



AGENDA
CHASKA PLANNING COMMISSION
CHASKA CITY HALL - COUNCIL CHAMBERS & ZOOM
Wednesday, November 13, 2024
7:00 PM

1. Call to Order
2. Roll Call
3. Adopt Agenda
4. Visitor Presentation
5. Approve Previous Meeting Minutes
 - 5.A. Approve the October 9th, 2024 Chaska Planning Commission Meeting Minutes
6. Consent Items
7. Action Items
 - 7.A. PUBLIC HEARING: Recommend Denial of a Major Variance for 2979 Hilltop Drive to Encroach into the Rear Yard Setback/Joe & Michelle Heiland/PC #2024-19
8. Other Business
9. Receive Other Meeting Minutes
 - 9.A. Receive the September 16th and October 7th City Council Meeting Minutes
10. Adjourn

REQUEST FOR ACTION

CHASKA PLANNING COMMISSION

11/13/2024

Subject: Rear Porch Addition — Variance Request to Deviate from the Rear Yard Setback (Section 15.12.200)

Applicant: Joe and Michelle Heiland

Location: 2979 Hilltop Drive

Case No.: 2024-19

Synopsis: Applicant is requesting the approval of a variance request to deviate from the rear yard building setback in order to build a porch addition on the rear portion of their home

Prepared By: Elizabeth Hanson

Recommendation: Motion to recommend denial to City Council

Background

The subject property at 2979 Hilltop Drive is part of the plat known as Town Course Heights.



Figure 1: Site Map

On April 1, 2002, the final plat for Town Course Heights and the annexation into the city of Chaska were approved. This area was formally within the orderly annexation area of Laketown Township.

On May 19, 2003, the plat was rezoned to Planned Residential Development District No. 42 (PRD-42 – Ordinance No. 746).

Existing Conditions

The property, 2979 Hilltop Drive, is legally described as Lot 21, Block 5 of Town Course Heights, and is approximately 0.26 acres (11,325 square feet) in size. The property currently consists of a two-story single-family home with a 3-season porch addition in the rear yard.

The 3-season porch was constructed in the summer of 2024 and did not receive a building permit. The location of the porch used to be an attached unenclosed deck, which was setback approximately 22 feet from rear property line (see Figure 2); *attached unenclosed decks have a 20 foot rear setback*. The 3-season porch was constructed over the former layout of the attached deck. The 3-season porch does not meet the rear yard building setback (30 feet). The 3-season porch is setback approximately 22 feet from the rear property line which is an 8 foot encroachment. A drainage and utility easement exists on the rear portion of the property and is depicted in Figure 3. The existing porch cantilevers up to 2 feet over this easement.

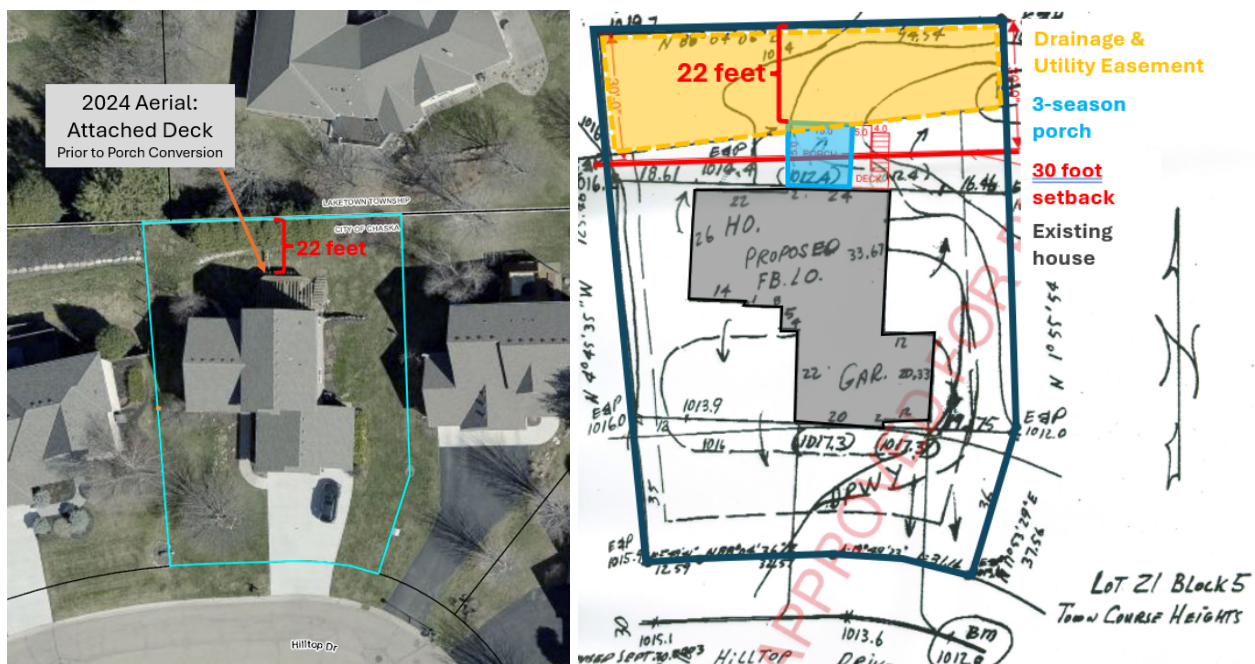


Figure 2 (left): 2024 aerial map prior to porch conversion ; Figure 3 (right): survey showing porch layout

3-Season Porch – Sequence of Events

The following is the sequence of events that occurred regarding the construction of the 3-season porch, *which did not obtain a building permit*. These events are laid out by Tony Zappa - Building Inspector, and Liz Hanson - City Planner. The items in **bold** are the significant details of the events.

- **3/11/24** – Contractor **submits building application** with plans (no survey provided)

- 3/14/24 – Building Inspector, Tony Zappa, sent email to Ryan Snetting requesting engineering for enclosed porch being built in place of existing deck.
- 3/18/24 – Ryan Snetting with E & S Home Transformers emailed to clarify existing footing sizes and Tony Zappa replied same day asking for information on new footings.
- 4/22/24 – Ryan Snetting sent engineered plans
- 4/24/24 – Tony Zappa responded saying the plans will be reviewed the next date
- 5/3/24 (4:23 PM) – *Tony Zappa **sent permit approval email** and invoice to Ryan Snetting in error before checking setbacks*
- 5/3/24 (4:23 PM) – *Setbacks were checked and found that the porch addition encroached on the rear building setback by several feet. Tony Zappa sent an email to Ryan Snetting to disregard permit approval email and **informed Ryan Snetting that the permit was not approved due to setback encroachment.** Email included section of spreadsheet showing 30 ft rear setback, copy of survey showing setback encroachment, and instructions to email Liz Hanson for more zoning information and guidance. Hold was put on permit and taken out.*
- Approximately 2-3 weeks later, Ryan Snetting came to pay for the permit. **Tony Zappa informed Ryan the building permit was not approved** and showed Ryan the email that was sent on 5/3/24 disapproving the project.
- 7/18/24 – Brian Luce, state contracted Electrical Inspector, called Tony Zappa to discuss a porch built at 2979 Hilltop Dr. Brian Luce was scheduled to do a rough-in inspection, but the porch was nearly completed. He asked if the city had done any inspections and Tony Zappa explained that no inspections had been performed because the permit was not approved and the porch should not have been built. Brian Luce did not complete any electrical inspections due to the porch being built without a building permit.
- 7/18/24 – Tony Zappa called Ryan Snetting to inquire about the porch observation.
- 7/18/24 – *Tony Zappa investigated the work being done at 2979 Hilltop Dr. **The porch was observed to be nearly complete.** No attempt had been made to schedule inspections. Several inspections were required prior to this point of completion. The homeowner, Joe Heiland, was unaware that a permit was not issued. The electricians said that Ryan Snetting told them the permit was taken care of when they asked. Pictures Taken.*
- 7/18/24 – **Stop work order issued on porch.** Picture taken.
- 7/19/24 - Ryan Snetting notified of stop work order by email with pictures and copy of email from 5/3/24 saying the porch permit was not approved.
- 7/22 – 7/26 – Sometime in the next week, Ryan Snetting came to City Hall to discuss the permit and stop work order with Tony Zappa. **Tony Zappa reminded Ryan Snetting that the building permit was not approved** when he came to pay for it. Ryan Snetting admitted that the porch was already framed before he attempted to pay for the permit. He also admitted to knowingly continuing the work without a permit and not getting inspections. As well as having no intent to get inspections or remedy the mistake when he was aware of it several weeks earlier. Tony Zappa informed Ryan Snetting that his options were to get a variance, remove or resize the porch, or be reported to the Department of Labor and Industry. Liz Hanson spoke to Ryan Snetting at this time regarding the variance application process. **Liz informed Ryan that a Variance application should only be applied for if they feel they meet "practical difficulty"**. Given the sequence of events, Liz informed Ryan that the Variance application process would be difficult to get approved but it is the property owner's right to apply if they wished.

- 7/29/24 – Joe Heiland emailed Liz Hanson for rear building setback information; Liz responded with setback information
- 8/23/24 – Liz Hanson emailed Joe Heiland to get a status update on the porch removal from the setback
- 9/12/24 – **Joe Heiland emailed back to inform Liz and Tony that he is applying for a Variance application to encroach into the rear setback**
- 9/13/24 – Liz Hanson emailed Joe Heiland to inform him of the Variance application materials and to only apply if they have a strong case meeting "practical difficulty"; Liz also stated that she didn't think there was a strong case given the sequence of events.
- 10/1/23 – Joe Heiland **submitted Variance application to the city**

Land Use

The property, 2979 Hilltop Drive, is currently zoned PRD-42 and is in Town Course Heights. The PRD-42 zoning has the following setback requirements for 2979 Hilltop Drive, which refer to R1-A setback standards (section 15.12.200):

- Front: 30 feet
- Rear: 30 feet
 - Attached unenclosed decks: 20 feet
- Side: 10 feet house; 7 feet garage

The minimum lot area is 11,200 square feet as defined by PRD-42 (Ordinance No. 746). 2979 Hilltop Drive is 11,325 square feet and meets the minimum lot area.

