/or individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where the project is under construction.
- m) **Directional Sign:** An on-premise sign providing information for the convenience of the public, such as the location of entrances, exits, parking lots, and other instances when signage is necessary for orderly traffic movement.
- n) **Flashing Sign:** An illuminated sign on which an artificial source of light is not maintained stationary or at constant intensity or color at all times when such sign is illuminated.
- o) **Freestanding or Ground Sign:** A sign supported by one or more uprights, posts, or bases affixed to the ground and not attached to any part of a building.
- p) **Governmental Signs:** A public sign designed for the control of traffic and other regulated purposes including street signs, warning signs, railroad-crossing signs, and

signs of public service companies. For the purposes of these regulations, a governmental sign also includes any sign that is located off-premise and is specifically designed to provide directions to a public or semi-public building such as City Hall, the Courthouse, libraries, hospitals, and schools.

- q) **Home Improvement Sign:** A temporary sign that identifies and announces the construction company responsible for the home improvement of the property.
- r) **Illumination, External:** A sign that is affected by an artificial light source that is not contained within the sign itself.
- s) **Illumination, Internal:** Illumination of a sign from a light source that is concealed or contained within the sign and becomes visible in darkness through a translucent surface. For the purpose of these regulations, neon signs shall not be considered to be internally illuminated.
- t) **Incidental Sign:** A sign that has a purpose secondary to the use of the lot on which it is located, such as “telephone”, “drive-up window”, “cash machine”, “air”, and other similar directives.
- u) **Monument Sign:** A freestanding sign that does not utilize pylons, posts, poles, or uprights for support, but instead is anchored directly to the ground or is attached to a base that is anchored to the ground.
- v) **Nameplate Sign:** An accessory sign that designates an address and/or name only.
- w) **Nonconforming Sign:** A sign that does not adhere to one or more of the provisions contained in Section 10.
- x) **Off-premise Sign:** A sign which directs attention to a business, profession, activity, commodity, service, or entertainment other than one conducted, sold, or offered upon the premises where such sign is located, or within the building to which sign is affixed. Billboard signs are one, but not the only, type of off-premise sign.
- y) **Opaque Sign Face:** The nontransparent face for an internally illuminated sign. Illumination shall be emitted only for the name, trademark, logo, or other similar device or text used to identify a particular business, place or activity.
- z) **Political Sign:** A temporary sign which states the name and/or picture of an individual seeking election or appointment to a public office, or pertaining to a forthcoming public election or referendum.
- aa) **Portable Sign:** A sign designed so as to be movable from one location to another, and that is not permanently affixed to a building, structure, or the ground, including but not limited to, signs designed to be transported by means of wheels, sign converted to A-Frames, and menu and sandwich board signs.
- bb) **Projecting Sign:** A sign that is wholly or partially dependent upon a building for support and which projects more than 12 inches from such building. For the purposes of these sign regulations, an awning or canopy sign shall not be considered a projecting sign.
- cc) **Pylon Sign:** A ground sign erected upon pylons, posts, poles, or uprights that are anchored to the ground.
- dd) **Real Estate Sign:** A sign pertaining to the sale, lease or rent of land or buildings. For the purpose of these sign regulations, open house signs shall also be included under this definition.
- ee) **Roof Sign:** A sign that is displayed, in whole or in part, above the eaves or roofline of a building.
- ff) **Sign:** Any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise any business, product, goods, activity, services or any interests. However, this shall not include any emblem or insignia of a government, school, or religious group when displayed for official purposes.

