



AGENDA

PLANNING COMMISSION MEETING

August 22, 2024 - 6:00 PM

City Hall Council Chambers

Members of the public can participate in person at Lakeville City Hall, 20195 Holyoke Avenue. Members of the public may join the meeting via Teams Meeting, **Meeting ID: 264 804 648 175, Passcode 6APsK9** or by calling **Toll Number 1-323-433-2142; Conference ID: 603 481 968#**.

The Planning Commission meeting can be viewed live on Spectrum cable channel 180 or via web stream at LakevilleMN.gov/LiveTV. The Chair will allow for public comments and questions at the appropriate time.

1. Call to order, and flag pledge
2. Roll Call
3. Approval of Minutes
 - a. July 18, 2024 Planning Commission meeting minutes
 - b. August 1, 2024 Planning Commission Work Session meeting minutes
4. Announcements
5. Public Hearing
 - a. Zoning Text Amendment
6. Staff Notices
 - a. The City Council meeting at which the above item may be considered will be held on September 3, 2024.
7. Adjourn
8. Planning Commission Work Session
 - a. Chart House Restaurant Outdoor Seating Modifications - 11287 Klamath Trail

CITY OF LAKEVILLE
PLANNING COMMISSION MEETING MINUTES
July 18, 2024

Chair Majorowicz called the meeting to order at 6:00 p.m. in the Council Chambers at City Hall. The Pledge of Allegiance to the flag was given.

Members Present: Chair Jenna Majorowicz, Scott Einck, Pat Kaluza, Amanda Tinsley, Jason Swenson, Christine Zimmer, Ex-Officio Jeff Hanson.

Members Absent: Patti Zuzek

Staff Present: Kris Jenson, Planning Manager, Frank Dempsey, Associate Planner; Jon Nelson, Assistant City Engineer; Tina Morrow, Recording Secretary

3. Approval of the Meeting Minutes

The June 20, 2024 Planning Commission meeting minutes were approved as presented.

4. Announcements

Planning Manager Kris Jenson stated that the following items were distributed to the Planning Commission at tonight's meeting:

- July 17, 2024 Parks, Recreation and Natural Resources Committee meeting minutes regarding the Sundance Lakeville Second Addition preliminary plat.
- Email from neighboring homeowner, regarding Agenda Item 5b, Sundance Lakeville Second Addition.

Ms. Jenson stated that the August 1st Planning Commission meeting will be a work session, and the August 15th Planning Commission meeting has been changed to August 22.

5a. Nikolay Zaytsev

Chair Majorowicz opened the public hearing to consider the application of Nikolay Zaytsev for a conditional use permit to allow a detached accessory building with a combined accessory building area exceeding 2,000 square feet on a single-family lot in the RS-1, Single Family Residential District and to allow more than one detached accessory building, located at 16394 Klamath Trail.

Nikolay Zaytsev presented an overview of his project.

Associate Planner Frank Dempsey presented the planning report. Mr. Dempsey stated the applicant has applied for a conditional use permit to allow the construction of a detached accessory structure within the RS-1, Single Family Residential District and located within the Kingsley Lake shoreland overlay district.

The proposed accessory building would total 2,080 square feet in area. The existing attached garage is 700 square feet, and the existing detached accessory building is 352 square feet in area which would result in a total of 3,132 square feet. The property is a single-family lot that totals 88,027 square feet (2.02 acres) in area, not including 13,985 square feet of wetland area, which is more than four times the minimum lot size of 20,000 square feet in the RS-1 District. The proposed detached accessory building complies with required setbacks.

Mr. Dempsey stated the proposed accessory structure will utilize a concrete, fiber composite green finished siding to match the house color. The roof will be black finished steel. These materials comply with the Zoning Ordinance.

Community Development Department staff recommends approval of the Nikolay Zaytsev conditional use permit, subject to the 12 stipulations listed in the July 12, 2024 planning report, and approval of the Findings of Fact dated July 18, 2024.

Chair Majorowicz opened the hearing to the public for comment.

Kurtis Scholz – 16445 Kingswood Court

Mr. Scholz stated he supports the proposed accessory building.

Motion was made by Zimmer , seconded by Einck to close the public hearing at 6:11 p.m.

Voice vote was taken on the motion.

Ayes – unanimous.

Chair Majorowicz asked for comments from the Planning Commission. Discussion points included:

- Vice Chair Zimmer asked for clarification regarding the multiple driveways.
- Commissioner Kaluza supports the request.

Mr. Dempsey clarified that the Planning Commission is recommending adding Stipulation #12 to read: *The applicant shall provide an accurate elevation of the building height and an exterior material sample and color prior to City Council approval.*

Motion was made by Swenson, seconded by Zimmer to recommend to City Council approval of the Nikolay Zaytsev conditional use permit, subject to the following stipulations, as amended.

1. The total accessory building area (combined attached and detached) on the property shall not exceed 3,134 square feet.
2. Not more than two detached accessory buildings are permitted on the property.
3. The accessory building shall be constructed in the location identified on the Certificate of Survey approved with the conditional use permit.
4. The driveway to the detached accessory building shall be paved with concrete, bituminous, or paver brick.
5. Exterior building materials shall be of similar color and materials as the principal building and shall conform with the standards and criteria in section 11-17-9 of the Zoning Ordinance.
6. Additional screening is not required provided the existing trees between the building pad and the Klamath Trail and Kingswood Drive remain. If the existing trees are removed or die for any reason, the property owner shall replace the dead trees with conifer and overstory deciduous trees subject to a plan approved by the Zoning Administrator.
7. The detached accessory building shall be kept, used, and maintained in a manner that is compatible with the existing single-family home on the property and shall not present a hazard to the public health, safety and general welfare.
8. Sanitary sewer service shall not be provided to the detached accessory building and the detached accessory building shall not be used as a dwelling.
9. The detached accessory buildings shall not be used for any commercial use or home occupation. Commercial storage or storage for third parties is not permitted.
10. All vehicles and vehicle equipment shall be parked on an existing or approved paved surface on the property.
11. A building permit application shall be submitted to and approved by the Building Inspections Department prior to commencing construction.
12. The applicant shall provide an accurate elevation of the building height and an exterior material sample and color prior to City Council approval.

Ayes: Kaluza, Tinsley, Majorowicz, Zimmer, Einck, Swenson

Nays: 0

5b. Sundance Lakeville Second Addition

Chair Majorowicz opened the public hearing to consider the application of Ryan Sailer, Timberland Partners, Inc. for the following: 1) Preliminary plat of one townhome lot to include 13 buildings and 167 dwelling units, one common club building, nine single family residential lots, and one outlot to be known as Sundance Lakeville Second Addition and 2) Conditional use permit to allow multiple family dwellings (townhome buildings) on a single parcel, located north of 162nd Street (CSAH 46), west of Buck Hill Road, and east of Kendale Drive, located north of 162nd Street (CSAH 46), west of Buck Hill Road, and east of Kendale Drive.

Applicant Ryan Sailer presented an overview of the project.

