



STAFF REPORT

DATE: 8/13/2020

REGULAR

ITEM #:

TO: Planning Commission

FROM: Ken Roberts, Planning Director

AGENDA ITEM: **Resolution 2019-059/Conditional Use Permit – Carmelite Hermitage of the Blessed Virgin Mary – Extension of Conditions of Approval**

LOCATION: 8249 Demontreville Trail

REVIEWED BY: Sarah Sonsalla, City Attorney

BACKGROUND:

On August 20, 2019, the City Council adopted Resolution 2019-59, which granted a Conditional Use Permit to the Carmelite Hermitage of the Blessed Virgin Mary for the property located 8249 Demontreville Trail. The Resolution contained the following conditions of approval:

- 6) The applicant or owner received a building permit from the City for chapel within 12 months of City Council approval of the conditional use permit.
- 7) If the applicant or owner has not taken action toward starting the chapel or if substantial construction of the chapel has not taken place within 12 months of the City's approval of conditional use permit, the CUP approval shall become void. The applicant or owner may request City council approval of a time extension to start or implement the conditional use permit.

Since the grant of the CUP, the neighboring property owner, the Jesuit Retreat House commenced two lawsuits: 1) *Jesuit Retreat House v. City of Lake Elmo*, A20-0847; and 2) *Jesuit Retreat House v. Discalced Carmelite Nuns of St. Paul and Carmel of the Blessed Virgin Mary*, 82-CV-19-4008. Both lawsuits are still pending.

Due to the lawsuits, the Carmelites have not begun construction of the chapel. They have applied to the City for a building permit and are expected to receive that permit before August 20, 2020.

By letter dated July 30, 2020, Rev. John M. Burns, on behalf of the Carmelites, and in accordance with Condition 7 of the CUP, wrote the City requesting an extension of time to start or implement the conditional use permit.

ISSUE(S) BEFORE THE PLANNING COMMISSION:

The Planning Commission is being asked to consider an extension of time to start or implement the conditional use permit in accordance with Condition of Approval Number 7.

PROPOSAL DETAILS/ANALYSIS:

<i>Applicants:</i>	Carmelite Hermitage of the Blessed Virgin Mary, 8249 Demontreville Trail, Lake Elmo, MN 55042
<i>Property Owners:</i>	Discalced Carmelite Nuns of St. Paul, 8251 Demontreville Trail, Lake Elmo, MN 55042
<i>Location:</i>	ALL OF GOVERNMENT LOT 4, IN SECTION 9, TOWNSHIP 29 NORTH, RANGE 21 WEST, ACCORDING TO THE GOVERNMENT SURVEY CONTAINING 59.4 ACRES OF LAND. ALSO, THE SOUTH 30.6 ACRES OF GOVERNMENT LOT 4 IN SECTION 4, AND THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4, ALL IN TOWNSHIP 029 RANGE 021, ACCORDING THE GOVERNMENT SURVEY, BEING THE SOUTH 688 FEET THEREOF. PID# 09.029.21.12.0002
<i>Request:</i>	Extension of time to start or implement the conditional use permit in accordance with Condition of Approval Number 7
<i>Existing Land Use:</i>	Hermitage – A retreat for monks with a community building and garage, cloistered living area with courtyards
<i>Existing Zoning:</i>	PF – Public and Quasi-Public Open Space
<i>Surrounding Land Use / Zoning:</i>	North – Properties owned by Discalced Carmelite Nuns (8251 Demontreville Trail) and Jesuit Retreat House (8243 Demontreville Trail); South – Single-family homes (Rural Residential); East – Single-family homes (Rural Residential); West – Lake Demontreville
<i>Comprehensive Plan Guidance:</i>	2030 – Public/Park 2040 – Institutional. As noted the in the 2040 Comprehensive Plan, this land use category identifies land that is used for schools, religious institutions, City Hall, municipal buildings, libraries and other institutional uses.
<i>History:</i>	<p>In December 1991, the City approved a variance (regarding code requirement for having frontage on a public road) and a master plan for the Carmelite Hermitage of the Blessed Virgin Mary. This master plan included a phasing plan showing four parts or phases and included a court, guest house /library, chapel, cloister, hermitage, community building and workshop. The variance noted that the applicant has a private recorded easement that allows access to the north from their site to Demontreville Trail North (across the adjoining properties).</p> <p>In October 2007, the City approved an amendment to the approved master plan to allow an additional accessory building (1,512 square feet) on their site.</p>

In August 2020, the City approved a variance to the requirement that a house of worship have direct access to a collector or arterial street (Resolution 2019-058) and approved a conditional use permit for a chapel (Resolution 2019-059)

Deadline(s) for Action: Application/Request Complete – 7-30-2020
60 Day Deadline – 9-28-2020

Applicable Regulations: City Code § 154.106(K) provides:
Expiration. If substantial construction has not taken place within 12 months of the date on which the conditional use permit was granted, the permit is void except that, on application, the Council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this chapter, but the six-month period shall not be deemed to commence until the effective date of this chapter.

FISCAL IMPACT:

None

OPTIONS:

The Planning Commission may recommend the following:

- Denial of the requested extension.
- Approval of a one-year extension as requested by the Carmelites.
- Approval an extension for one year after resolution of both lawsuits.

RECOMMENDATION:

Staff is recommending approval of extension of the CUP as contemplated by Condition No. 7 and City Code § 154.106(K). Specifically, staff recommends City approval of a time extension that provides the Carmelites one year after the resolution of both lawsuits to build their chapel.

“Move to recommend approval of the extension of the CUP, Resolution 2019-059, to provide an extension of Condition No. 7 and allow the Permit Holder to have one year after the date of the lawsuit to resolve last (either Jesuit Retreat House v. City of Lake Elmo, A20-0847 or Jesuit Retreat House v. Discalced Carmelite Nuns of St. Paul and Carmel of the Blessed Virgin Mary, 82-CV-19-4008) to start the chapel or, if substantial construction of the chapel has not taken place, to substantially construct the chapel.”

