



## **PLANNING COMMISSION AGENDA**

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

1. APPROVAL OF MINUTES

- a) June 17, 2025

2. PUBLIC HEARINGS

- a) Conditional Use Permit to Exceed the Hardcover for a Swimming Pool at 3500 Montgomerie Avenue
- b) Front Yard Setback Variance for a Portico 18065 Berry Lane
- c) Sign Ordinance

3. DISCUSSION ITEMS

4. LIAISON REPORT

5. ADJOURN

Next Council Meeting – Monday, August 4, 2025

Next Planning Commission Meeting – Tuesday, August 19, 2025



**DEEPHAVEN PLANNING COMMISSION  
MEETING MINUTES**

**TUESDAY, JUNE 17, 2025**

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

**PRESENT:** Commissioners Preston Ahrens, Kendall Carlson, Patrick Donlin, Jerome D'Alessandro, Dan Goodrich and Chair Mike Petersen

**ABSENT:** Kjell Nafstad

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

1. Chair Petersen introduced Preston Ahrens, who is new to the Planning Commission

**2. APPROVAL OF MINUTES  
Minutes of May 20, 2025**

Motion by Commissioner Carlson, seconded by Commissioner Donlin, to approve the minutes of May 20, 2025, as drafted. Motion carried 6/0.

**3. PUBLIC HEARINGS**

- a) Conditional Use Permit to Exceed the Hardcover for a Swimming Pool at 3500 Montgomerie Avenue – Continue until July 15, 2025
- b) Conditional Use Permit to Exceed the Hardcover and Lake Setback Variances for a New Building at 19500 Park Avenue (Lake Minnetonka Sailing School) – Continue until July 15, 2025
- c) Sign Ordinance

Smith presented the staff report. Councilmember Erdmann asked how signs are measured. Smith stated that signs are measured with the smallest rectangle that encloses all lettering and logos. Chair Petersen asked that a table be created for the next Planning Commission meeting that shows the difference between what is being proposed and what exists.

Smith asked the Planning Commission how to regulate sandwich board signs. Carlson said it seemed reasonable to allow sandwich board signs year-round if they are located within 10 feet of the entrance, but a limited time if they are located farther from the entrance of the business. Commissioner Goodrich mentioned that Beanhaven has a sandwich board sign along Minnetonka Boulevard year-round.



## DEEPHAVEN PLANNING COMMISSION MEETING MINUTES

TUESDAY, JUNE 17, 2025

Smith stated that the proposed ordinance allows each business a sign in a multi-tenant building that do not count against the overall amount of signage. There is no provision in the existing ordinance so if a new tenant space is created in a building, the new business typically needs a variance for an additional sign.

Councilmember Erdmann asked about banners. Smith stated that banners would be allowed 180 days a year same as the existing ordinance. Smith stated that the Midas business is allowed to have their banners up all year long under the Conditional Use Permit that the City Council approved. Chair Petersen asked if the ordinance could be more succinct. Smith said he would go through and delete anything that is not necessary.

Smith outlined the proposed regulations for neighborhood signs, which are not addressed in the existing sign ordinance. The Commission thought having different size regulations for monument and shingle signs makes sense. Chair Petersen would rather err on the side of larger signs so neighborhoods would not have to request variances for neighborhood signs. Commissioner Ahrens asked about the Chimo signs. Smith stated that he will measure the signs for the next meeting.

Chair Petersen opened the public hearing. No one spoke. Chair Petersen continued the public hearing until July 15, 2025.

### d) Commercial Businesses

Smith presented the staff report. Smith stated that staff is proposing to allow seasonal sales as a conditional use permit. Chair Petersen thought that seasonal sales would be appropriate in the C2 and C3 zoning districts as well. The Planning Commission agreed. Smith said staff is also recommending that all businesses with drive-throughs would require a Conditional Use Permit. The Planning Commission agreed.

The Planning Commission thought that a fast-food restaurant would not be appropriate for any of the three commercial districts. The Planning Commission also recommends eliminating taxidermy from the permitted list. Chair Petersen appreciates having a list of permitted uses and a list of prohibited uses. Councilmember Erdmann said it's counterintuitively, but if the City has more legal authority to say no to a type of business by deleting the prohibited use list, then he would support deleting the prohibited use list.

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



**DEEPHAVEN PLANNING COMMISSION  
MEETING MINUTES**

**TUESDAY, JUNE 17, 2025**

Commissioner Goodrich motioned to recommend that the City Council approve the revised list of permitted commercial uses with changes discussed, Commissioner Carlson seconded. Motioned carried 6/0.

**4. DISCUSSION ITEMS - None**

**5. LIAISON REPORT**

Councilmember Erdmann presented the Liaison Report. He said that the City Council discussed their priorities at their last meeting including the marina policy, street repair plan, and size of new houses. The Council also discussed a city-owned tree policy. Commissioner Carlson summarized the Hwy 7 plan discussion. Council discussed the 125<sup>th</sup> Anniversary event, which was a resounding success. Commissioner Preston thought some community event would be good for Deephaven. Chair Petersen said the town that he grew up in always had community events that brought neighbors together. Councilmember Erdmann updated the Planning Commission on the ice rink in City Hall park. It would have a concrete floor without chillers. Council also talked about the need for dog park.

**6. ADJOURNMENT**

Motion by Commissioner Ahrens to adjourn the meeting at 8:33 p.m. Motion seconded by Commissioner Goodrich. Motion carried 6/0.

Respectfully submitted,

Patrick Smith  
Planning Director

**STAFF REPORT**  
*Pat Smith, Planning Director*  
**Deephaven Planning Commission**  
**July 15, 2025**



**APPLICATION INFORMATION**

**APPLICANT:** David Ruoho, Tracer Pool & Landscape

**PROPERTY OWNER(S):** Mike and Ali Mahady

**LOCATION:** 3500 Montgomerie Ave (please see attached Location Map)

**ZONING:** R-3, Residential

**SYNOPSIS:** Applicant is requesting a Conditional Use Permit to exceed the hardcover limit by 13.8% in conjunction with constructing an inground swimming pool (please see attached narrative)

**STAFF RECOMMENDATION:** Motion to Recommend Approval to City Council

**60/120-DAY REVIEW DEADLINE:** August 18, 2025/October 17, 2025

**BACKGROUND/REQUEST**

According to Hennepin County Property Information, the house was constructed in 2012. The existing hardcover is 30.4%. The applicant is proposing to install an inground pool that would increase the hardcover to 38.8%. The pool is proposed to be 20' x 37'.

Prior to 2021, the City had three different residential hardcover limits based on the size and location of the property. Residential lots within the shoreland overlay district (1000 feet from Lake Minnetonka) had a hardcover limit of 25%. Lots outside the shoreland overlay district and over 10,000 square feet in area had a hardcover limit of 30%. Lots outside the shoreland overlay district and less than 10,000 square feet in area had a hardcover limit of 35%. A variance was required to exceed the hardcover limit.

In 2021, the City Council reduced the hardcover limit for all residential properties in Deephaven to 25% to treat all residential properties the same and because eventually all stormwater flows to Lake Minnetonka or to a smaller lake. The City decided on a hardcover limit of 25% (the most restrictive hardcover limit of communities around Lake Minnetonka) because the City does not have a regional storm sewer system; and therefore, property owners are expected to manage stormwater on their own property. At the same time, the City Council allowed

properties to exceed the 25% hardcover limit with a Conditional Use Permit as long as the stormwater runoff does not negatively impact adjacent properties, the effective hardcover is mitigated to below 25%, and the property owner enters into a maintenance agreement with the City inspecting the stormwater facilities every five years at the property owners expense.

There has been some discussion and efforts to manage the stormwater on Montgomerie Avenue. A summary of these discussions and efforts is documented in the attached email from City Administrator, Dan Madsen.

### ***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 applicant is proposing to mitigate the additional hardcover by installing a dry infiltration basin in the rear yard. The infiltration basin will provide 349 CF of storage. This exceeds the required 172 CF of storage by 89 CF.

The Existing Drainage Map shows the majority of the site (E2 and E3) drains to the property to the southwest of the subject site, while E1 drains toward Montgomerie Avenue. With the proposed swimming pool and infiltration basin, stormwater from 4,207 square feet of the site will now be directed to the infiltration basin rather than the property to the southwest. This represents 28% of the site.

With the proposed dry infiltration basin, the effective hardcover is 17.81%. The City Engineer has reviewed and approved the grading and stormwater management plans (please 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 July 15, 2025. Public comments are attached.

**STAFF RECOMMENDATION**

Staff recommends approval of a Conditional Use Permit to exceed the hardcover limit by 13.8% in conjunction with building an inground swimming pool at 3500 Montgomerie Avenue as proposed, subject to the following conditions:

1. The proposed swimming pool 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 and deposit a \$5,000 escrow until the infiltration basin is constructed and approved by the City Engineer.
3. The applicant shall comply with all requirements of City Engineer letter dated June 23, 2025.
4. All applicable permits are applied for by the applicants with all supporting documentation and issued prior to the start of construction.

**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 Conditional Use Permit to exceed the hardcover limit by 13.8% in conjunction with building an inground swimming pool at 3500 Montgomerie Avenue as proposed.

OR

- 2) I move the Planning Commission recommend the City Council **deny** of a Conditional Use Permit to exceed the hardcover limit by 13.8% in conjunction with building an inground swimming pool at 3500 Montgomerie Avenue. The motion is based on the following findings: \_\_\_\_\_.

**Attachments:**

- 1) Location Map
- 2) Applicant's Narrative
- 3) Proposed Survey and Stormwater Management Plan
- 4) Site Plan Showing Hardcover Changes
- 5) Proposed Landscaping Plan
- 6) Drainage Map
- 7) City Engineer Letter
- 8) Email from City Administrator

# LOCATION MAP

## 3500 Montgomerie Avenue





**STORMWATER MANAEGMENT REQUIREMENTS FOR:**

May 12, 2025

**Mike and Ali Mahady  
3500 Montgomerie Ln.  
Deephaven, MN. 55391**

Mike and Ali wish to add a swimming pool to their property to increase their family use of their home. The increase in hardcover must be mitigated by a storm water collection solution. The intent is to capture run-off from the roof of the home equal to the area of the pool and 4 ft apron of concrete a total of 1260 SF, and direct it into an infiltration trench in the landscape and allow that water time to percolate into the soil.

The basin will be a part of the landscape around the home and will blend into the homes existing landscape. The appearance and use of the collection trench will not disrupt the visual eathetic of the neighborhood, or adverly affect the health and safety and welfare of the home owners of neighbors.

# EROSION CONTROL PLAN FOR

*Michael & Alexandra Mahady*  
PID NO. 1811722310029

CITY OF DEEPHAVEN  
HENNEPIN COUNTY  
SEC. 18, TWP 117,  
RNG. 22

### LOT INFORMATION

Lot size:	14,980 SF
House	2,242 SF (14.9%)
Shed:	84 SF (0.6%)
Concrete driveway:	2,105 SF (14.1%)
Brick Pavers:	72 SF (0.5%)
Front Concrete Steps:	47 SF (0.3%)
Total impervious:	4,550 SF (30.4%)

### PROPOSED

POOL 20'X37':	740 SF (4.9%)
CONCRETE: 4' (Around pool)	520 SF (3.5%)
PROPOSED IMPERVIOUS	1,260 SF (8.4%)
TOTAL PROPOSED & EXISTING IMPERVIOUS	5,810 SF (38.8%)