Associate Planner Frank Dempsey presented the planning report. The project proposes one lot and one block with 13 townhome buildings and 167 dwelling units and nine single family home lots with rental homes all totaling 15.75 acres north of 162nd Street (CSAH 46), west of Buck Hill Road and east of Kendale Avenue.

The subject property is located in Planning District No. 1 of the 2040 Comprehensive Land Use Plan and is within the current Metropolitan Urban Service Area (MUSA). The proposed Sundance Lakeville Second Addition preliminary and final plat meets the recommended goals and objectives outlined in Planning District No. 1 of the 2040 Comprehensive Plan.

Mr. Dempsey outlined the shared private drive access at Buck Hill Road. The private drive will include an easement to allow the commercial and residential portions of the development as well as the public to use the private street connection between Kendale Drive and Buck Hill Road. No parking signs shall be installed on both sides of the private street between Kendale Drive and Buck Hill Road.

A traffic study was completed by Alliant Engineering to determine the conditions of existing and anticipated traffic volumes between Buck Hill Road, 162nd Street (CSAH 46) and Kendale Drive. The study concluded that all intersections impacted by the development of the 18.75 acre Sundance Lakeville commercial and residential developments, future low-medium density residential to the west, and the existing neighborhoods utilizing Kendale Drive and Buck Hill Road will operate under an acceptable grade (A & C) level of service or better through year 2045 anticipated peak hours of traffic.

Community Development Department staff recommended approval of the Sundance Lakeville Second Addition preliminary and final plat and conditional use permit subject to the 12 stipulations listed in the July 12, 2024 planning report, and approval of the Findings of Fact dated July 18, 2024.

Chair Majorowicz opened the hearing to the public for comment.

Amy Erkenbrack - 11255 162nd St W

Ms. Erkenbrack has a concern with the development of the land east of Kendale Drive and north of County Rd. 46. She stated her concern regarding removal of the left turn movements at Kendale Drive and County Rd. 46, suggesting it should remain.

Tara Weishaar -15939 Kendale Circle

Ms. Weishaar provided a handout to the Planning Commissioners prior to the meeting stating her concerns. She is requesting the City staff work with the developer to make a 60 foot right-of-way to allow the townhome buildings to be further from the private road.

Chelsey Nguyen – 15956 Kendale Drive

Ms. Nguyen is concerned about the number of homes and the increased volume of traffic in the proposed development.

Emily Taylor – 15946 Kendale Circle

Ms. Taylor asked for clarification regarding the plan for the private road.

Sam Hass – 15729 Bryant Avenue Ct

Mr. Hass expressed concern regarding water drainage, screening, building setbacks, and the proposed pets policy, Great River Energy utility easement and fire safety in regards to the site and building design.

Vincent LaFrance – 901 158th Street W

Stated his concern regarding the close distance between the surrounding homes and the proposed development.

Theresa Wels – 15713 Bryant Avenue Ct

Requested information on building fire protection and charging pots for electric vehicles.

Motion was made by Kaluza, seconded by Swenson to close the public hearing at 8:01 p.m.

Voice vote was taken on the motion.

Ayes – unanimous.

Chair Majorowicz asked for comments from the Planning Commission. Discussion points included:

- Chair Majorowicz asked what the City's limitations were regarding County Road 46. Mr. Dempsey explained that Dakota County controls access locations and intersection designs on all County highways. A decision to close the left turn vehicle movements at Kendale Drive and County Road 46 is a determination of the County as to when the intersection modifications are warranted and when they will occur. The County did not indicate that proposed Sundance development would result in warrants to modify the Kendale Drive intersection.

- Private road vs. public road is allowable, and how it fits into the proposed development.
- Traffic safety within the site and surrounding area.
- Commissioner Kaluza asked for clarification on whether the sidewalk on Kendale Drive will be extended to Dupont Avenue.
- Stormwater drainage, setbacks, and power lines and easements.
- Location of the private clubhouse and pedestrian access and crossings of the private street.
- Distance from the private road intersection at Buck Hill Road.
- Landscape screening should comply with city requirements.

Motion was made by Kaluza, seconded by Einck to recommend to City Council approval of the Sundance Lakeville Second Addition preliminary plat and conditional use permit subject to the following stipulations, and approval of the Findings of Fact dated July 18, 2024.

1. Implementation of the recommendations listed in the July 8, 2024 engineering report.
2. Lots 2-10 shall confirm compliance with minimum lot width requirements of the RST-2 District prior to City Council consideration of the preliminary plat.
3. Park dedication shall be paid at the time of final plat approval.
4. The landscape plan design along the north boundary of Lot 1 shall be amended to include a row of evergreen trees planted south of the utility easement to provide additional year-round screening of the townhome buildings from the north.
5. All landscaped areas shall be irrigated. Trees and shrubs shall not be planted in street right-of-way or within the transmission line utility easement and shall comply with minimum size requirements.
6. The developer shall submit a financial security to guarantee installation of the approved landscaping at the time of final plat approval.
7. All signs shall comply with the Zoning Ordinance requirements. A sign permit shall be issued by the Planning Department prior to the installation of any signs.
8. Snow storage shall not take place in required parking spaces.
9. A site lighting plan shall be submitted prior to issuance of a building permit. Site lighting shall not exceed one foot candle at the property line adjacent to public right-of-way. All exterior light fixtures shall be down-cast design so as not to glare onto public right-of-way.
10. Trash enclosures shall be constructed of materials consistent with the principal building and shall include a durable, maintenance free gate.
11. A private easement allowing shared public access over the private street between Buck Hill Road and Kendale Drive shall be submitted prior to final plat approval. The private easement shall include commitments to street construction to City of Lakeville standards, maintenance and repair, and maintenance and repair of the private storm sewer system within the private street.
12. No parking signs shall be installed on both sides of the private street between Kendale Drive and Buck Hill Road.

Ayes: Kaluza, Tinsley, Majorowicz, Zimmer, Einck

Nays: Swenson – *While he supports the proposed development, he has serious concerns that the street providing access for the development and the adjoining neighborhood is not a public street and instead will be privately owned and maintained.*

There being no further business, the meeting was adjourned at 9:02 p.m.

Respectfully submitted,

Tina Morrow, Recording Secretary

DRAFT

CITY OF LAKEVILLE
PLANNING COMMISSION WORK SESSION MINUTES
August 1, 2024

Chair Jenna Majorowicz called the work session to order at 6:01 pm.

Members Present: Chair Jenna Majorowicz, Vice Chair Christine Zimmer, Scott Einck, Pat Kaluza, Jason Swenson, Amanda Tinsley, Mark Traffas

Members Absent: Patty Zuzek

Staff Present: Community Development Director Tina Goodroad, Planning Manager Kris Jenson, Planning Consultant Daniel Licht, The Planning Company

Chapter 19: Off Street Parking Requirements discussion

Planning Consultant Daniel Licht reviewed the Planning Commission's work thus far on the update of Chapter 19, Off Street Parking Requirements. He then reviewed areas of focus including multi-family housing, commercial day care centers, manufacturing/warehousing, restaurants, and retail uses.