ATTACHMENTS:

- City Council Resolution 2019-059
- Letter from Rev. John M. Burns, dated July 30, 2020
- Zoning and Location Maps, Certificate of Survey and Project Plans (13 pages)

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

RESOLUTION 2019-059

***A RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR A CHAPEL OR
PLACE OF WORSHIP FOR A PORTION OF THE PROPERTY LOCATED AT 8249
DEMONTREVILLE TRAIL***

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, the Carmelite Hermitage (Rev. John Burns), 8249 Demontreville Trail, Lake Elmo, MN 55082 (the "Applicant") has submitted an application to the City of Lake Elmo (the "City") for a Conditional Use Permit to add a chapel or place of worship for a portion of the property located at 8249 Demontreville Trail (PID# 09.029.21.12.0002) (the "Property"); and

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.102; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on June 24, 2019; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated August 20, 2019, and

WHEREAS, the City Council considered said matter at its August 20, 2019 meeting; and

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

FINDINGS

- 1) That the procedures for obtaining said Conditional Use Permit are found in the Lake Elmo Zoning Ordinance, Section 154.106.
- 2) That all the submission requirements of said Section 154.106 have been met by the Applicant.
- 3) That the proposed Conditional Use Permit includes the following components:
 - a) A Conditional Use Permit for a place of worship or a chapel for a portion of the property located at 8249 Demontreville trail, Lake Elmo
- 4) That the Conditional Use Permit for a Carmelites including the proposed chapel will be for the Property legally described as follows:

Legal Description of the Property

All of Government Lot 4 in Section 9, Township 29 north, Range 21 west, City of Lake Elmo, Washington County, Minnesota, according to government survey containing 59.4 acres of land. Also the south 30.6 acres of Government Lot 4 in Section 4, and of the southwest quarter of the southeast quarter of said Section 4, all in Township 29 North, Range 21 West, according to government survey, being the south 688 feet thereof.

- 5) That the Variance application about direct access to a collector or arterial street for the chapel that was proposed by the Applicant would allow the applicant to use the existing driveway to their property as access for the proposed chapel.
- 6) That the City approved the Applicant's request for a Variance about direct access to a collector or arterial street for the chapel by allowing the Applicant to use the existing driveway to their property as access for the proposed chapel.
- 7) Findings
 1. The proposed use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city. *The use of the property for religious facilities, including the proposed chapel, will not be detrimental or in any way endanger the public health, safety, comfort, convenience or welfare of the neighborhood or the City.*
 2. The use or development conforms to the City of Lake Elmo Comprehensive Plan. *The property is guided for Public/Park in the 2030 Comprehensive Plan and Institutional in the proposed 2040 Comprehensive Plan. A place of worship is a conditional use in these land use designations.*
 3. The use or development is compatible with the existing neighborhood. *The use is compatible with the existing neighborhood. The religious facilities in this area were established in the 1950's and Hermitage has been on this site since the 1980's.*
 4. The proposed use meets all specific development standards for such use listed in Article 7 of this Chapter. *The existing and proposed uses meet all specific development standards for such use as listed in Section 154.600 Public and Quasi-Public Open Space.*
 5. If the proposed use is in a flood plain management or shoreland area, the proposed use meets all the specific standards for such use listed in Chapter 150, §150.250 through 150.257 (Shoreland Regulations) and Chapter 152 (Flood Plain Management). *The existing structures and the proposed chapel would be located outside the 0.2% annual chance floodplain and meets shoreland setback requirements.*
 6. The proposed use will be designed, constructed, operated and maintained so as to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area. *The proposed chapel is compatible in appearance with the existing and intended character of the general vicinity and will not change the essential character of the area.*
 7. The proposed use will not be hazardous or create a nuisance as defined under this Chapter to existing or future neighboring structures. *The existing religious facilities and the proposed chapel are not nor will they will be hazardous or create a nuisance.*

8. The proposed use will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use. *The existing facilities and the proposed chapel are and will be adequately served by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools.*
9. The proposed use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. *The existing facilities and the proposed chapel do not and will not create excessive additional requirements at public cost nor will the existing or proposed facilities on the property be detrimental to the economic welfare of the community.*
10. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors. *The existing and proposed uses will not excessively produce traffic, noise, smoke, fumes, glare or odors.*
11. Vehicular approaches to the property, where present, will not create traffic congestion or interfere with traffic on surrounding public thoroughfares. *Vehicular approaches to the property do not and will not create and have not created traffic congestion or interfere with traffic. The number of additional vehicles expected on the property because of the new chapel is minimal and will be limited to certain times and days of the weeks.*
12. The proposed use will not result in the destruction, loss or damage of a natural or scenic feature of major importance. N/A

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Lake Elmo City Council hereby approves the request by Rev. John Burns of the Carmelite Hermitage for a Conditional Use Permit for a chapel or place of worship on the property located at 8249 Demontreville Trail with the following conditions of approval:

- 1) The City Council must approve the Variance request to allow the Applicant to use the existing driveway to Demontreville Trail as the access for the proposed chapel.
- 2) The applicant must obtain all other necessary City, State, and other governing body permits and approvals before the commencement of any construction activity on the site. These include, but not limited to, a Valley Branch Watershed District permit, approval of revised plans by the City Engineer, a building permit and an on-site wastewater (septic) permit.
- 3) All items and changes outlined by the City Engineer in the memorandum addressing the Carmelite Chapel Conditional Use Permit and Site Improvements dated June 17, 2019 shall be incorporated into the project plans.
- 4) All items outlined by the Fire Chief in his memo dated June 5, 2019, shall be incorporated into the project plans and before the City issues a building permit for the project.
- 5) The applicant must provide written documentation demonstrating adequate wastewater management facilities exist or are proposed to serve the proposed chapel. This should include either a Washington County inspection compliance report for the existing on-site wastewater system or a wastewater management plan and permit approved by Washington County to serve the proposed chapel.