### ROOF AREA CALCULATIONS

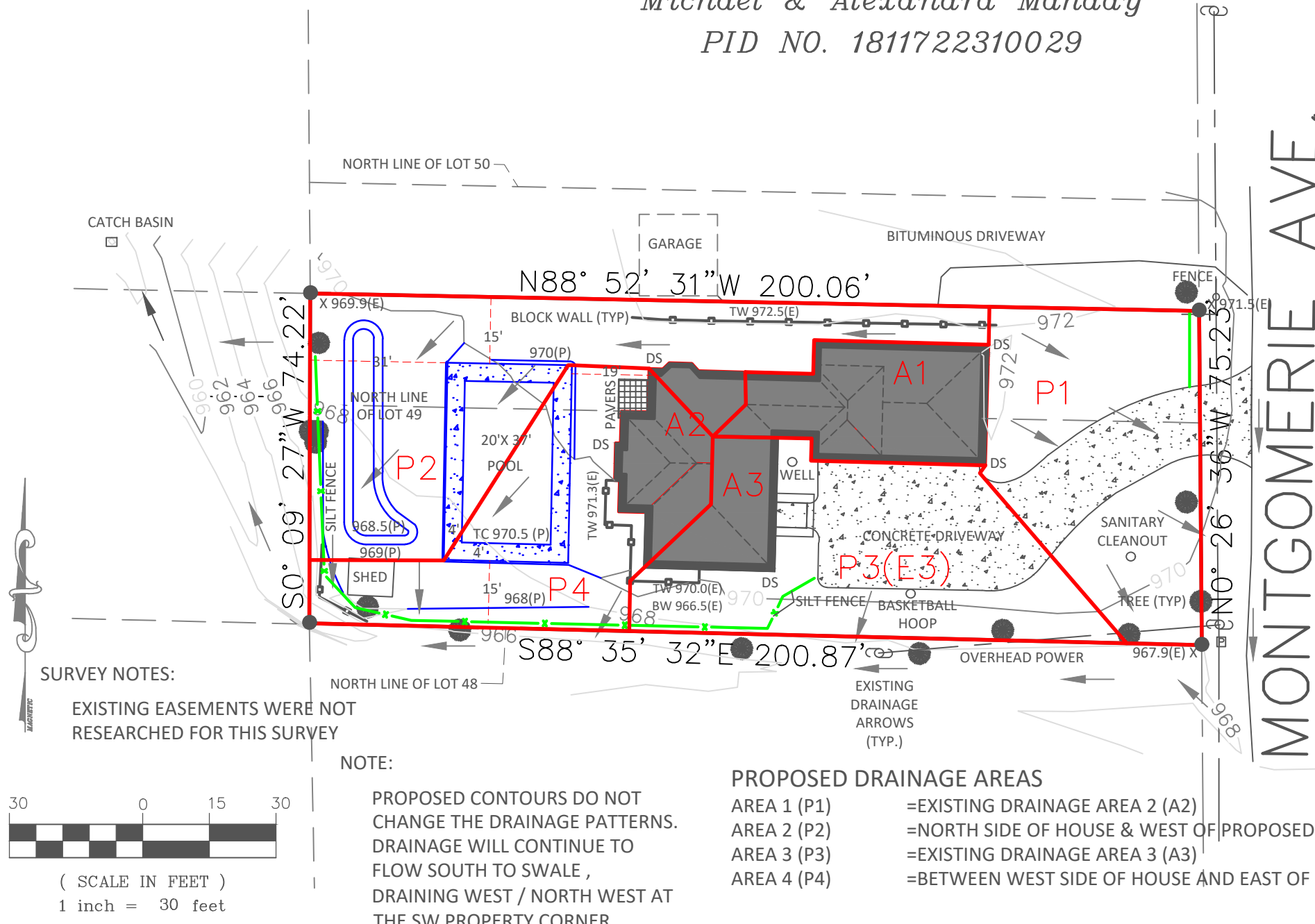
AREA 1 (A1)	1,312 SF
AREA 2 (A2)	607 SF
AREA 3 (A3)	713SF

\*TOTAL VOLUME OF THE INFILTRATION BASIN IS 349 CF (4207\*0.083 (ONE INCH RAIN FALL)) TO CAPTURE ALL OF P2

PROPOSED INFILTRATION BASIN FOR:  
P2=477 SF (969 CONTOUR)+ 242 SF (968.5 CONTOUR) @ 0.5 FEET =349 CF

### LEGEND

- DENOTES A FOUND 1/2 IRON PIPE MONUMENT
- DS DOWN SPOUT
- (E) EXISTING
- ⊞ POWER POLE
- (P) PROPOSED



#### SURVEY NOTES:

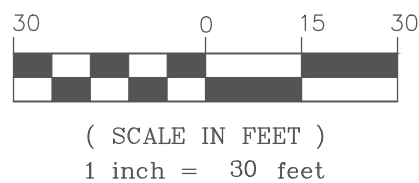
EXISTING EASEMENTS WERE NOT RESEARCHED FOR THIS SURVEY

#### NOTE:

PROPOSED CONTOURS DO NOT CHANGE THE DRAINAGE PATTERNS. DRAINAGE WILL CONTINUE TO FLOW SOUTH TO SWALE, DRAINING WEST / NORTH WEST AT THE SW PROPERTY CORNER.

#### PROPOSED DRAINAGE AREAS

- AREA 1 (P1) =EXISTING DRAINAGE AREA 2 (A2)
- AREA 2 (P2) =NORTH SIDE OF HOUSE & WEST OF PROPOSED POOL (4207 SF)
- AREA 3 (P3) =EXISTING DRAINAGE AREA 3 (A3)
- AREA 4 (P4) =BETWEEN WEST SIDE OF HOUSE AND EAST OF PROPOSED POOL



#### UPDATE

5/30/25 ADD PROPOSED DRAINAGE AREAS & CHANGE INFILTRATION TRENCH TO DRY WELLS

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Survey under the laws of the state of Minnesota.

Signature Christopher S Osterhus Date: 6/9/2025

Name, Christopher S. Osterhus , LICENSE NUMBER 57071

#### LEGAL DESCRIPTION:

LOT 49, AND SOUTH 1/2 FRONT AND REAR OF LOT 50, "DEEPHAVEN PARK" HENNEPIN COUNTY, MINNESOTA

#### PHYSICAL ADDRESS:

3500 Montgomerie Ave., Deephaven Mn 55391

Bro Land surveying LLC  
Linwood, Mn 651-233-3168

EXISTING CONDITIONS SURVEY  
FOR

Michael & Alexandra Mahady  
PID NO. 1811722310029

CITY OF DEEPHAVEN  
HENNEPIN COUNTY  
SEC. 18, TWP 117,  
RNG. 22

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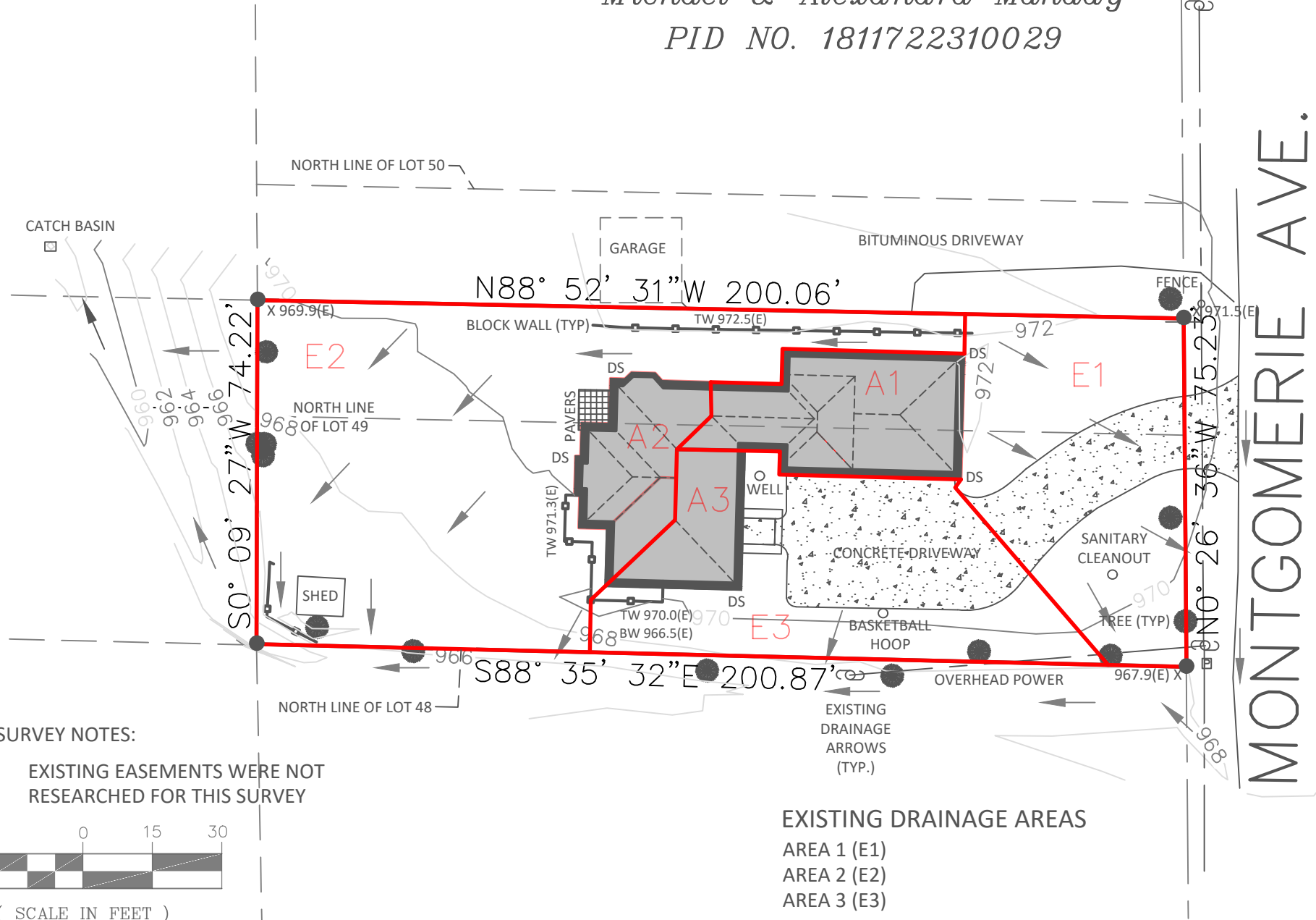
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3 WATERSHEDS E1,E2,E3

DRAINS INTO E1  
DRAINS INTO E2  
DRAINS INTO E3

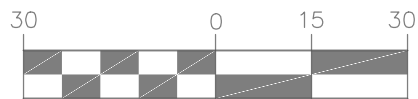
LEGEND

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- DS DOWN SPOUT
- (E) EXISTING
- ⊕ POWER POLE



SURVEY NOTES:

EXISTING EASEMENTS WERE NOT RESEARCHED FOR THIS SURVEY



( SCALE IN FEET )  
1 inch = 30 feet

EXISTING DRAINAGE AREAS

- AREA 1 (E1)
- AREA 2 (E2)
- AREA 3 (E3)

UPDATE:

5/30/25 ADD EXISTING DRAINAGE AREAS  
6/1/25 WATERSHED & CITY COMMENTS

Bro Land surveying LLC  
Linwood, Mn 651-233-3168

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**PROPOSED CONDITIONS  
FOR**