VARIANCE FACTS

Minnesota State Statutes Chapter 462.357, Subdivision 6, (2) and City Zoning Ordinance Section 15.08.080 requires that: "Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, 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. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems." *Each of the factors listed in the above definition must be satisfied in order to grant a variance.*

In order for a variance to be granted, the applicant must show how they meet the following criteria:

1. Conditions that create a *practical difficulty*, (see definition above) that would prohibit reasonable development without a Variance;
2. Conditions on the property that create a *practical difficulty*, that are not present on similar sized lots in the same area and zoning district; and
3. Relationships with abutting property that will not be adversely affected by the Variance, or alter the essential character of the locality.

In addition to the above 3 criterion, the following are some of the questions Staff asks with each variance request to understand the need for the variance.

- The variance shall not impair the health, safety, comfort and general welfare of the public?
- The variance shall not be contrary to the intent and purpose of the Comprehensive Plan, Official Map or any ordinances of the City?
- Variances shall not allow a use in a district that is not otherwise allowed?
- The variance should not be greater than necessary to accomplish the landowner's objective?
- Are there alternative locations, development concepts or space requirements that would reduce or eliminate the request?
- The variance, if granted, would not alter the essential character of the locality (neighborhood)?
- Conforming to City Code, the property could not be put to a "reasonable" use?
- The variance would improve an existing non-conforming condition.
- The variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood?
- Are there unique characteristics to the property itself (not the applicant's personal use of the property) that prevent compliance with the code?

STAFF EVALUATION

The applicant is requesting a variance from zoning ordinance Section 15.12.200 which states:

R1-A Rear Yard Building Setback for One Family Dwellings – 30 feet

The applicant is proposing to keep a rear yard porch addition that encroaches into the rear yard building setback. As noted above, the porch addition was constructed in the summer of 2024 without a building permit. The porch addition shows a deviation of 8 feet into the rear yard setback (22 feet from rear property line).

As noted above, attached unenclosed decks can encroach into the rear building setback up to 10 feet in most zoning districts (section 15.12.200.J). In this instance the deck setback would be 20 feet from the rear property line. The conversion of the deck into an enclosed porch required that a 30 foot setback be met. Because the deck was already at 22 feet from the rear property line, it was not possible to convert the entire deck into an enclosed structure as it would not meet the 30 foot setback.

Decks are treated differently than buildings in terms of rear yard setbacks for most zoning districts. The reason for this is because these are 'less permanent' structures. Visually, they are also 'less bulky/less material' in terms of massing so allowing a smaller setback is seen as appropriate.



(Left: rear (east elevation) Right: rear (west elevation))

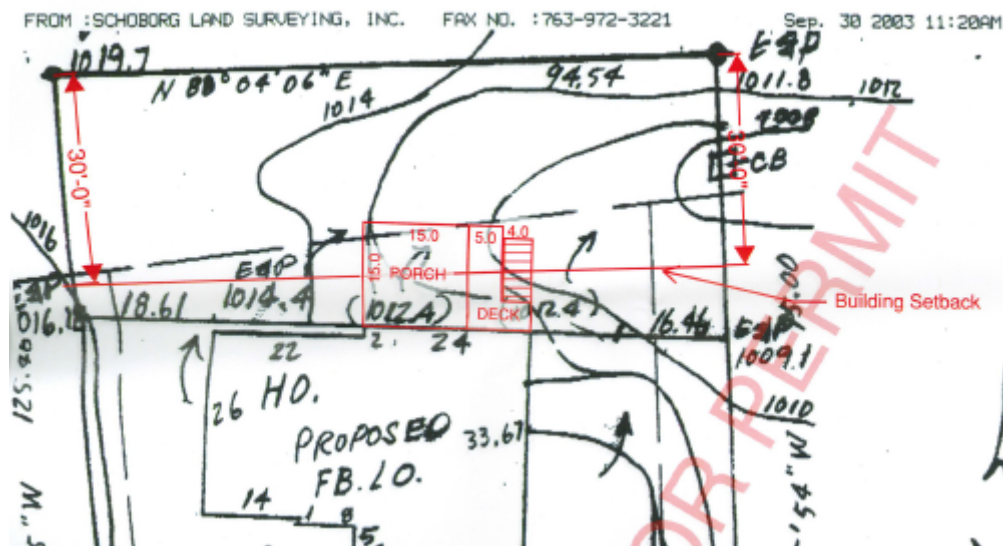


Figure 4: proposed, and existing, porch layout showing encroachment into 30-foot setback

Staff analysis of the 3-criterion:

Criterion 1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance

The applicant's is requesting a variance for their already constructed porch to encroach into the 30-foot rear yard setback. A porch on the home is a reasonable use, however it does not meet the required rear yard setback and for that the request is unreasonable.

The 30-foot rear yard setback is a common setback in most low-density residential zoning districts so the property is not under unique circumstances. This setback also has allowed reasonable development to occur on the property and neighboring property without issue. In sum, criterion 3 is not met.

Criterion 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner

Unique circumstances do not appear to exist on the property. The property is a part of a subdivision (Town Course Heights) with similar sized lots and the same rear yard setback of 30 feet. The property is 0.26 acres in size and square in shape. The other detached single-family lots in the subdivision range from 0.20-1.88 acres in size with the majority averaging at 0.29 acres in size (see Figure 5). The lot is not uniquely smaller or shaped differently than the other lots in this subdivision. The lot also does not contain unique physical characteristics compared to other lots. The only unique characteristic worth noting is the presence of a drainage and utility easement on the rear portion of the property, however, this easement does not prohibit the property from building an addition (see Figure 3).

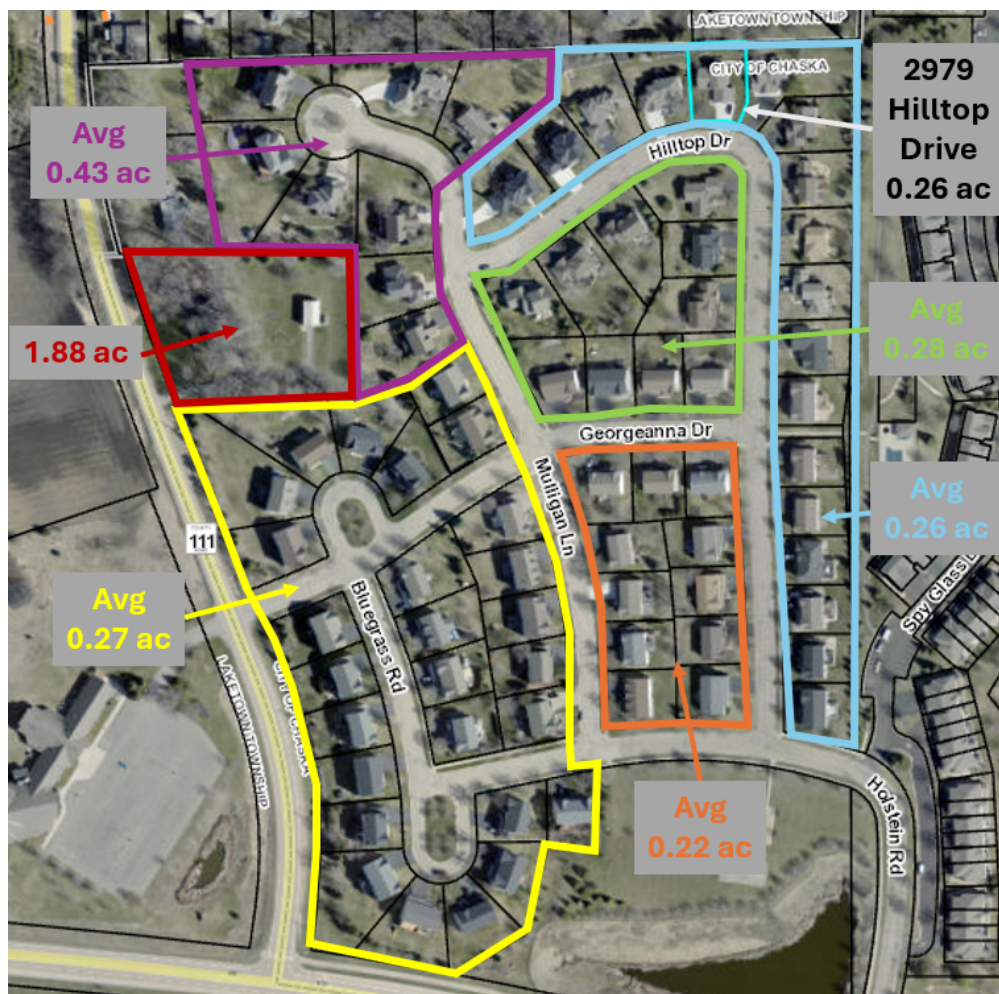


Figure 5: average acreages of detached single-family lots in Town Course Heights

In addition, the variance request is in response to a porch addition being constructed without a building permit as a last stitch effort to keep the porch as it stands. This is a circumstance that does not stem from uniqueness of the property, rather it was a circumstance created and controlled by the contractor. Unfortunate circumstances such as these do not obligate the city to recommend approval of a variance request. In fact, if a variance is granted it can send a bad message that violations can be corrected by applying for a variance. In sum, criterion 2 is not met.

If the variance request is denied the property owner will be responsible to correct the setback encroachment (i.e. tear down the section of the porch that is in violation).

Criterion 3. The variance, if granted, will not alter the essential character of the locality.

The variance would alter the essential character of the locality. Granting a variance to encroach into the rear yard setback would set a negative precedence for the surrounding area and abutting property. There are no unique considerations for granting the variance and thus other properties with similar conditions could seek a variance request for the rear yard setback if the variance request is granted. Granting this variance, and potentially other variances with similar conditions, would create an effect on the spatial relationships with neighboring properties. In sum, criterion 3 is not met.

Staff Analysis of the Variance Standards

The variance shall not impair the health, safety, comfort and general welfare of the public?

From staff's perspective the proposed rear addition does not necessarily have a direct impairment on the health, safety, comfort and general welfare of the public, however indirectly, granting this variance would set a negative precedence (with no unique reasoning) that conflicts with similar properties in the area that have met the building setback. And therefore, the variance, if granted, would have an unfair advantage over other properties.

The variance shall not be contrary to the intent and purpose of the Comprehensive Plan, Official Map or any ordinances of the City?

Staff's analysis is that the proposal is contrary to the zoning ordinance of the City. The proposal is contrary to the zoning on the property (Section 15.12.200) which requires 30 foot rear yard setbacks for buildings.

Variances shall not allow a use in a district that is not otherwise allowed?