- 6) The applicant or owner receive a building permit from the City for chapel within 12 months of City Council approval of the conditional use permit.
- 7) If the applicant or owner has not taken action toward starting the chapel or if substantial construction of the chapel has not taken place within 12 months of the City's approval of conditional use permit, the CUP approval shall become void. The applicant or owner may request City Council approval of a time extension to start or implement the conditional use permit.

Passed and duly adopted this 20th day of August 2019 by the City Council of the City of Lake Elmo, Minnesota.



Mike Pearson, Mayor

ATTEST:



Julie Johnson, City Clerk

Carmelite Hermitage of the Blessed Virgin Mary
8249 DeMontreville Trail
Lake Elmo, MN 55042
651-779-7351

30 July 2020

Mr. Ken Roberts
Planning Director
3880 Laverne Ave. N. Suite 100
Lake Elmo, MN 55042

Dear Mr. Roberts,

On August 20, 2019, the City Council of the City of Lake Elmo voted to grant our Hermitage a Conditional Use Permit in order to construct a chapel here at the Hermitage. I understand that the Conditional Use Permit requires that we begin construction on the chapel within a one (1) year period. As you know, the Jesuit Retreat House filed two lawsuits, one against the Carmelite Sisters and our Hermitage, and the other against the City of Lake Elmo, in order to prevent construction of the chapel. Because of the two lawsuits, we have been prevented from commencing construction of the chapel.

I am able to share with you that the Carmelite Sisters and our Hermitage have had discussions with the Jesuit Retreat House recently in the hope that the matter can be settled out of court.

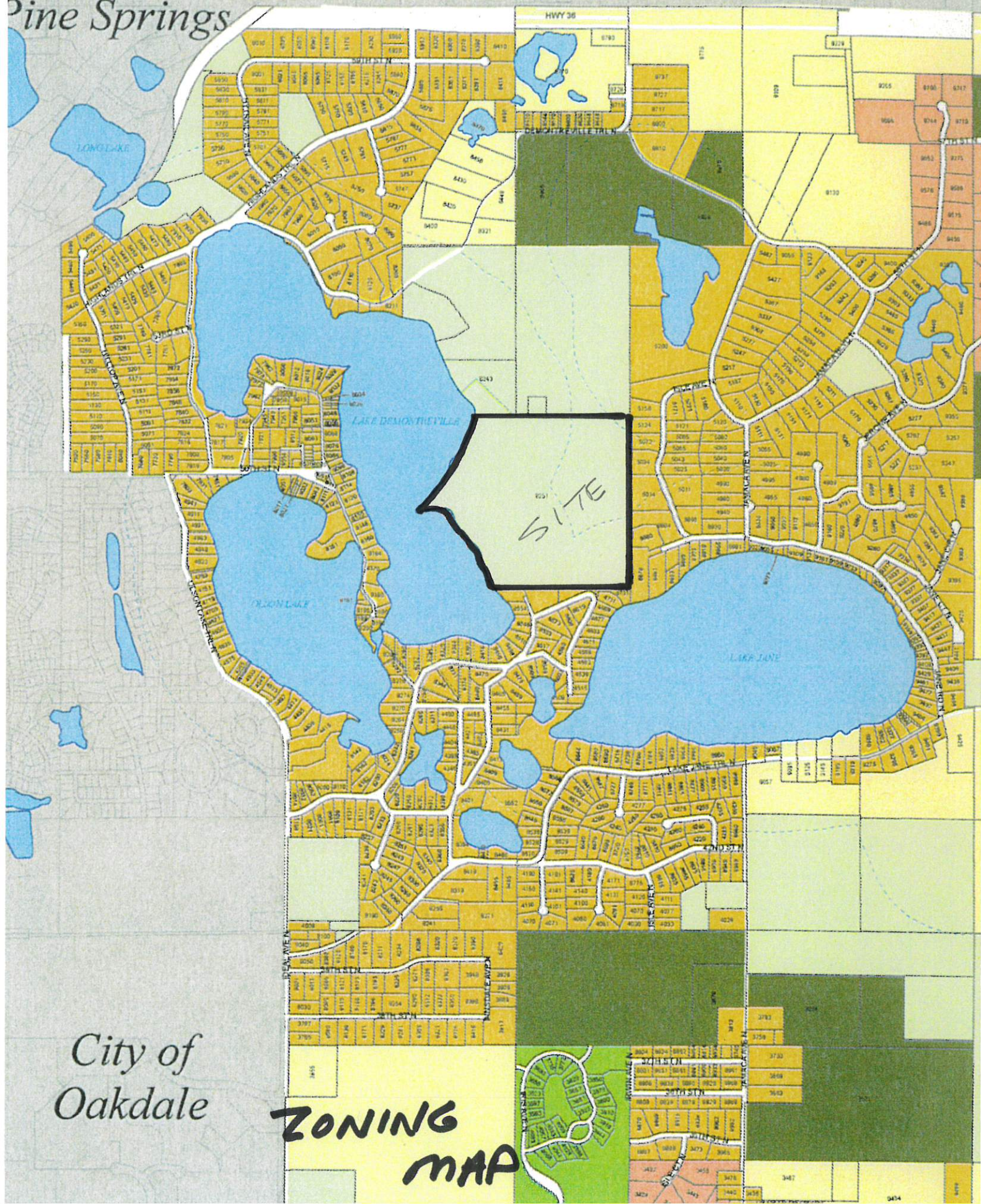
In view of the fact that our Conditional Use Permit will expire on August 20, 2020, and in view of the fact that we have not begun construction through no fault of our own, I am requesting that the City of Lake Elmo extend our Conditional Use Permit for another year so that we can obtain a building permit and begin construction. We have hope to begin construction of the chapel prior to August 20, 2021.

I take this opportunity to thank the City Council and yourself for the assistance and support which you have shown to our Hermitage in regards to our chapel project.