*Michael & Alexandra Mahady  
PID NO. 1811722310029*

CITY OF DEEPHAVEN  
HENNEPIN COUNTY  
SEC. 18, TWP 117,  
RNG. 22

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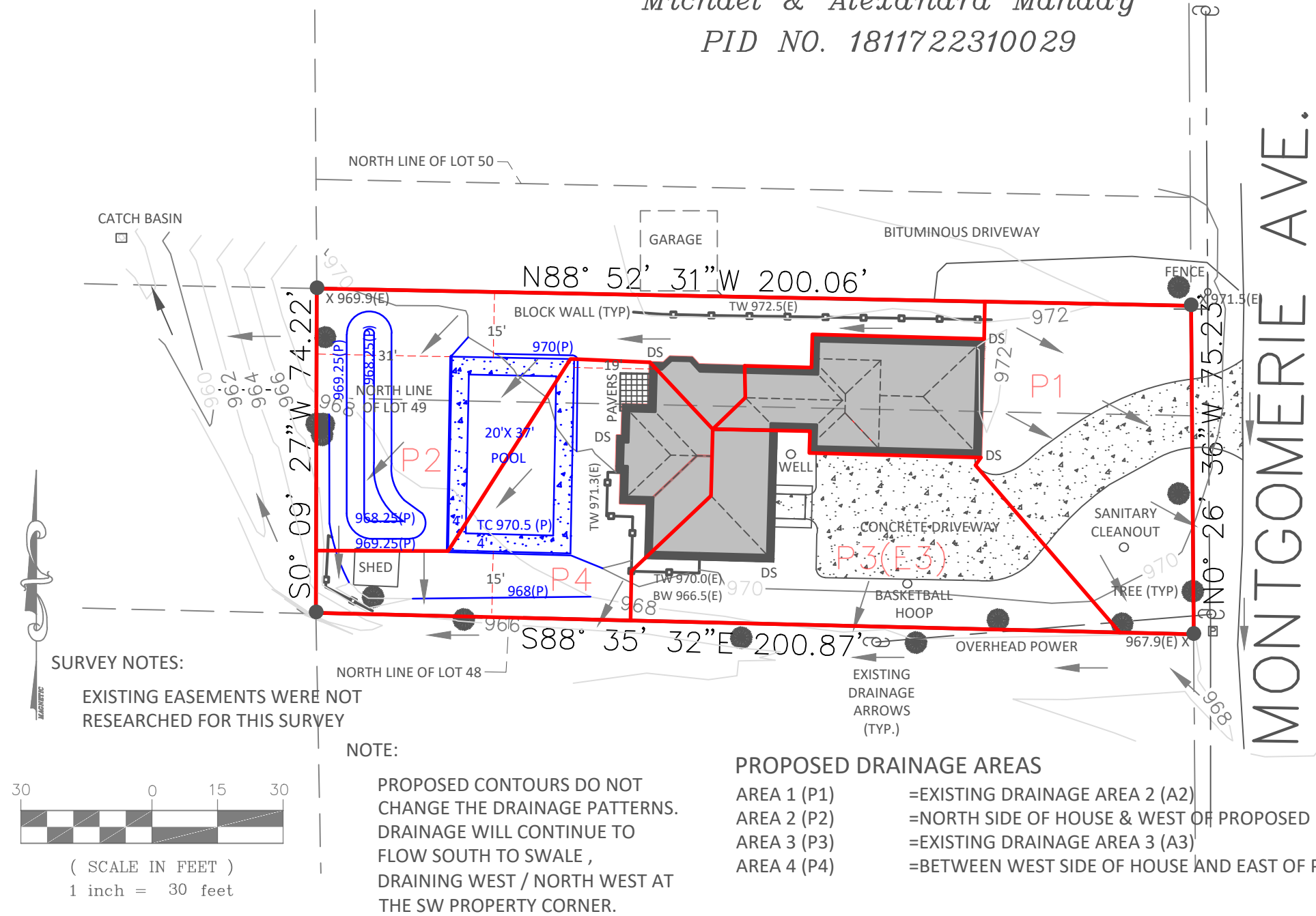
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\*TOTAL VOLUME OF THE INFILTRATION BASIN IS 349 CF (4207\*0.083 (ONE INCH RAIN FALL)) TO CAPTURE ALL OF P2

PROPOSED INFILTRATION BASIN FOR:  
P2=578 SF (969.25 TOP CONTOUR LINE) + 120 SF (968.25 BOTTOM CONTOUR LINE) @ 1.0 FEET =349 CF (578+120)/2\*1

**LEGEND**

- DENOTES A FOUND 1/2 IRON PIPE MONUMENT
- DS DOWN SPOUT
- (E) EXISTING
- ☞ POWER POLE
- (P) PROPOSED



**SURVEY NOTES:**

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- AREA 4 (P4) =BETWEEN WEST SIDE OF HOUSE AND EAST OF PROPOSED POOL

**UPDATE**  
6/12/25 CLAIRIFY INFILTRATION VOLUMES  
6/9/25 UPDATE INFILTRATION AREA  
6/1/25 CLARIFICATIONS WATERSHED & CITY COMMENTS  
5/30/25 ADD PROPOSED DRAINAGE AREAS & CHANGE INFILTRATION TRENCH TO DRY WELLS

Bro Land surveying LLC  
Linwood, Mn 651-233-3168

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Survey under the laws of the state of Minnesota.  
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**PHYSICAL ADDRESS:**

3500 Montgomerie Ave., Deephaven Mn 55391

**Hare and Construction  
& Engineering**  
 507 E. River St  
 Monticello, MN 55362  
 763-295-3114  
 763-250-4522(m)  
 HCE# 2025-33  
 date: 6/19/25  
[john.hare1and@gmail.com](mailto:john.hare1and@gmail.com)

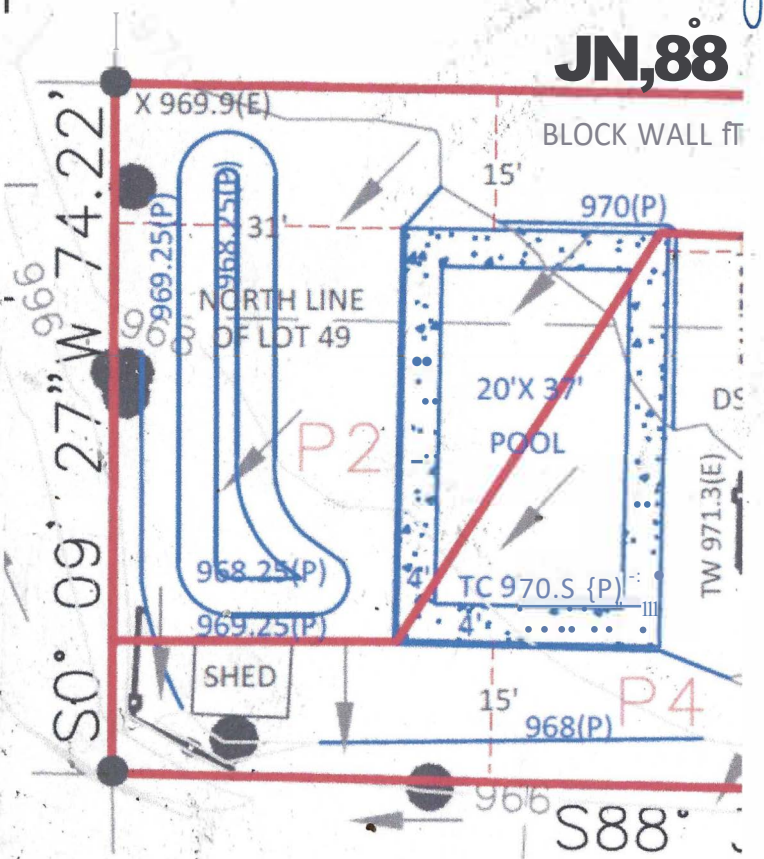
contractor to provide infiltration basin to capture runoff area for a 1" rain event {349 cf} Hydrological Soil Group A with infiltration rate of 1.63 in/hr

ref proposed conditions prepared by Chris Osterhus, dated 6/12/25 PID No.1811722310029

this report prepared by John Hareland, PE, MN reg 18250

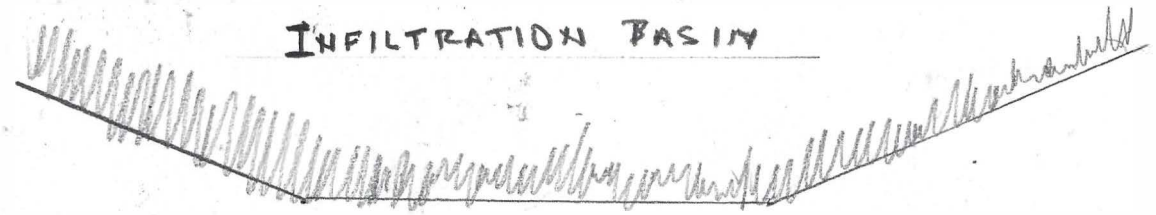
job name	Mahady residence
address	3500 'Montgomery Lane
city	Deephaven, MN
client	Tracer Companies
contact	David Ruoho
cell	612-770-1805
email	<a href="mailto:david@tracercompanies.com">david@tracercompanies.com</a>
supt	
cell	

*John Hareland*



**34'1 cF e P-z**

**INFILTRATION BASIN**



If requested by City  
 scarrify 3,6" sub-grade

assumed:  
 infiltration at sub-grade  
**rate of 1.63"/hr**  
 based upon Hennepin County  
 GIF Nature!! Resource Website



**STORMWATER MANAGEMENT SOLUTION FOR:**

June 19th, 2025

**Mike and Ali Mahady  
3500 Montgomerie Ln.  
Deephaven, MN. 55391**

Mike and Ali Mahady, homeowners at 3500 Montgomerie Ln., wish to add a swimming pool to their property to increase the family use of their home.

The Property survey of existing conditions lists a property area of 14,980SF, with a total existing hardcover of 4,550SF, or 30.4% . The proposed pool and apron of 1,260SF would increase the total hardcover to 5,810SF or 38.78% . Per the City Engineers June 5th comments—2,065SF over the 25% hardcover threshold. The proposed Dry Storage Basin will reduce the effective hardcover by 3,176SF to a total effective hardcover of 2,669SF or 17.81%

Installing a storm water facility that would capture hardcover over the 25% threshold is proposed in the form of a Dry Detention Basin. The Basin will collect all the drainage in the proposed area “P2” on the Proposed Condition” survey dated 6/12/25.

Area P2 is 4,207 SF. The proposed Dry Detention Basin will retain a 1-inch rainfall event equal to 349CF of water.

$$P2 = 578SF (969.25 \text{ contour line}) + 120SF (968.25 \text{ bottom contour line}) @ 1 \text{ feet} = 349CF$$

Or

$$(578SF + 120SF) / 2 \times 1 = 349CF$$

A Performance Credit of 75% equates the planned Dry Detention Basin to 261.75CF

$$349CF \times 75\% = 261.75CF$$

The resulting Effective Hardcover total for the Property is 17.81% per the formula on pg. 3 of the City of Deephaven Stormwater Manual.

$$\text{Effective Hardcover} = \frac{\text{Total proposed hardcover} - \text{Credited Dry Detention Basin Storage Area}}{\text{Total Property Area}}$$

$$\text{Effective Hardcover} = \frac{5,810SF - 261.75CF / (1/12)}{14,980SF} = \frac{2,669SF}{14,980SF} = 17.81\%$$

See the attached BMP Design dated 6-19-25

## Pat Smith

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**From:** Matt Tobin <tobinmatthew@gmail.com>  
**Sent:** Thursday, June 12, 2025 9:45 AM  
**To:** Pat Smith  
**Subject:** Planning Commission Public Hearing - 3500 Montgomerie

Hello Patrick,

My family lives at 3485 Hamilton Avenue, which is behind and downhill from the proposed pool at 3500 Montgomerie Avenue. Please note that we have a good relationship with our neighbors that live at 3500 Montgomerie, and have enjoyed talking to them when out in the yard. This message has nothing to do with them, and their desire to add a pool.

Unfortunately, the proposed pool is in the heart of major drainage issues starting on Montgomerie Avenue and running through the yards of 3500 Montgomerie and their neighbors. This issue has been brought to the planning commission and city council numerous times in the twelve years we have owned our home, and well before we moved in. The planning commission should be aware that the Minnehaha Watershed District identified the drainage off of Montgomerie as the number one drainage issue to address in the City of Deephaven. The City has attempted to fix the issue numerous times, and we are thankful for those efforts including additional catch basins off of the Calvary Church parking lot and requiring the home developer at 3525 Montgomerie to build a holding pond on their lot. While these efforts are appreciated, they have not fixed the problem. Most recently, the city had identified a solution for which it was seeking grants and other public funding to install. To date, I do not believe the necessary funding has been raised, and I am unsure if the project will move forward. I would ask the city planners, the planning commission, and city council to please refer back to all of the historical studies and meetings in which this drainage issue was studied and discussed.

It seems counterintuitive and illogical to now bring forward a proposal to increase hardcover on a lot that is already over the maximum hardcover allowance when the lot is in the heart of a major drainage problem for the city. We understand and appreciate the pool builder's attempt to address the issue with an underground infiltration trench, but we feel this would be the equivalent to putting a band-aid on the tip of a fire hose.

In the event the larger drainage issues are appropriately addressed and the on-site drainage impact is appropriately mitigated, we have no issue with our neighbors installing and enjoying a new pool. Until the larger drainage issues are fixed, we cannot support any more proposed hardcover in this area.

Thank you for your consideration of our thoughts.

