



STAFF REPORT

DATE: 11/5/19

REGULAR

MOTION

TO: City Council
FROM: Ben Prchal, City Planner
AGENDA ITEM: Approve Construction Agreement – 520 Lake Elmo Ave.
REVIEWED BY: Ken Roberts, Planning Director

BACKGROUND:

The property owners of 520 Lake Elmo Ave. have submitted a building permit for a new home on their property. There is currently an existing principle structure on the property and the residents would like to live in the existing home while the new home is being built. The City Council will need to approve an agreement between the home property owners and the City in order to allow the construction of the second house. The agreement would allow them to live in the existing home during construction but requires the owners to remove the old structure after completion of the new home.

ISSUE BEFORE THE CITY COUNCIL:

Does the City Council wish to approve the Agreement?

REVIEW/ANALYSIS:

<i>PID</i>	35.029.21.14.0001
<i>Existing Land Use/Zoning:</i>	Single-family detached residential home guided for Rural Transitional (Single Family).
<i>Surrounding Land Use/Zoning:</i>	Surrounded by single family homes guided for Rural Transitional.
<i>Applicable Regulations:</i>	<ul style="list-style-type: none">• Article V - Zoning Administration and Enforcement• Article XI – Rural Districts

PROPOSAL

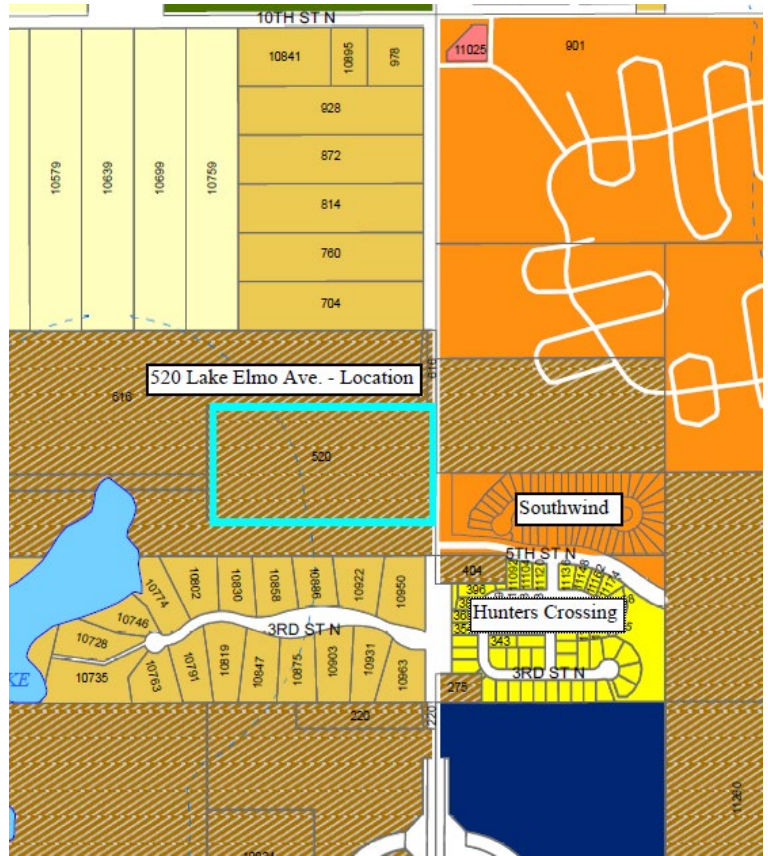
The property at 520 Lake Elmo Ave. currently has an existing principal structure. The owners would like to build a new home on the property while also living in the existing home during the construction of the new home. This is a fairly reasonable request. However, there is a possibility that the owners would not remove the existing structure after completion of the new one. With this being a possibility Staff asked the City’s legal representative to draft an agreement to enforce the action to remove the existing home. The agreement states that the owners must provide the City with a letter of credit in the amount of \$20,000 which could then be used to remove the existing home, if needed. Generally speaking this agreement serves as a tool to enforce an action if needed. Staff would like the Council to know there has been an instance(s) in the City where this situation was repeated but the home owner then refused to remove the structure. Though this is a possibility the agreement allows Staff to appropriately enforce removal. Although there is a risk that the structure will not be removed as outlined in the agreement the agreement, is a fair method used to help property owners achieve their goals while protecting the City’s interests.

SUMMARY

Approval of the attached agreement serves as a mechanism to allow the property owner(s) to build the new home while also living in the existing home. It also serves as an understanding between the owners and the City that the code will only be temporarily “broken” to help a resident achieve a greater use of their property. Staff will then appropriately facilitate all that is required for the construction of the new home through the building permitting process.

Zoning Code:

The Zoning Code for the RT (Rural Transitional) District does not allow for a secondary dwelling unit (Shown in Section 154.401 table 9-1) and the minimum density for that district is 1 unit per 20 acres. With only one principle structure being allowed the older home will need to be removed so that the property will not stay non-compliant.



RECOMMENDED CONDITIONS

- The property owners must sign the attached agreement and fulfill all stipulations outlined in the agreement prior to release of a building permit.

FISCAL IMPACT

There is not a known fiscal impact to the City. The Agreement lists out an amount of money that is sufficient enough to cover the costs of removal for the existing structure.

OPTIONS:

The Council May:

- Approve the Agreement
- Deny the Agreement.

RECOMMENDATION

If removed from the consent agenda Staff recommends the following motion.

“Motion to approve Second Home Agreement between the City of Lake Elmo and the property Owners of 520 Lake Elmo Ave.”

ATTACHMENTS:

- 1) Site Plan
- 2) Second Home Agreement
- 3) Approving Resolution

ROOF:
 ANGLED TRAPEZOIDAL GRADE FIBERGLASS SHINGLES w/ CONTINUOUS RIDGE VENT
 1/2" FELT w/ ICE DAM PROTECTION + RAVERS PER CODE
 METAL SHINGLE CHIMNEY EDGE
 1" DSD ROOF BILD.
 1/2" DSD FASCIA
 VENTED SOOD BOFFIT

EXTERIOR WALLS (UPPER, TYP.)
 STUCCO ON METAL LATH + SCRATCH COAT
 ON 2 LAYERS 1/2" FELT TRANSPIRENT
 ON 1" DSD PLYWOOD
 2x6 STUDS @ 16" O.C.
 R-13 INSULATION
 VAPOR BARRIER
 1/4" GYP. BDC.

EXTERIOR WALLS (LOWER, TYP.)
 CLEANSID STONE (17MM MINIMUM)
 ON METAL LATH + SCRATCH COAT
 ON 2 LAYERS 1/2" FELT TRANSPIRENT
 ON 1" DSD PLYWOOD
 2x6 STUDS @ 16" O.C.
 R-13 INSULATION
 VAPOR BARRIER
 1/4" GYP. BDC.



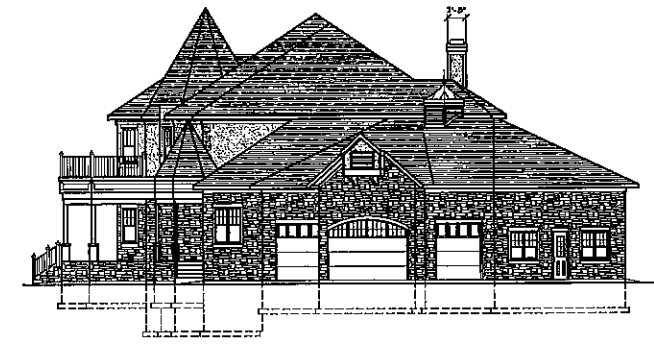
FRONT ELEVATION



LEFT ELEVATION



REAR ELEVATION



RIGHT ELEVATION

1-1 EXTERIOR ELEVATIONS
 SCALE: 1/4" = 1'-0" FRONT 1/8" = 1'-0" LEFT, REAR, RIGHT

EXTERIOR ELEVATIONS

DATE	REVISION	DATE
07-05-18		
DRAWN BY		
MAT McDONALD		

A-1

ABUKHUDEER RESIDENCE

620 LAKE ELMO AVENUE NORTH
 LAKE ELMO, MN 55042

BVK ARCHITECTS
 518 TROUT BROOK DRIVE
 ROBERTS, WISCONSIN 54023
 (608) 738-0021 - dorum@bvkarchitects.com

GENERAL CONSTRUCTION NOTES:

1) WINDOWS & DOOR THRESHOLS LISTED.
 FINISH CLAD ULTRATE DOUBLE HUNG
 (CLAD EXTERIOR - WOOD INTERIOR)
 FINISH CLAD ULTRATE DOUBLE HUNG DOOR
 VERIFY ALL WINDOWS AND DOORS BY OWNER
 CONTRACTOR TO VERIFY SET SIZE & ROOM OPENING

2) ALL WOOD IN CONTACT w/CONCRETE TO BE TREATED WOOD.

3) FLOOR FINISH MANUFACTURER TO VERIFY ALL FLOOR LOADS & SPAN LENGTHS
 AND VERIFY BEARING LOCATIONS.

4) IN FLOOR RADIANT HEATING TO BE SPECIFIED BY OWNER/CONTRACTOR

5) INTERIOR DOORS TO BE STANDARD 4'-8" HIGH x LOWER LEVEL.