The variance will not allow a use in the zoning district that is not otherwise allowed.

The variance should not be greater than necessary to accomplish the landowner's objective?

In staff's opinion the variance proposal is greater than necessary to accomplish the landowner's objective. The applicant is showing a porch addition that extends 15 feet off the back wall of the home, which encroaches approximately 8 feet into the rear yard setback. An alternative exists that allows a porch addition to extend approximately 7.5 feet off the back of the house while still meeting the rear yard setback.

Are there alternative locations, development concepts or space requirements that would reduce or eliminate the request?

In staff's opinion, other alternatives do not appear to have been explored. It appears there is space behind the garage and back of the home that could be added on while still meeting the required rear yard setback. While staff is sympathetic to the notion that the existing porch would need to be removed, the contractor and property owner have not explored other alternatives that could work within the setbacks or to reinforce the need for the variance application. The need is based on the mistake of not receiving a building permit.

The variance, if granted, would not alter the essential character of the locality (neighborhood)?

In staff's opinion, the variance would alter the essential character of the locality. The proposal to add an addition encroaching into the rear yard setback would set a negative precedence for other properties in the area that adhere to the same setback.

Conforming to City Code, the property could not be put to a "reasonable" use?

In staff's perspective, the property is already put to reasonable use conforming to the building setback. The property is currently being put to reasonable use. There is enough space on the property that meets setbacks to explore other layouts.

The variance would improve an existing non-conforming condition.

There are no non-conformities that staff are aware of.

The variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood?

Because the porch addition is built in the back yard, it does not increase any congestion to the public streets, or endanger public safety necessarily. The porch addition provides a smaller building separation to the northern property, which one could argue creates more susceptibility to fire concerns.

Conclusion

It is Staff's opinion that the applicant has not shown practical difficulties for this particular variance. There are no unique characteristics on the property that warrant different setback treatment. The variance request is the result of a contractor not obtaining a building permit

ahead of constructing the porch. Staff, therefore, recommends that the Planning Commission recommend denial of this variance.

FINDINGS

Staff believes there is not a practical difficulty on the applicant, and therefore a variance should not be granted, for the following reasons:

1. The property in question can be put to reasonable use under the current regulations and setbacks. There are no unique physical constraints on the property which would put the applicant in a position of not reasonably using their property per this request.
2. The variance is greater than necessary to reasonably use the property. There are reasonable alternatives for a building addition meeting setbacks that should be explored.
3. The variance, if granted, will alter the essential character of the area by allowing a smaller rear yard setback. A rear building addition encroaching into the minimum building setback would set a negative precedence for other homes that have the same rear yard setback.
4. The variance, if granted, is contrary to the City's zoning ordinance (Section 15.12.200), which requires a 30 foot rear yard setback.
5. The variance, if granted, would set a negative precedence for projects that do not obtain a building permit.

PLANNING COMMISSION ACTION REQUESTED

Motion to recommend denial of the major variance request to encroach into the rear yard setback 8 feet for the purpose of an existing porch addition (Zoning Ordinance 15.12.200) that did not receive a building permit, to the City Council based on the following findings:

FINDINGS:

1. The property in question can be put to reasonable use under the current regulations and setbacks. There are no unique physical constraints on the property which would put the applicant in a position of not reasonably using their property per this request.
2. The variance is greater than necessary to reasonably use the property. There are reasonable alternatives for a building addition meeting setbacks that should be explored.
3. The variance, if granted, will alter the essential character of the area by allowing a smaller rear yard setback. A rear building addition encroaching into the minimum building setback would set a negative precedence for other homes that have the same rear yard setback.
4. The variance, if granted, is contrary to the City's zoning ordinance (Section 15.12.200), which requires a 30 foot rear yard setback.
5. The variance, if granted, would set a negative precedence for projects that do not obtain a building permit.

ORDINANCE NO. 746

AN ORDINANCE AMENDING ORDINANCE NO. 229 (ZONING ORDINANCE) BY REZONING CERTAIN REAL ESTATE WITHIN THE CITY OF CHASKA FROM R-RURAL TO PRD-42 AND AMENDING ORDINANCE 726 BY ESTABLISHING PERMITTED USES AND REGULATIONS FOR PRD-42 (TOWN COURSE HEIGHTS/LONGVIEW ESTATES/FAIRWAY MEADOWS)

THE CITY COUNCIL OF THE CITY OF CHASKA DO ORDAIN:

Section I. Rezoning. The boundaries of the Zoning Districts as established by Ordinance No. 229 and as shown on the Zoning Map of Chaska, Minnesota are hereby amended as follows:

Outlot D of Chaska Town Course is hereby removed from the R - Rural District; and that part of the Northeast Quarter of the Southeast Quarter, and that part of the Southeast Quarter of the Northeast Quarter, all in Section 25, Township 116, Range 24, lying northerly of the centerline of County Road No.11, and lying easterly of the centerline of Shady Oak Road, and lying southerly of the plat of Oakwood Terrace; and Lot 1 Christ Victorious subdivision shall all be removed from the County designated Zoning District and rezoned to Planned Residential Development District No. 42 (PRD-42).

Section II. Intent. The intent of the PRD-42 District is to provide for a mixed use residential neighborhood of exceptional quality and with somewhat more restrictive development standards than usual due to its proximity to the Chaska Town Course.

Section III. R1-A District permitted uses and regulations shall apply to the single family detached lots, Lots 1-4, Block 4 and Lots 8-27, Block 5 with an exception to minimum lot width.

Minimum Lot Area: 11,200 square feet

R1 District permitted uses and regulations shall apply to the single family detached lots, Blocks 1, 2, 3, 6; Lots 5-8, Block 4; and Lots 1-7, Block 5.

Building Setback:

-from centerline Marsh Lake Road (County Rd. 11): 125 feet

Additional regulations shall be as follows:

- A. Individuals, builders or groups of builders shall not construct house styles having substantially similar appearance from the street to houses within two lots on each side, directly across or diagonally across from the same unit. No building permit shall be issued for a house inconsistent with this requirement.

- B. All open decks attached shall not encroach into the required setbacks with the exception of Lot 1, Block 5 where a 12' x 12' unenclosed deck shall be permitted to encroach into the required rear yard a maximum of 8 feet.

Section IV. Development standards for the townhomes shall be as follows:

- A. Maximum density: 6.0 units per acre.
- B. Building Setbacks:
 - from centerline of Marsh Lake Road (County Rd. 11): 125 feet
 - from Chaska Town Course: 30 feet
 - from wetlands: 30 feet
 - front yard setbacks: 25 feet
 - rear yard setbacks: 30 feet
 - space between buildings: 25 feet

Section V. Additional development standards applicable to the entire PRD shall be as follows:

- A. Landscaped cul-de-sac island maintenance is the responsibility of the homeowners association.
- B. With the exception of retaining walls, no in-ground structures of any kind shall be permitted within 10 feet of the rear lot line of any lot abutting the Chaska Town Course including but not limited to such structures as patios, in-ground swimming pools, and tennis courts. Above-ground structures shall not be permitted within 20 feet of the rear lot line of any lot abutting the Chaska Town Course including but not limited to such structures as gazebos, play equipment and fences.
- C. A nonexclusive easement over each residential lot and common area shall be established in favor of the Chaska Town Course and its employees, players and caddies to permit the doing of every act necessary and incident to the playing of golf including but not limited to recovery of golf balls, the flight of golf balls over and upon the lots and common areas, the creation of usual and common noise levels associated with the playing of the game of golf, the creation of usual and common noise levels associated with maintaining the golf course, together with all such other common and usual activities associated with the game of golf and with all the normal and usual activities associated with the maintenance and operation of the golf course. Employees, players and caddies shall not be entitled to enter on any such lots or portions of the common area with a golf cart or other vehicle, nor to spend an unreasonable amount of time on any such lot or common area, or in any way commit a nuisance while on any such portion of the Town Course Heights development.

- D. Wood posts furnished by the City shall be used to demarcate the boundary between the City and private property. If additional boundary demarcation or screening is desired, vegetative planting such as shrubs may be used. Walls and fencing shall not be permitted to serve as perimeter fencing. If fencing is desired to contain pets or for other reasons, black chain link or black wrought iron fencing not more than four feet high may be installed in the portion of the rear yard outside of the 30 foot rear setback area. A safety fence of no more than five feet high shall be permitted around swimming pools as required by State law.
- E. Any future additions to Christ Victorious Lutheran Church (northwest corner of Shady Oak Drive and County Road 11) shall include updating the entire building to meet fire and building codes, including sprinkling of the building.

Section VI. Effective Date

This Ordinance shall be in full force and effect from and after its date of passage, adoption, and publication according to law.

Passed and adopted by the City Council of the City of Chaska,
Minnesota this 19th Day of May 2003.

Gary Van Eyll, Mayor

Attest: _____
Margo G. Steffel, Deputy Clerk



Zoning Code

0 results

- ☐ 15.12.050 R1 - Low Density Residence
- ☐ 15.12.060 R1A - Low Density Single Family Residence
- ☐ 15.12.070 R1B - Low Density Single Family Residence
- ☐ 15.12.080 R2 - Medium Density Residence
- ☐ 15.12.090 R3 - Multiple Family Residence
- ☐ 15.12.100 PRD - Planned Residential Development
- ☐ 15.12.110 C1 - Neighborhood Service
- ☐ 15.12.120 C2 - General Commerce
- ☐ 15.12.130 C3 - Downtown Historic Commercial
- ☐ 15.12.140 PCD - Planned Commercial Development
- ☐ 15.12.150 I - Industrial District
- ☐ 15.12.160 I2 - Restricted Industrial District
- ☐ 15.12.170 P1 - Open Space
- ☐ 15.12.180 P2 - Public Buildings
- ☐ 15.12.190 O - Open Development
- ☐ **15.12.200 Density / Intensity Regulations**
- ☐ 15.12.2010 Rezoning
- ☐ 15.16 Planned Development Districts
- ☐ 15.20 Flood Protection
- ☐ 15.24 Shoreland Management
- ☐ 15.28 Special Regulations
- ☐ 15.32 Sign Regulations
- ☐ 15.36 Subdivision Regulations