Sincerely,

Matt Tobin  
612-803-0944

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To: Patrick Smith, Planning Director

From: Steve Hegland, PE

Project: 3500 Montgomerie Avenue

Date: June 23 2025

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**Exhibits:**

This Memorandum is based on a review of the following documents:

1. Stormwater Management Solution by Tracer Pool and Landscape dated June 19, 2025
2. Dry Basin Details by Hare/ and Construction & Engineering dated June 19, 2025
3. Proposed Drainage Plans by Bro Land surveying LLC dated 6/12/2025

**Comments:**

1. The documents were reviewed for general conformance with the City of Deephaven's engineering and stormwater management standards as it relates to the CUP application. Additional comments may be provided at the time of the building permit application.
2. The existing lot generally drains to the southern property line and then west along the property line where along the rear of the lot, it drains northwest across adjacent lots. The proposed drainage patterns for the site are the same as existing conditions.
3. The proposed development is proposing to increase the impervious surface of the lot from 4,550 sf to 5,810 sf. The proposed total impervious coverage is in excess of the 25% as allowed by section 1302.05 of the City Zoning ordinance.
4. The applicant is proposing to meet the City stormwater requirements by creating a dry infiltration basin. The basin will provide 349 cf of storage which when the 75% performance credit is applied equates to 261 cf of storage. This is in excess of the 172 cf required.
5. The applicant will be required to obtain the necessary Minnehaha Creek Watershed District (MCWD) permits for the proposed improvements. A copy of the permit approval shall be provided to the City upon final approval.
6. The proposed grading does not appear to alter the elevations of the site by more than 3 feet.
7. The stormwater management device will treat runoff from the rear of the pool as well as the northwest portion of the lot which all drains to the southwest corner of the lot where it drains onto adjacent parcels.
8. The applicant shall provide a maintenance agreement for the proposed BMP's which defines the maintenance responsibilities, maintenance activities and reporting requirements.
9. The applicant shall coordinate with the City Engineer to observe the construction of the BMP to ensure compliance with the approved plans.

**End of Comments**

## Pat Smith

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**From:** Dan Madsen  
**Sent:** Tuesday, July 8, 2025 2:52 PM  
**To:** Kunal Mehta; kcarlson@cityofdeephaven.org; Kent Carlson; Pat Smith; Steven.Hegland@stantec.com  
**Cc:** Matt Tobin; Mike Mahady  
**Subject:** Re: Montgomerie Avenue Water Issues

Good afternoon, Mr. Mehta, et al.

Thank you for your kind words regarding the Quasquicentennial Event in Thorpe Park. It was such a great event, and wonderful to see everyone in the community - from all across Deephaven - get together and celebrate what we are as a community.

Regarding last night's Council Meeting, our Council Agendas and Council Packets are posted in City Hall and on-line. Unfortunately, our City Clerk was out last week, so it was not done in a timely manner. Please note that we have a "Matters from the Floor" portion of our Council Meetings at the start of each meeting where people from the community are able to provide brief statements and address the City Council. The Council does not immediately take action or directly respond to these comments, but it is a good way to let the Council know what our residents are thinking. A much better approach is to contact City Staff directly with questions or comments you may have, we are in a much better position to respond and try to address those matters as they arise.

As it relates to the Montgomerie / Calvary Church Stormwater Project, I would like to reframe the topic to clear up any misunderstandings. It is also helpful to review this matter from a position of what has been done, and what we are trying to accomplish. As a preliminary matter, stormwater issues like this one have been existing conditions for many years. Property owners have bought and / or built homes subject to the stormwater conditions that were known or knowable existing conditions. Additionally, the City has not acted or undertaken any projects that have contributed or added to the stormwater that flows in this area. These are important points to note, as the City is not required or responsible to act in any way to address or otherwise mitigate the stormwater in this area.

Now, with that said, whether or not the City is "required" to act is not controlling here. The City has made clear that it is committed to trying to find whatever solution to improve stormwater in this area that is reasonable and feasible. Here is a quick summary of the process to date and where we are trying to go from here:

- The City held an Open House last year sharing a potential project for an underground stormwater system. The Church was needed as a partner on this project since the City does not own any property sufficient to provide a solution for this area. The proposed project was reviewed by engineers and was submitted for funding through a couple of different County and State Agencies. While the project did receive two separate grants totaling approximately

\$350,000 in awards, the cost of the project is anticipated to exceed \$750,000. This presented the City with three options to move forward:

- The City could move forward with the project as planned, contribute the City's budgeted amount of approximately \$150,000 and assess the remaining \$250,000 to the property taxes of the handful of properties benefitted by the project and reduction in stormwater impact.
  - The assessments would be paid annually, assessed at a term of either 5, 7 or 10 years at a current market rate of interest.
  - We can still move forward with this plan, assuming the impacted property owners will not object to an assessment of approximately \$50,000 against their property taxes.
- The City could dedicate a portion of our budget annually to fund the remaining \$250,000 gap and move forward with the project once the City has accrued enough funding to cover the cost of the project and any increases in project costs that may occur over time. It is anticipated that the City could contribute approximately \$30,000 annually to this project, which would provide project funding sufficient to move forward in about 9 or 10 years. The City would, of course, continue to submit grant request, but the grants received would expire if not used prior to this project on this timeline. As such, the project cost and timing may continue to fluctuate as we save and attempt to retain and secure project funding.
- The other option, which is the option the City has been focusing our time and effort on pursuing, was to re-evaluate the project and plan and find a solution that would support a more timely benefit to this area. The project our new City Engineer, Steve Hegland, identified is an open stormwater basin.
  - The basin would be, at it's deepest, around 4 feet and would be dry nearly at all times. It would be designed to hold the same amount of water as the underground system, but would be far cheaper and easier to both construct and maintain. By holding and infiltrating the stormwater, it would help hold and reduce the amount of water going downstream of the project. The Church is supportive of this project, making it a viable option moving forward. The cost of this new potential project would be far less than the underground system, it is anticipated that the project would be able to be constructed with the grant funding and the City's currently budgeted amounts and would require no contribution from assessments or other means from any property owners in the area. Additionally, the project could be positioned to be constructed yet this Fall - in 2025.

So, that is a general update on what we have been working on related to this project. As Staff, we have spent an ongoing and significant amount of time on this matter and are committed to working on this through the process. With that said, here is where we are today and what we are trying to resolve:

- BWSR and the Watershed need to review the proposed changes to our stormwater plan. We need to receive approval for the redesigned project in order

to retain our grant funding. We are hopeful we will have this change approved, but it is not a guarantee. If we do not receive approval for the change in plans, we will need to consider defaulting to the underground system and either explore assessments for the project, delay the project until we have funding, or reconsider the viability of the project as a whole.

- If / when we receive approval to retain the grant funds, Staff would meet with property owners in the area to review the opportunity for the actionable stormwater project and plan.
  - Residents in the area can discuss and review the proposed project and Staff can answer any questions people may have.
  - Based upon those conversations, if the project is not in the best interests of the area or community, the City can review those comments and feedback and re-evaluate the project and what options, if any, there may be to move forward.

As a final note, as Staff, we want to make clear that either the underground containment unit project or this stormwater retention pond project will maintain the stormwater drainage along its current path and destination. These projects are designed to reduce the amount of water that impacts properties in the area, and the frequency of water impacts to properties in the area. When we have rainfalls like the most recent one that far exceed the "typical" rainstorm, any water containment or filtration project will reach its maximum holding capacity. When that happens, stormwater will flow in the same way it currently does. We want to make this clear, as any system or project that is constructed will not eliminate stormwater from your property.

I hope this e-mail is helpful in your understanding of the City's responsibility is for stormwater in this area, our continued work on this project, what we hope to accomplish. We would be happy to meet in the next couple of weeks to discuss this matter in more detail if that would be helpful to you. Finally, if you have questions about the status of a project, we encourage you to reach out to us as Staff so we can provide those updates.

Sincerely,



**Dan Madsen**  
City Administrator / Special Counsel  
20225 Cottagewood Road  
Deephaven, MN 55331  
[danm@cityofdeephaven.org](mailto:danm@cityofdeephaven.org)  
<https://www.cityofdeephaven.org>

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**From:** Kunal Mehta <kunal.j.mehta1@gmail.com>

**Sent:** Monday, July 7, 2025 9:23 PM

**To:** [kcarlson@cityofdeephaven.org](mailto:kcarlson@cityofdeephaven.org) <[kcarlson@cityofdeephaven.org](mailto:kcarlson@cityofdeephaven.org)>; Kent Carlson <[kcarlson@inlanddp.com](mailto:kcarlson@inlanddp.com)>; Dan Madsen <[danm@cityofdeephaven.org](mailto:danm@cityofdeephaven.org)>; Pat Smith <[pats@cityofdeephaven.org](mailto:pats@cityofdeephaven.org)>; Steven.Hegland@stantec.com <[Steven.Hegland@stantec.com](mailto:Steven.Hegland@stantec.com)>

**Cc:** Matt Tobin <[tobinmatthew@gmail.com](mailto:tobinmatthew@gmail.com)>; Mike Mahady <[mbmahady@yahoo.com](mailto:mbmahady@yahoo.com)>

**Subject:** Montgomerie Avenue Water Issues

Kent, Dan, Pat, and Steven -

Firstly, I want to echo the message at today's council meeting of the great job by the council and members of the community for the 125 anniversary event at Thorpe Park; both on engagement and execution as well as staying within budget. As you saw in person today, my son, Remi, had a blast of a time alongside several other kids in our neighborhood.

As a follow up to my last 8 years, as well as likely 13+ years for Matt Tobin (cc'ed) and of course the prior owner of my property (3520 Montgomerie) pleas, we are circling back to the Montgomerie avenue water issues. Unfortunately, today's agenda was not posted prior to today's council meeting, so when asked if we would like to discuss something not on the agenda, we had no clue to raise our voice. We waited patiently for 70 minutes, only to then be exited due to the closed door union discussion. First comment - please post the agenda so your constituents know if they need to speak up.

Fortunately, Steven was free after to chat. While he was very polite and explained the latest solution, we did not leave encouraged that the right solution is being pursued. It would appear we have another engineer (4 in the 8 years), with a new plan; particularly a plan being driven by limited funding. It appears to be the same story, regardless of the promises made by those in the council. That said, it is encouraging to hear continued progress, albeit extremely slow given administration changes, engineering changes and funding hurdles.

Our ask is that the city takes the time to discuss the solutions with the residents impacted by this issue; no different than engaging the church to get their perspective. It is hard to understand why the city is not circling back to those that have reached out to them numerous times. What is the forum to do so? Is this a planning session, the next council meeting or a one off discussion? When can we meet to discuss?

Topics to discuss:

1. Proposed solution - why does the city believe this is the appropriate solution? Why the pivot from the holding tank other than funding issues? An over ground pond only adds a safety issue for the many children in the neighborhood and increases the risk of mosquitos and insects in our neighborhood.
2. If this is the right solution, what is being done to re-grade the Calvary church parking lot. One of the biggest mistakes the city allowed was the grading of the church parking lot towards Montgomerie vs. the hill towards the secondary parking lot. How will this be fixed? Who will pay for this?
3. What happens to the culverts that were installed by the City 3 years ago? These capture minimal water; for the water that is captured it immediately ends back up on Montgomerie due to poor engineering. This was not a solution that the residents agreed to; it was a poorly engineering solution by a resident and the city.
4. The solution presented continues to use personal property - what is the solution for the respective properties? The water over my property has caused damage to my 3rd garage. It has sunk 1.5in since purchase and this is due to the water drainage. Further, the rock garden to capture water has so much silt/soil captured due to the drainage on Montgomerie, that it is now a weed infested area. This year, the end of my drive continues to break apart and sand continues to collect. Even further, the waterflow through Matt's property has a serious safety issue. Any solution presented by the city should include appropriate drainage through 3520 Montgomerie and Hamilton.
5. What happens to the water capture pond at 3525 Montgomerie?
6. What solution exists to accelerate the complete overhaul of Montgomerie Avenue (originally planned for 2029) and put in appropriate drainage through the road?

I have included Matt Tobin and Mike Mahady on this note as they attended today's council meeting on behalf of this topic. There are at least 5 other neighbors on Montgomerie and Hamilton that would like to meet to discuss the solution.

Please propose an appropriate option and I will coordinate with the respective neighbors.

**STAFF REPORT**  
*Pat Smith, Planning Director*

**Deephaven Planning Commission**  
**July 15, 2025**



**APPLICATION INFORMATION**

**APPLICANT:** Dan Scholtec, Red Sky Building

**PROPERTY OWNER(S):** Oak Mount Holdings

**LOCATION:** 18065 Berry Lane (please see attached Location Map)

**ZONING:** R-3, Residential

**SYNOPSIS:** Applicant is requesting a front yard in conjunction with adding a portico to the house (attached narrative)

**STAFF RECOMMENDATION:** Motion to Recommend Approval to City Council

**120-DAY REVIEW DEADLINE:** September 27, 2025

**BACKGROUND/REQUEST**

According to Hennepin County records, the subject house was constructed in 1968. The house was constructed with a front yard setback of 34.3 feet making the house a legal non-conforming structure (see attached survey).

The applicant is proposing to add a six-foot by six-foot portico over the front door, which would result in a front yard setback to 28.5 feet.