F.O.S. = FACE OF STUD

2x6 FRG = 2x6 DRIPPING WALL, 1" OC, # INTERIOR

2x6 P = 2x6 FLUSHING WALL

1) LOWER LEVEL 2x6 BALK ON WALLS:
 2x6 STUDS 1" OC
 ON (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

2) LOWER LEVEL CONCRETE BLOCK FOUNDATION WALLS:
 (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

3) EXTERIOR DOOR THRESH:
 REMOVE TOP (2) CURB BLOCK AT DOOR B/LM
 (3) COURSE 8" CONCRETE BLOCK
 ON 30"x6" CONCRETE FOOTING W/ (2) 1/2" ANCHOR BOLTS
 (SEE SECTION)

4) EXTERIOR CONCRETE STOPS LEADS:
 (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

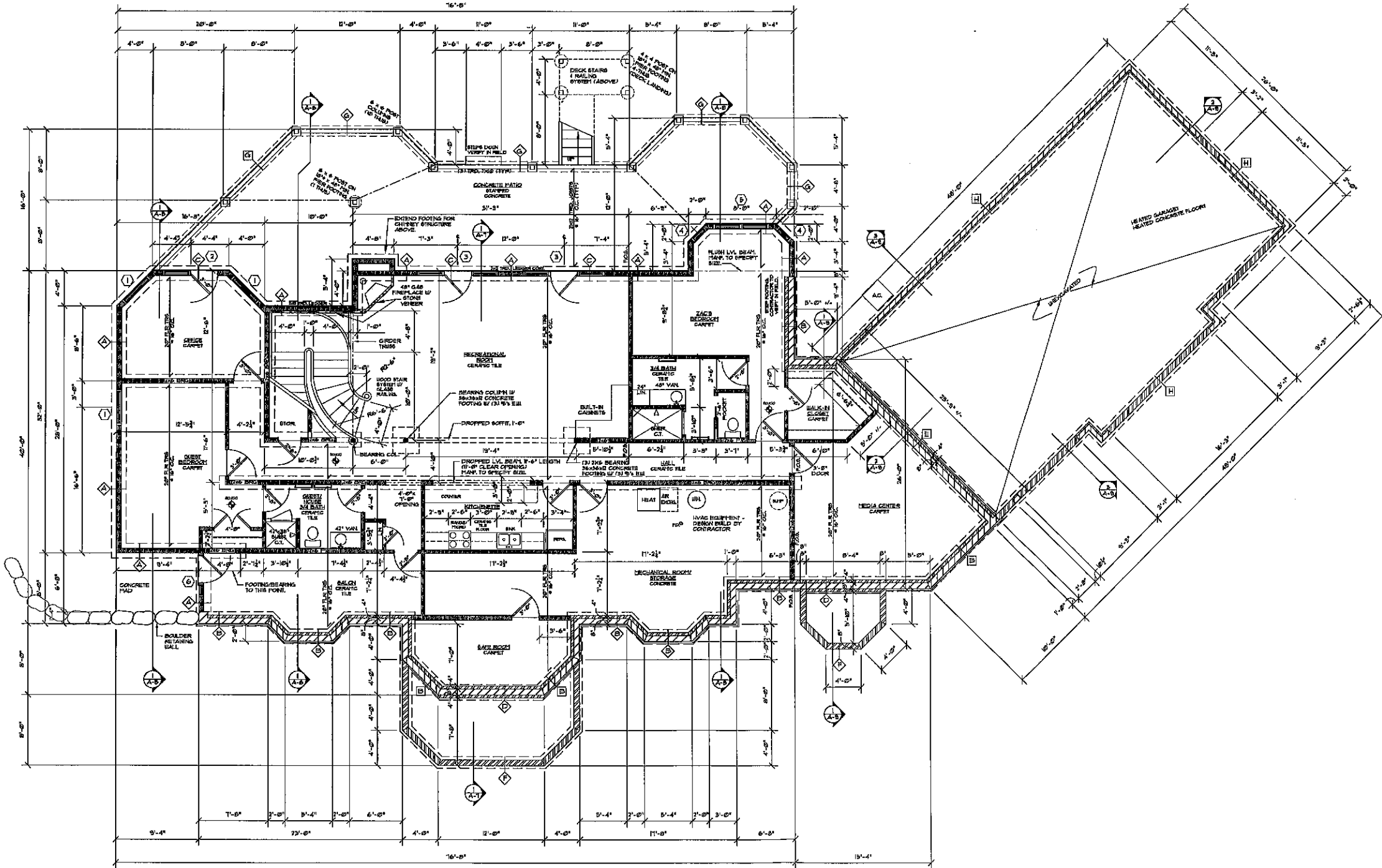
5) EXTERIOR CONCRETE PATIO LEADS:
 (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

6) EXTERIOR CONCRETE STOPS LEADS:
 (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

7) EXTERIOR CONCRETE PATIO LEADS:
 (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

8) GARAGE WALLS:
 2x6 STUDS 1" OC
 ON (1) TRD. 2x6 SOLE PLATE,
 W/ 6x6 BEAM, 4 SET 1/2" ANCHOR BOLTS @ 4'-0" OC.
 ON (2) COURSE 8" CONCRETE BLOCK
 ON (3) COURSE 8" CONCRETE BLOCK
 ON (4) COURSE 8" CONCRETE BLOCK
 ON (5) COURSE 8" CONCRETE BLOCK

- UNIQUE LOGGERS**
- 1) CUDH-40748
 R.G. 3-1/2" x 3-0"
 - 2) 2x6x8 (2) UNITS, X 0'
 R.G. 6-6" x 6-10"
 - 3) 2x6x8 (3) UNITS, X 0'
 R.G. 6-6" x 6-10"
 - 4) CUDH-40748
 R.G. 3-1/2" x 3-0"
 - 5) CUDH-3224E (2) UNITS, 11x11
 R.G. 6-6" x 3-0"
 - 6) 4x8x10 (X 0')
 R.G. 4-0" x 6-10"



ABUKHUDEER RESIDENCE

E20 LAKE ELMO AVENUE NORTH
 LAKE ELMO, MN 55042

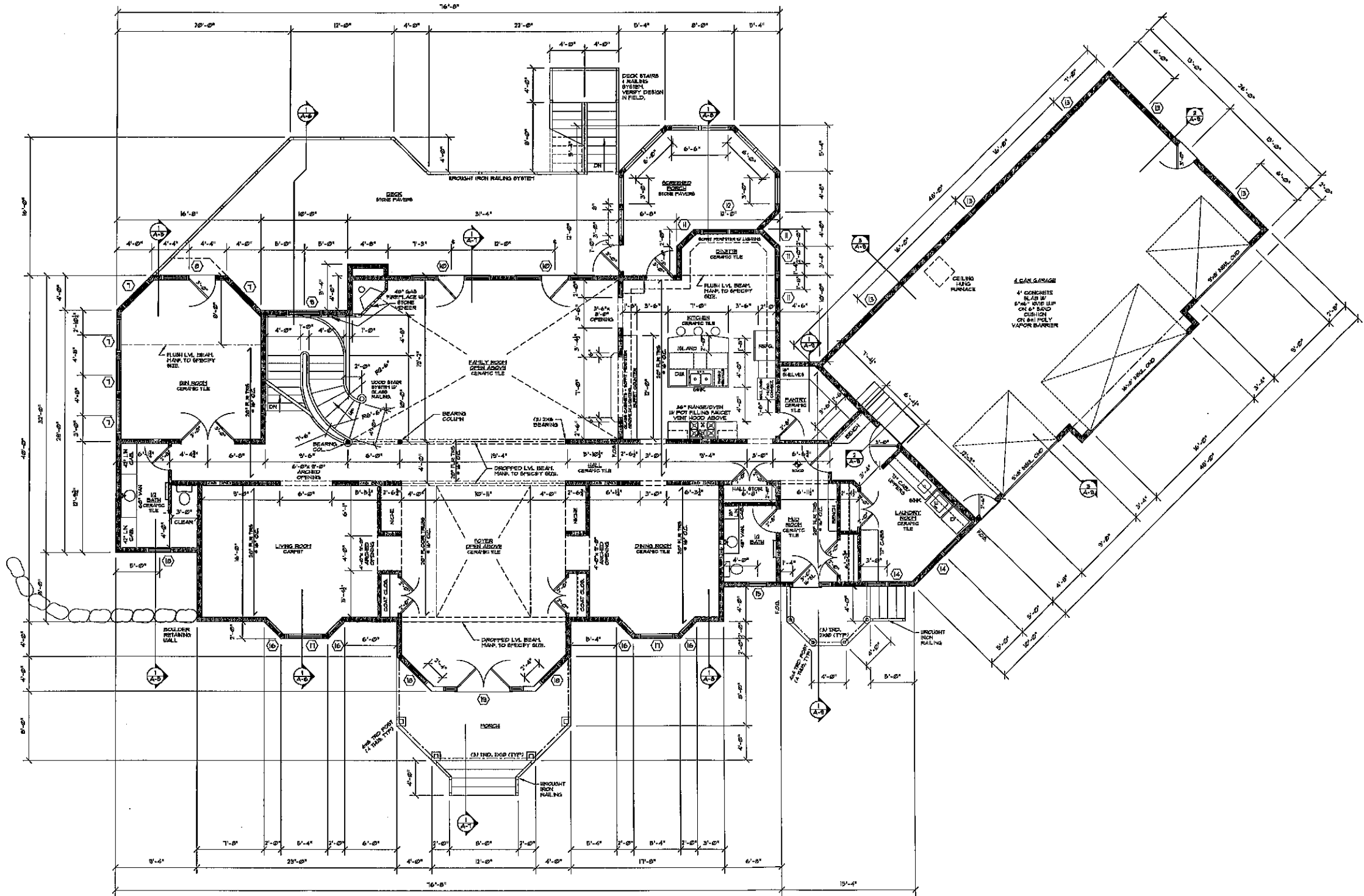
FOOTING & FOUNDATION PLAN

SHEET	DATE	REVISION	DATE
A-2	07-05-19		
	DRAWN BY		
	MAT McDONALD		

BVK ARCHITECTS
 516 TRUIT BROOK DRIVE
 ROBERTS, WISCONSIN 54023
 (608) 798-0221 - dburum@bvkarch.com

GENERAL CONSTRUCTION NOTES:
 1) WINDOW & DOOR NUMBERS LISTED.
 HARVIN CLAD ULTIMATE DOUBLE HANG
 FIELD INTERIOR - WOOD INTERIOR
 HARVIN CLAD ULTIMATE BURNERS FINISH DOOR
 VERIFY ALL WINDOW AND DOORS BY OTHERS
 CONTRACTORS TO VERIFY UNIT SIZES & ROUGH OPENINGS.
 2) FLOOR TRUSS MANUFACTURER TO VERIFY ALL FLOOR LOADS & SPAN LENGTHS,
 AND VERIFY BEARING LOCATIONS.
 3) INTERIOR DOORS TO BE 8'-0" HIGH + MAIN LEVEL.
 F.O.S. = FACE OF SLID
 2x6 BRG = 2x6 BEARING WALL, M' OC = INTERIOR
 2x8 F = 2x8 FINISH WALL

- WINDOWS & DOORS**
- 1) CUSH-4090E
RD. 3-2 1/2 x 3-8
 - 2) 3000 (2 UNITS, M.C.)
RD. 3-8 x 3-8
 - 3) CUSH-4090E
RD. 3-10 1/2 x 3-8
 - 4) 3000 (2 UNITS, M.C.)
RD. 3-8 1/2 x 3-8
 - 5) CUSH-3000
RD. 3-2 1/2 x 3-8
 - 6) CUSH-3036E (2 UNITS, M.C.)
RD. 3-2 1/2 x 3-8
 - 7) CUSH-3036E (2 UNITS, M.C.)
RD. 3-10 1/2 x 4-0
 - 8) CUSH-3036E (2 UNITS, M.C.)
RD. 3-10 1/2 x 4-0
 - 9) CUSH-3036E
RD. 3-6 1/2 x 3-8
 - 10) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 11) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 12) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 13) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 14) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 15) CUSH-3036E
RD. 3-6 1/2 x 3-8
 - 16) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 17) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 18) CUSH-3036E
RD. 3-6 1/2 x 3-8
 - 19) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8
 - 20) CUSH-3036E (2 UNITS, M.C.)
RD. 3-6 1/2 x 3-8



1 MAIN LEVEL FLOOR PLAN 3520 SQFT.
 SCALE: 1/8" = 1'-0"

GARAGE 1286 SQFT.