The Planning Commission made the following comments:

- Commissioners expressed support for the reduction in spaces required for multi-family uses, from 2.5 spaces per unit to 2.0 spaces per unit.
- Agreed with proposed reductions to the requirements for manufacturing and warehousing to reflect the increase in automation for both uses.
- Discussed changes to retail parking requirements to add a graduated scale based on the size of the building.
- A provision is proposed to allow a permanent reduction in the number of spaces required by CUP, based on a parking demand study.
- Commissioners supported language that would require a CUP for developments that propose to construct parking spaces in excess of 125% over the minimum parking requirements, based on a parking demand study to support the additional spaces.

Planning Manager Jenson noted that the next steps would be for Community Development staff to review other portions of the parking ordinance with other city staff (Engineering, Public Works, etc.) before moving forward to a public hearing.

Cannabis Zoning discussion

Community Developer Director Tina Goodroad provided background regarding the new state law permitting the production and sale of cannabis and cannabis products. Sale of these products

cannot occur until 2025, but the city needs to enact zoning regulations addressing cannabis uses before then. Director Goodroad reviewed the different types of uses and licenses allowed by the state, and where the various uses are appropriate.

Director Goodroad shared cannabis information with the City Council a recent work session. The State requires that one cannabis license be issued for every 12,500 residents, which means Lakeville must issue at least six licenses. At this time, the City Council indicated that they would cap the licenses at six.

The Planning Commission made the following comments:

- Discussed the various license types to understand what was allowed with each license type.
- Discussed the zoning districts proposed for the various types and expressed support for the proposed language.

Director Goodroad shared the next steps in the process and indicated that a public hearing was likely at the August 22 Planning Commission meeting.

Dunham Properties – future zoning amendment

Director Goodroad provided background on the Dunham properties located south of CSAH 70 near 215th Street. The Dunham family has several businesses operating on various parcels in that area, none of which have received formal approvals. City and County staff are aware of these businesses and would like to work with the Dunham family to clean up the sites and bring the uses into compliance.

The Planning Commission made the following comments:

- Discussion about the nature of the businesses and their benefit to the region.
- Discussion about options for moving forward with actions on the existing versus possible future sites.
- In general, the Planning Commission expressed support for continuing to work with the Dunham family and how to best address the current uses.

The work session adjourned at 7:20 pm.

Respectfully submitted,

Kris Jenson, Planning Manager



Memorandum

To: Planning Commission
From: Tina Goodroad, Community Development Director
Date: August 15, 2024
Subject: Packet Material for the August 22, 2024 Planning Commission Meeting
Agenda Item: Zoning Text Amendment

TEXT AMENDMENT-CANNABIS BUSINESSES

BACKGROUND

Legalization of cannabis was signed into law on May 30, 2023 (Chapter 342 of MN Law). Commercial growing, processing, and retail sales will fall under the regulation of the new state Office of Cannabis Management (OCM) who will begin licensing likely in early 2025. Special pre-approval (2024 legislation) will be conducted this summer for verified social equity applicants for the following license types: microbusiness, mezzobusiness, cultivator, retailer, wholesaler, transporter, testing facility and delivery service. Social equity applicants with license pre-approval may begin growing cannabis prior to adoption of final OCM rules but no retail sales can take place until final rules are adopted.

The OCM will be responsible for all commercial regulation including licensing split between cultivation, manufacture, distribution, and retail (see Guide for Local Governments). Cities are responsible for registration. If the business has a valid state license, passes the compliance checks, and has paid all the fees and taxes, the city must issue the registration. State Statute requires that a city must issue at least one registration per 12,500 residents. For Lakeville, this means up to six registrations.

Municipal regulations are generally preempted. Cities may not ban use, possession, or transportation. Cities cannot prohibit businesses from operating if licensed by the state.

However, cities do have a role when it comes to zoning. Cannabis businesses are viewed as any other type of legal business, subject to the City's general zoning regulations. A condition of obtaining a full-strength retail license will be demonstrating compliance with local zoning regulations. Local ordinances can be adopted to regulate reasonable restrictions on the time, place, and manner of operation of a cannabis business.

A zoning ordinance text amendment has been prepared to include the various license types into appropriate zoning districts. Generally, cultivation, manufacture, distribution/transporting, wholesaler fall within industrial districts while retail license (dispensaries) will be considered a commercial use. A new Chapter 38 was created to provide a central location for performance standards. The zoning ordinance amendment will be coupled with an amended Chapter 24 of the city code to include all the requirements for licensing, registration, inspections, etc.

TEXT AMENDMENT-C-CBD DISTRICT

Staff has received a request for a stand-alone tattoo salon use within the C-CBD zoning district. Cosmetic tattooing is allowed accessory to a licensed barber/beauty salon on-site service business, but a sole operator of tattooing businesses requires an amendment to create its own distinct use. Since we are amending permitted uses in the C-CBD district, staff decided to include in this amendment versus waiting for the next round of zoning code amendments.

Action

City staff recommends approval of the proposed amendments as presented.

Attachment

Ordinance Amendment

ORDINANCE NO. _____

CITY OF LAKEVILLE
DAKOTA COUNTY, MINNESOTA

AN ORDINANCE AMENDING TITLE 11 OF THE LAKEVILLE CITY CODE

THE CITY COUNCIL OF THE CITY OF LAKEVILLE ORDAINS:

Section 1. Section 11-2-3 of the Zoning Ordinance (Definitions) is hereby amended to include the following definitions:

CANNABIS BUSINESSES RELATED: Unless otherwise noted in this section or chapter 24 of this title, words and phrases contained in Minnesota Statutes, section 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this title.

- A. Adult-Use Cannabis Product: As defined under Minnesota Statutes, section 342.01, subd. 4.
- B. Cannabis Business. A cannabis microbusiness, cannabis mezzobusiness, cannabis cultivator, cannabis manufacturer, dispensary, cannabis wholesaler, cannabis transporter, cannabis testing facility, cannabis delivery services, or medical cannabis combination business licensed, or any use otherwise authorized, under Minnesota Statutes, Chapter 342.
- C Cannabis Cultivation: A cannabis business licensed for planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts by a business licensed or authorized to cultivate cannabis or medical cannabis pursuant to Minnesota Statutes Chapter,342.
- D. Cannabis delivery service. A person or entity licensed or otherwise authorized to purchase cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products from licensed cannabis microbusinesses with a retail endorsement, cannabis mezzobusinesses with a retail endorsement, dispensaries, medical cannabis dispensaries, and medical cannabis combination businesses; transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers; and perform other actions pursuant to Minnesota Statutes, Chapter 342.
- E. Cannabis or lower-potency hemp edible manufacturing. An entity licensed or otherwise authorized for the creation of cannabis concentrate and manufacture of cannabis products and hemp-derived consumer products for public consumption pursuant to Minnesota Statutes, Chapter 342, an entity licensed or authorized to purchase hemp and artificially derived cannabinoids to make hemp concentrate; manufacture artificially derived cannabinoids and hemp edibles for public consumption; package and label lower-potency hemp edibles for sale to customers; sell hemp concentrate, artificially derived cannabinoids, and lower-potency hemp edibles to other cannabis businesses

and hemp businesses; and perform other actions pursuant to Minnesota Statutes, Chapter 342, or an entity in possession of a medical cannabis processor license pursuant to Minnesota Statutes, Chapter 342.