Sincerely yours,

Rev. John M. Burns
Rev. John M. Burns

City of
Pine Springs

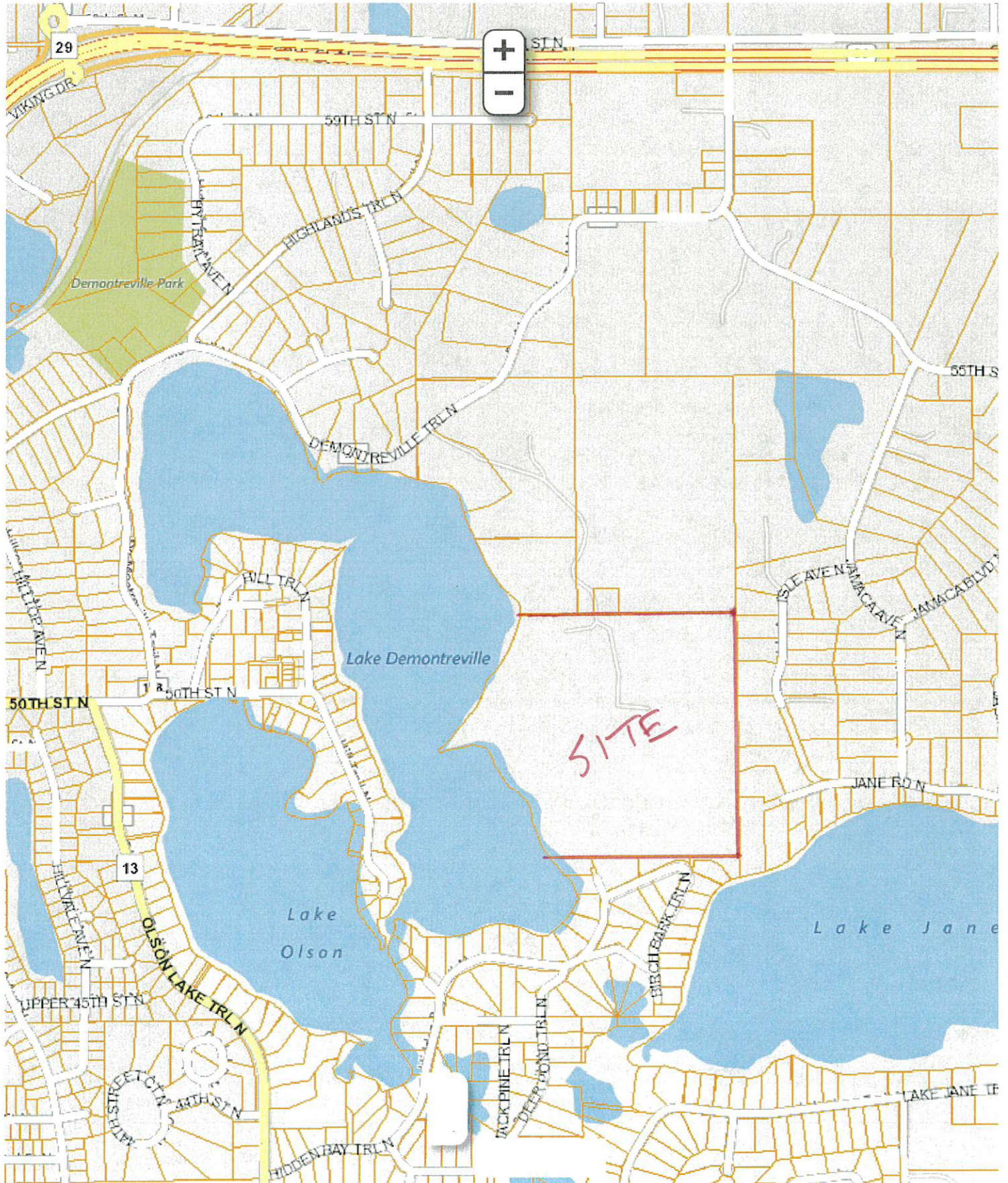


City of
Oakdale

**ZONING
MAP**



Property Viewer





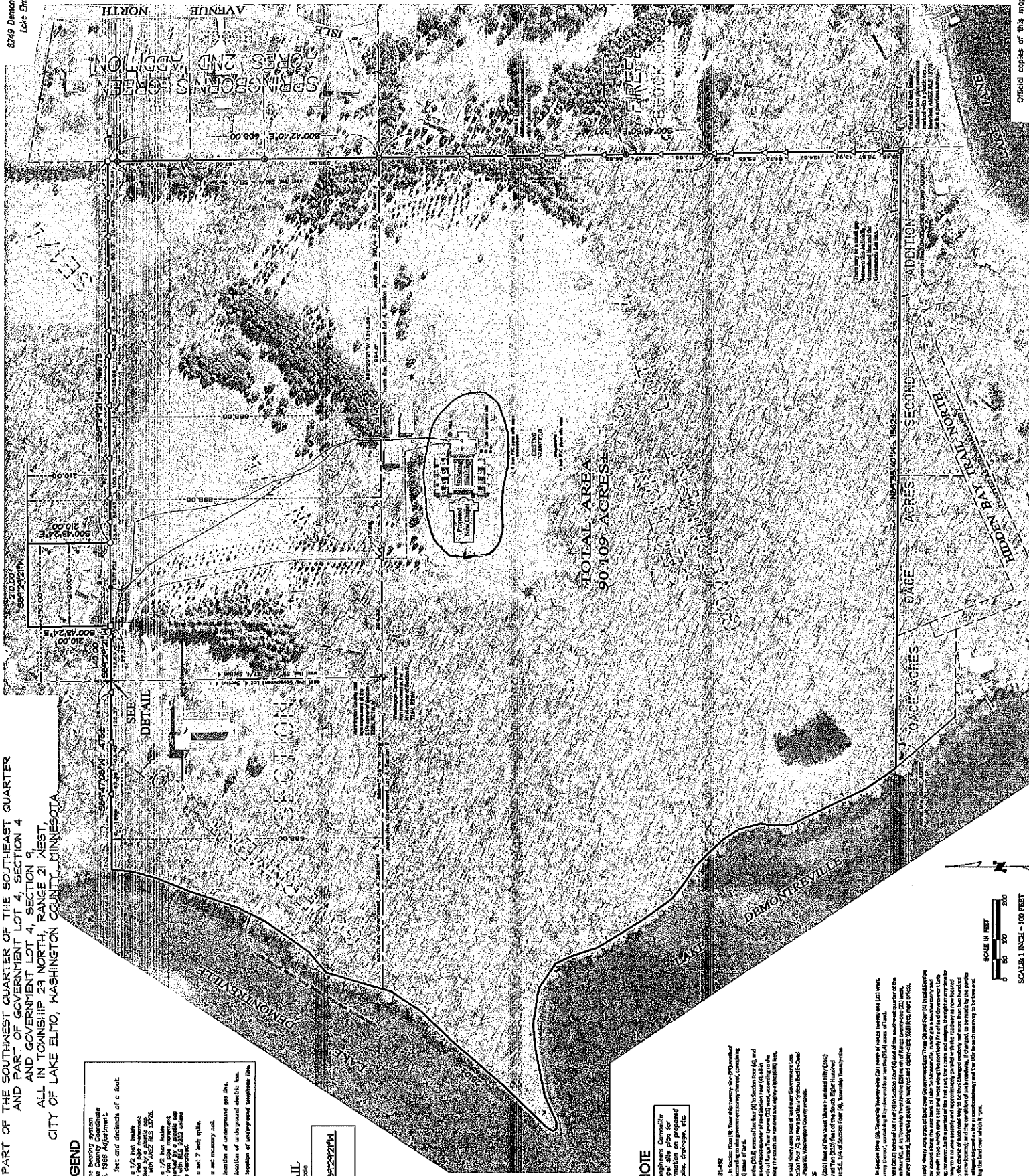