**Zoning Analysis**

The property is 20,780 square feet in area and zoned R-3, Single Family Residential. The table below compares the required, existing and proposed setbacks and hardcover.

	<b>Permitted/ Required</b>	<b>Existing</b>	<b>Proposed</b>
Front Yard Setback	35 feet	<b>34.3 feet</b>	<b>28.5 feet</b>
Side Yard Setback - West	10 feet	19.5 feet	19.5 feet
Side Yard Setback - East	15 feet	54.8 feet	54.8 feet
Rear Yard Setback	15 feet	72.1 feet	72.1 feet
Hardcover (max.)	25%	19.5%	19.9%
Building Coverage (max.)	4,500 SF	1,634 SF	1,634 SF

## **Variance Request**

### **Front Yard Setback**

Section 1302.05(4) of the zoning ordinance requires a front yard setback of 35 feet.

**The applicants are seeking a variance of 6.5 feet from the minimum required front yard setback.** The current house has a front yard setback of 34.3 feet.

### **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: The applicant is seeking to vary from the stated setback standards of the ordinance to improve an existing non-conforming house constructed in 1970, per Hennepin County tax records. The expanded conditions are minor and remain in harmony with the purpose and intent of the ordinance. The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourage residents to maintain and/or improve older homes which will promote diversity of housing in Deephaven.

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

Staff Comment: It is reasonable to have a small covered entry for a front door.

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

Staff Comment: The house was constructed in 1968 and has a legal non-conforming front yard setback of 34.3 feet making it impossible to add a portico without a variance.

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

Staff Comment: No, the proposal would not alter the essential character of the locality. The house next door at 10845 Berry Lane has a similar portico that was approved in 2006 without a survey. The house across the street at 18080 Berry Lane has an open porch.

**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 July 15, 2025. No public comments have been received.

**STAFF RECOMMENDATION**

Staff recommends approval of a variance to encroach 6.5 feet into the minimum required front yard setback to construct a portico over the front door, subject to the following conditions:

1. The proposed portico shall be developed in substantial conformance with the plans as approved and as conditionally revised by the City Council.
2. All applicable permits are applied for by the applicants with all supporting documentation and issued prior to the start of construction.
3. 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 recommend the City Council **approve** a variance to encroach 6.5 feet into the minimum required front yard setback in conjunction with the construction of portico to the house located at 18065 Berry Lane, as proposed.

OR

- 2) I move the Planning Commission recommend the City Council **deny** the variance to encroach 6.5 feet into the minimum required front yard setback in conjunction with the construction of portico to the house located at 18065 Berry Lane. The motion is based on the following findings: \_\_\_\_\_.

**Attachments:**

- 1) Location Map
- 2) Applicant’s Narrative
- 3) Photo of Residence
- 4) Photo of 18045 Berry Lane
- 5) Photo of 18080 Berry Lane
- 6) Proposed Survey
- 7) Proposed Elevations

# LOCATION MAP

## 18065 Berry Lane



- 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?

When house was built originally in 1968 the footprint of the existing structure was constructed slightly within today setback requirements. This does create challenges without a variance to provide for a front entry way that offers better protection from the elements and provide for a reasonable entryway into the home.

- 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?

Square footage of this property is slightly larger than the average property located in the R3 zone and in itself doesn't hold much in the way of uniqueness. As mentioned previously, the house was originally constructed within the setback. However, the proposed portico would match very closely the design and setback distance as many of the neighboring properties in the vicinity.

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

The requested variance provides for a reasonable upgrade to today's construction standards to aid in prevention of moisture collecting in or around the foundation. Additionally, a covered portico provides better weather and snow protection in the winter months. Often homes without this shelter will see periods where snow can drift up against the main egress door, this can be construed as a safety hazard.

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

Existing conditions has the structure encroaching within the setback at the area of the proposed portico has the exterior sidewall between 34 ft 3 inches and 34 ft 8 inches. The soffit overhang extends 3 ft into the setback, which would measure approximately 31 ft 5 inches. An alternate could be to simply install the front door in accordance to the existing plan without the portico. This wouldn't allow for the additional weather protection that a covered portico offers. Another alternative would be to extend the overhang with a gable

end facing the street as drawn, however to remove the small columns and install corbels for support. This construction technique would be inferior to the portico as drawn in the proposal. Additionally, a variance would still be required due to the existing structures position and current setback.

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

No, this was an existing condition prior to the purchase of the home.

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

No, this will bring the house up to the standards of today's construction techniques and match many of the exterior aesthetics of houses in this neighborhood. Neighboring properties have porches or porticos that approach or extend into the setback today.

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

As mentioned previously, covered entryways do provide for safer entrance and exit from the structure.

Subject House - 18065 Berry  
Lane



18045 Berry Lane



18080 Berry Lane



**LEGAL DESCRIPTION:**

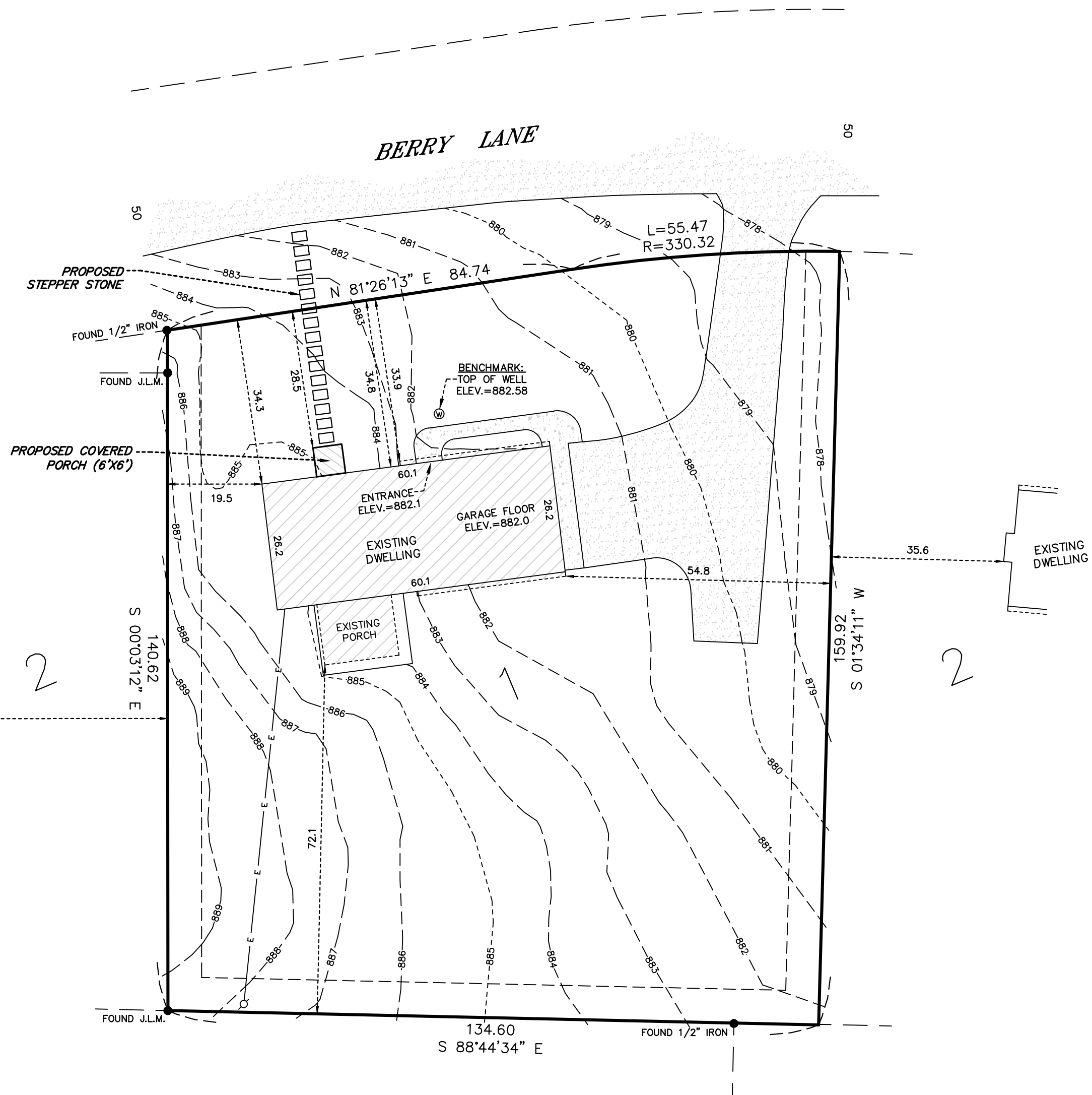
Lot 1, Block 1, Boyer's Second Addition, Hennepin County, Minnesota.

**SCOPE OF WORK & LIMITATIONS:**

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- Existing building dimensions and setbacks measured to outside of siding or stucco.
- Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.
- While we show a proposed location for this home or addition, we are not as familiar with your proposed plans as you, your architect, or the builder are. Review our proposed location of the improvements and proposed yard grades carefully to verify that they match your plans before construction begins. Also, we are not as familiar with local codes and minimum requirements as the local building and zoning officials in this community are. Be sure to show this survey to said officials, or any other officials that may have jurisdiction over the proposed improvements and obtain their approvals before beginning construction or planning improvements to the property.