MAIN LEVEL FLOOR PLAN
 SHEET

DATE	REVISION	DATE
07-05-19		

DRAWN BY
 MAT MCDONALD

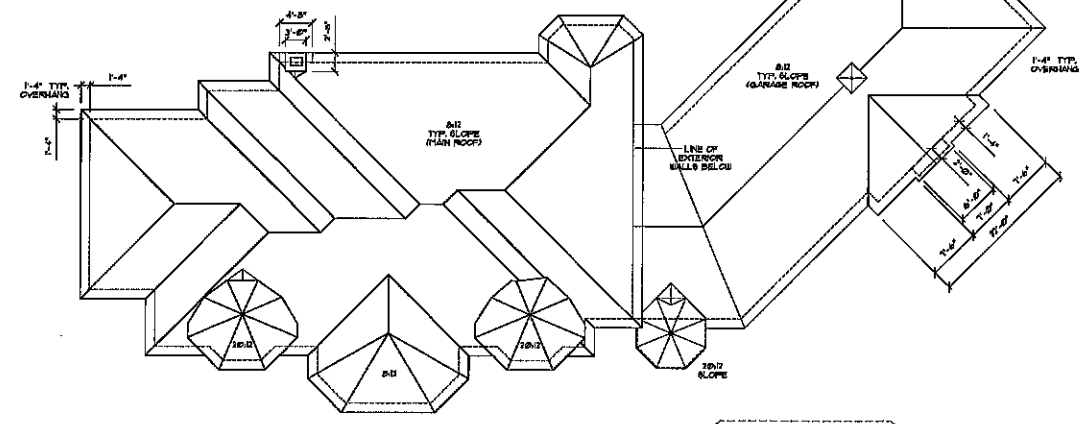
A-3

ABUKHUDEER RESIDENCE

520 LAKE ELMO AVENUE NORTH
 LAKE ELMO, MN 55042

BVK ARCHITECTS
 515 TROUT BROOK DRIVE
 ROBERTS, WISCONSIN 54023
 (857) 738-0271 - cburman@bvkarchitects.com

NOTES:
 ROOF TRUSS MANUFACTURER TO PREPARE ENGINEERED ROOF TRUSS SHOP DRAWINGS INCLUDING TRUSS LAYOUT WITH ANY REQUIRED BRACING, CERTIFIED BY A STRUCTURAL ENGINEER AND LICENSED TO PRACTICE IN THE STATE OF MINNESOTA.
 ROOF PLAN FOR REFERENCE ONLY. REFER TO TRUSS MANUFACTURER'S DRAWINGS FOR EXACT LAYOUT.

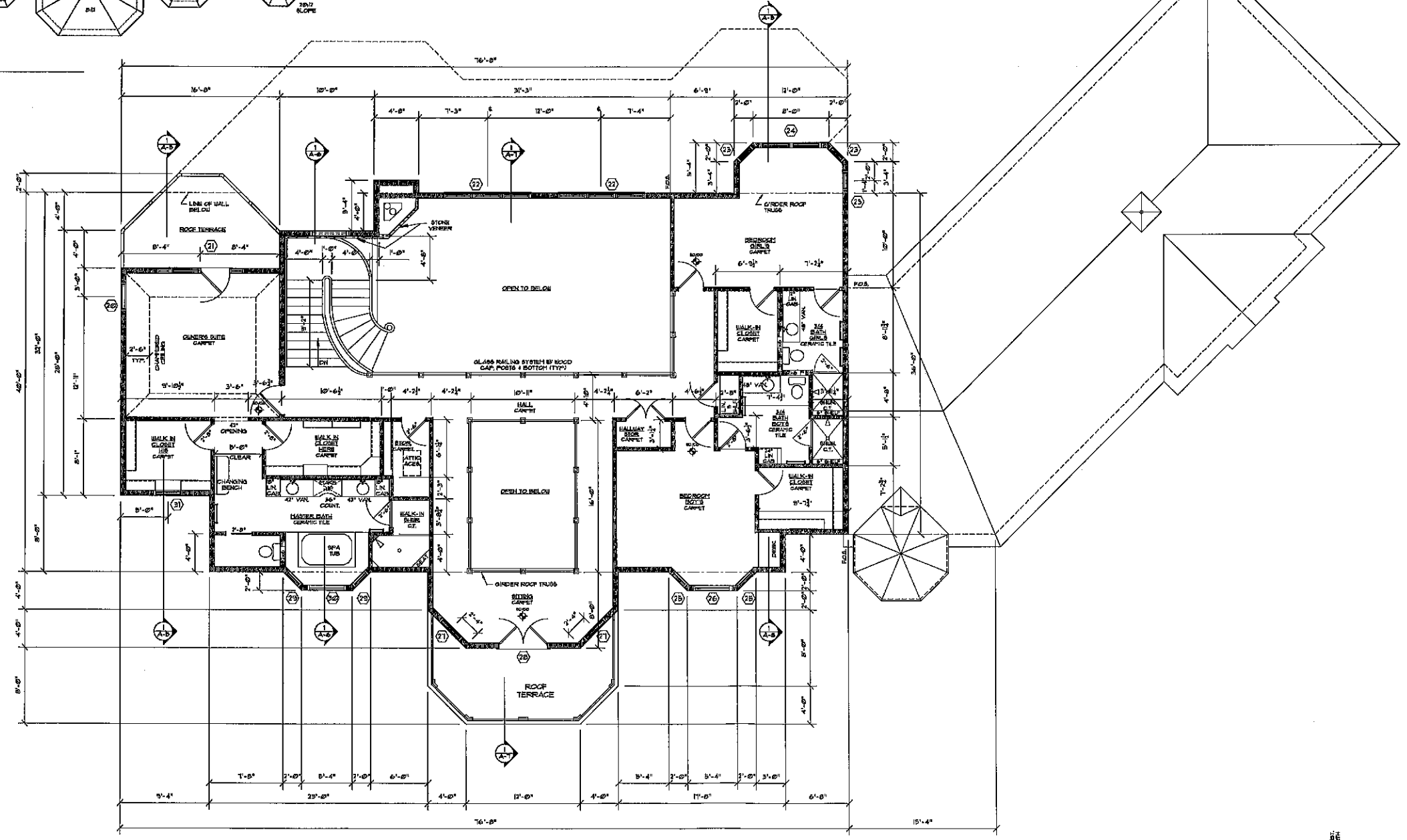


GENERAL CONSTRUCTION NOTES:
 1) WINDOW MANUFACTURER LIMITED: FINISH CLAD ULTIMATE DOUBLE HUNG (GLASS EXTENSION + ROOF INTER-CRE) VERIFY ALL WINDOWS AND DOORS BY QUANT contractor TO VERIFY UNIT SIZE + ROUGH OPENING.
 2) FLOOR TRUSS MANUFACTURER TO VERIFY ALL FLOOR LOADS + SPAN LENGTHS AND VERIFY BEARING LOCATIONS.
 3) INTERIOR DOORS TO BE STANDARD 6'-8\"/>

- WINDOWS / DOORS
- 20 CUSH-3316S NO. 3-3 1/2 x 3-0
 - 21 5568 NO. 5-0 1/2 x 6-10
 - 22 8068 (3 UNITS, X X X) NO. 5-0 1/2 x 6-10
 - 23 CUSH-10216 NO. 2-1 1/2 x 3-0
 - 24 CUSH-3316S (2 UNITS, H.L.) NO. 4-3 1/2 x 3-0
 - 25 CUSH-10216 NO. 2-1 1/2 x 3-0
 - 26 CUSH-40202 NO. 3-0 1/2 x 6-0
 - 27 CUSH-3076 NO. 3-0 1/2 x 3-0
 - 28 6068 NO. 6-1 1/2 x 6-10
 - 29 CUSH-3072 NO. 3-1 1/2 x 4-4
 - 30 CUSH-4021 NO. 3-10 1/2 x 4-4
 - 31 CUSH-3073 NO. 3-0 1/2 x 4-4