Property Viewer





Property Viewer

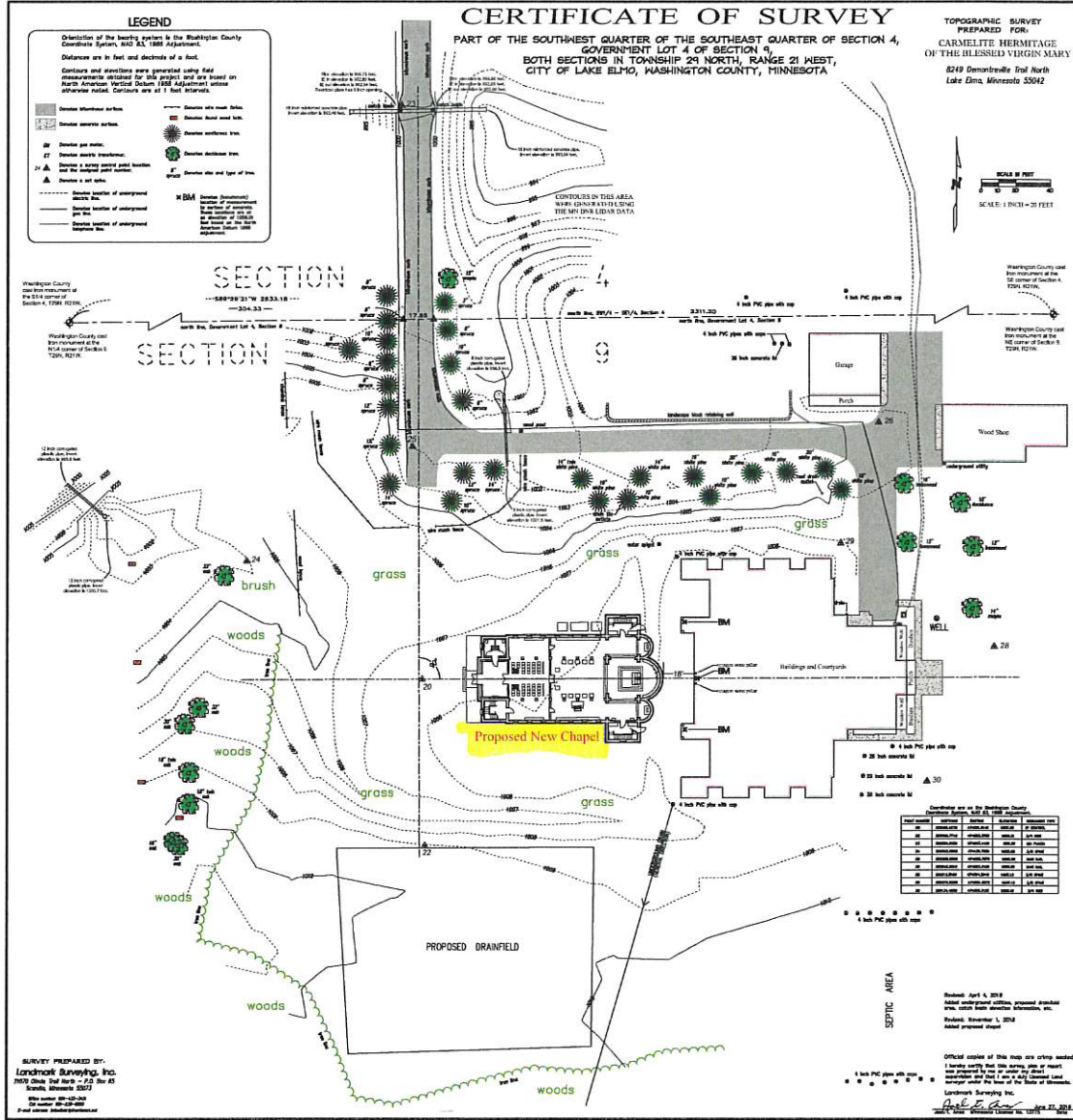


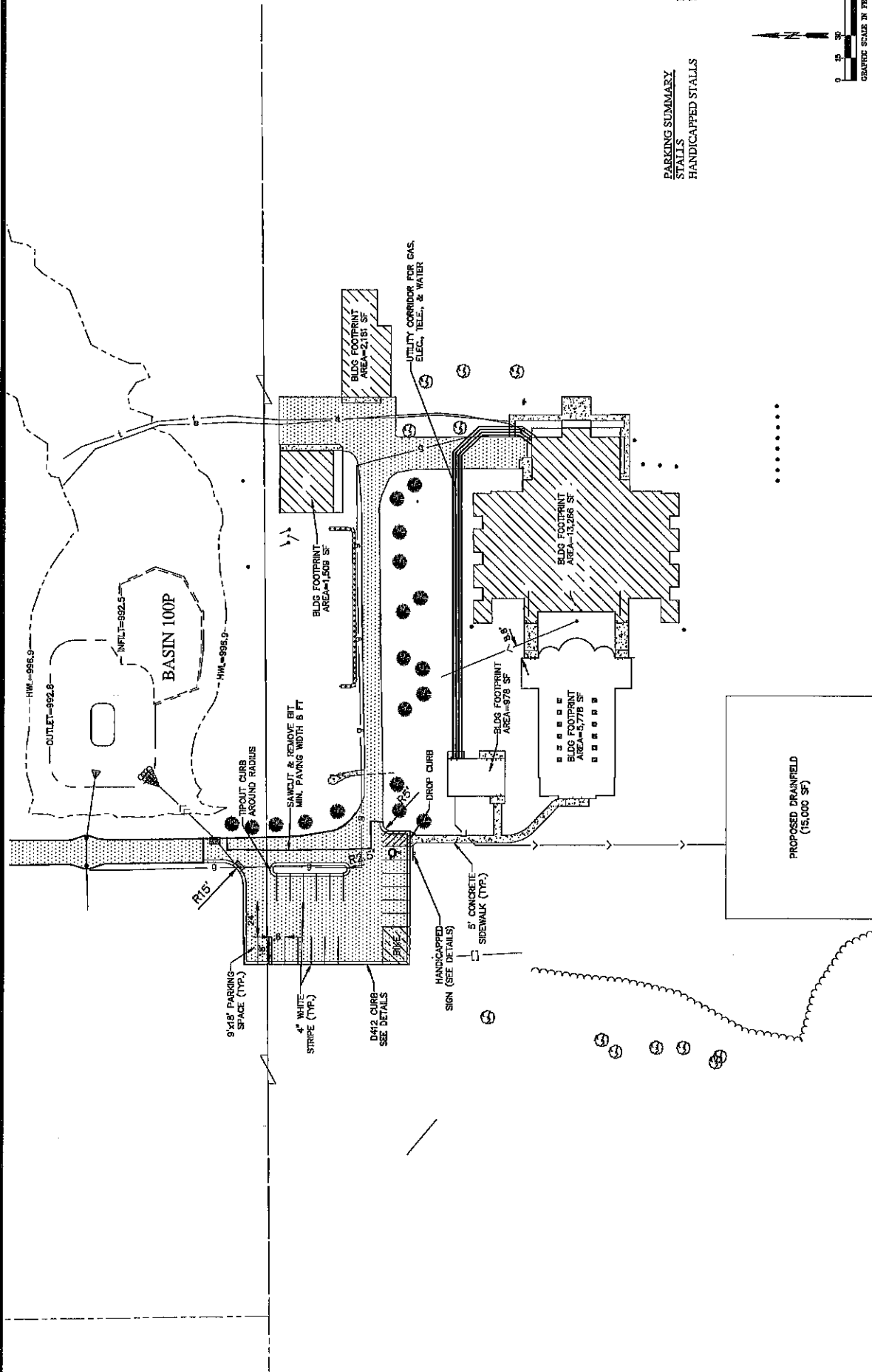


Official copies of this map are crimp sealed.

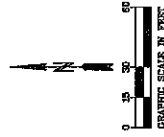
SURVEY PREPARED BY:

PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4,
GOVERNMENT LOT 4 OF SECTION 9,
BOTH SECTIONS IN TOWNSHIP 29 NORTH, RANGE 21 WEST,
CITY OF LAKE ELMO, WASHINGTON COUNTY, MINNESOTA