RR-1								
Rural Residential	43,560	200	75	40	25	75	(See CZO 15.12.030)	
RR-2								
Rural Residential	217,800	200	75	40	25	75	(See CZO 15.12.040)	
R1								
One Family Dwellings	9,000	75	30	30	10/7 (d)	15	9,000	
Two Family Dwellings	14,000	90	30	30	10/7 (d)	15	7,000	
Deck				20				
Accessory Buildings & Uses			30	5	5	30		
Other Uses	15,000	100	30	30	15	30		
R1-A								
			Front Setback	Rear Setback	Side Setback			
One Family Dwellings	11,500 15,000 (avg.)	90* 120 (i)	30	30	10 (d)	30	11,500 15,000 (avg.)	
Deck				20 (j) 30 (j)		20 (h)		
Accessory Buildings & Uses			30	10	7	30		
R1-B								
One Family Dwellings	15,000	100 135 (i)	30	30	15/10 (d)	30	15,000	
Accessory Buildings & Uses			30	10	7	30		
R2								
One Family Dwellings	7,200	60	20	25	5	20	7,200	
Two Family Dwellings	10,800	90	20	25	5	20	5,400	
Multiple Family Dwellings		100	20	20	10	20	3,600 (e)	600
Deck				17 (j)		12 (h)		

Our family of five have lived at 2979 Hilltop Drive, Chaska, MN for 20+ years. We decided that converting our existing deck to a three-season porch would provide our family with an additional space to spend time together without it being impacted by bugs and the inclement weather. We contacted contractors to provide estimates and decided to hire E&S Home Transformers. It was our understanding that the contractor had obtained all necessary permits prior to construction beginning. It was not until July 19th, 2024, when I arrived home to find Tony Zappa standing in my driveway that I learned that the City of Chaska had not issued a building permit for the three-season porch. The news received has caused our family great stress and potentially financial hardship. We submit this letter seeking the planning commission's recommendation to the City Council to approve a variance permitting us to complete the construction of our three-season porch.

The requested variance meets the requirements of the City of Chaska's Zoning Ordinance. First, the proposed maintenance of a three-season porch on the property, in lieu of an exposed deck, is reasonable even if not in technical compliance with the residential setback requirements for this property, which we do not concede. City Building Inspector, Tony Zappa, has acknowledged that the construction of the three-season porch is in compliance with City Code requirements for deck setbacks, and for all intents and purposes the use of a three-season porch and the use of an exposed deck will be identical, except that the former provides additional protection from the elements. There is no reasonable basis to permit the maintenance of a deck within the current footprint of the structure while prohibiting the construction of a three-season porch within that same footprint.

For this same reason, the conversion of an existing deck to a three-season porch will not alter the essential character of this locality because the use of this structure will not change in any meaningful or significant way as the result of its conversion from a deck to a three-season porch. For this reason, this alteration to the structure will not create any hindrance on or impediment to the use of neighboring properties. Further, it does not alter in any way the overall aesthetics of the neighborhood. In fact, several neighboring property owners also have three-season porches in lieu of exposed decks, and thus this proposed use is entirely consistent with the character of the neighborhood. Further, our backyard is lined with 20+ foot tall Arborvitae trees creating a natural screen to our neighbors in the back. The screen porch is virtually hidden behind the line of trees from the neighbors behind us and thus the existence of a three-season porch instead of an exposed deck cannot even arguably be said to have any visual impact on these neighboring homeowners. See enclosed photographs.

Additionally, the plight of this property owner is the result of circumstances unique to this property. Specifically, the lot size is uniquely small according to the City Code,

which was not created by the landowner. According to the e-mail received from the City Planner on July 29, 2024, the stop work order provided on the construction was due to an alleged violation of the rear setback set forth in City Code Section 15.12.200.

One Family Dwellings	11,500 15,000 (avg.)	90* 120 (i)	30	30	10 (d)	30	11,500 15,000 (avg.)
Deck				20 (j) 30 (j)		20 (h)	
Accessory Buildings & Uses			30	10	7	30	

The property at issue (Lot 21, Block 5 Town Course Heights) is 0.26 acres (**11,325.6 sq. ft.**), which is below the **minimum 11,500 square footage** for a R1-A property (See table at Section 15.12.200 (**15,000 sq. ft ave.**)). The City permitted the developer to create our lot as a smaller lot by passing ordinance no. 746, which states:

Section III. R1-A District permitted uses and regulations shall apply to the single family detached lots, Lots 1-4, Block 4 and **Lots 8-27, Block 5** with an exception to minimum lot width.

Minimum Lot Area: 11,200 square feet

As a result of the well below average lot size, the setback requirements have a greater impact than they would on average sized lots. It is simply not reasonable to require that the property owner tear down an existing structure and reconstruct that same structure within a smaller footprint just so a three-season porch can be constructed in its place. Finally, for these same reasons the requested variance is in harmony with the general purposes and intent of the zoning code because the conversion of an existing deck structure into a three-season porch does alter the use of this structure, except to the extent it provides additional protection from the elements and will not impact abutting property owners.

The requested variance is further consistent with Minnesota law and the additional considerations the Minnesota Supreme Court has said may be considered when an after-the-fact variance is requested. See *In re Stadsvold*, 754 N.W.2d 323, 333 (Minn. 2008). First, it is our understanding that our contractor acted in good faith here, only engaging

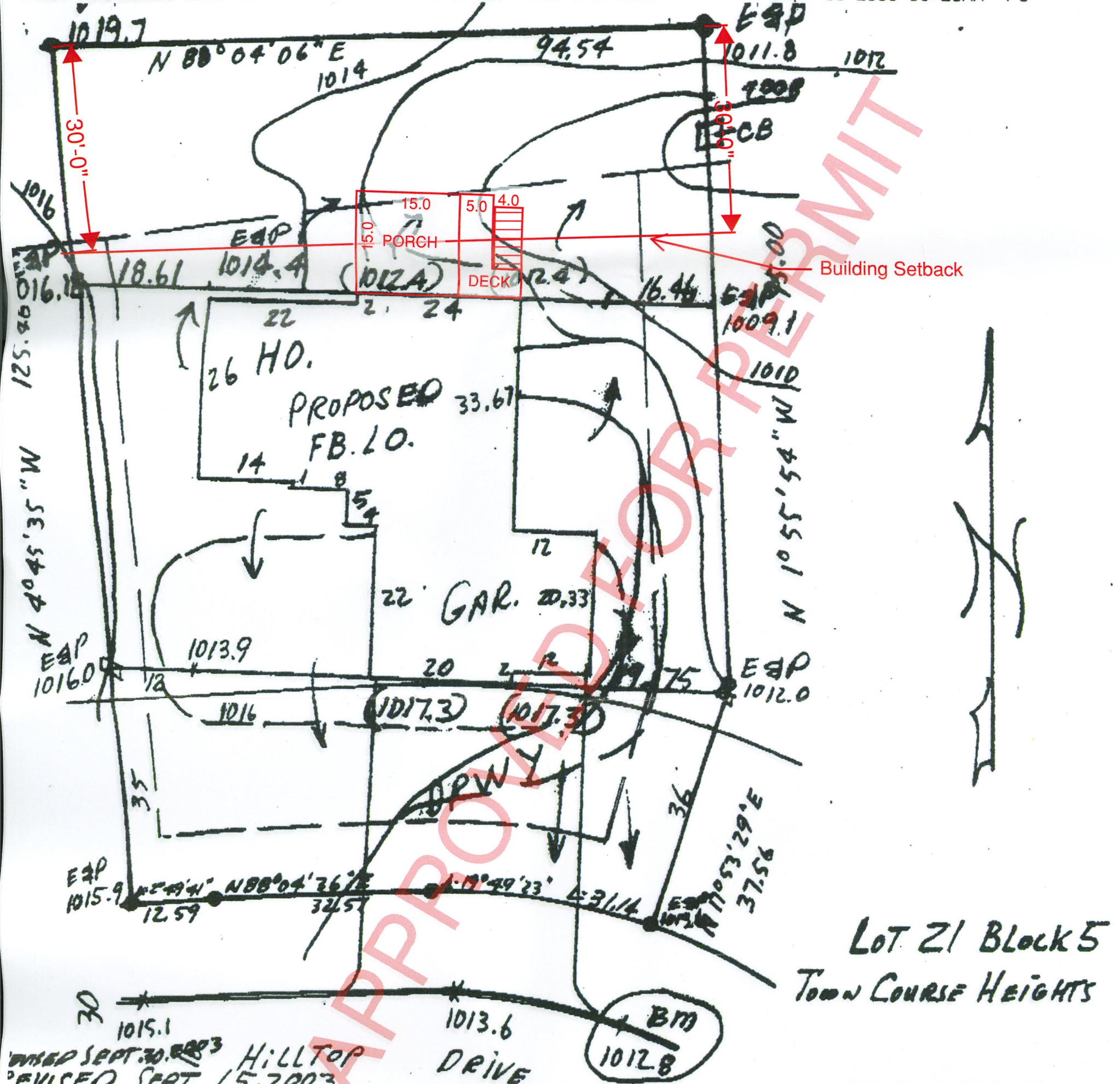
an engineer and beginning construction after it believed it received initial approval from the City to move forward. Prior to us being informed by City staff on our driveway on July 19th, 2024, significant resources were already expended before the City reversed course and revoked its prior construction approvals. More specifically, on or around April 29, 2024, our contractor received initial approval from the City to begin construction of the three-season porch. Immediately after receiving that approval, an engineer was engaged, and construction began. Before the City changed course and reversed its initial approval, the three-season porch had already been framed and roofed. In other words, construction was already substantially underway. See enclosed photographs of current status of construction. Second, compliance with the ordinance was attempted by our contractor as prior approval was sought by it and received from the City prior to the commencement of work on this porch. It was only later that the City reversed course and ordered that this work be stopped. Third, as reflected in the attached photographs construction of the porch is substantially complete, and this construction was largely completed before City reversed its prior approval of construction. Fourth, there are similar three season porches in the area and thus this structure is entirely consistent with the locality and neighboring properties. See enclosed photographs. Finally, because there is no reasonable basis for distinguishing between a deck and a three-season porch for purposes of the setback requirements applicable to this property, the burden on the applicant in tearing down what has already been constructed far outweighs any conceivable benefit to the county in enforcing this purported code requirement.

For these reasons, we respectfully request that the Planning Commission recommend the approval of a variance permitting us to complete the construction of our three-season porch.

Best regards,

A handwritten signature in black ink, appearing to read "Joe & Michelle Heiland". The signature is stylized with a large, sweeping initial "J" and "M".