F.O.A. = FACE OF STUD
 2x6 BNG = 2x6 BEARING WALLS, 16\"/>

2 ROOF PLAN SCALE: 1/4\"/>



1-1 UPPER LEVEL FLOOR PLAN 2,420 SQ.FT. SCALE: 1/4\"/>

UPPER LEVEL FLOOR PLAN, ROOF PLAN

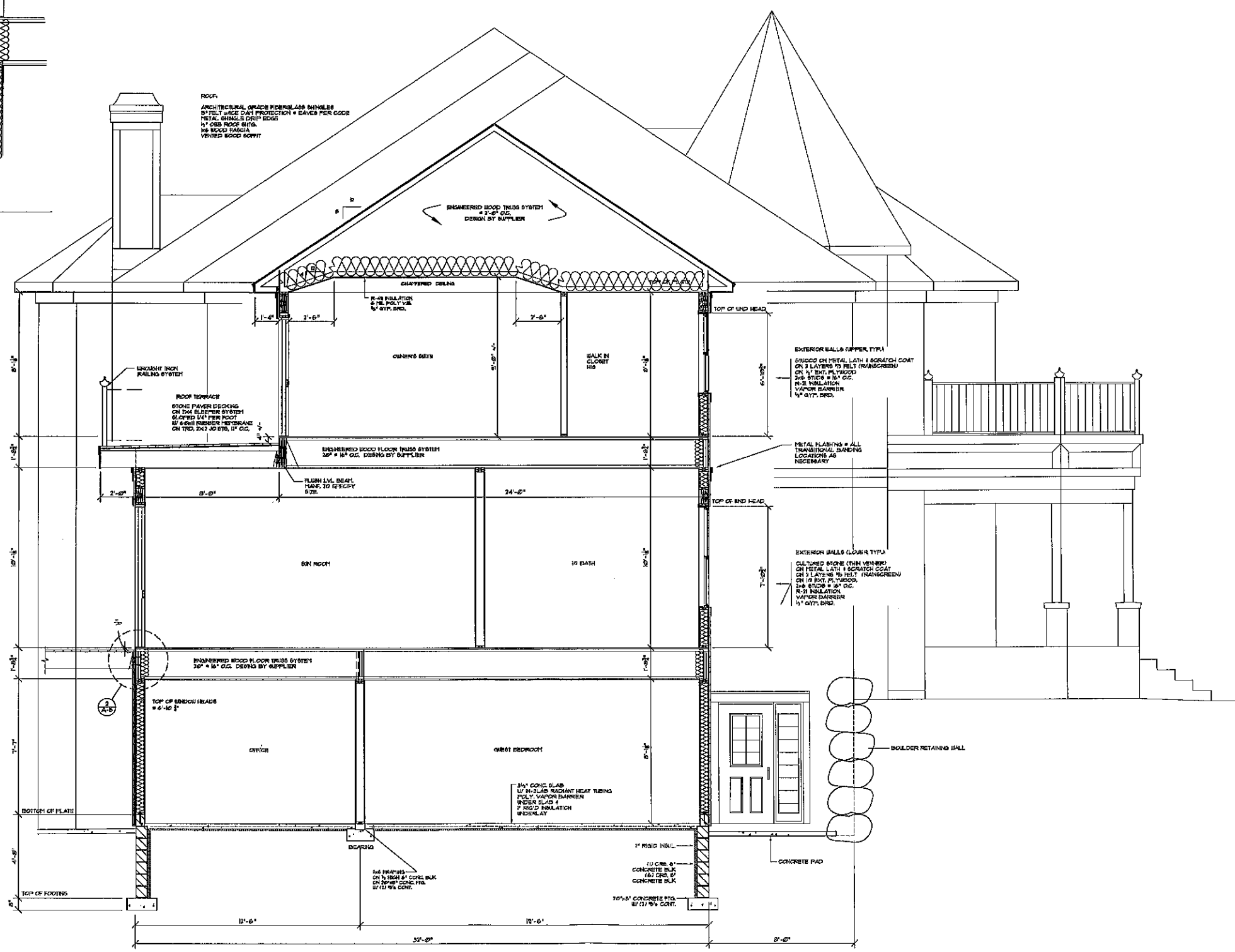
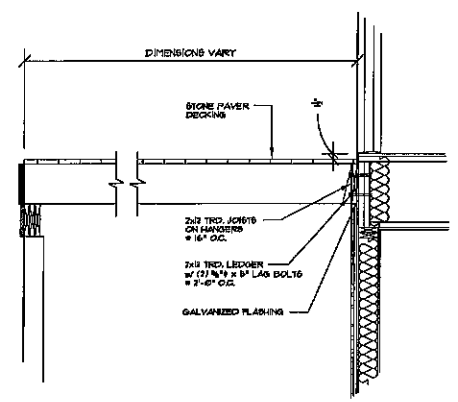
SHEET	DATE	REVISION	DATE
A-4	07-05-19		

DRAWN BY
MAT McDONALD

BVK ARCHITECTS
 1516 TROUT BROOK DRIVE
 ROBERTS, WISCONSIN 54223
 (651) 728-0021 - bvkmm@bvkarchitects.com

ABUKHUDEER RESIDENCE
 520 LAKE ELMO AVENUE NORTH
 LAKE ELMO, MN 55042





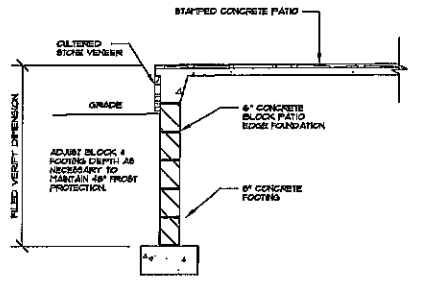
RVK ARCHITECTS
1516 TROUT BROOK DRIVE
ROBERTS, WISCONSIN 54223
(851) 798-0021 - rkum@rvkarchitects.com

ABUKHUDEER RESIDENCE

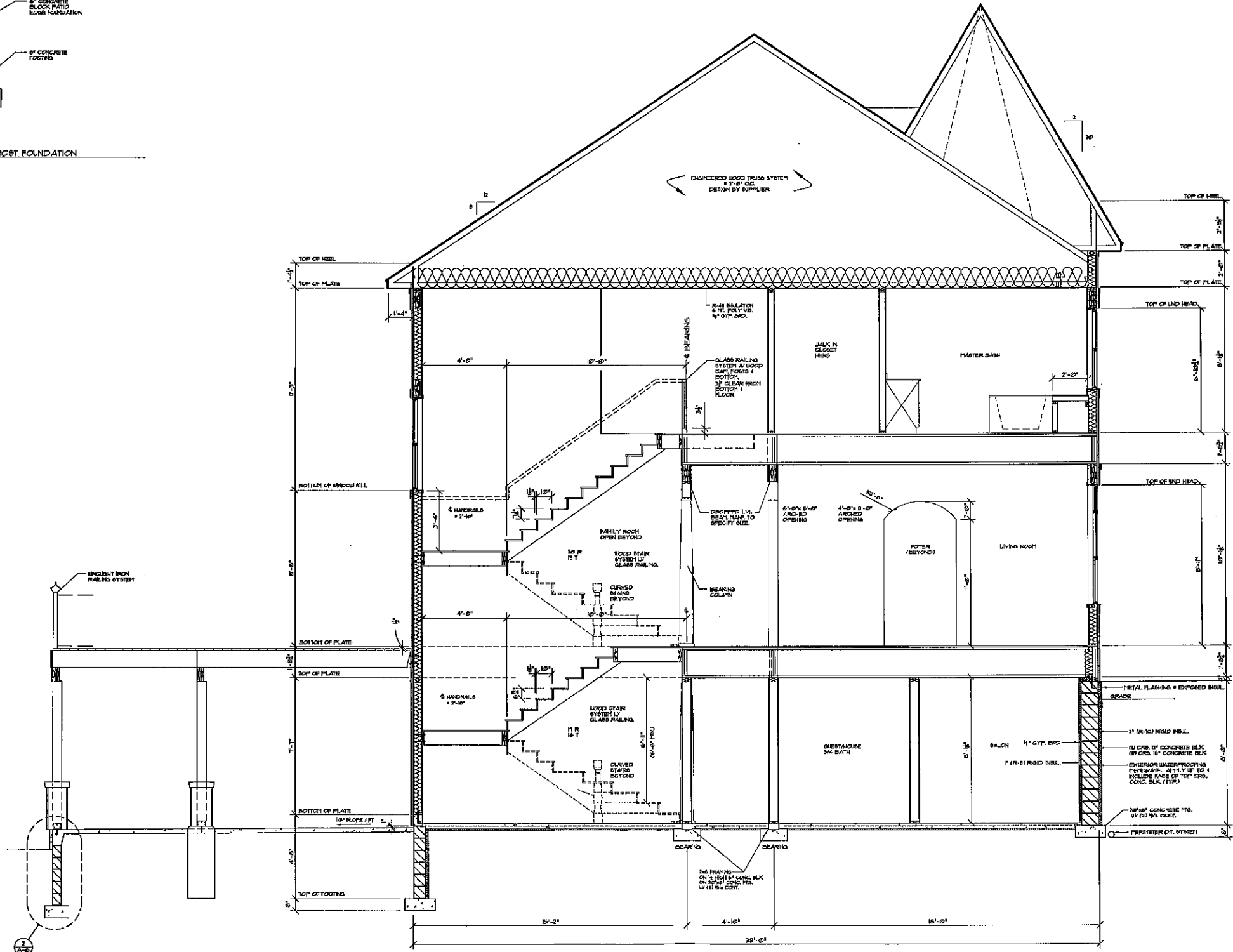
820 LAKE ELMO AVENUE NORTH
LAKE ELMO, MN 55042

SHEET	DATE	REVISION	DATE
A-5	07-06-19		

DRAWN BY
MAT McDONALD



2 CONCRETE PATIO EDGE FROST FOUNDATION
SCALE: 3/4" = 1'-0"



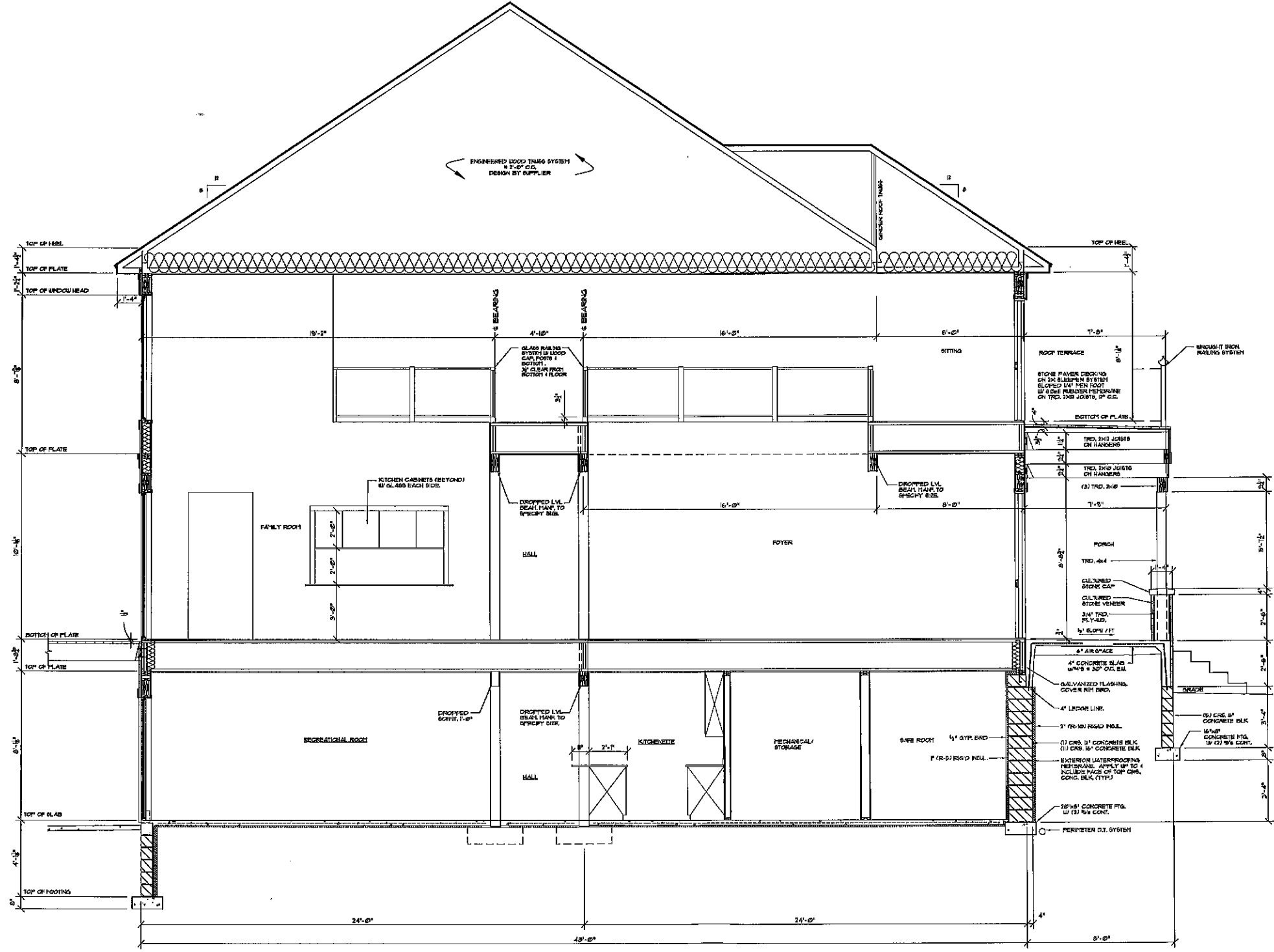
1 HOUSE SECTION
SCALE: 1/4" = 1'-0"