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PARKING SUMMARY
STALLS 17
HANDICAPPED STALLS 1

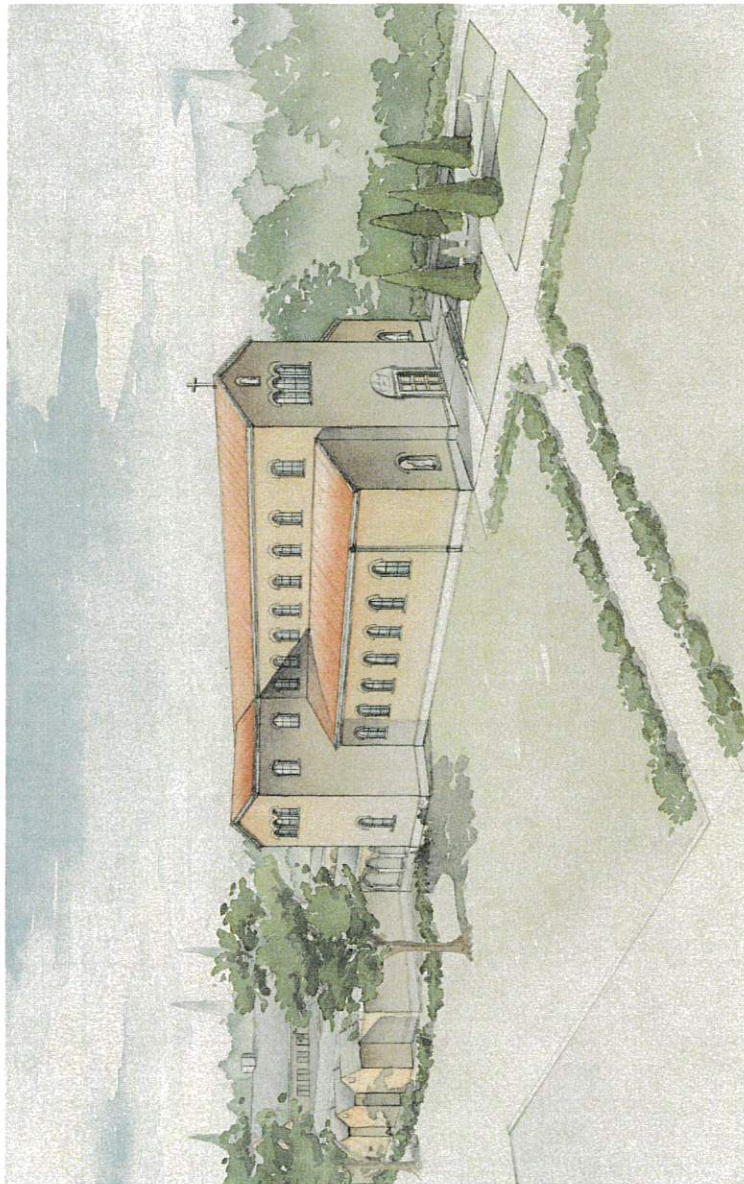


CARMELITE CHAPEL

CARMELITE HERMITAGE

OF THE BLESSED VIRGIN MARY

8249 DE MONTREVILLE TRAIL
LAKE ELMO, MINNESOTA 55042-9545



OWNERS
CARMELITE HERMITAGE OF THE
BLESSED VIRGIN MARY
CONTACT: REV. JOHN BURNS, O.C.A.R.
8249 DE MONTREVILLE TRAIL
LAKE ELMO, MN 55042-9545
PHONE: 651/779-2331

STRUCTURAL ENGINEER
LKL ENGINEERS
CONTACT: MARK K. KENNEDY
2737 NORTH HOLLAND-STYVANIA ROAD
TOLSON, IA 52595
PHONE: 485/568-2795

CIVIL ENGINEER, I.A.
PIONEER ENGINEERING
CONTACT: PAUL CHERIAN
2622 ENTERPRISE DRIVE
MILWAUKEE, WI 53207
PHONE: 414/488-1974

M.E.P. ENGINEER
ASSOCIATED CONSULTING
ENGINEERING, INC.
CONTACT: KELLY LOUDERLAGER
140 SOUTH PHILIP AVENUE
SOUTH BEND, IN 46601
PHONE: 465/418-9728

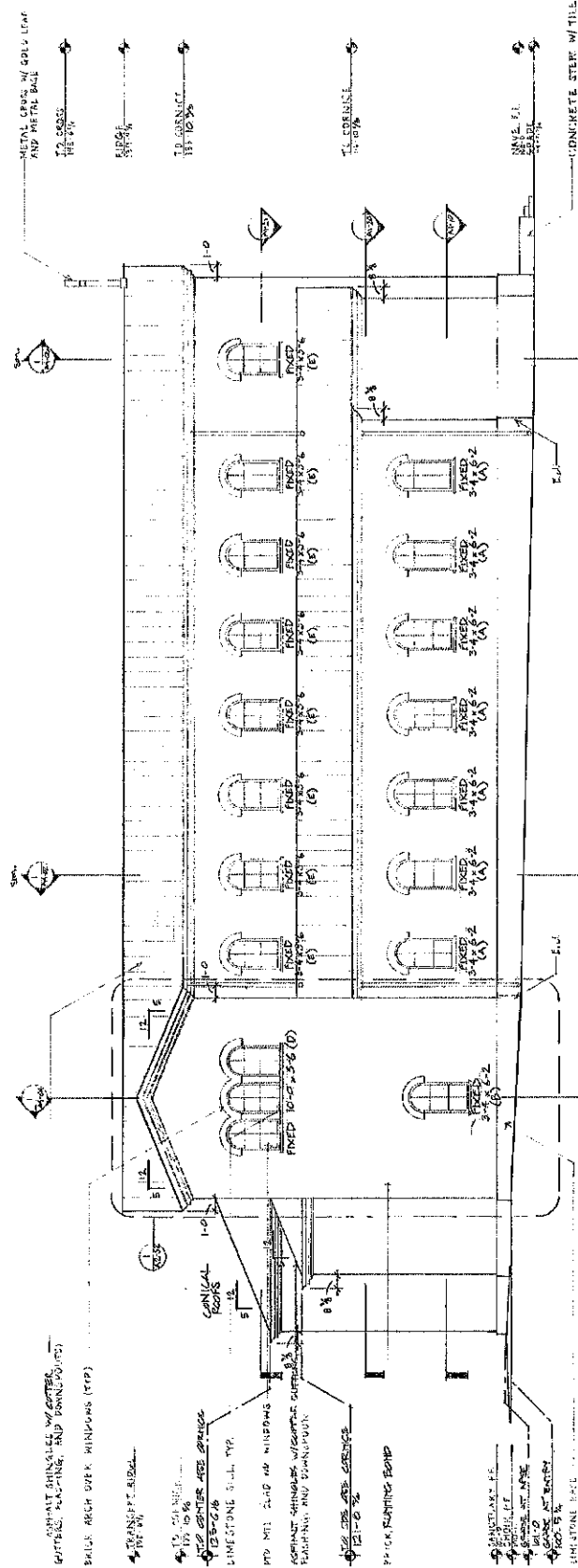
DUNCAN G. STROIK ARCHITECT LLC
218 WEST WASHINGTON STREET, SUITE 1200
SOUTH BEND, INDIANA 46601
574/232-1783; FAX: 574/232-1792

EXTERIOR PERSPECTIVE			
SCALE	DATE	DESIGN	PROJECT
1" = 10'	15 JUNE 2014	CARMELITE CHAPEL	LAKE ELMO, MINNESOTA
REVISION		DUNCAN G. STROIK, ARCHITECT	218 WEST WASHINGTON STREET, SUITE 1200
		111 W. WASHINGTON STREET, SOUTH BEND, IN 46601	574/232-1783; 574/232-1792 FAX
			© 2014 DUNCAN G. STROIK ARCHITECT, LLC