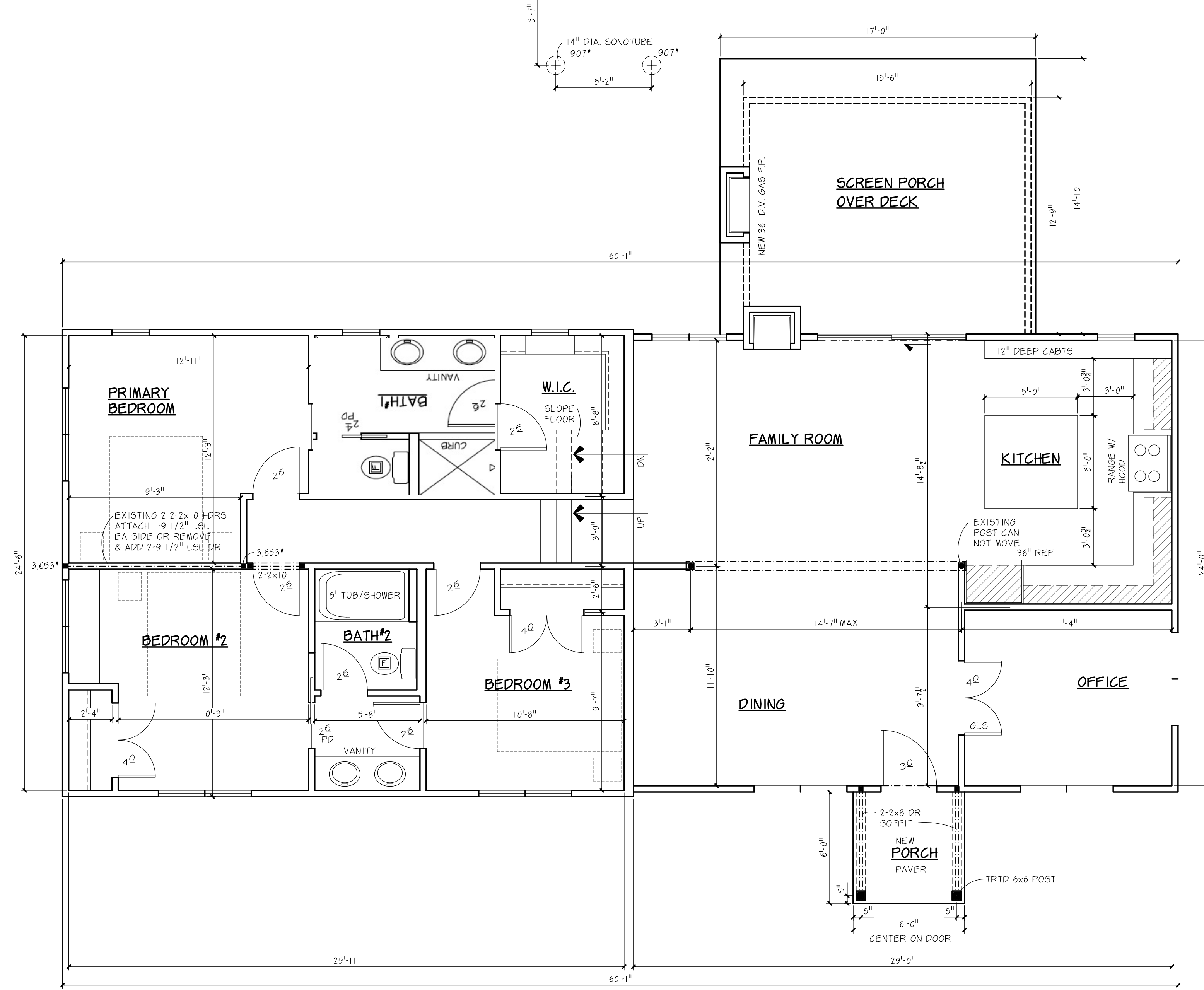
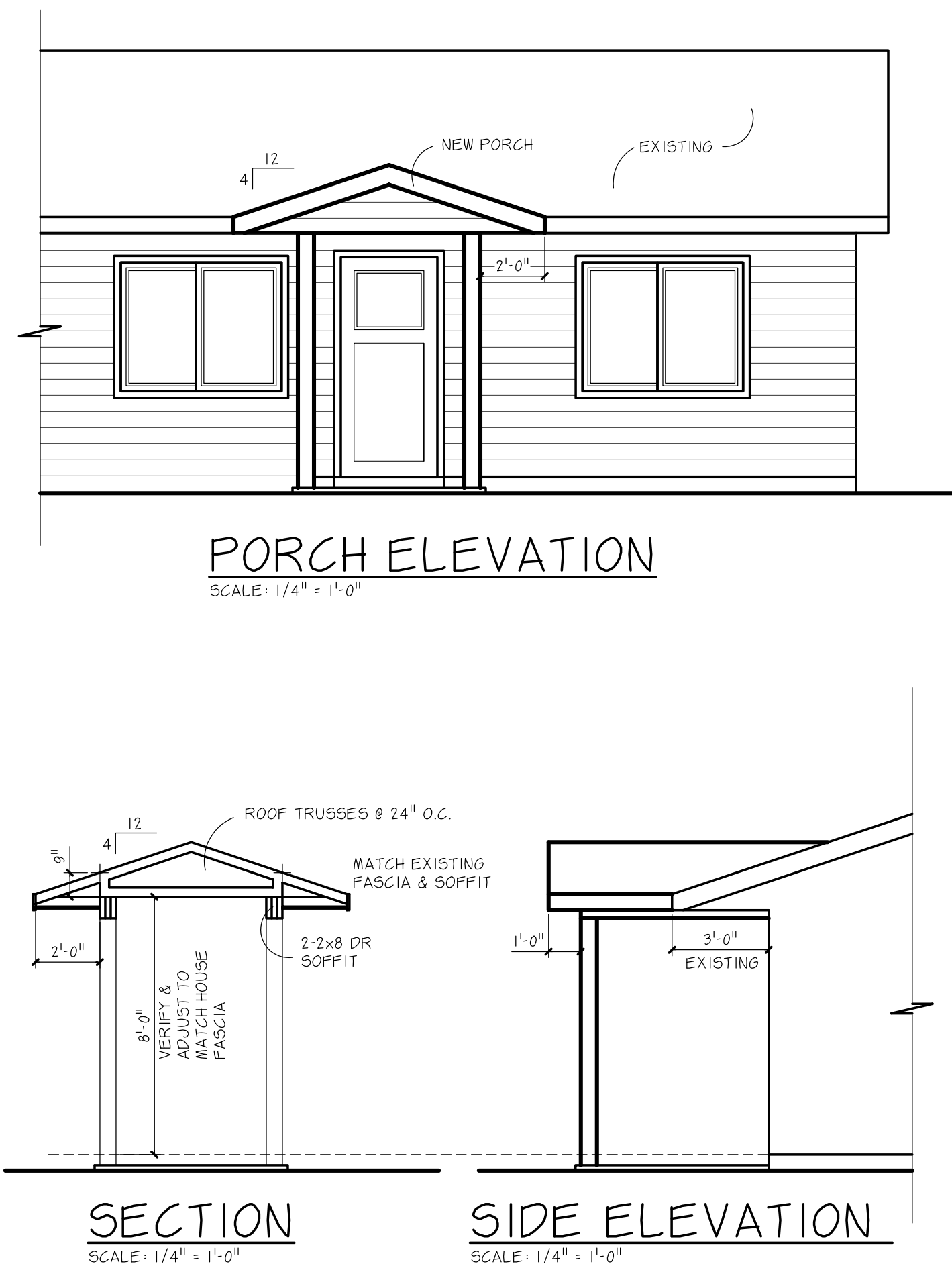
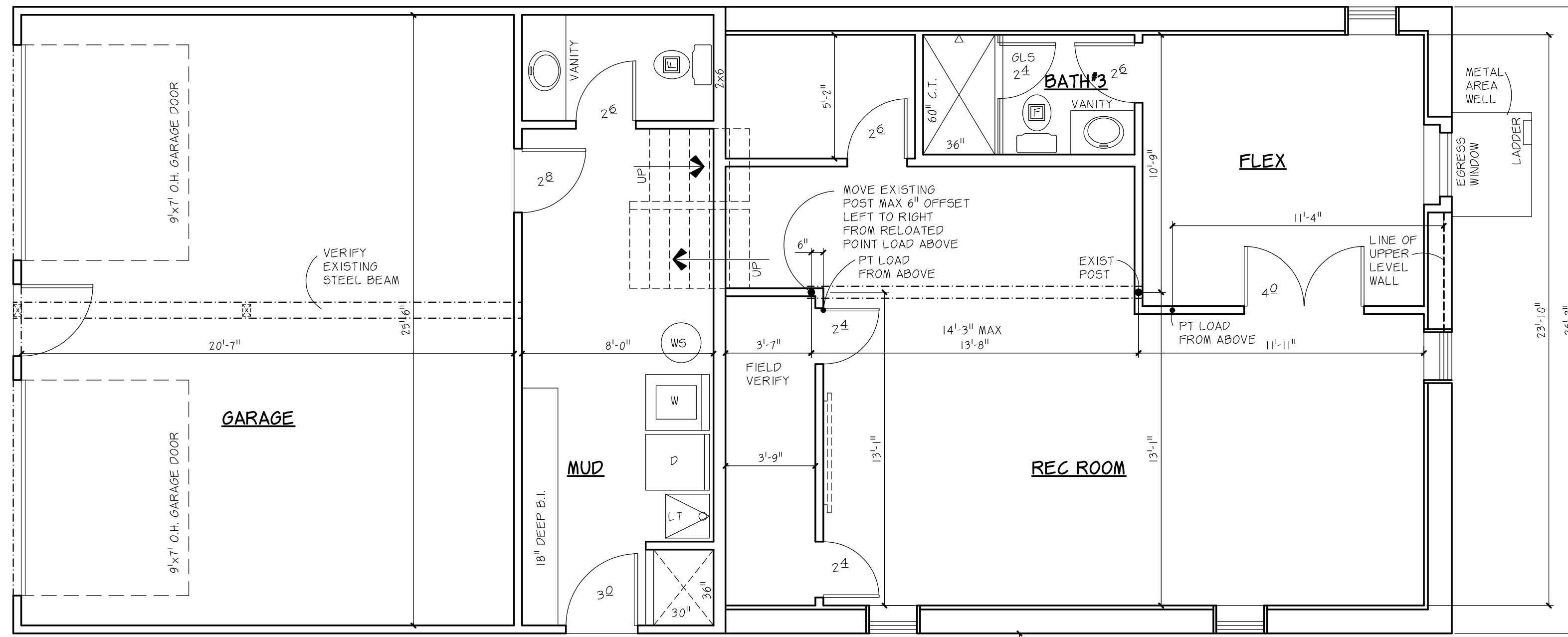
**STANDARD SYMBOLS & CONVENTIONS:**

"●" Denotes iron survey marker, set, unless otherwise noted.



PROPOSED HARDCOVER		EXISTING HARDCOVER	
HOUSE	1,634 SQ. FT.	HOUSE	1,634 SQ. FT.
DRIVEWAY	1,901 SQ. FT.	DRIVEWAY	1,901 SQ. FT.
PORCH	195 SQ. FT.	PORCH	195 SQ. FT.
DECK	78 SQ. FT.	DECK	78 SQ. FT.
WALK & GARAGE APRON	248 SQ. FT.	WALK & GARAGE APRON	248 SQ. FT.
FRONT PORCH	36 SQ. FT.		
STEPPER STONES	57 SQ. FT.	TOTAL EXISTING HARDCOVER	4,056 SQ. FT.
TOTAL PROPOSED HARDCOVER	4,149 SQ. FT.	AREA OF LOT	20,780 SQ. FT.
AREA OF LOT	20,780 SQ. FT.	LOT COVERAGE	19.5%
LOT COVERAGE	19.9%		

DATE	REVISION DESCRIPTION	DWG ORIENTATION	SCALE	CLIENT/JOB ADDRESS	<p>18202 Minnetonka Blvd. Suite 401 Deephaven, Minnesota 55391 Phone (952) 474-7964 Web: www.advsur.com</p>	HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.	DATE SURVEYED:	SHEET TITLE	SHEET NO.
				<p>RED SKY BUILDING</p> <p>18065 BERRY LANE</p> <p>DEEHPHAVEN, MN</p>		<p>Wayne W. Preugs</p> <p>#43503</p> <p>LICENSE NO.</p> <p>MAY 23, 2025</p> <p>DATE</p>	<p>DECEMBER 16, 2024</p>	<p>PROPOSED SURVEY</p>	
							DATE DRAFTED:	SHEET SIZE: 17 X 22	S1
							<p>MAY 23, 2025</p>	<p>DRAWING NUMBER</p> <p>250828 JR</p>	



**REMODELING NOTES:**  
NOTE: CONSTRUCTION DRAWINGS BASED OFF OF AS-BUILT AND CONCEPTUAL DRAWINGS PROVIDED BY OTHERS. FIELD VERIFICATION OF EXISTING CONDITIONS WAS OUTSIDE OF THE SCOPE REQUESTED TO BE PERFORMED BY DFP PLANNING & DESIGN.  
FIELD VERIFICATION REQUIRED FOR BUT NOT LIMITED TO THE FOLLOWING DUE TO CONCEALED CONDITIONS, ALL NEW & EXISTING WALL HEIGHTS, TRUSS HEEL HEIGHTS, OVERHANGS & PITCHES PRIOR TO ORDERING TRUSSES.  
ADDITIONALLY, ALL EXISTING FLOOR & ROOF BEARING CONDITIONS MUST ALSO BE FIELD VERIFIED WITH THIS PLAN. ANY QUESTIONS CALL DFP PLANNING & DESIGN PRIOR TO PROCEEDING.



**STAFF REPORT**  
*Pat Smith, Planning Director*

**Deephaven Planning Commission**  
**July 15, 2025**



**KEY ISSUES**

Staff used the following sign ordinance for reference: Chaska, Excelsior, Downers Grove, and Winnetka, IL. Paragraphs highlighted in yellow have been copied from the existing ordinance.

Key changes from the existing ordinance

	<b>Existing</b>	<b>Proposed</b>
Approval – permanent signs	Through CUP	Administrative
Illumination	No limits	Externally illumination only in Downtown Commercial
Open House Signs	Prohibits Open House Signs	Permitted with parameters
Sandwich Board Signs	Need temporary sign permit, only allowed 180 days a year	Sandwich board signs within 15 feet of a business entrance and removed overnight do not need a permit and can be used year-round
Total maximum amount of signage per property	Treated all zoning districts the same - 100 SF	C1 (Downtown) - 75 SF C2 & C3 – 125 SF
Maximum number of signs for each business (all commercial districts)	No limit	Two
Temporary Signs - size	No size limits – zoning administrator determines the effect on surrounding properties	Banners – 30 SF
Temporary Signs – display period	6 permits -30 days each (180 days)	3 permits – 14 days each (42 days)
Sandwich Board Signs	6 permits -30 days each (180 days)	Sandwich board signs within 15 feet of entrance and removed overnight do not need a permit and may be displayed year-round
Multi-Tenant Buildings	No provision for multi-tenant buildings. Everything is negotiated through a CUP.	All businesses are allowed two signs – maximum size of wall signs is 20 SF; maximum size of blade signs is 6 SF
Flags	Prohibits flags	Allows flags
Residential Signs	No regulations	20 SF maximum display area 7 feet maximum height for monument

		8 feet maximum height for shingle signs
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Attached are current signs to compare with the proposed ordinance. All signs would conform to the proposed ordinance except the following:

- The Kyle Hunt Shingle sign – the sign is 10 feet high and 16 SF in area; staff is recommending a maximum height of 8 feet and 12 SF in area.
- The Hughes Dental monument sign - the sign is 7 feet high and 45 SF in area; staff is recommending a maximum height of 6 feet for properties the size of Hughes Dental and 30 SF.
- The Coldwell Banker sign is 8.5 feet tall and 52 SF in area. Staff is recommending a maximum height of 8 feet for monuments in the C-2 and C-3 zoning districts and a maximum display area of 50 SF.