BVK
ARCHITECTS
516 TROUT BROOK DRIVE
ROBERTS, WISCONSIN 54023
(608) 798-0021 • dburmm@bvkarchitects.com

ABUKHUDEER RESIDENCE

520 LAKE ELMO AVENUE NORTH
LAKE ELMO, WI 53042

HOUSE SECTIONS		DATE	REVISION	DATE
SHEET	A-6	07-05-19		
DRAWN BY	MAY McDONALD			

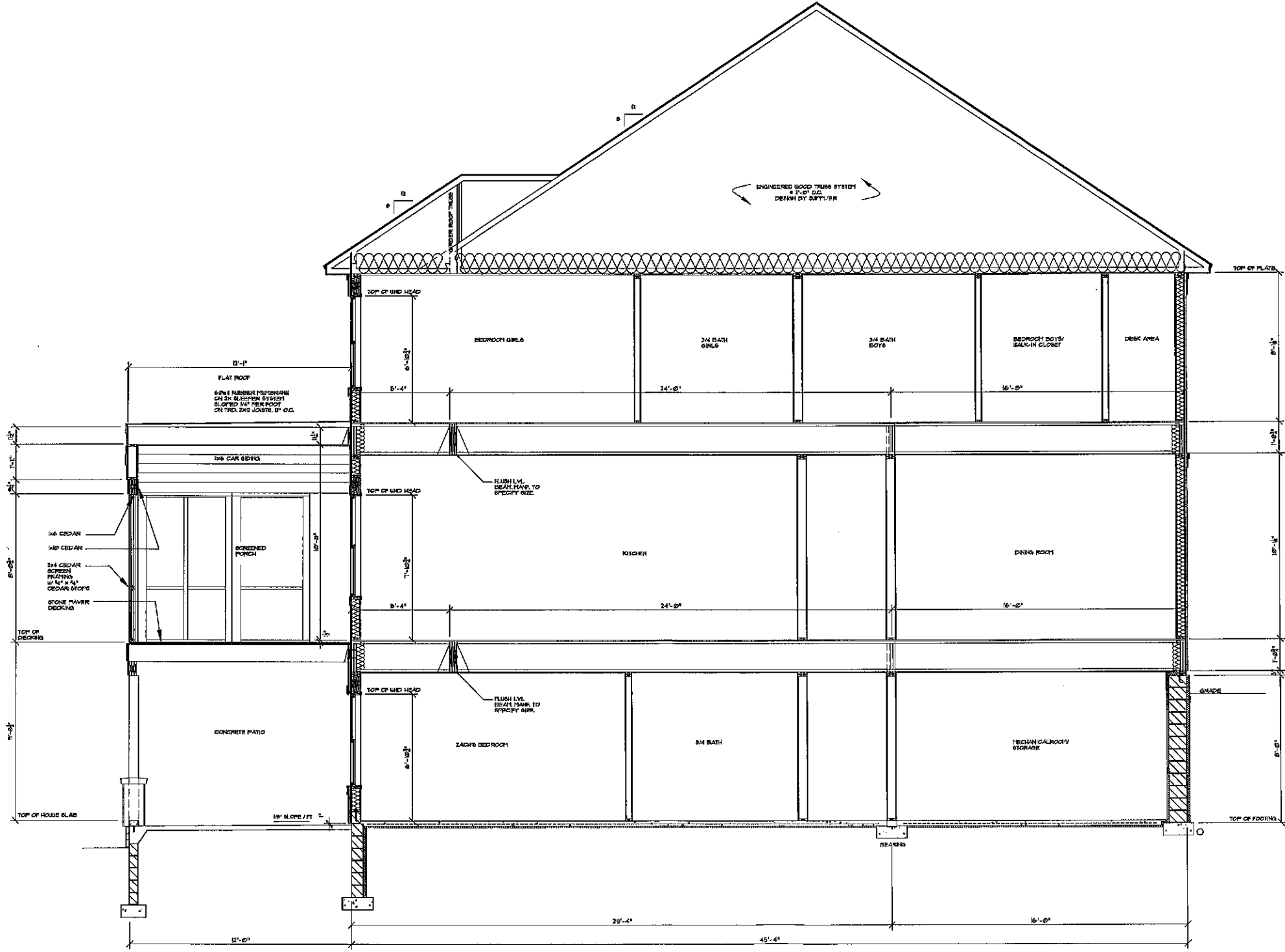


HOUSE SECTIONS

SHEET	DATE	REVISION	DATE
A-7	07-06-19		
	DRAWN BY MAT McDONALD		

ABUKHUDEER RESIDENCE

5210 LAKE ELMO AVENUE NORTH
LAKE ELMO, MN 55042



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

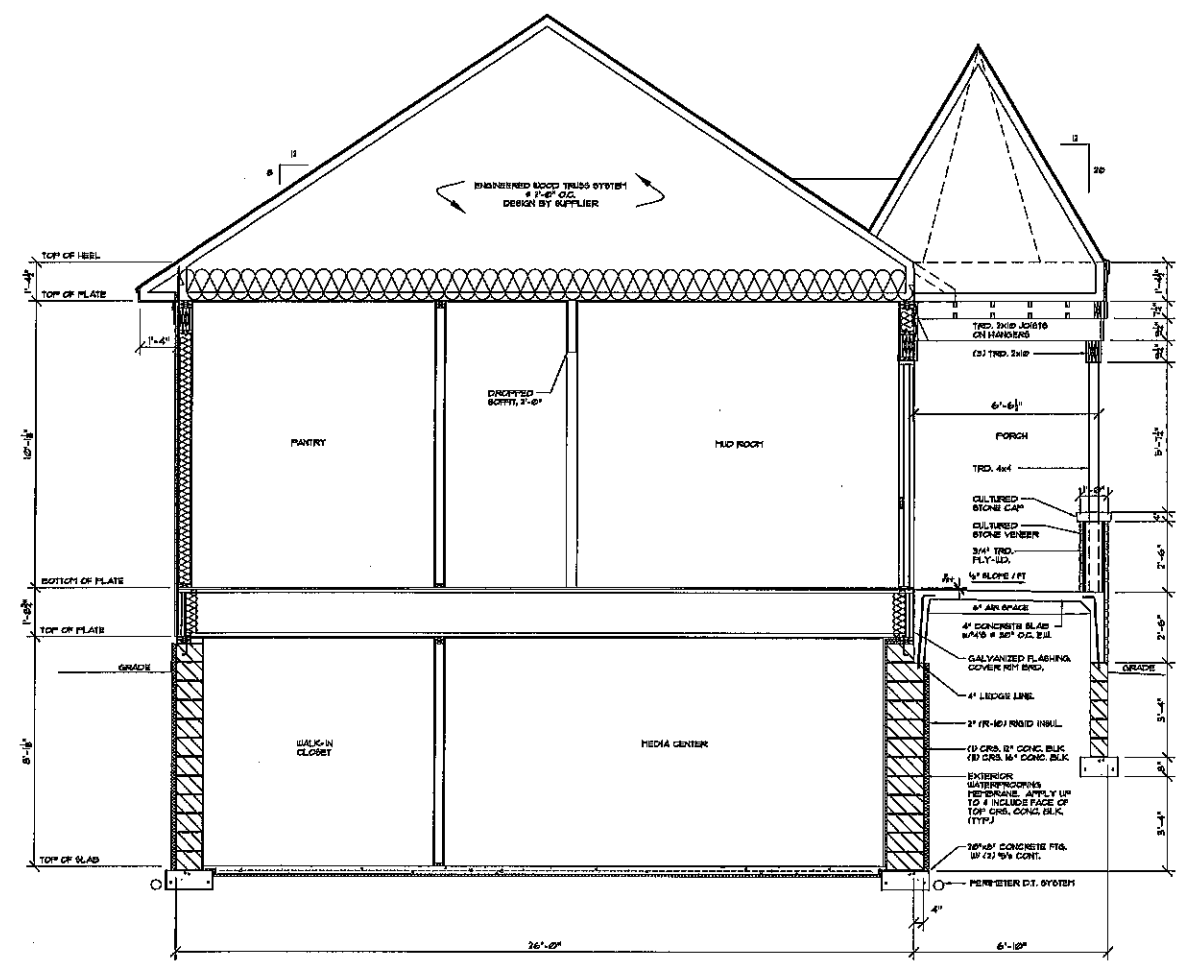
HOUSE SECTIONS

SHEET	DATE	REVISION	DATE
A-8	07-05-19		
	DRAWN BY		
	MAT McDONALD		

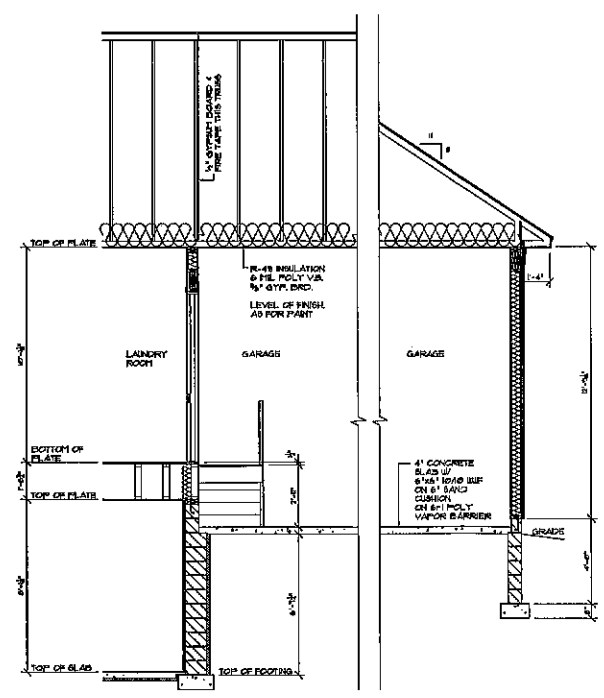
ABUKHUDEER RESIDENCE

6210 LAKE ELMO AVENUE NORTH
LAKE ELMO, MN 55042

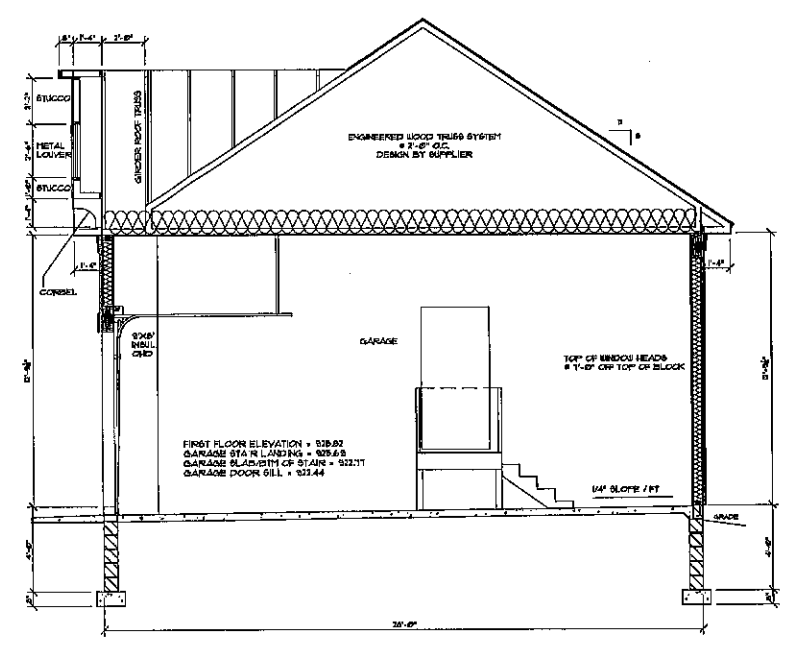
RVK
ARCHITECTS
516 TROUT BROOK DRIVE
ROBERTS, WISCONSIN 54023
(608) 798-0271 - drmm@rvkarchitects.com



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



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



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

BVK
ARCHITECTS
516 TROUT BROOK DRIVE
ROBERTS, WISCONSIN 54023
(851) 729-0021 - dmu@bvk.com

ABUKHUDEER RESIDENCE

520 LAKE ELMO AVENUE NORTH
LAKE ELMO, MN 55042

SHEET	DATE	REVISION	DATE
A-9	07-05-19		
	DRAWN BY MAT McDONALD		

CERTIFICATE OF SURVEY

Legal Description:

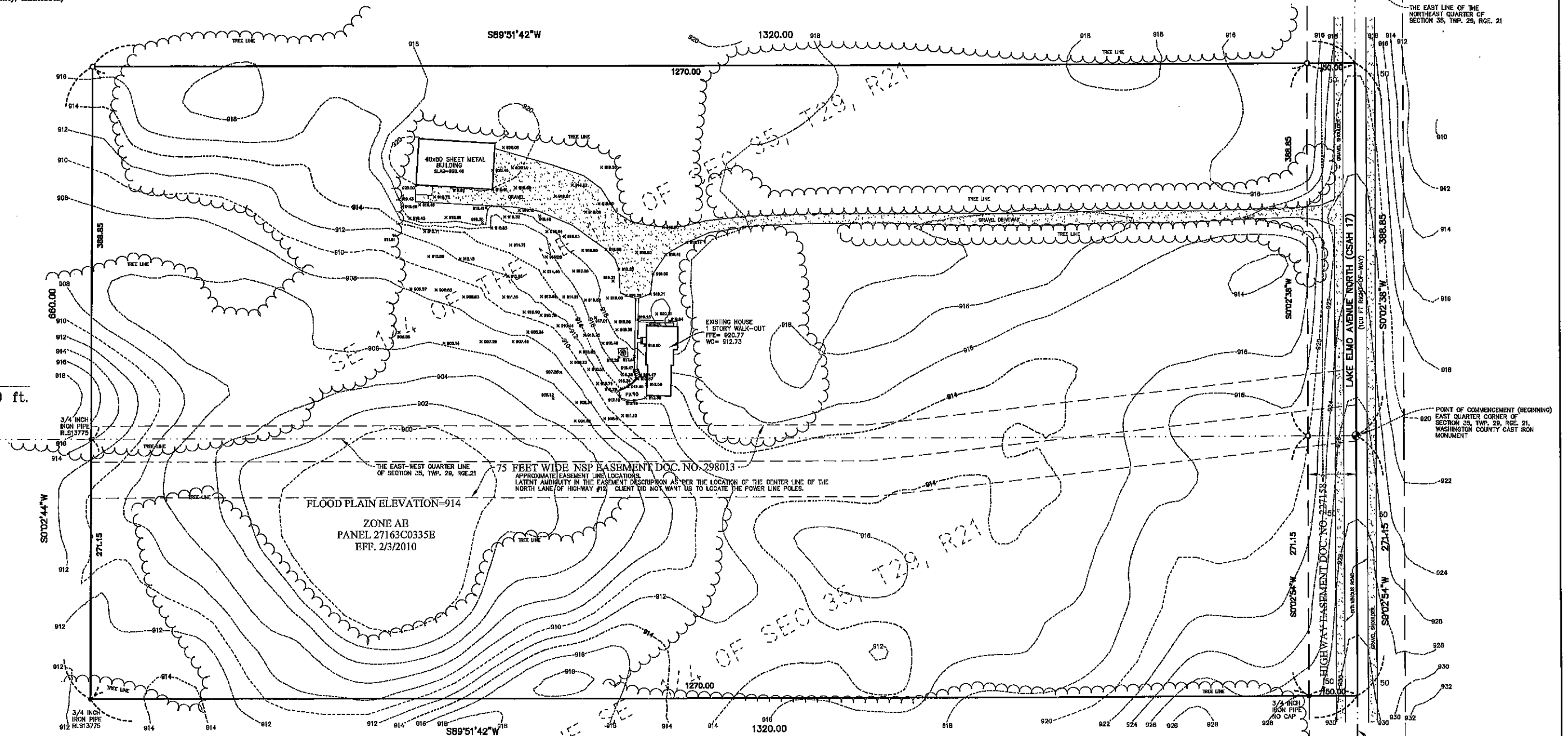
Part of the East Half of Section 35, Township 29, Range 21, legally described as follows:

Commencing at the East Quarter Corner; thence North 388.85 feet; thence West 1320 feet; thence South 660 feet; thence East 1320 feet to the Section line; thence North 271.15 feet to the point of beginning. (Washington County, Minnesota)



SCALE

1 inch = 50 ft.



NE 1/4 OF THE SE 1/4 OF SEC 35, T29, R21

NOTE:
 AS PER STATE HIGHWAY RIGHT OF WAY PLAT NO. 6 OF 12 STATE PROJECT 8282 (94-392)902, WASHINGTON COUNTY, MINNESOTA, IN SECTION 35, T.29N., R.21W.