- F. Cannabis mezzobusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis mezzobusiness license pursuant to Minnesota Statutes, Chapter 342.
- G. Cannabis microbusiness. A person or entity licensed to cultivate, manufacture, and sell products containing cannabis and related supplies and products and perform other actions authorized under a cannabis microbusiness license pursuant to Minnesota Statutes, Chapter 342.
- H. Cannabis Retail Business: A state licensed retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, excluding lower-potency hemp edible retailers, pursuant to Minnesota Statutes, Chapter 342.
- I. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
- J. Cannabis testing facility. A facility licensed to obtain and test immature cannabis plants and seedlings, cannabis flower, cannabis products, hemp plant parts, hemp concentrate, artificially derived cannabinoids, lower-potency hemp edibles, and hemp-derived consumer products from cannabis microbusinesses, cannabis mezzobusinesses, cannabis cultivators, cannabis manufacturers, cannabis wholesalers, lower-potency hemp edible manufacturers, medical cannabis cultivators, medical cannabis processors, medical cannabis combination businesses, and industrial hemp growers pursuant to Minnesota Statutes, Chapter 342.
- K. Cannabis transporter. An entity licensed or otherwise authorized to transport immature cannabis plants and seedlings, cannabis flower, cannabis products, artificially derived cannabinoids, hemp plant parts, hemp concentrate, lower-potency hemp edibles, and hemp-derived consumer products from a cannabis business to a cannabis business pursuant to Minnesota Statutes, Chapter 342.
- L. Cannabis wholesaler. An entity licensed or authorized to obtain, store, and sell or otherwise transfer cannabis or hemp seeds, plants, flower, or other products for the purpose of resale or other transfer to a cannabis business, but not to consumers, pursuant to Minnesota Statutes, Chapter 342.
- M. Dispensary. An entity in possession of a cannabis retailer license or otherwise authorized to acquire, possess, transfer, sell, dispense, or distributes products containing cannabis and related supplies and products pursuant to Minnesota Statutes, Chapter 342.

- N. Lower Potency Hemp Edible: As defined under Minnesota Statutes, section 342.01, subd. 50.
- O. Lower-potency hemp edible retailer. A person or entity licensed or authorized to acquire, possess, transfer, sell, dispense, or distribute lower-potency hemp edible products and related supplies and products pursuant to Minnesota Statutes, Chapter 342.
- P. Medical cannabis combination business. An entity authorized to cultivate, manufacture, and sell cannabis, hemp, and cannabis and hemp related supplies and products, and perform other actions authorized under a medical cannabis combination license pursuant to Minnesota Statutes, Chapter 342.
- Q. Office of Cannabis Management: State of Minnesota Office of Cannabis Management, as may be referred to as "OCM" in reference to this title.
- R. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
- S. Retail Registration: An approved registration issued by the city to a cannabis retail business.
- T. State License: An approved license issued by the Office of Cannabis Management to a cannabis retail business.

Section 2. Title 11, Chapter 38 of the City Code (Zoning Ordinance -Reserved) is hereby amended to read as follows:

Chapter 38 CANNABIS BUSINESS USES

- 11-38:1: Purpose
- 11-38-3: General Performance Standards
- 11-38-5: Cannabis Uses in Commercial Districts Performance Standards
- 11-38-7: Cannabis Uses in Industrial Districts Performance Standards

11-38-1: PURPOSE:

The purpose of this chapter is to establish provisions for the opportunity as well as controls of cannabis business uses within the city.

11-38-3: General Performance Standards

- A. A cannabis retail business must be registered with the city in accordance with Chapter 24 of the City Code.
- B. A cannabis business must provide evidence of a state license under Minnesota Statutes, section 342.14 and all applicable state laws and regulations.
- C. All cannabis businesses must be in compliance with the provisions of Chapter 24, of the City Code and all applicable state laws and regulations related to the operation of the cannabis business.

11-38-5: Cannabis Businesses in Commercial Districts Performance Standards:

- A. Hours of Operation: A cannabis business operating in a Commercial District shall be limited to occur between the hours of ten o'clock (10:00) AM to ten o'clock (10:00) PM
- B. Standards for Cannabis in the O-P Office Park District:
 - 1. The cannabis business shall be conducted entirely with a principal structure and all outside storage is prohibited.
 - 2. All waste and recycling containers shall be kept within a principle or accessory building.
 - 3. Hours of operation: seven o'clock (7:00) AM to ten o'clock (10:00) PM.
 - 4. Sufficient measures and means of preventing any gas, vapors, odors, smoke, debris, dust, fluids or other substances from exiting a cannabis business shall be provide for at all times.
 - 5. Cannabis cultivations shall not be perceptible form the exterior of the building in which cultivation occurs.
 - 6. Security:
 - a. Burglary alarm systems with audible and police notification components that are professionally monitored and maintained in good working condition shall be installed on all doors, windows, and access points.
 - b. Surveillance cameras shall be installed and operate twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances and trash receptacles, along with the interior and exterior of the premises shall be required.
 - c. Exterior lighting shall be required sufficient for observers to see and for cameras to record, that is either constantly on or activated by motion detectors, subject to the requirements of section 11-16-17 of this title
 - d. Deadbolt locks shall be installed and utilized on all exterior doors and locks shall be installed on all other windows or access points.
 - e. Additional security requirements including, but not limited to, security guards, steel doors, and steel window coverings shall be required as determined by city staff.
 - 7. Conditional Uses. For cannabis businesses designated as conditional uses:
 - a. Site, ventilation, and building security plans must be submitted to the City for review and must be compliant with applicable state rules.
 - b. Additional security requirements may be required as conditions of approval.

11-38-7: Standards for Cannabis Businesses in Industrial Districts:

- A. The cannabis business shall be conducted entirely with a principal structure and all outside storage is prohibited.
- B. All waste and recycling containers shall be kept within a principle or accessory building.
- C. Hours of operation: seven o'clock (7:00) AM to ten o'clock (10:00) PM. Retail operation (microbusiness license only) is limited to ten o'clock (10:00) AM to ten o'clock (10:00) PM.
- D. All on-site consumption of cannabis (in a microbusiness licensed facility only) shall be entirely indoors.

- E. Sufficient measures and means of preventing any gas, vapors, odors, smoke, debris, dust, fluids or other substances from exiting a cannabis business shall be provide for at all times.
- F. Cannabis cultivation shall not be perceptible from the exterior of the building in which cultivation occurs.
- G. Security:
1. Burglary alarm systems with audible and police notification components that are professionally monitored and maintained in good working condition shall be installed on all doors, windows, and access points.
 2. Surveillance cameras are required and must operate twenty-four (24) hours a day, seven (7) days a week, with thirty (30) day video storage, to monitor all entrances and trash receptacles, along with the interior and exterior of the premises.
 3. Exterior lighting shall be required sufficient for observers to see and for cameras to record, that is either constantly on or activated by motion detectors, subject to the requirements of section 11-16-17 of this title.
 4. Deadbolt locks shall be installed and utilized on all exterior doors and locks shall be installed on all other windows or access points.
 5. Additional security requirements including, but not limited to, security guards, steel doors, and steel window coverings shall be required as determined by city staff.
- H. Vehicles:
1. All vehicles stored on site shall comply with provisions in chapter 22 of this title and shall be enclosed in a secured fenced area. No non-business-related vehicles shall be stored on site.
- I. Conditional Uses. For cannabis businesses designated as conditional uses:
1. Site, ventilation and building security plans must be submitted to the City for review and must be compliant with applicable state regulations.
 2. Additional security requirements including may be required as condition of approval.