- gg) **Sign Display Area:** The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building façade against which it is placed, but not including any supporting framework, pole, or bracing. One ascender and one descender of a sign, that are less than 100% of the size of the sign, shall not be included in the computation of the sign area. For monument signs, the method in the previous paragraph shall be used. Only the face that is specifically intended to be used for signage shall be included when computing the sign area. Any base or other supporting structure, along with all adjoining structures such as fences or walls shall not be included when computing the sign area.
- hh) **Special Event Sign:** A temporary sign that is used to advertise or promote an event of special significance in the City of Chaska. Such special events include events of civic, philanthropic, educational, or religious organizations; examples of which are River City Days and the Fall Festival.
- ii) **Temporary Sign:** A non-permanent sign erected, affixed, or maintained on-premise for a limited period of time.
- jj) **Temporary Business Sign:** A temporary sign, located on-premise and meant to identify a special unique or limited event, service, product, sale of limited duration, or grand opening. Included under this definition are banners containing a message and erected for any of the above purposes.
- kk) **Wall Sign:** A sign attached to or erected against the wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of the wall, and which does not project more than 12 inches from such building or structure.
- ll) **Window Sign:** A sign attached to, placed upon, or painted on the interior of a window or door of a building that is intended for viewing from the exterior of such building.

4) **Temporary Signs**

The following signs shall require an administrative permit

- a) Banners and freestanding signs [this must include sandwich board signs] according to the following:
 - i. Not more than one two such signs shall be allowed for an activity at any given time.
 - ii. Maximum 30 day display period to coincide with the grand opening of a business.
 - iii. A business may display a temporary sign a maximum of 55 days per year; there shall be a maximum of ten (10) occasions per calendar year. Each business may decide how to divide up the days and occasions, but under no circumstances shall the maximum number of days or the maximum number of occasions be exceeded.
 - iv. The combined area of all banners shall not exceed 32 square feet, and must be affixed to a principal structure that is owned or leased by the business that the sign is advertising.
 - v. Sandwich board signs
 - vi. Under no circumstances shall a temporary business sign be placed on public property or within the public right-of-way.
- b) Temporary Pennants are allowed a maximum of 55 days per year; there shall be a maximum of ten (10) occasions per calendar year. Each business may decide how to divide up the days and occasions, but under no circumstances shall the

maximum number of days or the maximum number of occasions be exceeded. A maximum 30 day display period to coincide with the grand opening of a business is also permitted.

- c) Inflatable advertising devices are permitted according to the following:
 - i. 25-foot maximum height of inflatable;
 - ii. A seven (7) day display period to coincide with the grand opening of a business.
 - iii. Written authorization from the property owner of their designee must be submitted with the sign permit.
- d) Temporary Window Signs: Window signs shall not cover more than 50% of the window or door in which the sign is placed. Permits are not required.
- e) Special Event Signs are subject to the following requirements:
 - i. Shall be limited to non-commercial Deephaven entities,
 - ii. May be located either on or off-premise.
 - iii. Shall be erected and maintained for a period not to exceed ten (10) days prior to the date that the special event is scheduled to occur and shall be removed within two (2) working days of the termination of the special event.
 - iv. Sign area shall be no more than 32 square feet.

Search lights? Excelsior allows them.

Temporary signs may not contain changeable copy.

5) **Signs Allowed without a Sign Permit**

The following signs do not require a sign permit and are subject to the following regulations:

- (a) Governmental signs, public signs and other signs incidental to those signs for identification, information or directional purposes erected or required by governmental bodies, or authorized for a public purpose by any law, statute or ordinance.
- (b) Street address signs up to four (4) square feet in area.
- (c) Decorations temporarily displayed in connected with a City-sponsored or approved event or a generally recognized or national holiday.
- (d) Temporary signs at a residence commemorating a personal event, such as a birth, birthday, anniversary or graduation.
- (e) "No trespassing" or similar signs regulating the use of property, provided such signs are no more than two (2) square feet in area.
- (f) Noncommercial flags of any country, state or unit of local government.
- (g) Real Estate Signs. Real estate signs, provided the total sign surface area for real estate signs on a property is not greater than 6 square feet and the sign is

located on the property to be leased or sold. Real estate signs must be removed within 3 days after closing of the sale or leasing of the property on which they are located.

Signs at Construction Sites. Signs denoting the architect, engineer, or contractor, when placed upon work under construction, provided that the total sign surface area of all such signs does not exceed 32 square feet in a district zoned for commercial uses or 6 square feet in a district zoned for residential uses, and provided that the sign is removed upon completion of construction or prior to a date six months after the sign is first placed on the property, whichever is earlier.