STATE OF MINNESOTA IN DISTRICT COURT
 COUNTY OF WASHINGTON TENTH JUDICIAL DISTRICT

STATE OF MINNESOTA, BY WARREN SPANNAUS,
 ITS ATTORNEY GENERAL, PETITIONER

VS

ROBERT DOUGLAS BRADLEY, ET AL. CLERK'S NOS. 42666-42867
 WALTER L. BONNIWELL, ET AL.,
 RESPONDENTS.

IN THE MATTER OF THE CONDEMNATION OF CERTAIN LANDS FOR TRUCK HIGHWAY PURPOSES
 DISMISSAL OF PROCEEDINGS AS TO PARCEL 35 (WHICH IS THE PROPERTY BEING SURVEYED BY LAKE & LAND SURVEYING, INC.).

**520 LAKE ELMO AVENUE NORTH
 LAKE ELMO, MN 55042**

- NOTES:**
- Denotes 12 inch Common Spike set with washer stamped RLS 18464 or as noted.
 - ◆ Denotes County Monument found type as noted.
 - Denotes Iron Monument found size, type, & R.L.S. as noted.
 - ⊕ Denotes Well
 - ⊕ Denotes Existing Spot Elevation
 - - - - - Denotes Existing Contour
- AREA: 871,196 SQ. FT. OR 20.0 ACRES
 BASIS OF BEARINGS: WASHINGTON COUNTY COORDINATES NAD 83 (1996)
 LAKE & LAND SURVEYING, JOB NO. 2018.021

NOTE: CONTOURS FROM WASHINGTON COUNTY AERIAL AND SPOT ELEVATIONS AS SHOWN

Client: MR. YAHYA Y. ABUKHODEER 1149 97TH LAKE HW COON RAPIDS, MN 55433 612-996-7315	Design by: JF	Original date: 5-22-18	I hereby certify that this map, specification or report was prepared by me or under my direct supervision, and that I am a duly Licensed Professional Surveyor in the State of Minnesota. License No. 5-22-18 Minnesota Reg. No. 18464
Drawn by: JF	Revisions:	Page 1116	
LAKELAND SURVEYING, INC. SURVEYING/CIVIL ENGINEERING 1200 CENTER POINT, SUITE 275 ST. PAUL, MN 55120 PHONE (651) 726-4261 E-MAIL: KOMPANIC@LAKELAND.COM	Survey book No.:	SAP number: 2018.021	Sheet number of

SECOND HOME AGREEMENT

THIS SECOND HOME AGREEMENT (“Agreement”) is made this ____ day of September, 2019, by and between Yahya Abukhudeer, Samira Abukhudeer, and Maan Abukhudeer (the “Owners”), and the City of Lake Elmo (the “City”), a Minnesota municipal corporation.