Section 3. Section 11-71-3 of the Zoning Ordinance (C-1 District, Permitted Uses) is hereby amended to add the following provisions with subsequent sections renumbered accordingly:

- C. Cannabis Retailer/Dispensary meeting performance standards of Chapter 38 of this title.
- D. Cannabis Medical Retailer/Dispensary meeting performance standards Chapter 38 of this title.

Section 4. Section 11-72-3 of the Zoning Ordinance (C-2 District, Permitted Uses) is hereby amended to add the following provisions with subsequent sections renumbered accordingly:

- C. Cannabis Retailer/Dispensary meeting performance standards of Chapter 38 of this title.
- D. Cannabis Medical Retailer/Dispensary meeting performance standards of Chapter 38 of this title.

Section 5. Section 11-73-3 of the Zoning Ordinance (C-3 District, Permitted Uses) is hereby amended to add the following provisions with subsequent sections renumbered accordingly:

- C. Cannabis Retailer/Dispensary meeting the performance standards of Chapter 38 of this title.
- D. Cannabis Medical Retailer/Dispensary meeting the performance standards of Chapter 38 of this title

Section 6. Section 11-74-3 of the Zoning Ordinance (C-CBD District, Permitted Uses) is hereby amended to add the following provisions with subsequent sections renumbered accordingly:

- C. Cannabis Retailer/Dispensary meeting the performance standards of Chapter 38 of this title.
- D. Cannabis Medical Retailer/Dispensary meeting the performance standards of Chapter 38 of this title.
- E. Tattoo Salon

Section 7. Section 11-75-3 of the Zoning Ordinance (O-P District, Permitted Uses) is hereby amended to add the following provisions with subsequent sections number accordingly:

- B. Cannabis Businesses: cultivator (including medical), manufacturer (including medical and low-potency Hemp edible), mezzobusiness, testing facility, and wholesaler meeting the performance standards in Chapter 38 of this title.

Section 8. Section 11-75-7 of the Zoning Ordinance (O-P District, Conditional Uses) is hereby amended to add the following provisions with subsequent sections number accordingly:

- D. Cannabis Businesses: transporter and delivery service meeting the performance standards in Chapter 38 of this title.

Section 9. Section 11-86-3 of the Zoning Ordinance (I-1, Permitted Uses) is hereby amended to add the following provisions with subsequent sections number accordingly:

- C. Cannabis Businesses: cultivator (including medical), manufacturer (including medical and low-potency Hemp edible), mezzobusiness, testing facility, and wholesaler meeting the performance standards in Chapter 38 of this title.

Section 10. Section 11-86-7 of the Zoning Ordinance (I-1, Conditional Uses) is hereby amended to add the following provisions with subsequent sections number accordingly:

- C. Cannabis Businesses: microbusiness, medical combined transporter and delivery service meeting the performance standards in Chapter 38 of this title.

Section 11. Section 11-87-3 of the Zoning Ordinance (I-2, Permitted Uses) is hereby amended to add the following provisions with subsequent sections number accordingly:

C. Cannabis Businesses: cultivator (including medical), manufacturer (including medical and low-potency Hemp edible), mezzobusiness, testing facility, and wholesaler meeting the performance standards in Chapter 38 of this title.

Section 12. Section 11-87-7 of the Zoning Ordinance (I-2, Conditional) is hereby amended to add the following provisions with subsequent sections number accordingly:

C. Cannabis Businesses: microbusiness, medical combined transporter and delivery service meeting the performance standards in Chapter 38 of this title.

Section 13. This Ordinance shall be effective immediately upon its passage and publication according to law.

ADOPTED by the Lakeville City Council this __ day of __, 2024.

CITY OF LAKEVILLE

BY: _____
Luke Hellier, Mayor

ATTEST

BY: _____
Ann Orlofsky, City Clerk



City of Lakeville
Community Development Department

Memorandum

To: Planning Commission
From: Frank Dempsey, AICP, Associate Planner
Date: August 16, 2024
Subject: Packet Material for the August 22, 2024 Planning Commission Work Session
Agenda
Item: Chart House Restaurant Variance Discussion

BACKGROUND

George Maverick, owner the Chart House restaurant and banquet facility proposes a site modification and a new patio building construction that would require a variance from the minimum setback requirements of the Zoning Ordinance, specifically the Shoreland Overlay District for setbacks adjacent to Kingsley Lake. The property is located at 11287 Klamath Trail. The property is zoned C-3, General Commercial District and Shoreland Overlay District. Community Development Department staff suggested that Mr. Maverick meet informally with the Planning Commission to discuss his plans and get preliminary input from the Planning Commission prior to submitting a formal variance application.⁵

This memorandum will present the information submitted by Mr. Maverick in addition to some background information with staff comments regarding the requisite variance criteria to establish practical difficulty and demonstrate consistency with the goals and objectives of the comprehensive plan.

EXHIBITS

- A. Location Map – 2024 Aerial Photo
- B. 2021 Aerial Photos
- C. 1987 Property Survey With Notations

- D. Existing Seating Area
- E. Conceptual Canopy Buildings
- F. Patio Cover Site Plan
- G. Patio Canopy To Be Removed

ZONING ANALYSIS

Mr. Maverick proposes to modify the existing outdoor seating area of The Chart House restaurant to include a covered patio over the existing concrete surface outdoor seating area between the west side of the restaurant building and the lake shore. The Chart House property is roughly 4.5 acres of property above the lakeshore and approximately 14,500 square feet of building area (Dakota County Assessor data) and two or three accessory buildings.

The Chart House property was developed, and the building constructed in 1962 as a private restaurant/club that included a swimming pool and concrete shade canopy, which remains. The restaurant has been in business during those 62 years with few significant modifications since that time. Shoreland zoning regulations in Minnesota have their origins from legislative statutes dating back to the mid-1970's requiring all cities and counties in Minnesota to apply certain standards for development and Zoning Ordinance enforcement. Standards for the consideration of variances also fall partly under these requirements. The minimum building setbacks on Kingsley Lake (classified as a Natural Environment Lake) is 150 feet from the Ordinary High Water Level. No part of the property complies with the setback requirements and is therefore legal non-conforming. Any new construction or expansion requires a setback variance.