(h) Garage Sale Signs. Freestanding signs for garage sales or similar events occurring within the corporate limits of the City, not exceeding 4 square feet in sign surface area, erected on private property with permission of the landowner, or erected in that portion of a public right-of-way outside of the traveled portion of the right-of-way, and displayed for not more than 3 days.

- f. political signs and noncommercial signs, provided that total area of all such signs together may not exceed a maximum area of 12 square feet per lot. Political and noncommercial signs may not be placed in the public right-of-way.

1115.06 Prohibited Signs. The following are expressly prohibited under this ordinance:

- (a) Billboards.
- (b) Flashing signs, searchlights, flags, or whirling devices.
- (c) Animated signs.
- (d) Signs which emit sound, odor or visible matter.
- (e) Signs attached to a vehicle parked primarily for use as a sign for a period of more than 14 days.
- (f) Balcony signs and signs mounted or supported on a balcony.
- (g) Any sign that obstructs any part of a doorway, stairway or fire escape.
- (h) Signs within the public right-of-way, public property or public easement.
- (i) Any sign projecting above the roofline of the structure to which it is affixed.
- (j) Signs which project beyond the property line of the property upon which the sign is located.
- (k) Signs which have a structural member or other portion closer than 10 feet to a side lot line.

- (l) Signs intended to be for the purpose of business advertising in any residentially zoned areas, including window signs.
- (m) Any sign which by reason of its location, color, or intensity, creates a hazard to the safe and efficient movement of vehicles or pedestrian traffic, including any sign which might be construed as a traffic control or which otherwise resembles any official marker erected by a governmental body or agency.
- (n) Window signs which obstruct the window to the point where the interior of the building cannot be observed by police or other security personnel.
- (o) Off-premise commercial signs whether located in a commercially or residentially zoned property.
- (p) Signs defined in this chapter as Changeable Copy Signs, Portable Signs, Rotating Signs, Shimmering Signs, Stringers or Suspended Signs.
- (q) Signs which contain any indecent or offensive picture or written matter.
- (r) Snipe signs.
- (s) Abandoned Signs as defined by Section 1115.03(1).
- (t) Any other sign not expressly permitted in this article.

Permits and Permit Fees

Signs that required a permit and the corresponding fee are listed in the following:

- a) All permanent signs permitted in Subsections ___ through ___ shall require a sign permit. The permit shall be received prior to installation of the sign.
- b) All temporary signs permitted in Subsection ___ shall require a temporary sign permit.
- c) the permit application shall include the following:
 - i. Information concerning the location, height, size of the sign, and the date on which it is to be erected, displayed, moved or significantly altered;
 - ii. A drawing or a photo of the building façade and lot plan indicating the location of the proposed sign and all existing signs displayed by the activity;
 - iii. If the application is for a wall sign, a drawing to scale showing the location of the sign within the building façade and the percent of the façade covered by the wall sign;
 - iv. Specifications for the construction of the sign and for its illumination, if any is to be provided; and
 - v. Sign permit fee.

Nonconforming Signs

- a) **Nonconforming Signs:** Excluding normal maintenance, face changes, and repair, a nonconforming sign shall not be moved, altered, enlarged or reconstructed unless it is brought into compliance with the sign regulations.
- b) **Abandoned and Irrelevant Signs:** Any sign, which is abandoned, falls into a state of disrepair, or no longer relates to the activity located on the premises shall be removed by the property owner within 30 days.
- c) **Signs as Nuisance:** The Building Official may make a finding that a sign is a public nuisance by reason of it being dilapidated, unsafe, rotted, unsightly, or for other reasons. Such finding shall be in writing and shall enumerate the reasons and circumstances that made the sign a nuisance.
- d) **Signs on Public Property or within Public Right-of-Way:** The City may at any time and without notice impound signs that have been installed on public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following:

Maintenance

All signs must be properly maintained, which includes repair or replacement of all broken or missing parts, elimination of rust or oxidation, eliminated of faded or chipped paint, and correcting all similar conditions of disrepair. If a sign is illuminated, the source of such illumination must be kept in a state of safe working order at all times. Failure to properly maintain any sign constitutes a violation of this zoning ordinance.