Joe & Michelle Heiland
2979 Hilltop Drive
Chaska, MN 55318



Lot 21 Block 5
Town Course Heights

OWNED SEPT. 30, 2003
REVISED SEPT. 15, 2003
HILLTOP DRIVE

BM- TOP OF CURB AT THE SE. CORNER OF LOT 21 ELEVATION 1012.8
□ = WOOD STAKE PLACED BEARINGS ON ASSUMED DATUM
○ = IRON MON. SET PROPOSED INFORMATION
● = IRON MON. INPLACE
1017.3 GARAGE FLOOR ELEV.
1017.6 TOP BLOCK ELEV.
1009.5 BASEMENT ELEV.
0000 = EXIST. CONTOUR
1020 = PROPOSED CONTOUR
← = DRAINAGE
000.0 = EXIST. ELEV. (000.0) = PROPOSED ELEV. E&P 000.0 = EXIST. & PROP. ELEV.

SCHOBORG LAND SURVEYING INC. 8887 Co. Rd. 13 SE 763-972-3221 Duluth, MN 55828	I hereby certify that this certificate of survey 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. <i>Paul Schoborg</i>	JOB # 6040
	Date: AUG. 22, 2003	BOOK - PAGE 57-10
	Registration No. 14700	SCALE 1"=20'

SMOKE & CO DETECTORS

1. Smoke Detectors shall be installed in each sleeping room, outside of sleeping areas and on each level.
 2. Carbon Monoxide Alarms are required within 10 feet of sleeping rooms on each level containing sleeping rooms.
 3. Both shall be interconnected and hard wired with battery backup. (Except in existing areas)
- See R314 and R315 for additional requirements and location restrictions.

REQUIRED INSPECTIONS:

1. Footing
2. DECK/PORCH Framing - with point load paths in house wall exposed or pictures.
3. Window Framing/Insulation/Vapor Barrier
4. Final

Provide truss specs on site for framing inspection

Alterations to the approved plan require approval from the Building department.

See 2020 MN Residential Code and City of Chaska Deck Handout for additional information.

SEE ATTACHED ENGINEERING FOR FRAMING REQUIREMENTS

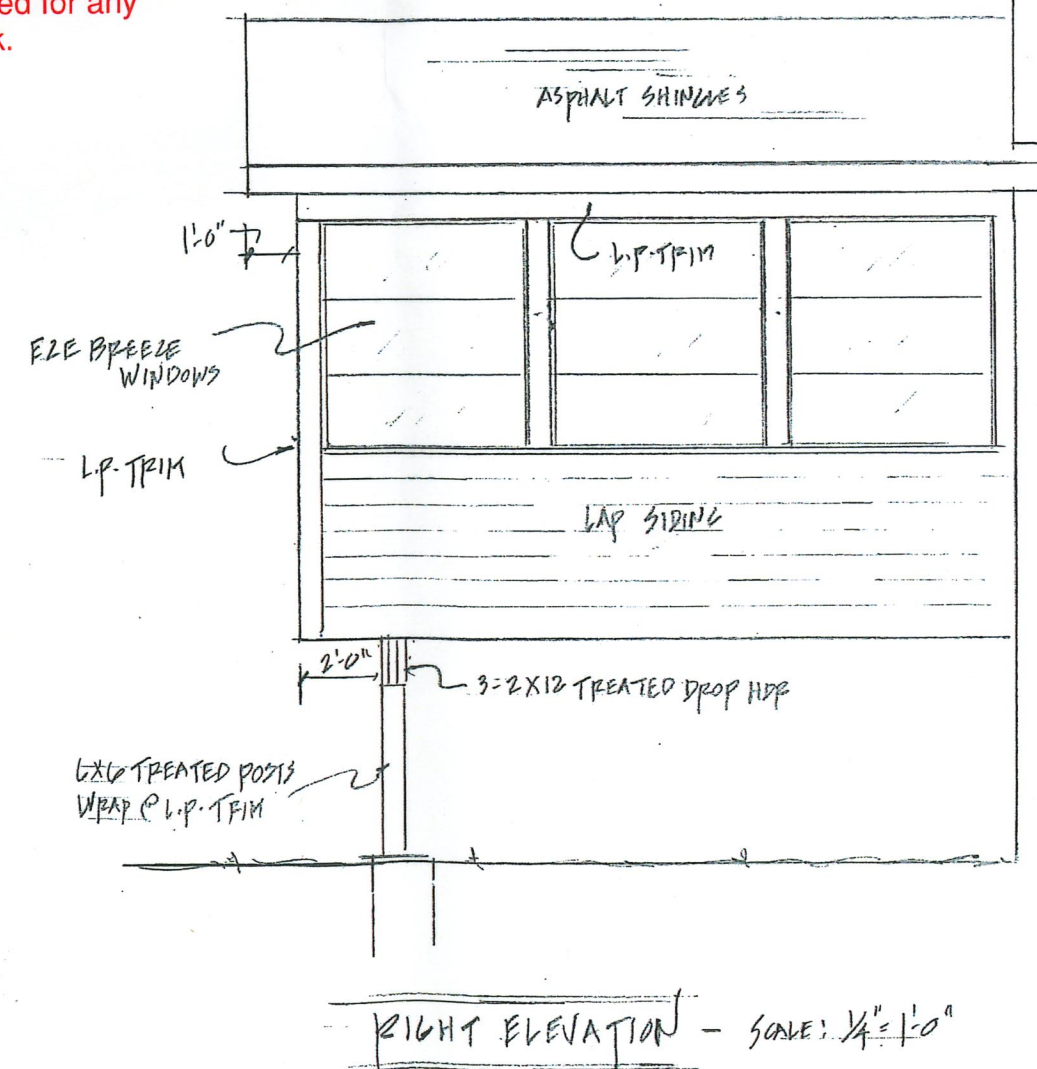
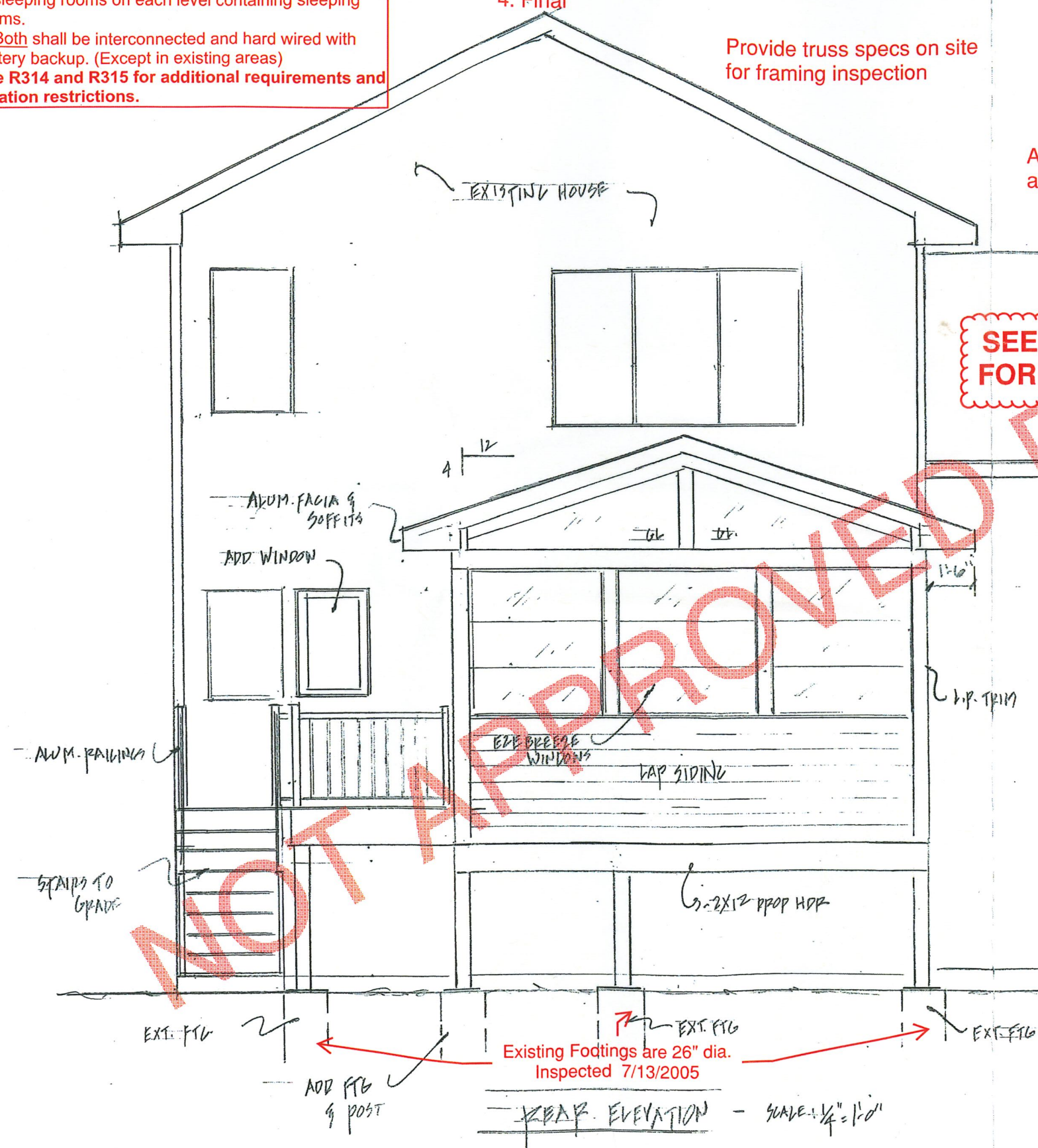
Electrical permit required for any electrical work.