### Display Period for Temporary Signs

City	Types and Sizes	Display Period
<b>Deephaven</b>	No limits – zoning administrator to determine the sign is reasonable for the use and not be detrimental to surrounding property values	6 permits -30 days each (180 days)
<b>Excelsior</b>	Banners – 30 SF Pennants, streamers or spinners, inflatable devices	30 days Sandwich board signs within five feet of entrance and removed overnight do not need a permit and may be displayed year-round
<b>Wayzata</b>	Banners, posters, pennants, ribbons, streamers, search lights or other devices to draw attention May not exceed 110% of total allowable signage area	3 permits – 14 days each (42 days)
<b>Minnetonka</b>	Banners – 30 SF Search lights and inflatable signs	30 days for grand openings 2 permits – 10 days each (20 days) Search lights and inflatable signs – twice per year/three days Sandwich board signs within five feet of entrance and removed overnight do not need a permit and may be displayed year-round
<b>Chaska</b>	Banners – 32 SF Pennants, inflatable devices – 25' maximum height	30 days for grand openings 55 days
<b>Downers Grove, IL</b>	Banners – 32 SF	8 permits – 7 days each (56 days)

***PLANNING COMMISSION ACTION REQUESTED***

Hold the public hearing and recommend the City Council approve the proposed sign ordinance with or without changes.

**Attachment:**

- 1) Existing Ordinance
- 2) Draft Ordinance
- 3) Current Signs Compared to Proposed Ordinance



1. General
2. Definitions
3. Signs Allowed without a Sign Permit
4. Temporary Business Signs
5. Sign Regulations for Downtown Commercial
6. Sign Regulations for C2 and C3 Zoning Districts
7. Residential Sign Regulations
8. Prohibited Signs
9. General Regulations (Definition of sign area, Illumination, Maintenance)
10. Administration and Permits
11. Non-Conforming signs
12. Enforcement
13. 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 sign which cannot be viewed outside a building. The purpose and intent of this article is to:

1. to preserve, protect and promote public health, safety and welfare;
2. to preserve the value of private property by assuring the compatibility of signs with surrounding land uses;
3. to enhance the physical appearance of the City;

4. to enhance the City's economy, business and industry by promoting the reasonable, orderly and effective display of signs, and encouraging better communication between an activity and the public it seeks with its message;
5. to protect the general public from damage and injury, that may be caused by the faulty and uncontrolled construction and use of signs within the City;
6. to protect motorized and non-motorized travelers by reducing distraction that may increase the number and severity of traffic accidents; and
7. to encourage sound practices and lessen the objectionable effects of competition with respect to size and placement of street signs.

## 2) Definitions

- a) **"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.
- b) **Activity:** Any business or institutional, professional, or religious entity that provides products or services.
- 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) **"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.
- e) **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.
- f) **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.
- g) **Digital signs:** any sign that displays a message electronically through the use of pixel-based technology, such as but not limited to light emitting diodes (LED's), liquid crystal, etc.
- h) **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.
- i) **Freestanding Sign:** Monument or shingle signs affixed to the ground and not attached to any part of a building.
- j) **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.

- k) **Illumination, Backlit:** A method of illumination by which the sign is illuminated from within and the light is projected back onto the support surface to create a halo effect around the sign copy. Such signs are fabricated from opaque materials which do not allow light to filter through the face or sides of the sign.
- l) **Illumination, External:** A sign that is affected by an artificial light source that is not contained within the sign itself.
- m) **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.
- n) **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.
- o) **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.
- p) **Portable Sign:** A sign so designed as to be movable from one location to another and which is not permanently attached to the ground, sales display device, or structure. A temporary sign.
- q) **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.
- r) **Pylon Sign:** A sign supported by a column-type structure that is set firmly in or below ground surface and finished in a material consistent with the sign.
- s) **Real Estate Sign:** A sign pertaining to the sale, lease, or rental of the real estate upon which it is located.
- t) **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.
- u) **Sandwich board.** Two boards with messages, hinged at the top and used on sidewalks or yards for advertising.
- v) **Shingle Sign:** a sign that is suspended from a horizontal arm of a freestanding pole.



- w) **“Rotating Sign”** A sign or portion of a sign which turns about on an axis.
- x) **“Shimmering Signs”** A sign that reflects an oscillating sometimes distorted visual image.
- y) **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.
- z) **Special Event Sign:** A temporary sign that is used to advertise or promote an event of special significance in the City of Deephaven. Such special events include events of civic, philanthropic, educational, or religious organizations.
- aa) **Street Frontage:** The proximity of a parcel of land to one or more streets. An interior lot has one street frontage and a corner lot has two or more frontages. For calculating the maximum sign display area, only one street frontage may be counted for corner lots.
- bb) **“Stringer”** A line of string, rope, cording or an equivalent to which is attached a number of pennants.
- cc) **Temporary Sign:** A non-permanent sign erected, affixed, or maintained on-premise for a limited period of time.
- dd) **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.
- ee) **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.

### 3) 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. One temporary sign per property in residential districts that does not exceed five square feet in size. (excelsior)

D. All noncommercial speech signs of any size posted in any number from 46 days before the state primary in a state general election year until 10 days following general election, and 13 weeks prior to any special election until 10 days following the special election. Sign installation shall comply with Fair Campaign Practices Act contained in Minn. Stats. Chapter 211B.

E. "No trespassing" or similar signs regulating the use of property, provided such signs are no more than 2 square feet in area.

F. Noncommercial flags of any country, state or unit of local government.

G. 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. Temporary Special Event 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. Sign area shall be no more than 32 square feet.

I. "Help wanted" signs up to 2 square feet in area. The "help wanted" sign text must be the predominant text on the sign. Help wanted signs may only be located on a window or door.

J. 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.

K. 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.

Open House Signs. Open house signs may be placed in the public right-of-way on days that the open house will take place. Such open house signs may be posted only between the hours of 7:00 am to 10:00 pm, provided that:

- 1) the open house sign may not exceed 4 square feet in area;

- 2) the open house sign must be freestanding, not attached to any utility pole, traffic control sign or other similar structured and must be placed at least 3 feet from the curb or edge of the pavement;
- 3) only one open house sign is permitted within 150 feet of another sign that relates to the same address. There may be only one open house sign relating to the same address placed in on a single lot; and,
- 4) no attention-getting or attracting devices may be attached to any open house sign.

L. Vehicle signs are allowed when the vehicle to which the sign is attached is licensed, insured, and operational. The vehicle must be used for the operation of the business and may not remain stationary for an extended period of time for the purpose of attracting attention to a business.

4) **Temporary Business Signs**

- a) The following signs shall require an administrative permit along with the temporary sign permit fee established in Chapter 4.
- b) Banners, flags, pennants and portable signs are permitted according to the following:
  - i. Not more than one such signs shall be allowed for an activity at any given time.
  - ii. No individual property or business may obtain more than three (3) temporary sign permits in a calendar year. Each temporary sign permit shall be valid for a period of 14 days.
  - iii. Banners shall not exceed 30 square feet in area and portable signs shall not exceed five feet in height or greater than six square feet in area
  - iv. Under no circumstances shall a temporary business sign be placed on public property or within the public right-of-way.

5) **Sign Regulations for the Downtown Commercial District**

The regulations of this section apply in the C-1 zoning district.

**A. Maximum Total Sign Area**

The maximum allowable sign area may not exceed 0.50 square feet per linear foot of street frontage or 75 square feet, whichever is less, plus any signs expressly excluded from maximum sign area calculations.

**B. Maximum Total Number of Signs**

Businesses shall not display more than two permanent signs, whether such signs be projecting, wall, freestanding, window or awning, including signs for rear entrances. Window lettering signs of less than six square feet shall be excluded from this regulation.

**C. Multi-Occupant Buildings**

Each business located in a multi-occupant building is permitted two permanent signs (wall, projecting, under-canopy or awning/canopy signs) as regulated in this section, but do not count toward the maximum total sign area for the property.

**D. Monument and Shingle Signs**

Unless otherwise expressly stated, each lot is allowed either one monument sign or one shingle sign, subject to the following regulations.

### 1. Monument Signs

Monument signs are limited to a maximum of two sign faces and are subject to the height and area limitations in the following table. Address numbers are excluded when calculating the area of the monument sign.

	Lot Size		
	Less than 75 ft. lot width	75-199 ft. lot width	200 ft. or greater lot width
Maximum Height (feet)	5	6	8
Maximum Area (SF)	20	30	45

### 2. Shingle Signs

Shingle signs may not exceed 12 square feet in area per side or a height of 8 feet.

(B) Sign Setbacks: all freestanding signs shall meet the building setback requirements of the underlying zoning district, except along the sides of a lot with street frontage, where monument and shingle signs shall be setback at least ten (10) feet from the street right-of-way.

### E. Wall Signs

- 1) The maximum display area of wall signs for a single-tenant building shall be 50 square feet.
- 2) The maximum display area of wall signs for a multi-occupant building shall be 20 square feet.

### F. Menu Boards

Menu boards for restaurants are allowed on the exterior wall of the business. Such signs may not exceed 4 square feet in area. The menu board area is not counted in calculating maximum allowable sign area. The menu board sign may include menus or notice of special events including community events. All menu board signs must be enclosed in a tempered glass or Plexiglas frame.

### G. Projecting Signs

- 1) Projecting signs shall not exceed six (6) square feet of sign space;
- 2) Shall not extend more than three (3) feet from the vertical plane of the façade to which it is attached;
- 3) Must be placed to allow at least eight (8) feet of vertical clearance above the ground directly beneath the sign.

### H. Awning Signs

- 1) Awnings and canopies may not extend above the first floor of the building to which it is attached and must be constructed and erected so that the lowest portion of the awning or canopy is at least 8 feet above the ground directly beneath it.
- 2) Shall not exceed seven square feet in size or eight inches in height
- 3) Shall be located in the lowest section of the awning/canopy and parallel to the building.

### I. Under-Canopy Signs

Under-canopy signs must be attached to the underside of the soffit or ceiling of a canopy. The face of any such sign may not exceed 12 inches in height or 4 feet in length. Such signs must

be placed to allow at least 8 feet of vertical clearance above the ground directly beneath the sign.

#### **J. Window Signs**

Temporary window signs covering a maximum of 25% of each window are allowed without a sign permit. The window sign area is in addition to the total maximum allowable sign area.

#### **L. Sandwich Board Signs**

Businesses are allowed up to one sandwich board sign in the C-1 zoning district. They are not counted in calculating the maximum sign area allowed on a lot, and are subject to the following conditions:

- 1) Sandwich Board Signs located within 15 feet of the entryway to the subject business do not need a temporary sign permit nor are they limited to the temporary sign permit annual display limits.
- 2) Sandwich Board Signs located farther than 15 feet of the entryway to the subject business require a temporary sign permit and are limited to the display period regulated as a temporary sign.
- 3) Sandwich board signs maybe displayed only during business hours and must be removed each day at the end of business.
- 4) Such signs shall not be located in the public right-of-way.
- 5) Such signs shall not exceed five feet in height or greater than six square feet in area.
- 6) Sandwich board signs must be constructed of wood, metal or durable plastic.

#### **M. Illumination**

No internal or back lighting of signs in the Downtown Commercial district is allowed. All artificially illuminated signs shall only use that amount of artificial light as is need to light the sign. Illuminating devices shall be either mounted above the sign and face downward or below the sign with lighting directed up toward the sign.

### **6) Sign Regulations for the General Commercial and Highway Commercial Districts**

The regulations of this section apply in the C-2 and C-3 zoning districts.

#### **A. Maximum Total Sign Area**

The maximum allowable sign area may not exceed 0.50 square feet per linear foot of street frontage or 125 square feet, whichever is less, plus any signs expressly excluded from maximum sign area calculations.

#### **B. Maximum Total Number of Signs**

Businesses shall not display more than two permanent signs, whether such signs be projecting, wall, freestanding, window or awning, including signs for rear entrances. Window lettering signs of less than six square feet shall be excluded from this regulation.