TO-001

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WEST ELLINGTON	NAME CARAMELITE CHAPEL LAKE ELMO, MINNESOTA DUNCAN G. STOKES, ARCHITECT 201 E. 10TH ST. #1100 SOUTH ST. PAUL, MN 55105 574/232-1788 574/232-1794 FAX © 2005 DUNCAN G. STOKES/ARCHITECT	PLANS PM APPROVED 10/17/04 12/1/04
	SCALE 3/8" = 1'-0" DATE 12. APR. 2004 REVISION	10/17/04 12/1/04



① ELEVATION

NORTH ELEVATION		DATE	BY
CARNALITE CHAPEL		12 APR 28	1972
LATE ELMO MINNESOTA			
DUNCAN G. STROM, ARCHITECT			
214 N. WASHINGTON ST. S.W.			
SOUTH BEND, IN 48101			
574225 TEL. 334-2517 FAX			
© 1972 DUNCAN G. STROM ARCHITECT			
A12-101			

LIMESTONE CORNICES

PAINTED METAL CLAD
WOOD WINDOWS,
WITH SILLS
AND BRICK ARCHES

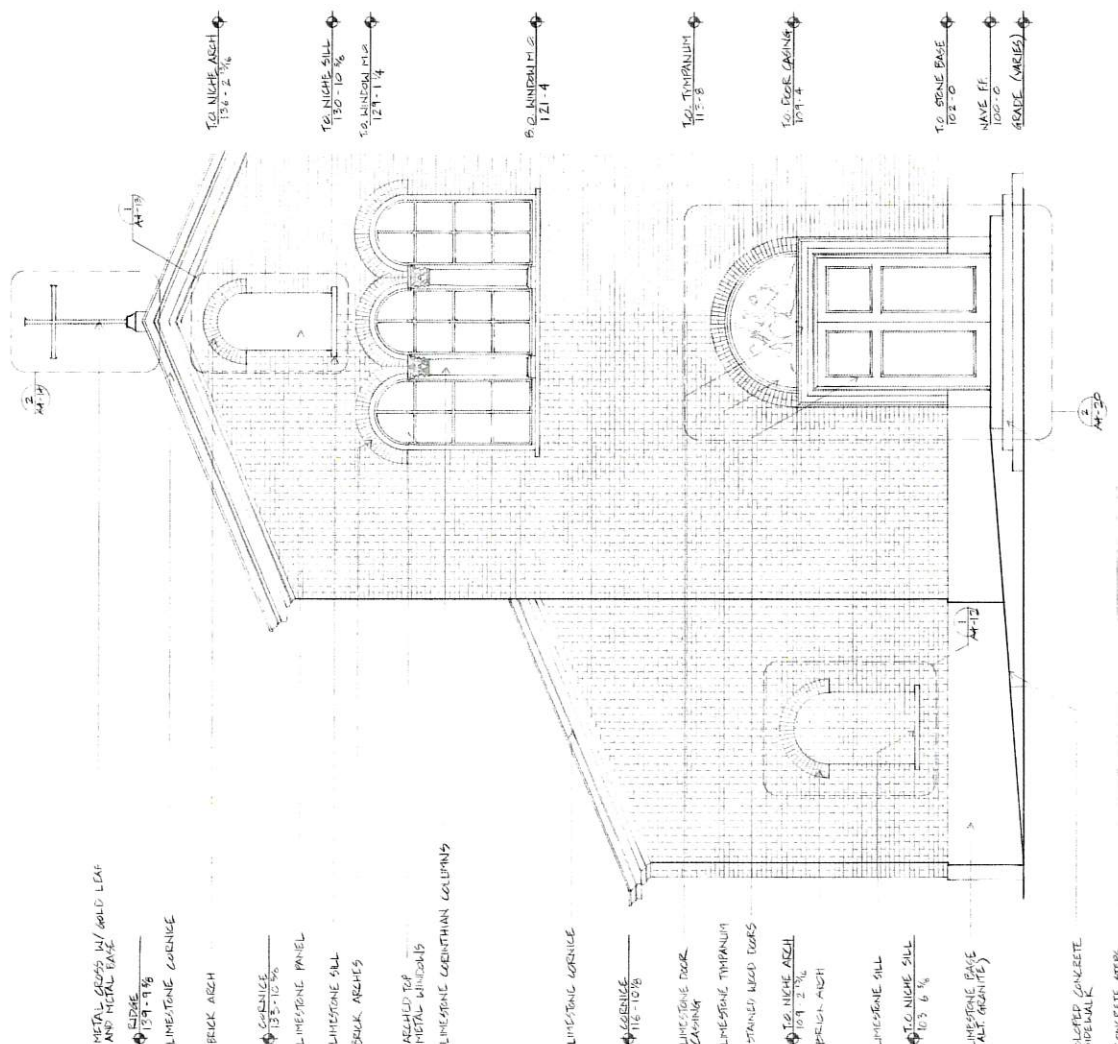
STAINED WOOD DOORS,
LIMESTONE SURROUND
AND LIMESTONE TYMPANUM

GAF SLATLINE
SHINGLE ROOF
EMERALD GREEN

BELDEN BRICK
ST. SIMON BLEND

RUSTIC BUFF
LIMESTONE BASE

COPPER GUTTERS,
FLASHING AND
DOWNSPOUTS



SCALE	NA	LAST	10 MAY 2010	EXPOSURE	CARMELITE CHAPEL LAKE EMO, MINNESOTA DUNCAN G STROCK, ARCHITECT 1318 W. WASHINGTON ST., SUITE 1200 ST. PAUL, MN 55102 507-273-1383, 507-273-1791 FAX © 2010 DUNCAN G. STROCK ARCHITECT LLC	EXPOSURE	FW	CHUCKED	SHUTTER 500
						R-1			