I. RECITALS

WHEREAS, the Owners are the owners of certain real property located at 520 Lake Elmo Avenue North in Lake Elmo, Washington County, Minnesota, legally described on the attached Exhibit A (the “Property”); and

WHEREAS, a house (the “Structure”) currently exists on the Property, which is outlined in red on the attached Exhibit B (the “Structure”); and

WHEREAS, the Owners wish to construct a new house on the Property in the location outlined in blue on the attached Exhibit B (the “Second House”) while occupying the Structure during construction of the Second House; and

WHEREAS, upon completion of construction of the Second House, the Owners intend to remove the Structure and its foundation from the Property and complete the associated grading and backfilling work necessary so that the area formally occupied by the Structure meets the surrounding grade (the “Improvements”); and

WHEREAS, according to Section 154.405 (A) (Accessory Uses and Structures - Phasing) of the Lake Elmo City Code, “no accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory;” and

WHEREAS, the City has agreed to allow the Owners to retain the Structure on the Property during the construction of the Second House, subject to certain conditions; and

WHEREAS, among the conditions is a requirement that the Owners execute this Agreement and provide a cash deposit or letter of credit to the City in order to ensure that the City

has the right and the financial resources to complete the Improvements in the event that the Owners fail to do so; and

II. AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree and stipulate as follows:

1. USE OF STRUCTURE. The City agrees to permit the Owners to maintain and occupy, but not expand or improve, the Structure until construction of the Second House is complete. The Owners agree to complete all of the Improvements within 60 days of the issuance of a certificate of occupancy for the Second House, or by March 31, 2021, whichever occurs first. The Owners may request an extension to this deadline; however, the City is under no obligation to grant an extension.

2. REPRESENTATIONS OF OWNERS. The Owners represent that they are the fee owners of the Property, that they have full legal power and authority to encumber the Property as provided in this Agreement, that in doing so they are not in violation of the terms or conditions of any instrument or agreement of any nature to which the Owners are bound or which relates in any manner to the Property and that there are no other liens or encumbrances against the Property except those listed in the attached Exhibit C.

3. COMPLETION OF THE IMPROVEMENTS. If the Owners fail to complete any of the Improvements within the deadline specified in Section 1 of this Agreement, the Owners grant permission to the City, its employees, contractors, and assigns to enter upon the Property for the purpose of completing the Improvements.

4. SECURITY. The Owners agree to deposit with the City a cash deposit or letter of credit in the amount of \$20,000, which represents 1.6 percent of the estimated cost of completing the Improvements. In the event that the Owners fail to complete all of the Improvements within the time specified by this Agreement, the City may complete the Improvements and draw from the deposit or letter of credit for any expenses that it incurs that are associated with this work.

5. SPECIAL ASSESSMENT WAIVER. In the event that the City must complete the Improvements and the expenses incurred by the City exceed the amount of the deposit or letter of credit, the Owners consent to the City levying a special assessment against the Property for the remaining amount in accordance with Minnesota Statutes Section 429.061. The principal amount of the special assessment shall be the actual cost incurred by the City to complete the Improvements that exceeded the letter of credit or deposit amount. The special assessment shall not exceed \$15,000. In the event that the City must complete the Improvements and its expenses exceed the letter of credit or deposit amount, the Owners waive their notice of hearing and hearing on the special assessment levied by the City to finance the Improvements, pursuant to Minnesota Statutes Section 429.061 and specifically request that the special assessment be levied against the Property by the City without a hearing. The Owners also waive their right to appeal the levy of the special assessment in accordance with this Agreement pursuant to Minnesota Statutes Section 429.081. The Owners further specifically agree with respect to this special assessment against the Property

that: 1) all requirements of Minnesota Statutes Chapter 429 with which the City does not comply with are hereby waived; and 2) the increase in fair market value of the Property resulting from the Improvements will be at least equal to the amount of the special assessment levied against the Property and that such increase in fair market value is a special benefit to the Property. The special assessment levied against the Property shall be payable over such period as the City may determine, but not less than five years, and shall bear interest at a rate determined by the City, but not more than eight percent per year. The first installment of the principal and interest shall be included in the first tax rolls completed after the adoption of the City Council resolution levying the special assessment.

6. INDEMNIFICATION. The Owners agree to defend, protect, indemnify, and hold harmless the City from any and all claims, litigation, causes of action, and any other obligation imposed upon or asserted against upon the City, or its officials, agents, contractors or employees arising out of this Agreement or the City's exercise of its rights hereunder.

7. COSTS. The Owners agree to pay to the City any costs or expenses, including without limitation, attorneys' fees, incurred by City in enforcing any provision of this Agreement.

8. WAIVER. Nothing in this Agreement shall constitute a waiver or limitation of the City's immunities or limitations on liability as set forth in Minnesota Statutes Chapter 466 or otherwise. The Owners further agree and acknowledge that, except as expressly set forth in this Agreement, nothing in this Agreement shall constitute a waiver of any right the City has to enforce any federal, state, or local law, rule, or regulation or any other right to which the City is entitled.

9. NOTICE. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) In the case of the Owners, is addressed to or delivered personally to the Owners at:

Yahya Abukhudeer
1149 97th Lane NW
Coon Rapids, MN 55433

(b) in the case of City, is addressed to or delivered personally to the City at:

City of Lake Elmo
3880 Laverne Avenue North, Suite 100
Lake Elmo, MN 55042
Attn: City Administrator

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

11. RECORDING. The covenants, waivers and agreements contained in this Agreement shall bind the Owners and their successors and assigns and shall run with the Property. It is the intent of the parties to this Agreement that this Agreement be in a form which is recordable among the property records of Washington County, Minnesota. The City shall record this Agreement with the County, and the Owners shall pay all costs associated with the recording.

12. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

13. TERMINATION. Failure by the Owners to obtain a building permit for the Second House within 120 days of the date of the City Council's approval of this Agreement shall result in automatic termination of this Agreement. Upon the Owners obtaining a building permit for the Second House, this Agreement will terminate upon the completion of the Improvements by the Owners and issuance of the Certificate of Occupancy by the City for the Second House or upon final payment by the Owners of the special assessment levied against the Property for the Improvements, whichever occurs first.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date written above.

Yahya Abukhudeer

Samira Abukhudeer

Maan Abukhudeer

STATE OF MINNESOTA)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by Yahya Abukhudeer and _____.

Notary Public

CITY OF LAKE ELMO

By: _____
Mike Pearson, Mayor

Attest: _____
Julie Johnson, City Clerk

STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by Mike Pearson and Julie Johnson, the Mayor and City Clerk, respectively, of City of Lake Elmo, a Minnesota municipal corporation, on behalf of the City.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (SJS)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9284

EXHIBIT A

Legal Description of the Property

That part of the East Half of Section 35, Township 29, Range 21, County of Washington, State of Minnesota commencing at the East Quarter Corner thence North 388.85 feet thence West 1320 feet thence South 660 feet thence East 1320 feet to the Section Line thence North 271.15 feet to the point of beginning.

EXHIBIT C

List of Existing Encumbrances

Yahya Abukhudeer

Samira Abukhudeer

Maan Abukhudeer

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO 2019-081

A RESOLUTION APPROVING A CONSTRUCTION AGREEMENT BETWEEN THE CITY AND THE PROPERTY OWNERS OF 520 LAKE ELMO AVE TO ALLOW THE RESIDENTS TO MAINTAIN RESIDENCE IN THE EXISTING HOME WHILE THE NEW HOME IS BEING CONSTRUCTED, THEN REMOVE THE ORIGINAL STRUCTURE.

WHEREAS, the property Owners of 520 Lake Elmo MN 55042 (the “Property”) have submitted a building permit application to the City of Lake Elmo (the “City”) to build a new home on the property; and

WHEREAS, the property Owners would like to live in the existing home on the proeprty while the new home is being built; and

WHEREAS, City Staff has prepared an agreement to allow the property owner to live in the existing home and then remove the existing home once the new home is built is complete; and

WHEREAS, the agreement is attached as EXHIBIT A; and

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) The City has prepared an agreement which would temporarily allow two principle structures on one lot.
- 2) The agreement further requires the property owners to remove the originally existing principle structure after completion of the new home.
- 3) The agreement was established to allow the owners to maintain residence on the property while constructing their new home while also protecting the City from potential financial damages.

CONCLUSIONS AND DECISION

- 1) Based on the above findings, the City Council hereby approves the Second Home Agreement for the property located at 520 Lake Elmo Ave. The conditions of approval for the agreement are outlined below:

- 1) That the property owner(s) sign the agreement established between the Property Owners and the City and fulfill all the stipulations outlined in the agreement.

Passed and duly adopted this 5th day of November, 2019 by the City Council of the City of Lake Elmo, Minnesota.

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

EXHIBIT A

See following pages for Agreement.

SECOND HOME AGREEMENT

THIS SECOND HOME AGREEMENT (“Agreement”) is made this _____ day of September, 2019, by and between Yahya Abukhudeer, Samira Abukhudeer, and Maan Abukhudeer (the “Owners”), and the City of Lake Elmo (the “City”), a Minnesota municipal corporation.

I. RECITALS

WHEREAS, the Owners are the owners of certain real property located at 520 Lake Elmo Avenue North in Lake Elmo, Washington County, Minnesota, legally described on the attached Exhibit A (the “Property”); and

WHEREAS, a house (the “Structure”) currently exists on the Property, which is outlined in red on the attached Exhibit B (the “Structure”); and

WHEREAS, the Owners wish to construct a new house on the Property in the location outlined in blue on the attached Exhibit B (the “Second House”) while occupying the Structure during construction of the Second House; and

WHEREAS, upon completion of construction of the Second House, the Owners intend to remove the Structure and its foundation from the Property and complete the associated grading and backfilling work necessary so that the area formally occupied by the Structure meets the surrounding grade (the “Improvements”); and

WHEREAS, according to Section 154.405 (A) (Accessory Uses and Structures - Phasing) of the Lake Elmo City Code, “no accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory;” and

WHEREAS, the City has agreed to allow the Owners to retain the Structure on the Property during the construction of the Second House, subject to certain conditions; and

WHEREAS, among the conditions is a requirement that the Owners execute this Agreement and provide a cash deposit or letter of credit to the City in order to ensure that the City

has the right and the financial resources to complete the Improvements in the event that the Owners fail to do so; and

II. AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto agree and stipulate as follows:

1. USE OF STRUCTURE. The City agrees to permit the Owners to maintain and occupy, but not expand or improve, the Structure until construction of the Second House is complete. The Owners agree to complete all of the Improvements within 60 days of the issuance of a certificate of occupancy for the Second House, or by March 31, 2021, whichever occurs first. The Owners may request an extension to this deadline; however, the City is under no obligation to grant an extension.