#### **C. Multi-Occupant Buildings**

Each business located in a multi-occupant building is permitted two permanent signs (wall, projecting, under-canopy or awning/canopy signs) as regulated in this section, but do not count toward the maximum total sign area for the property.

#### **D. Monument Signs**

Unless otherwise expressly stated, each lot is allowed one monument sign, subject to the following regulations.

- 1) Monument signs are limited to a maximum of two sign faces and are subject to the height and area limitations is the following table. Address numbers are excluded when calculating the area of the monument sign.
- 2) May not exceed 50 square feet in area or a height of 8 feet.
- 3) Sign Setbacks: all freestanding signs shall meet the building setback requirements of the underlying zoning district, except along the sides of a lot with street frontage, where monument and shingle signs shall be setback at least ten (10) feet from the street right-of-way.
- 4) Monument signs with digital displays shall be allowed in the C-3 zoning district, subject to the following conditions:
  - i. Size of Display. The electronic displays may occupy no more than 35% of the display area of the monument sign.
  - ii. Size of Copy. Every line of copy and graphics must be at least 12 inches in height.
  - iii. Duration of Image. The images and messages displayed on a digital sign not change more than twice in a 24-hour period (same as Midas).
  - iv.

#### **E. Wall Signs**

- 1) The maximum display area of wall signs for a single-tenant building shall be 75 square feet.
- 2) The maximum display area of wall signs for a multi-occupant building shall be 30 square feet.

#### **F. Menu Boards**

Menu boards for restaurants are allowed on the exterior wall of the business. Such signs may not exceed 4 square feet in area. The menu board area is not counted in calculating maximum allowable sign area. The menu board sign may include menus or notice of special events including community events. All menu board signs must be enclosed in a tempered glass or Plexiglas frame.

#### **G. Projecting Signs**

- 4) Projecting signs shall not exceed six (6) square feet of sign space;
- 5) Shall not extend more than three (3) feet from the vertical plane of the façade to which it is attached;
- 6) Must be placed to allow at least eight (8) feet of vertical clearance above the ground directly beneath the sign.

#### **H. Awning Signs**

- 1) Awnings and canopies may not extend above the first floor of the building to which it is attached and must be constructed and erected so that the lowest portion of the awning or canopy is at least 8 feet above the ground directly beneath it.
- 2) Shall not exceed seven square feet in size or eight inches in height
- 3) Shall be located in the lowest section of the awning/canopy and parallel to the building.

#### **I. Under-Canopy Signs**

Under-canopy signs must be attached to the underside of the soffit or ceiling of a canopy. The face of any such sign may not exceed 12 inches in height or 4 feet in length. Such signs must be placed to allow at least 8 feet of vertical clearance above the ground directly beneath the sign.

## J. Window Signs

Temporary window signs covering a maximum of 25% of each window are allowed without a sign permit. The window sign area is in addition to the total maximum allowable sign area.

## 7) Residential Sign Regulations

Within all residential zoning districts, the following permanent signs are permitted subject to the following conditions:

a) **Residential entrance ground signs:** For each neighborhood or other residential developments including townhome, condominium, and apartments, entrance signs are permitted subject to the following requirements:

- i) One freestanding sign per each entrance;
- ii) 20 square feet maximum display area;
- iii) Seven (7) feet maximum height for monument signs and eight (8) feet maximum height for shingle signs;
- vi) Neon, backlit illumination and internal illumination are prohibited;
- vii) Maybe located in the City's right-of-way but shall not be located inside the visibility triangle; and
- viii) A neighborhood or homeowner's association shall be responsible for perpetual maintenance of the sign.

b) **Educational, Religious and Public Institution Signs:** For each educational, religious, public or private institution, nursing home property or similar property, signs are permitted subject to the following requirements:

i) *Monument signs:*

- One sign not to exceed 20 square feet in display area;
- Five (5) feet maximum height;

ii) *Wall mounted signs:*

- One wall sign, except when more than one building facade has street frontage. In this instance, an activity may have one wall sign for each facade with street frontage. The sign area shall not exceed 40 square feet.

- Indirect illumination only.

**1115.06 Prohibited Signs in All Zoning Districts.** The following are expressly prohibited under this ordinance:

- (a) **Flashing signs, searchlights, flags, or whirling devices.**
- (c) ~~Electronic graphic display 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.
- (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) 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) Pylon signs
- (q) Moving signs, rotating signs, shimmering signs, stringers or suspended signs.
- (r) Content classified as "obscene" as defined by Minn. Statute 617.241.
- (s) Any sign placed or attached to a telecommunications tower, pole or antenna.
- (t) Abandoned Signs as defined by Section \_\_\_\_\_
- (u) Any other sign not expressly permitted in this article.

## **8) General Regulations**

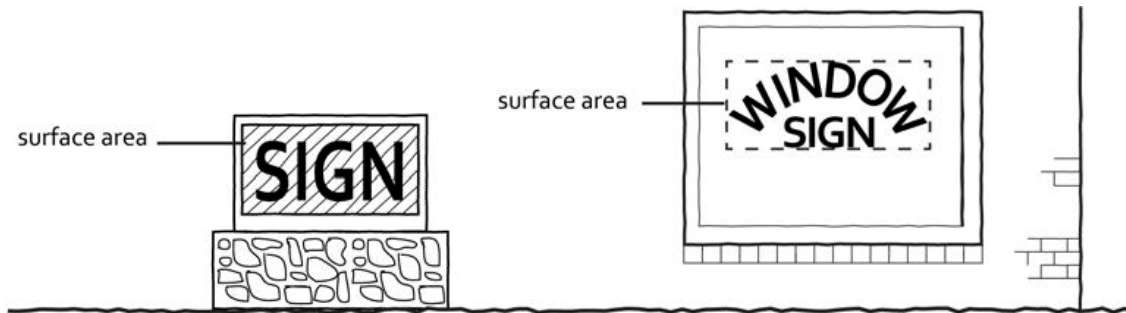
The following general regulations and standards shall apply to all allowed signs in all zoning districts:

### (l) *Sign measurement.*

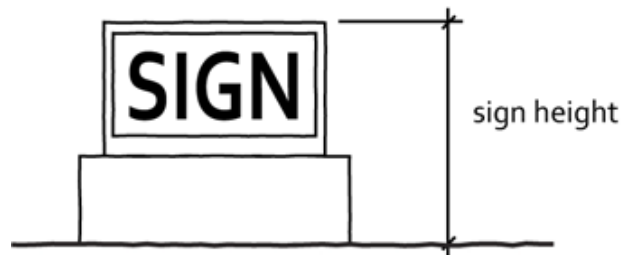
(1) Area to Be Included. The supporting structure or bracing of a sign shall be omitted in measuring the area of a sign unless such structure or bracing is made part of the message or face of the sign. When a sign has more than one display face, the area of the sign shall be measured as the area of one face, unless the distance between the sign faces of a two-faced sign exceeds 12 inches, then all faces shall be included in determining the area of the sign.

(2) Area of Sign on a Background. For signs on a background, the entire area of the background shall be included in the calculation of the sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed.

(3) Area of Sign without a Background. For signs consisting of freestanding letters, graphics, logos, images or symbols, the sign area is calculated by means of the smallest rectangle that will encompass the outer limits of the freestanding letters, graphics, logos, images or symbols.



(2) *Measurement of sign height.* The height of a sign shall be measured from the adjacent natural grade to the highest point of the sign.



(J) *Illumination.* Except as otherwise stated, internally or externally illuminated signs are allowed, provided they comply with the following standards:

(1) Signs may be illuminated only by steady, stationary light sources directed solely at the sign or internal to it so that the light intensity or brightness does not create a nuisance to adjacent property or a traffic hazard.

(2) Light fixtures shall be of a design such that the light sources (i.e. light bulb) is fully enclosed by opaque material and does not project beyond them, and such that light may be transmitted in only one direction.

(3) Signs may only be illuminated during business hours or between the hours of 6 AM and 9:30 PM, whichever is more restrictive.

(c) The installation of electrical signs shall be subject to the state's electrical code. Electrical service to such sign shall be underground.

(d) The design and construction standards as set forth in the Uniform Sign Code, as may be amended, are hereby adopted.

(C) *Restrictions on signs on public property.* No signs may be erected upon public property, with the exception of governmental signs, public utility signs, and such other signs specifically authorized by the City. Any sign placed on public property without authorization is an illegal sign under this part and may be summarily removed by the village without notice.

(D) *Message substitution.* Subject to the lot owner's consent, a noncommercial message of any type may be substituted, in whole or in part, for any commercial message or any other noncommercial message on a currently existing sign, including a legal nonconforming sign, without consideration of message content, provided that the sign structure is legal. Such substitution of message may be made without any additional approval or permitting. This provision does not create a right to increase the total amount of signage on a lot, nor does it alter or waive the requirement that a sign have a building permit and a certificate of appropriateness.

(F) *Structural Design.* All signs shall comply with the Building Code and shall be designed and constructed adequately and safely to support their weight and to withstand wind and other stresses to which they may be subjected.

(G) *Obstruction of access ways.* No sign shall be located, erected, installed, relocated, maintained, enlarged, expanded or otherwise permitted to obstruct or prevent free ingress and egress from any window, door, fire escape or stairway of any building or structure. No sign shall be attached to an external fire escape.

**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.

(H) *Traffic safety.* No sign shall be erected, constructed, or maintained where by reason of its position, shape, color or wording, it may interfere with, obstructed the view of or be confused with any authorized traffic sign, signal or device, not shall it otherwise cause a safety hazard.

(I) **Sign 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.

## **9) Administration and Permits**

Except as otherwise expressly stated, all signs require a permit approved by the Zoning Administrator. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.

### a) Application

any person or activity proposing to erect or display a sign must file a complete application on a form provided by the City.

### b) Fees

All applicable permit fees as established in Section 4 of the City Code must be paid in full.

## **10) Nonconforming Signs**

Any sign that existed lawfully on the effective date of the sign regulations of this article that remains or becomes nonconforming by reason of adoption of these sign regulations or because of subsequent amendments to these sign regulations, are considered 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 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.

## **11) 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.

## **12) 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.

Maximum sign area may not exceed .50 SF per linear foot of tenant frontage or 75 SF, whichever is less, plus any signs expressly excluded from maximum sign area calculations.

**Wayzata Pet Hospital – wall sign – 24 SF; monument sign – 17 SF 5'-2" (98 linear feet frontage)**



**Fusion Lifespa – 41 SF (maximum size for all wall signs is 50 SF)**



**Monument Signs**

**Up to 100 Street Frontage – 20 SF and 5 feet high**

**101-200 feet Street Frontage – 30 SF**

**Over 200 feet of Street Frontage – 45 SF**

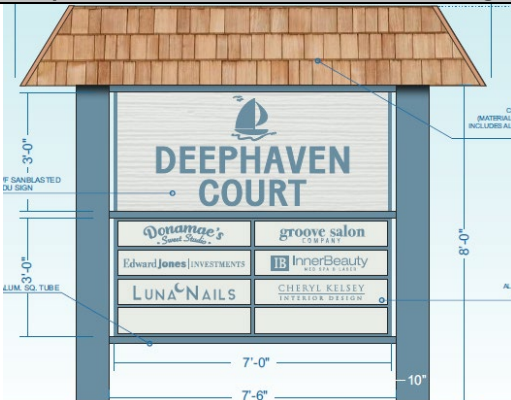
**Streeter – 15 SF and 4.5 feet high (75 feet Linear Frontage)**



**Hughes Dental – 45 SF and 7 feet high (180 feet linear frontage)**



**Deephaven Court – 42 SF and 10 feet high (over 400 feet linear Frontage)**



**Lucid – 13.57 SF and 6 feet high (184 feet Linear Frontage)**



**Shingle Signs – may not exceed 12 SF or a height of 8 feet (16 SF – 10 feet high)**



**Blade Signs – Max 6 SF (Revolution – 2.5 SF; Driip – 5.5 SF)**



**Window signs – 25% of Window (not counted toward maximum)**



**Externally-Illuminated Signs**



C2 and C3 Zoning Districts (maximum sign area 125 SF; Monuments 8 feet high, 50 SF; Wall signs 75 SF)



45 SF – 7 feet high



75 SF



32 SF



52 SF  
8.6 feet tall



**Residential**



5'-2" tall – 21 SF



2'-10" – 17 SF



7'-1" – 8.3 SF



8'-2" – 4.4 SF



4' – 13.7 SF



5' – 25 SF