OWNERS: PETE & MICHELLE HEIVAND
ADDRESS: 2979 HILTOP DRIVE
CHASKA, MN. 55318

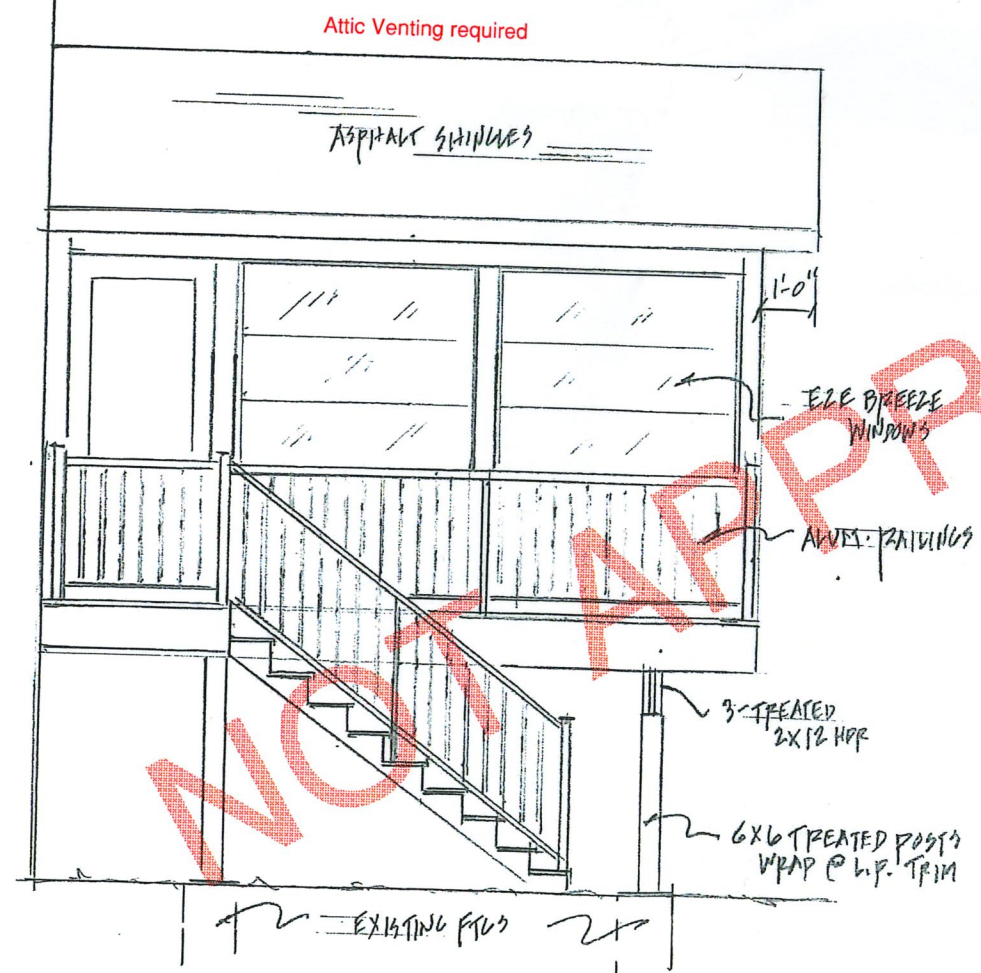
PRICE
1053

E&S HOME TRANSFORMERS

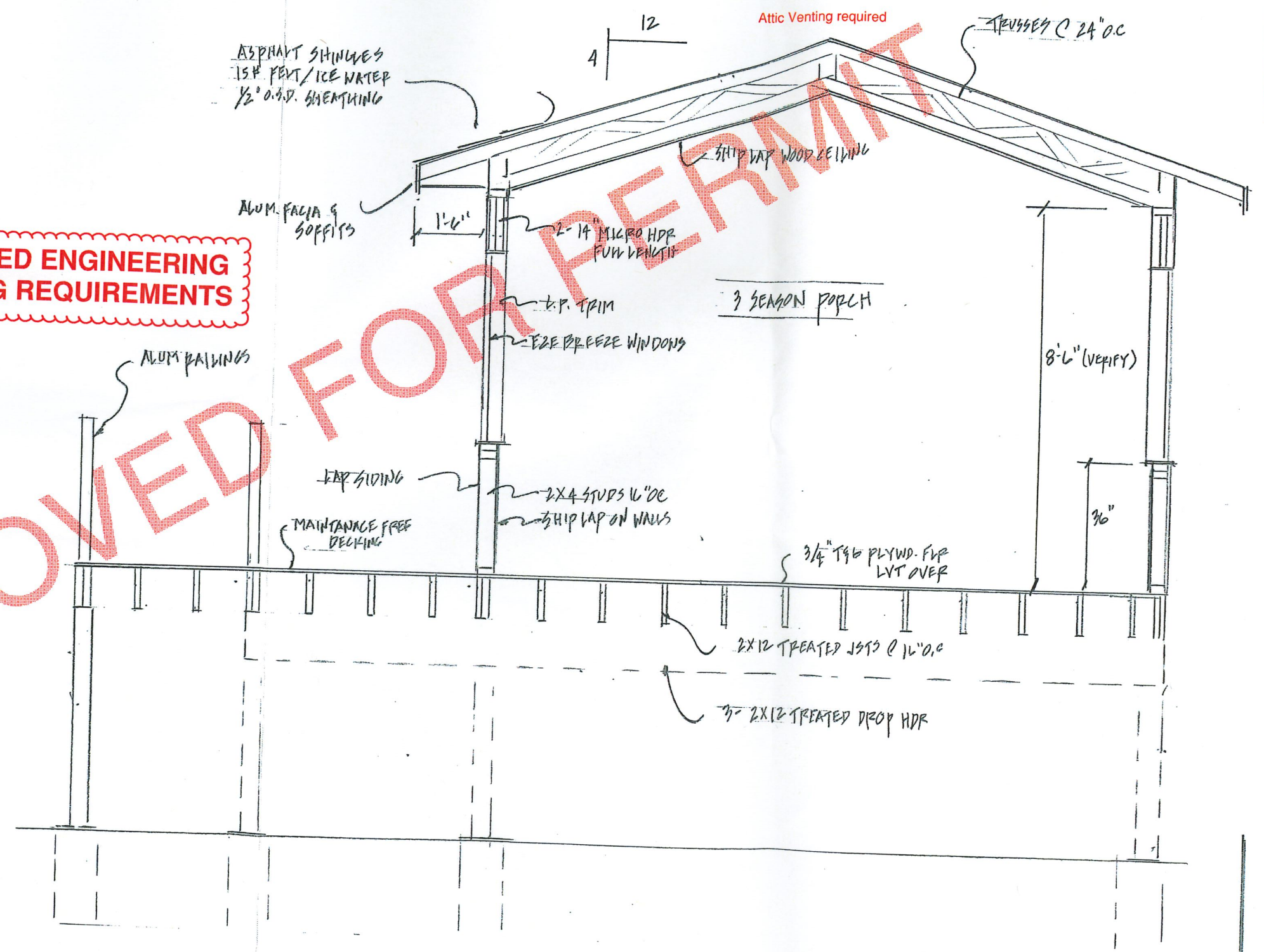
1148 ACORN WAY
WACONIA, MN 55387
PHONE # 612-581-2442
MN. License # BC594871



SEE ATTACHED ENGINEERING
FOR FRAMING REQUIREMENTS



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



SECTION
SCALE: 3/8" = 1'-0"

STAIRWAYS

- min. width 36 inches
 - max. rise 7 3/4 in. - min. run 10 in.
 - 3/8 inch max. variation of rise and run
 - Guard rails 34 - 38 inches high
 - baluster spacing less than 4 3/8 inches
 - Triangle space between guard and tread/riser shall not pass a 6" sphere
 - graspable handrail on at least one side
 - landings at top and bottom of stairs
 - landings every 12 feet of rise
 - landings min. 36 inch in length of run
 - headroom 6 feet 8 inches min.
 - runs of 4 or more risers require handrails
- R311.7**

GUARD RAILS REQUIRED

- On Decks, walking surfaces, and Landings More than 30 inches above the ground.
- 36 inches minimum height
- Openings shall be less than 4 inches
- Shall resist a Concentrated Load of 200 lbs.
- IRC 312; IBC 1607.8.1.1

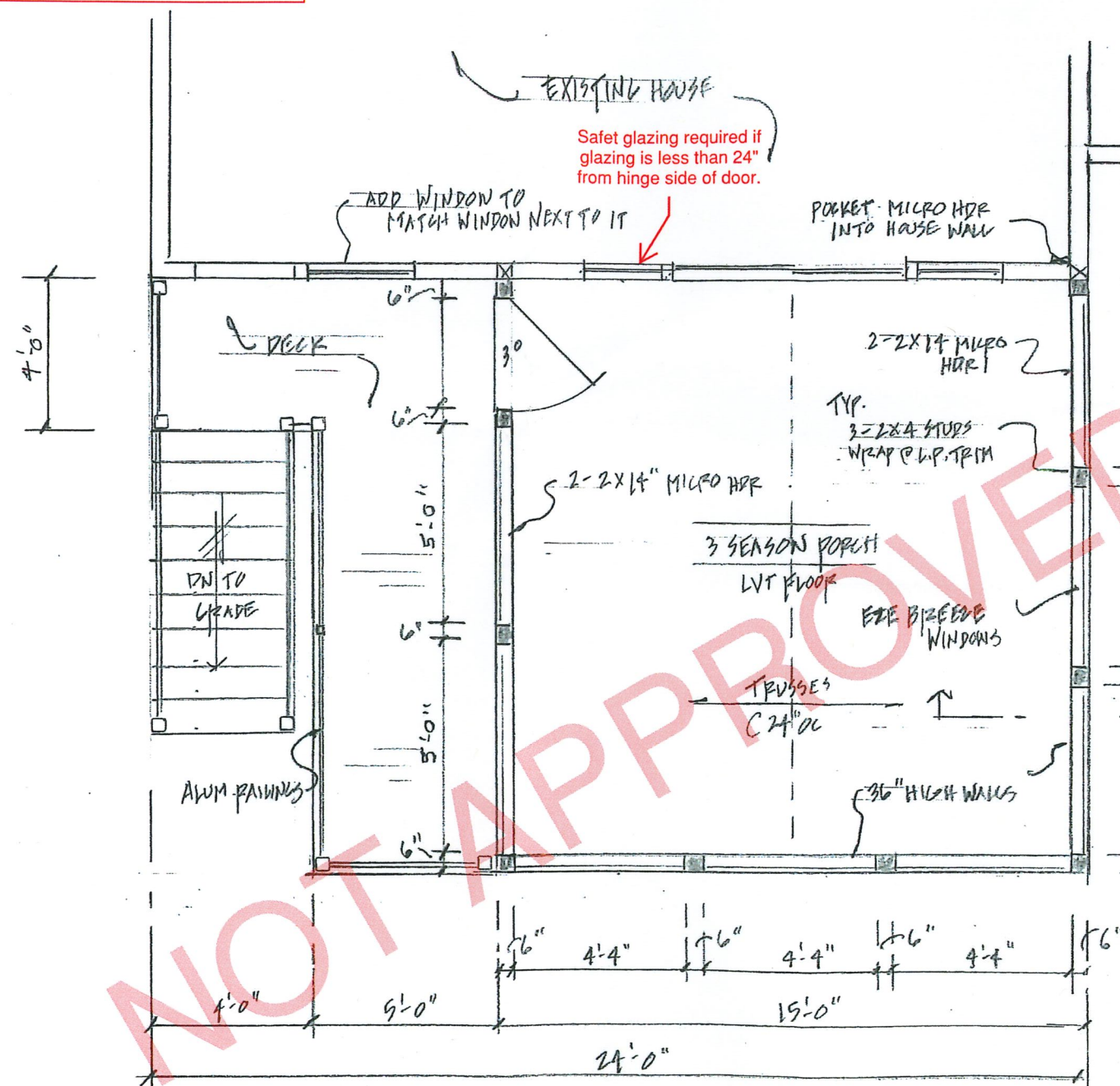
GRASPABLE HANDRAIL

- 1 - Graspable HANDRAIL shall be provided on at least one side of the flight
- 2 - it shall be CONTINUOUS for the Full length of the Flight, No Interruptions.
- 3 - it shall be 34" -38" high
- 4 - the ends shall be returned or terminate in Newel Posts **R311.7.8**