2. REPRESENTATIONS OF OWNERS. The Owners represent that they are the fee owners of the Property, that they have full legal power and authority to encumber the Property as provided in this Agreement, that in doing so they are not in violation of the terms or conditions of any instrument or agreement of any nature to which the Owners are bound or which relates in any manner to the Property and that there are no other liens or encumbrances against the Property except those listed in the attached Exhibit C.

3. COMPLETION OF THE IMPROVEMENTS. If the Owners fail to complete any of the Improvements within the deadline specified in Section 1 of this Agreement, the Owners grant permission to the City, its employees, contractors, and assigns to enter upon the Property for the purpose of completing the Improvements.

4. SECURITY. The Owners agree to deposit with the City a cash deposit or letter of credit in the amount of \$20,000, which represents 1.6 percent of the estimated cost of completing the Improvements. In the event that the Owners fail to complete all of the Improvements within the time specified by this Agreement, the City may complete the Improvements and draw from the deposit or letter of credit for any expenses that it incurs that are associated with this work.

5. SPECIAL ASSESSMENT WAIVER. In the event that the City must complete the Improvements and the expenses incurred by the City exceed the amount of the deposit or letter of credit, the Owners consent to the City levying a special assessment against the Property for the remaining amount in accordance with Minnesota Statutes Section 429.061. The principal amount of the special assessment shall be the actual cost incurred by the City to complete the Improvements that exceeded the letter of credit or deposit amount. The special assessment shall not exceed \$15,000. In the event that the City must complete the Improvements and its expenses exceed the letter of credit or deposit amount, the Owners waive their notice of hearing and hearing on the special assessment levied by the City to finance the Improvements, pursuant to Minnesota Statutes Section 429.061 and specifically request that the special assessment be levied against the Property by the City without a hearing. The Owners also waive their right to appeal the levy of the special assessment in accordance with this Agreement pursuant to Minnesota Statutes Section 429.081. The Owners further specifically agree with respect to this special assessment against the Property

that: 1) all requirements of Minnesota Statutes Chapter 429 with which the City does not comply with are hereby waived; and 2) the increase in fair market value of the Property resulting from the Improvements will be at least equal to the amount of the special assessment levied against the Property and that such increase in fair market value is a special benefit to the Property. The special assessment levied against the Property shall be payable over such period as the City may determine, but not less than five years, and shall bear interest at a rate determined by the City, but not more than eight percent per year. The first installment of the principal and interest shall be included in the first tax rolls completed after the adoption of the City Council resolution levying the special assessment.

6. INDEMNIFICATION. The Owners agree to defend, protect, indemnify, and hold harmless the City from any and all claims, litigation, causes of action, and any other obligation imposed upon or asserted against upon the City, or its officials, agents, contractors or employees arising out of this Agreement or the City's exercise of its rights hereunder.

7. COSTS. The Owners agree to pay to the City any costs or expenses, including without limitation, attorneys' fees, incurred by City in enforcing any provision of this Agreement.

8. WAIVER. Nothing in this Agreement shall constitute a waiver or limitation of the City's immunities or limitations on liability as set forth in Minnesota Statutes Chapter 466 or otherwise. The Owners further agree and acknowledge that, except as expressly set forth in this Agreement, nothing in this Agreement shall constitute a waiver of any right the City has to enforce any federal, state, or local law, rule, or regulation or any other right to which the City is entitled.

9. NOTICE. Any notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally; and

(a) In the case of the Owners, is addressed to or delivered personally to the Owners at:

Yahya Abukhudeer
1149 97th Lane NW
Coon Rapids, MN 55433

(b) in the case of City, is addressed to or delivered personally to the City at:

City of Lake Elmo
3880 Laverne Avenue North, Suite 100
Lake Elmo, MN 55042
Attn: City Administrator

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

11. RECORDING. The covenants, waivers and agreements contained in this Agreement shall bind the Owners and their successors and assigns and shall run with the Property. It is the intent of the parties to this Agreement that this Agreement be in a form which is recordable among the property records of Washington County, Minnesota. The City shall record this Agreement with the County, and the Owners shall pay all costs associated with the recording.

12. CHOICE OF LAW. This Agreement shall be governed by and construed in accordance with the laws of the state of Minnesota. Any disputes, controversies, or claims arising out of this Agreement shall be heard in the state or federal courts of Minnesota, and all parties to this Agreement waive any objection to the jurisdiction of these courts, whether based on convenience or otherwise.

13. TERMINATION. Failure by the Owners to obtain a building permit for the Second House within 120 days of the date of the City Council's approval of this Agreement shall result in automatic termination of this Agreement. Upon the Owners obtaining a building permit for the Second House, this Agreement will terminate upon the completion of the Improvements by the Owners and issuance of the Certificate of Occupancy by the City for the Second House or upon final payment by the Owners of the special assessment levied against the Property for the Improvements, whichever occurs first.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date written above.

Yahya Abukhudeer

Samira Abukhudeer

Maan Abukhudeer

STATE OF MINNESOTA)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019, by Yahya Abukhudeer and _____.

Notary Public

CITY OF LAKE ELMO

By: _____
Mike Pearson, Mayor

Attest: _____
Julie Johnson, City Clerk

STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by Mike Pearson and Julie Johnson, the Mayor and City Clerk, respectively, of City of Lake Elmo, a Minnesota municipal corporation, on behalf of the City.

Notary Public

This document was drafted by:

Kennedy & Graven, Chartered (SJS)
470 U.S. Bank Plaza
200 South Sixth Street
Minneapolis, MN 55402
(612) 337-9284

EXHIBIT A

Legal Description of the Property

That part of the East Half of Section 35, Township 29, Range 21, County of Washington, State of Minnesota commencing at the East Quarter Corner thence North 388.85 feet thence West 1320 feet thence South 660 feet thence East 1320 feet to the Section Line thence North 271.15 feet to the point of beginning.

EXHIBIT B

Locations of Structure and Second House

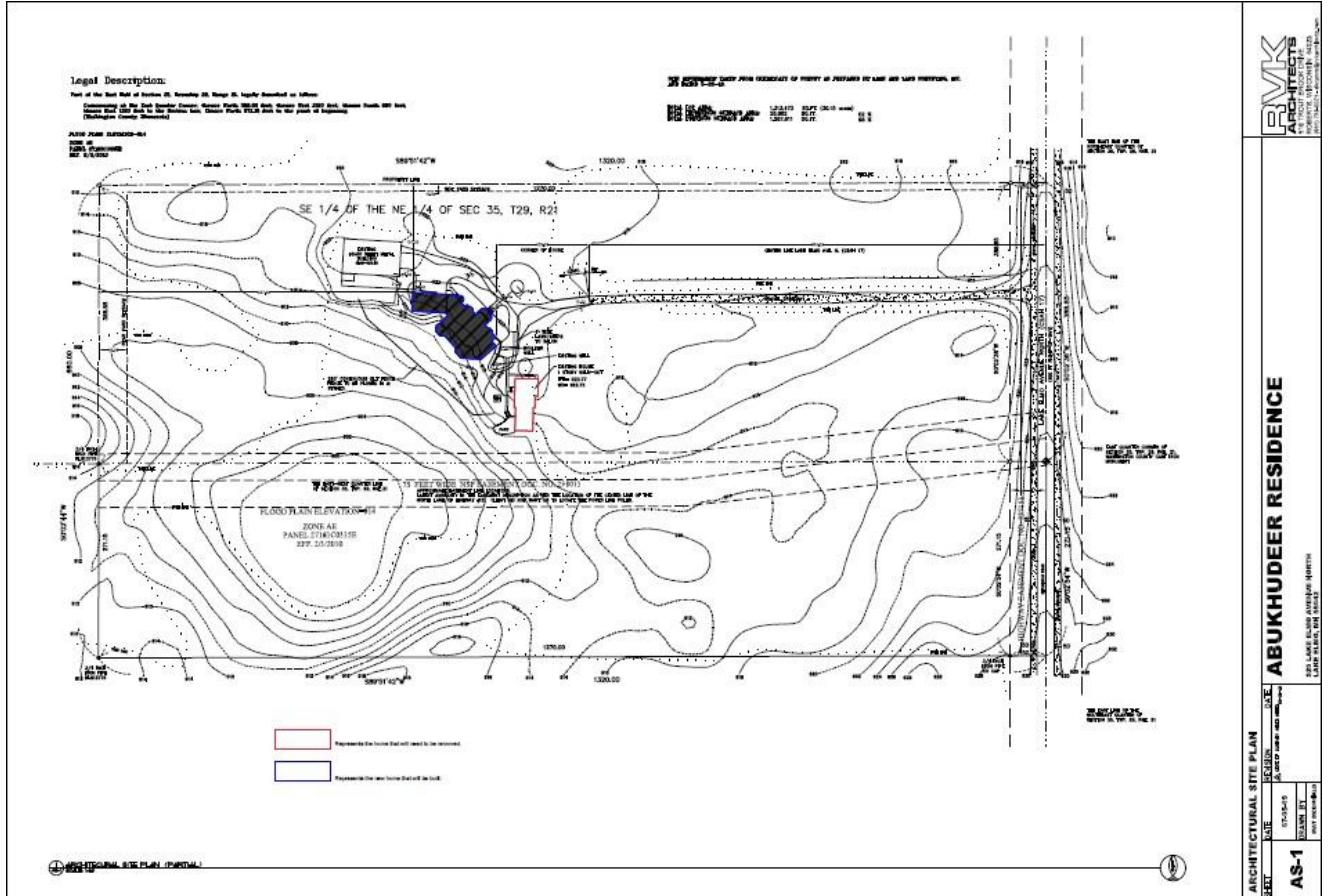


EXHIBIT C

List of Existing Encumbrances

Yahya Abukhudeer

Samira Abukhudeer

Maan Abukhudeer