A conditional use permit was approved in 1997 allowing an impervious surface area greater than 25% with an expansion of the parking lot and to construct stormwater improvements on site. The conditional use permit allowed an increase of impervious surface area from 43% to 50%. The survey noted in Exhibit B is used for reference purposed that show the entire site. The 1997 conditional use permit did not include the building area, only the expanded parking lot, so that plan is not included. No increase in impervious surface area is proposed with the outdoor seating project. In 2021, a concrete structure with an outdoor lighted fountain was installed without zoning approval and within the shoreland overlay setback and within the shore impact zone (within 75 feet) of Kingsley Lake. The fountain installation included approximately 450 square feet of additional concrete impervious surface area in front of the fountain, also within the shore impact zone. The additional concrete area is considered non-conforming to zoning ordinance requirements and an increase to the zoning existing non-conformities. Consideration should be given to whether the fountain structure should remain and whether conifer landscape visual screening should be provided between the lakeshore and the fountain structure.

Mr. Maverick proposes to remove the roughly 1,650 square foot, tall concrete shade canopy

structure in the outdoor restaurant seating area that was originally constructed as a shade structure with the outdoor swimming pool in 1962. Removal of the canopy will not reduce the impervious surface area due to the concrete surface below the structure. An open sided canopy structure is proposed to be constructed over the existing concrete surface outdoor seating area west of the restaurant building. Removal of the canopy structure will somewhat reduce the non-conforming building setback condition, but the new patio structure will require a variance. Community Development Department staff's opinion is that temporary shade (umbrellas/sun sails, etc.) elements would not require a variance.

Background research of a similar lakeshore restaurant was made as perspective to the Chart House Restaurant. Lord Fletchers Restaurant in Spring Park opened in 1968 on Lake Minnetonka. The main building is legal non-conforming to the Lake Minnetonka Ordinary High Water Level and the outdoor seating area is between the lake and the building. The impervious surface conditions on the property are similar to the Chart House property. The Lord Fletchers outdoor seating area is shaded with large umbrellas, not a permanent structure.

Sections 11-6-5 and 11-102-15 of the Zoning Ordinance set forth specific criteria that must be considered to determine whether a variance is warranted. The practical difficulties test requires the property owner demonstrate that the proposed use of the property is reasonable and that compliance with the Zoning Ordinance is due to certain practical difficulties. The Zoning Ordinance requires that the following criteria be met:

Section 11-6-5 (All Variances) and 11-102-15 (Shoreland District Variances)

The Zoning Ordinance for variances requires that seven criteria be addressed by the applicant and presented to the Planning Commission and City Council as part of the consideration for variance approval. The seven criteria noted below are consistent with State of Minnesota Statute and the Zoning Ordinance. The Shoreland Overlay District variance criteria pertain primarily to environmental considerations which would be addressed specifically with the processing of a variance. Public hearing notification to the Department of Natural Resources is required for variances proposed within Shoreland Overlay District areas.

- A. That the variance would be consistent with the comprehensive plan
The comprehensive plan guides the property for commercial land use. The property is located in Comprehensive Plan Neighborhood Planning District No. 1 which states a goal encouraging compatible land use patterns and environmental protection measures along lakeshores.
- B. The variance would be in harmony with the general purposes and intent of the Zoning Ordinance.

The removal of the 1,650 square foot concrete canopy will remove a large visual element

from the lakeshore and proposed to be replaced with an opaque shorter structure to cover the existing outdoor seating area from the elements.

- C. That the plight of the landowner is due to circumstances unique to the property not created by the applicant.

The plight of the landowner is that the existing 1,650 square foot concrete canopy structure is not functional for the current use of the property and is somewhat taller than the patio structure proposed to cover for the outdoor seating area. The applicant (landowner) is requesting the proposed structure to cover an existing seating area and the structure cannot comply with the minimum 150 foot setback requirement to the lakeshore.

- D. That the purpose of the variance is not exclusively economic considerations.

The request is to improve and extend the seasonal use and protection from weather conditions of the outdoor seating area for both restaurant and banquet patrons.

- E. That the granting of the variance will not alter the essential character of the neighborhood in which the parcel of land is located.

The removal of concrete canopy structure will reduce the building's visibility from the lake. The proposed outdoor seating canopy structure will be less intrusive in design.

- F. That the requested variance is the minimum action required to eliminate the practical difficulty.

The proposed new canopy structure will cover the patio seating area that has long been used for outdoor seating. The outdoor seating area will not be expanded or result in additional impervious surface area. The canopy structure will increase the non-conformity as it will replace the smaller concrete canopy structure at the west end of the outdoor seating area. Other options staff suggested that could be considered include sun-sails or large umbrellas. Existing grass surface areas shall not be covered or surfaced with other impervious surface materials.

- G. Variances may not be approved for any use that is not allowed by the Zoning Ordinance for property in the zone where the affected person's land is located.

The property is zoned C-3, General Commercial District and the restaurant use is a permitted use in that district.

SUMMARY AND DISCUSSION

As with any request for a variance, Community Development Department staff attempts to work with the applicant to minimize a variance and encourage reductions in non-conforming conditions where possible while allowing some zoning flexibility for a property that is likely to

permanently remain non-conforming under present shoreland zoning regulations. Mr. Maverick will present and describe his project Mr. Maverick and Community Development Department staff looks forward to your input and direction on this variance request.