METAL CONNECTORS REQUIRED ON STRUCTURAL CONNECTIONS IN THESE LOCATIONS:

- footing to post; - post to beam; - beam to joists;
- joists to ledger; - stair stringers to deck

SEE ATTACHED ENGINEERING FOR FRAMING REQUIREMENTS

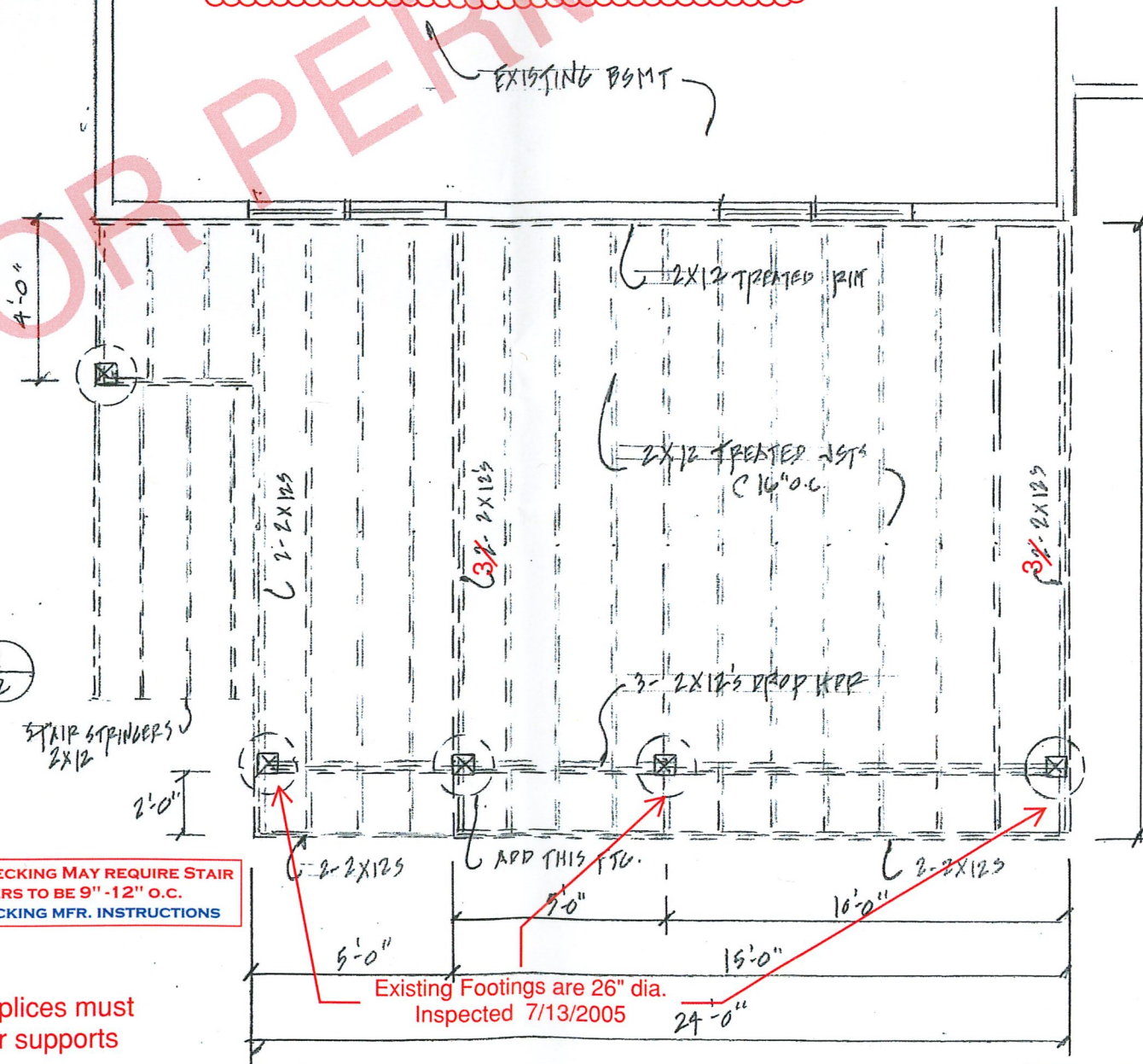


FLOOR PLAN

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

COMPOSITE DECKING MAY REQUIRE STAIR STRINGERS TO BE 9" - 12" O.C.
CONSULT DECKING MFR. INSTRUCTIONS

Beam Splices must be over supports

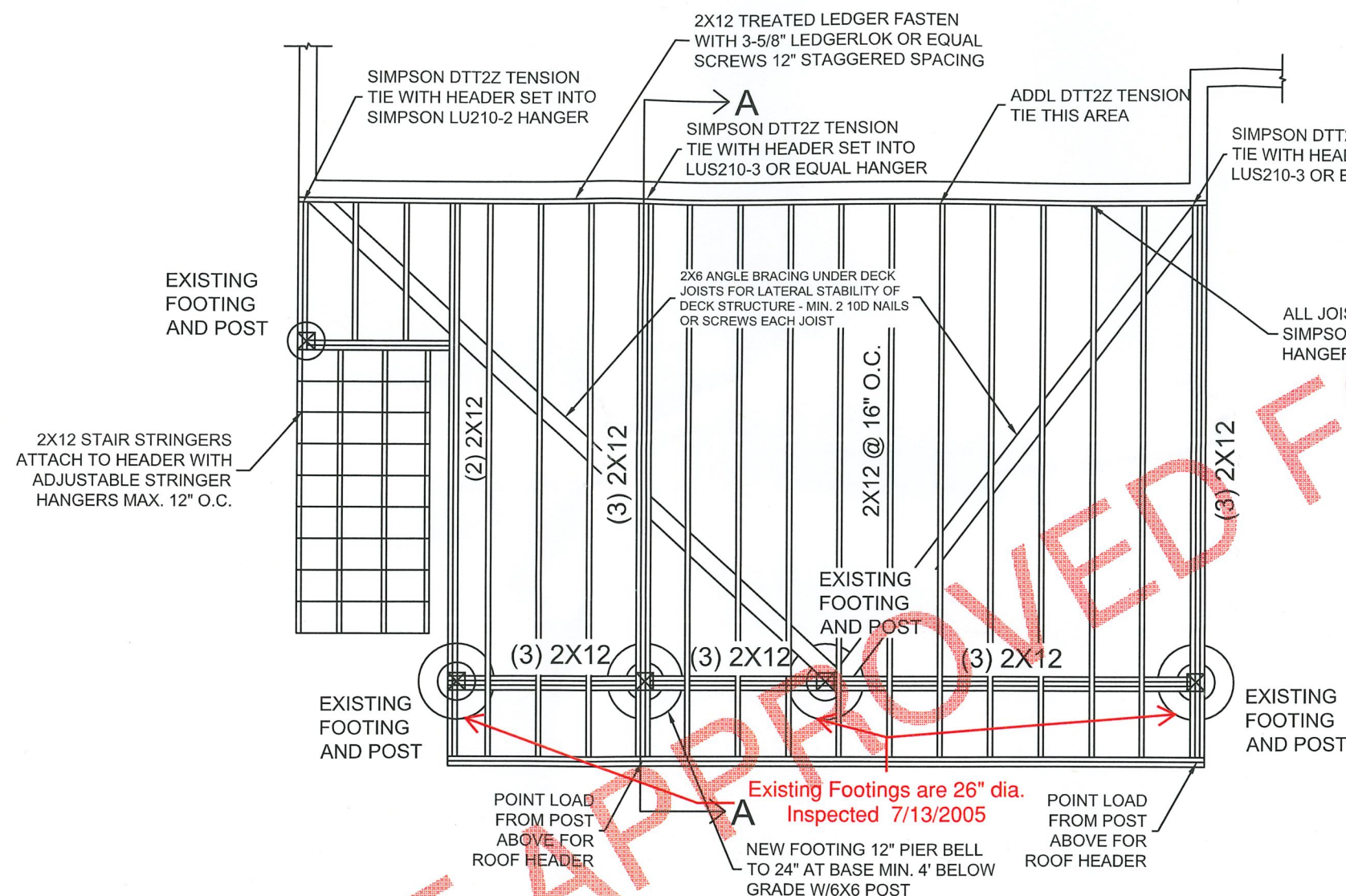


FRAMING PLAN

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

PAGE

3093



PLAN VIEW: DECK FRAMING
SCALE: 1/4" = 1'

SEE ARCH. PLANS
FOR ALL DIMENSIONS

FRAMING NOTES:

- CONSTRUCT DECK/PORCH STRUCTURE PER PLAN. ALL WORK TO COMPLY WITH 2020 MINNESOTA RESIDENTIAL CODE. 40 PSF LIVE LOAD, 35 PSF SNOW LOAD.
- DECK STRUCTURE TO BE CONSTRUCTED WITH TREATED SYP #2 OR BETTER GRADE PER PLAN. ALL CONNECTIONS TO BE COMPATIBLE WITH CONTACT TO TREATED WOOD.
- ENSURE ALL CONNECTIONS FROM FOOTINGS TO ROOF STRUCTURE TO RESIST UPLIFT LOADING AS SHOWN AND CALLED FOR IN PLAN.
- INSTALL 1 NEW FOOTING UNDER PROPOSED INTERIOR CORNER OF PORCH AND 3 PLY HEADER. FOOTING TO BE 12" PIER BELLED TO 24" AT BASE MIN. 4' BELOW GRADE WITH SIMPSON ABU66Z OR EQUAL POST BASE ANCHORED INTO FOOTING MIN. 7". EXISTING FOOTINGS TO BE USED ELSEWHERE SUPPORTING OUTER BEAM AND CORNER OF STAIRWAY.
- PORCH STRUCTURE TO INCLUDE 2 PLY 14" LVL HEADERS AT EACH SIDE. EMBED INNER ENDS INTO WALL AND ATTACH WITH SIMPSON DTT2Z TENSION TIES OR SIMILAR TIES/BACKETS TO PROVIDE MINIMUM 600 LB LATERAL RESISTANCE FORCE. INFILL FRAMING AROUND PORCH WITH 2X4 WALL FRAMING INCLUDING FULL TRIMMERS UNDER ENDS OF HEADERS AT CORNERS BEARING OVER 3 PLY 2X12 CANTILEVER HEADERS. ALL WALL FRAMING AND HEADERS TO BE COVERED WITH WRB AND SIDING TO ENSURE PROTECTED FROM WATER.
- INSTALL SIMPSON MST24 OR EQUAL STRAPS AT INSIDE FACE OF PORCH FROM ALL HEADERS DOWN ONTO TRIMMERS BELOW FOR ADDED UPLIFT RESISTANCE.
- ROOF STRUCTURE TO BE MANUFACTURED TRUSSES. CONNECT TO TOP OF HEADER WITH SIMPSON H3 CLIPS OR SIMILAR. ROOF SHEATHING MAX. 6" NAIL SPACING EDGES AND INTERIOR AREAS. ROOF TO FUNCTION AS DIAPHRAGM FOR LATERAL WIND RESISTANCE WITH TRANSFER TO ENDS OF HEADERS AT WALL.
- INSTALL NEW WINDOW IN REAR WALL OF HOME PER PLAN WITH MIN. (2) 2X8 HEADER AT OPENING AND 1 TRIMMER EACH SIDE.
- INSTALL 2X6 ANGLE BRACING OR SIMILAR AT UNDERSIDE OF DECK STRUCTURE MIN. (2) 10D NAILS OR 3" SCREWS EACH JOIST FOR ADDED LATERAL BRACING OF STRUCTURE.

P R I E V E
E N G I N E E R I N G
FORENSIC STRUCTURAL CIVIL
612-203-2745
nathan@prive-engineering.com
www.prieve-engineering.com

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

Signature: *Nathan E Prieve*

Typed or Printed Name: Nathan E Prieve

Date: 4-22-24 License Number: 46203

PROJECT

DECK/PORCH
FRAMING PLAN

FILE NUMBER: 240319
2979 HILLTOP DRIVE
CHASKA, MN 55318

DRAWING DATES/REVISIONS

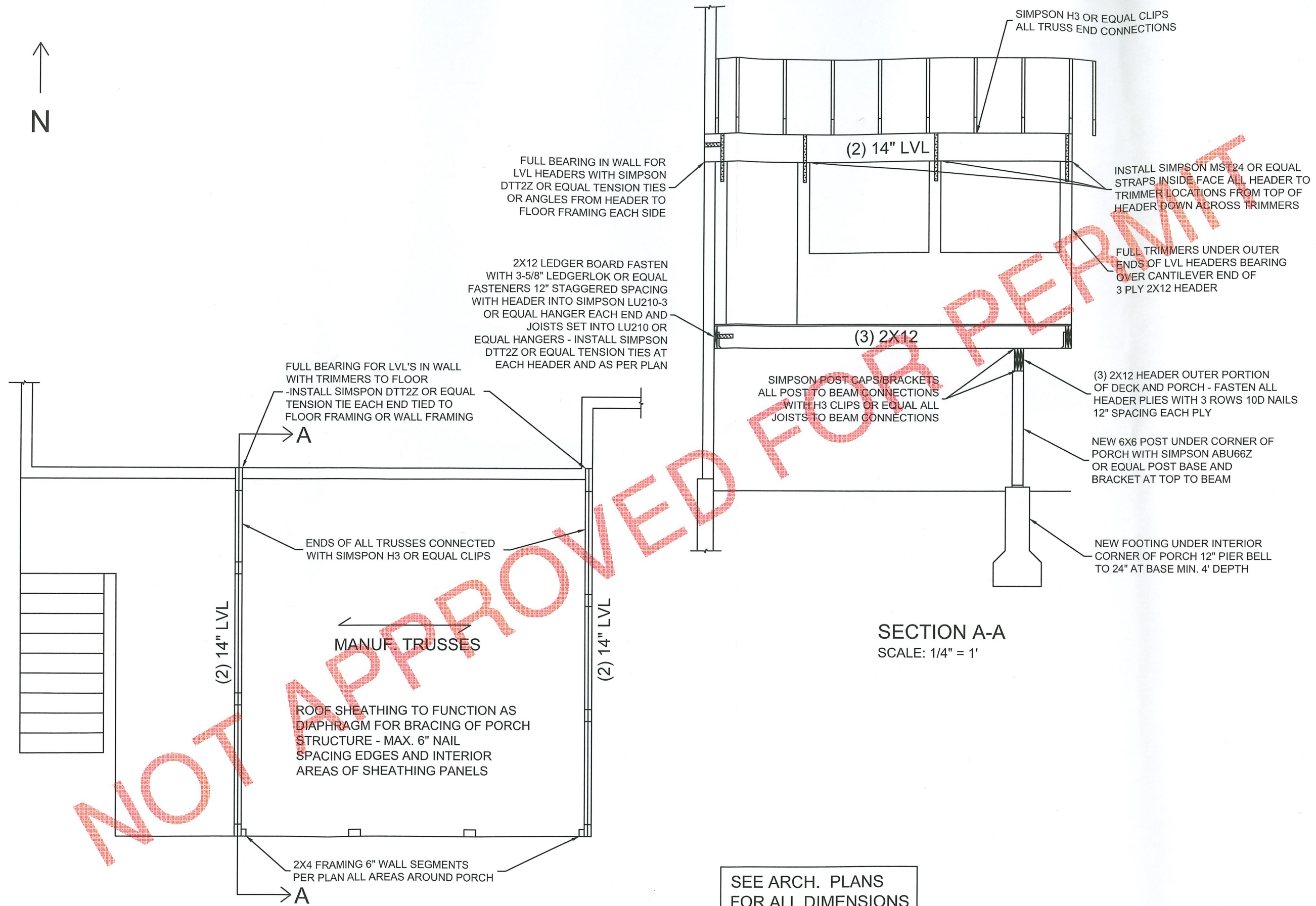
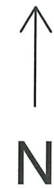
PRELIM DATE	4-16-24
REV 1 DATE	
REV 2 DATE	
REV 3 DATE	

This drawing and specification is the property of Prieve Engineering LLC. Any use by other parties or for any other projects other than the project address is strictly prohibited. Contractor and/or owner are responsible for all site conditions, demolition, temporary shoring, safety, means and methods of construction, and all other site conditions as may arise. Contractor to advise Engineer immediately upon discovery of any unknown site conditions or if any conditions differ from those depicted in plan drawings. Prieve Engineering LLC is not the Engineer of Record for the Subject Property.

DRAWN BY: NEP

SCALE: AS NOTED (11X17)

SHEET S2.1



P R I E V E
ENGINEERING
FORENSIC STRUCTURAL CIVIL
612-203-2745
nathan@prieve-engineering.com
www.prieve-engineering.com

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

Signature: *Nathan E Prieve*
Typed or Printed Name: Nathan E Prieve
Date: 4-22-24 License Number: 46203

PROJECT
DECK/PORCH
FRAMING PLAN

FILE NUMBER: 240319
2979 HILLTOP DRIVE
CHASKA, MN 55318

DRAWING DATES/REVISIONS

PRELIM DATE	4-16-24
REV 1 DATE	
REV 2 DATE	
REV 3 DATE	

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DRAWN BY: NEP

SCALE: AS NOTED (11X17)

SHEET S2.2





VIEW FROM 2973 HILLTOP DRIVE



VIEW FROM 2985 HILLTOP DRIVE



VIEW FROM 9709 OAKWOOD DRIVE

August 27, 2024

To the Chaska Planning Commission/City Council,

We are writing to you with our support of the 3-season porch project taking place at 2979 Hilltop Drive in Chaska. With the line of arborvitae trees that divide the backyards of our properties, we have zero visibility to the porch being constructed at the 2979 Hilltop Drive address.

Best regards,

Bob & Doris Schmieg
Chaska, MN

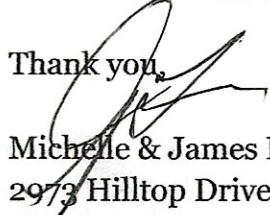
Bob & Doris Schmieg
9709 Oakwood Dr.
Chaska, Mn. 55318

August 29, 2024

To the attention of the Chaska Planning Commission & City Council,

We have been next door neighbors of Michelle & Joe Heiland's since 2007. This letter is to inform you of our support for the 3-season porch that has been planned for construction in the backyard of their residence at 2979 Hilltop Drive in Chaska. We feel that the porch will increase the property value of the home, which is ultimately a positive for the rest of the neighborhood. We are in support of the variance that the Heiland's are applying for.

Thank you.



Michelle & James Fontaine
2973 Hilltop Drive
Chaska, MN 55318

August 28, 2024

Attn: Chaska City Council & Planning Commission

We have been neighbors of Michelle & Joe Heiland's since 2004. We are writing this letter to you in support of their 3-season porch project taking place in the backyard of their home at 2979 Hilltop Drive in Chaska. There is no obstruction of our view with the planned construction.

The exterior of the porch blends in well with the rest of their home. We see no issues with moving forward with the completion of the project.

Thank you,

Handwritten signatures of Missy Engle and Tom Hauge. The signature on the left is 'M. Engle' and the signature on the right is 'Tom Hauge'. The word 'and' is written between the two signatures.

Missy Engle & Tom Hauge
2985 Hilltop Drive
Chaska, MN 55318