Severability

If any section, subsection, sentence, clause or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

First Amendment Limits on Sign Regulation

Signs are a form of speech protected by the First Amendment. Local governments must therefore be careful in drafting and enforcing sign regulations so as to not improperly infringe on a person's right to free expression. Although there have been several important sign regulation court decisions over the years, the U.S. Supreme Court decision, *Reed v. Gilbert* (2015), prompted the need for most local governments to significantly redraft their sign codes. In that decision, the Court deemed the typical method of regulating signs by content-type (such as political, ideological, directional, etc.) unconstitutional.

In *Reed*, the U.S. Supreme Court held that a town sign code that treats various categories of signs differently based on the information they convey violates the First Amendment. The town's sign code defined categories of temporary signs based on their message (e.g., directional, political, or ideological) and then subjected each category to different restrictions—for example: permissible size, number of signs, and duration of display.

The court held that the sign code provisions were content-based regulations of speech that did not survive strict judicial scrutiny because the town did not demonstrate that the code's differentiation between temporary directional signs (the type of sign at issue in the case) and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end.

After *Reed*, any content-based sign regulation was called into question. However, subsequent court decisions have helped clarify the reach of this decision.

Significantly, in 2022, the U.S. Supreme Court narrowed *Reed* by holding that a City of Austin off-premises sign regulation (i.e., regulations that regulate off-premises signs such as billboards differently than on-premises signs) was content-neutral and therefore subject to intermediate scrutiny – a more deferential standard of review to local governments and regulators. See *City of Austin v. Reagan National Advertising* (2022). This was despite having to “read the sign” to regulate it. In overturning the Court of Appeals, the court majority wrote:

The Court of Appeals interpreted *Reed* to mean that if “[a] reader must ask: who is the speaker and what is the speaker saying” to apply a regulation, then the regulation is automatically content based [...] This rule, which holds that a regulation cannot be content neutral if it requires reading the sign at issue, is too extreme an interpretation of this Court's precedent. Unlike the regulations at issue in *Reed*, the City's off-premises distinction requires an examination of speech only in service of drawing neutral, location-based lines. It is agnostic as to content. Thus, absent a content-based purpose or justification, the City's distinction is content neutral and does not warrant the application of strict scrutiny.

Additionally, appellate courts have held that *Reed* does not extend to the regulation of commercial signs. See *Contest Promotions v. City and County of San Francisco* (2017)

and the MRSC blog post, [Ninth Circuit Holds Reed v. Town of Gilbert Does Not Extend to Commercial Speech](#) (2017). The D.C. Circuit held that a regulation imposing certain durational limits on special event signs was content-neutral, even though one needed to read the sign to determine whether the regulation applied. See [Act Now to Stop War and End Racism Coal. v. Dist. of Columbia](#) (2017).

For more details, see the MRSC blog posts: [Read the Signs: New Ruling Clarifies On-/Off-Premises Sign Regulation](#) (2022) and [U.S. Supreme Court Issues Significant Sign Code Decision](#) (2015).

Content-Neutral Approaches to Sign Regulation

The primary takeaway of the *Reed* case is that local regulation of non-commercial signs must be content-neutral and that a sign code (or the enforcement of a sign regulation) will be subject to “strict scrutiny” judicial review if it applies different standards based on a sign’s content.

Many jurisdictions in Washington State have redrafted their sign regulations to focus on a sign’s physical and other non-content-based attributes, rather than content-based categories that had been typical in codes, such as whether a sign is political or ideological in nature. Factors considered in a content-neutral “time, place, or manner” approach may include:

- Location, such as commercial vs. residential locations, zoning districts, or placement in public right-of-way, and reasonable on-/off-premises distinctions
- Dimensions, such as size and height
- Type of structure (for example, freestanding signs, monument signs, permanent façade signs, banner signs, and inflatable roof signs)
- Materials
- Number of signs allowed
- Maximum square footage
- Illuminated or not
- Fixed message signs vs. signs with changing messages (electronic or otherwise)
- Moving parts
- Portability (for example, A-frame or sandwich board signs)
- Condition of sign (abandoned, dilapidated, etc.)