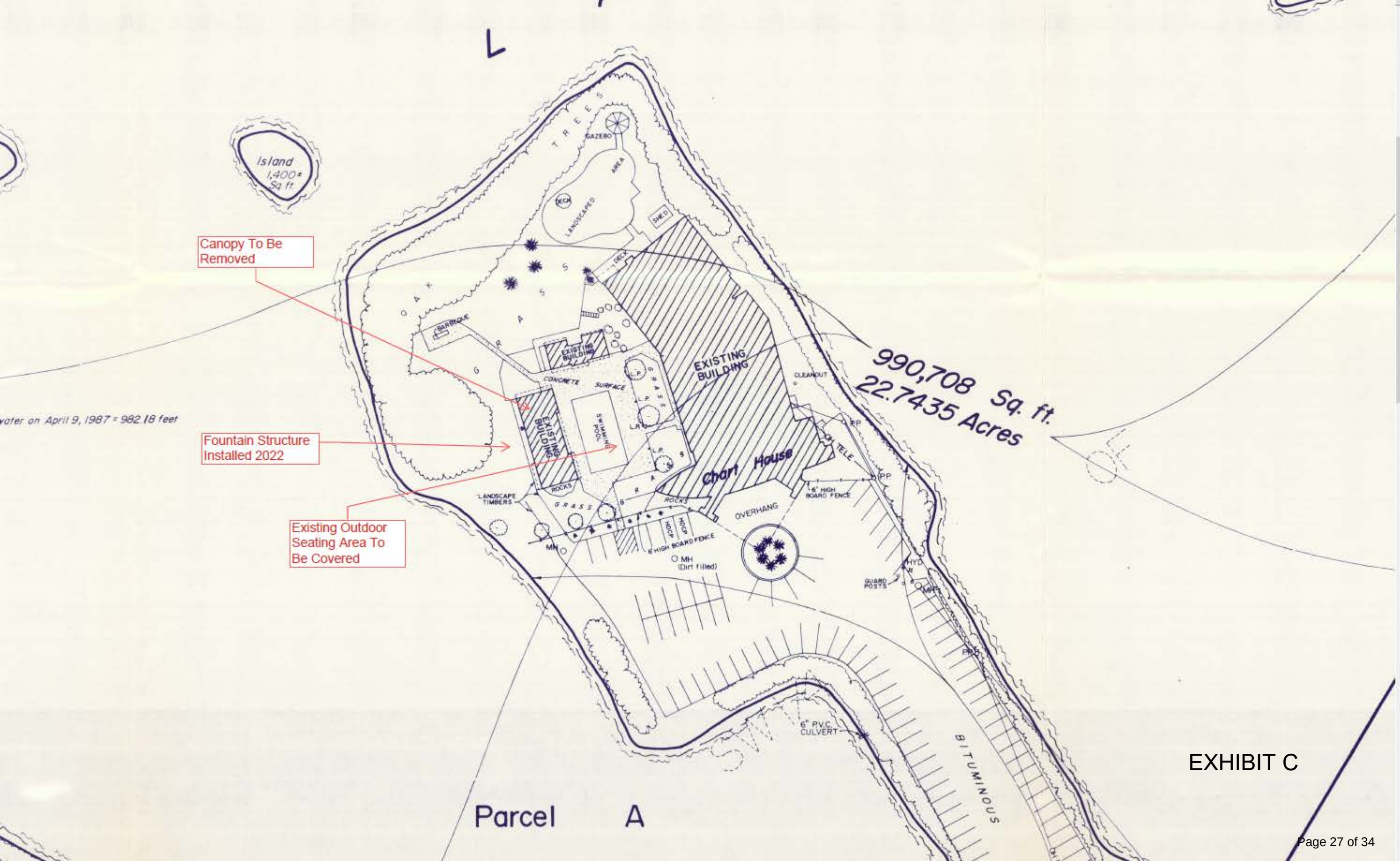


PATIO SEATING
AREA

2024
Exhibit A

WATER FOUNTAIN
STRUCTURE AND
CONCRETE SURFACE

2021
EXHIBIT B



Canopy To Be Removed

Fountain Structure Installed 2022

Existing Outdoor Seating Area To Be Covered

990,708 Sq. ft.
22.7435 Acres

Parcel A

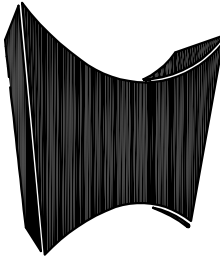
EXHIBIT C



EXHIBIT D







habitat
architecture, inc.
Hamid M. Kashani - AIA
4951 W. 77th St. #17
Edina, MN 55435
Tel: 952 / 946-9700

Registrations:

Consultants:

PATIO COVER STRUCTURE
CHART HOUSE EVENT CTR.
11287 KLAMATH TRAIL
LAKEVEILLE, MN

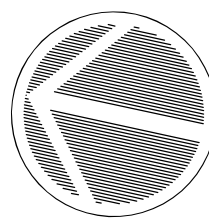
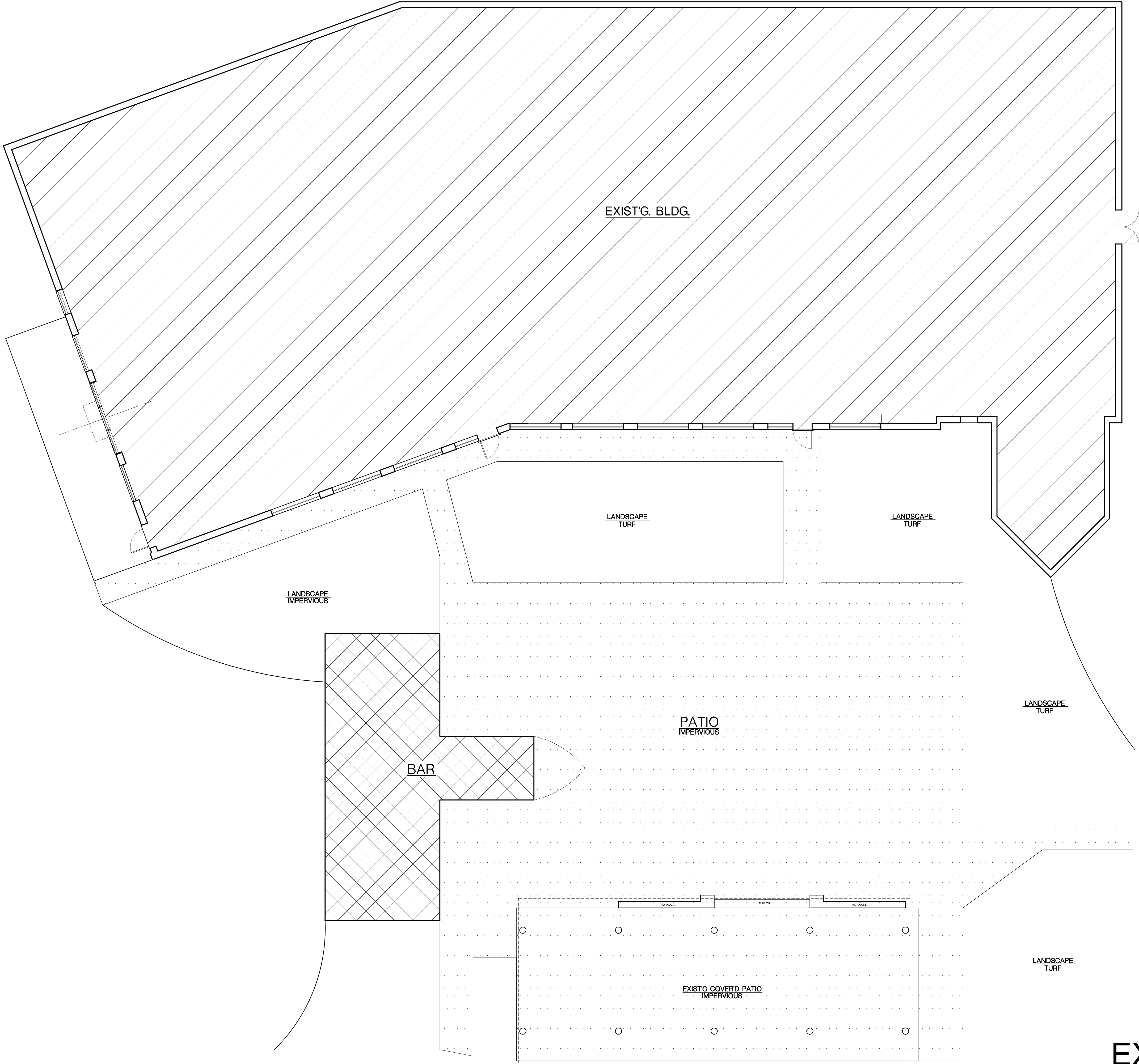
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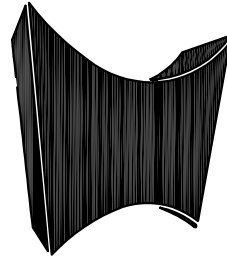
A-1
OF 3



SITE PLAN
EXISTING

1/4" : 1'-0"

EXHIBIT F



habitat
architecture, inc.
Hamid M. Kashani - AIA
4951 W. 77th St. #17
Edina, MN 55435
Tel: 952 / 946-9700

Registrations:

Consultants:

PATIO COVER STRUCTURE
CHART HOUSE EVENT CTR.
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LAKEVEILLE, MN

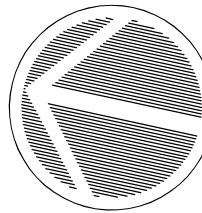
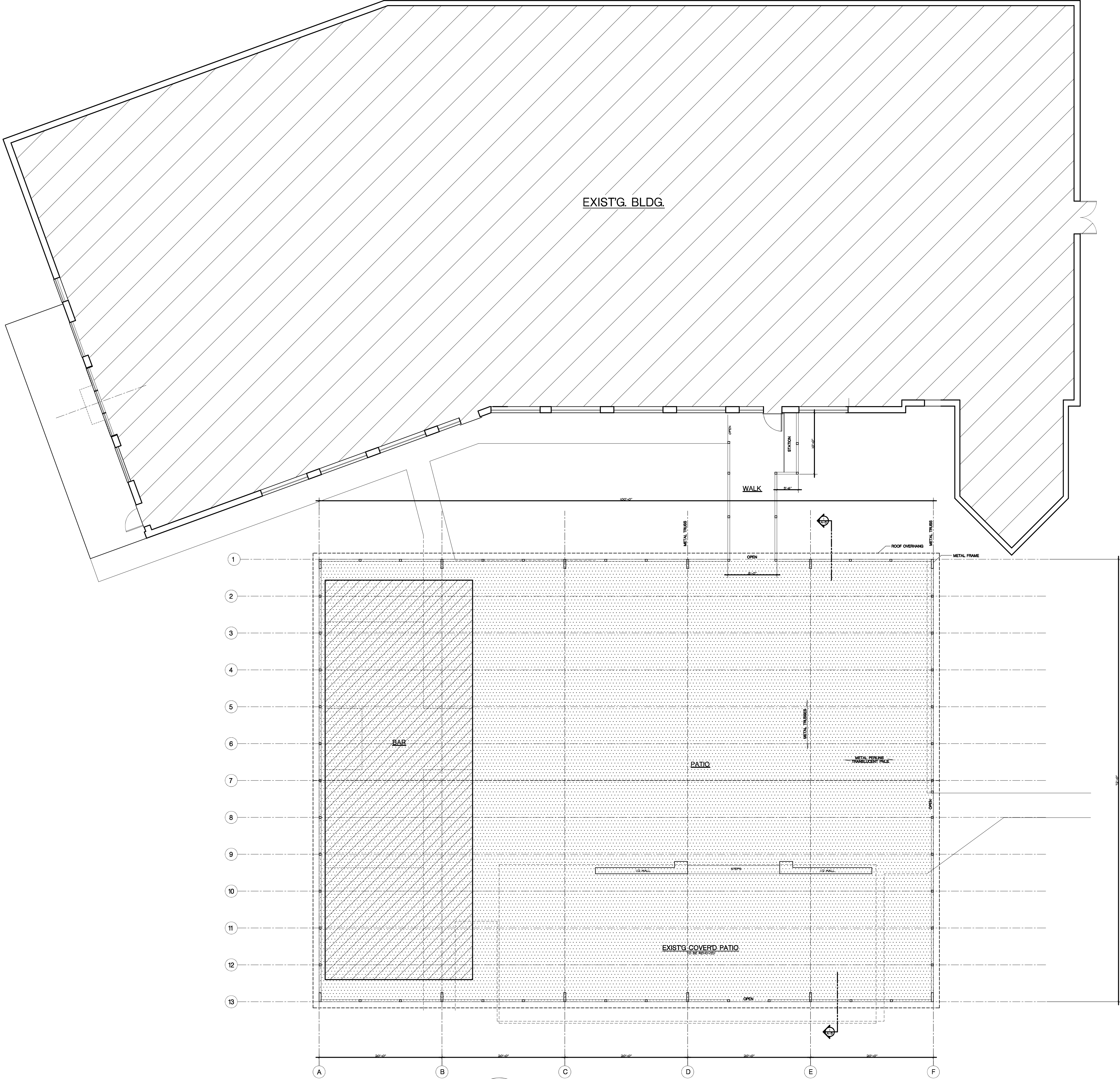
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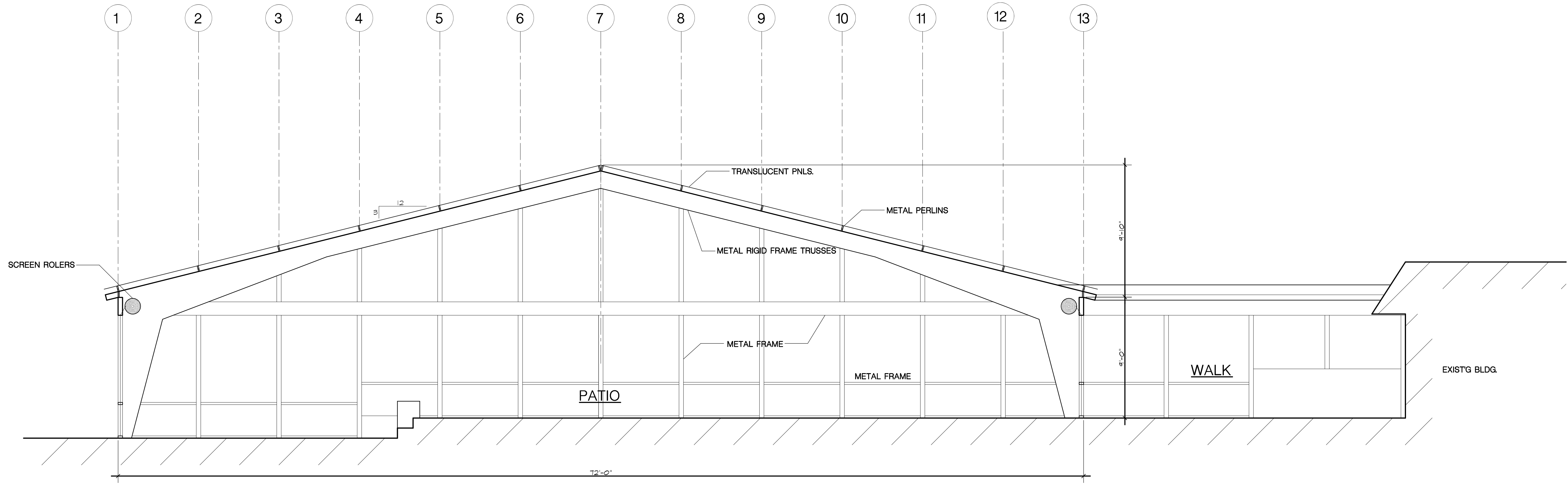
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A-2
OF 3



SITE PLAN
PROPOSED

1/4" : 1'-0"
AREA : 7,200 S.F.



1

SECTION
PROPOSED

1/4" : 1'-0"

