



PLANNING COMMISSION/BOARD OF ADJUSTMENT

Tuesday, October 08, 2024 at 7:00 PM

City Hall 8319 Co. Rd. 11 Breezy Point, MN 56472

(218) 562-4441 | Office Hours 8:00 a.m. - 4:00 p.m. | cityadmin@cityofbreezypointmn.us

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL/AMENDMENT OF THE AGENDA
5. OPEN FORUM

APPROVAL OF MINUTES

[September](#) 10, 2024 Planning Commission Minutes

6. NEW BUSINESS

- [A.](#) Variance Application V-24-012 Brian Lee
- [B.](#) Public Notice October 8, 2024
- [C.](#) Map V-24-012
- [D.](#) Staff Memo V-24-012

7. OLD BUSINESS

8. STAFF REPORTS

9. COMMISSIONER REPORTS

10. ADJOURN

Breezy Point Planning Commission/Board of Adjustment

**September 10, 2024
Regular Meeting**

The regular meeting of the Breezy Point Planning Commission/Board of Adjustment was called to order by Commission Chair Marcy Weaver at 7:00 p.m. Those in attendance included members Joe Ayers, Lee Brisbin, Roger Theis, Teddy Zierden, Board Chair Marcy Weaver, Planning and Zoning Administrator Peter Gansen, Deputy Clerk Deb Runksmeier and Public Works Supervisor Joe Zierden.

Approval of Agenda

Motion Ayers/Zierden to approve Agenda, Motion Carried 5-0.

Open Forum

No one spoke.

Approval of 8/14/2024 Regular Meeting Minutes

Motion Theis/Brisbin to approve the minutes as written, Motion carried 5-0.

New Business

A. Variance Application V-24-010 - B&C Construction LLC

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record.

See staff report on file.

The Chair asked if there were any questions pertaining to the staff report.

There were none.

The Chair asked if the applicant to state their name and address and to summarize the request before the Commission.

Chris Cullen, B & C Construction, 8156 County Road 11, Breezy Point MN.

Cullen, I did apply for a variance that was approved last year.

I did not realize there was a six month sunset clause however I understand why that is. The building plans have changed some, the building will be slab on grade. It is going to be built with SIP construction and an affordable home for one level living.

Cullen, I believe there is a high demand for one level dwellings. I realize there have been zoning changes that effects the considerations of allowing lots for residential structures in relationship to the size of the lot and zoning district.

Theis, is it a one car garage.

Cullen, it is going to be a wider garage with one opening, so it could be considered a one-and-a-half stall garage.

Theis, does the County approve the sewer and well.

Cullen, yes I already have an approved design for septic system.

The Chair asked the Commission if they had any concerns or questions pertaining to the application at this time.

There were none.

The Chair called for audience comment.

There were none.

The Chair closed the public comment period and opened the meeting to Board deliberation.

The Chair then read the findings of fact questions to the Planning Commission for consideration.

The Chair noted the applicant has been before the Planning Commission at a prior meeting. The Commission is very familiar with the property and asked the Commission if they had any concerns or would like to review.

Theirs, can we require the applicant build to the plan that was submitted.

Gansen, yes they would be required to build to the application on how it was submitted, however it could also be added as a condition.

Cullen, it will be the same I have to order it as a kit and once its ordered there is no changing it.

Theis, I know I have seen other times where the applicant was approved but did not build what they were approved for.

The Chair, yes we certainly can add this as a condition.

Recommended condition, the applicant must build to the plans submitted and approved by this variance.

Brisbin, it appears the lot needs to be a minimum of 16,000 square feet.

Gansen, correct if the lot was 16,000 square feet they would get a permit over-the-counter and not require variance.

The lot is a couple hundred square feet shy of a conforming lot.

Gansen spoke about why ordinances attempt to mitigate the size of a lot required for a residential unit. It also adds a mechanism of review for the planning Commission to look at each lot and determine if the infrastructure in the area would support the proposed use.

The Chair asked the Commission if there were any further discussion regarding the findings.

See findings on file.

None.

The Chair asked for a motion.

Ayers made a motion to approve.

The Chair asked if that was in addition to the recommended condition.

Ayers, yes.

Brisbin seconded.

All members voting 5-0 to approve Variance Application V-24-010.

Conditions:

1. Applicant must build to the plans submitted and approved by this variance.

See file for findings and notice of decision.

Variance Application V-24-011 - Greg Brendemuehl

The Commission Chair Weaver noted the applicant was present.

Planning and Zoning Administrator Gansen read the staff report into record.

See staff report on file.

Chair, asked if the Commission had any questions on the staff report.

Theis, is this lot serviced by municipal sewer.

Public Works Supervisor, yes the lot has a City connection available.

Gansen, thank you we will update the staff report to reflect that.

Commissioner Zierden, does this change the minimum lot size dimensions.

Gansen, it does not. 75 feet is still the required width. It would change the required lot area but the lot already meets that requirement.

Chair, it appears everything else meets minimum standards aside from the lot width.

Theis, is it 30% impervious surface coverage.

Gansen, yes in this zoning district they are allowed more than the other zoning districts and they also get a 5% bump up because the lot is served by City sewer.

The thought being, since additional yard area is not required for a drain field area the property could utilize this area for additional building.

The Chair asked if there were any other questions pertaining to the staff report.

There were none.

The Chair asked the applicant to state their name and address and to summarize the request before the Commission.

Greg Brendemuehl 267 Front Avenue, St Paul MN.

Brendemuehl, I grew up in Southern Minnesota and came up here golfing with some friends. I enjoyed the area, I like it so much I decided to buy a lot here and would like to build a little home here.

Theis, is this two stories.

Greg, yes in the back part.

Theis, the elevations appear to have sidewalks on the elevation drawings are these included in the 30 percent coverage.

Greg, yes the sidewalks and overhangs are all figured into the impervious amounts.

Runksmeier adjusted the presentation slide to the plan view.

Greg spoke about the general layout of the residence.

Brisbin, is there a blueprint for the interior of the house.

Greg spoke in general about the layout.

Gansen, if there is something additional the applicant would like to submit we would enter that into the record.

Brisbin, as far as setbacks it appears everything is met.

Gansen, correct. The proposed size of the residence meets ordinance requirements. The Commission should look at the dimension of the lot. The applicant's variance request is from the minimum lot width allowed for residential dwelling, which it is short of by approximately ten feet.

If the applicant is denied the lot will be considered unbuildable. It would not be allowed a residential unit.

Theis, the shed will be moved.

Zierden, this is an architectural rendering that is conceptual in nature.

Theis, so there will be no sidewalks.

Zierden, the applicant does not have to have a sidewalk. The rendering is conceptual in nature. The applicant does not propose a sidewalk on the plans.

There was variable discussion regarding impervious surface requirements.

Gansen, please note the shed is classified as a storage shed per ordinance so it can be located 3 feet from the property line per ordinance. And yes if the applicant maxes out the impervious surface coverage, that would be it. Otherwise, the only other option would be to come before the Commission with an impervious surface request.

Theis, I have no more questions at this time.

The Chair called for audience comment in favor or opposition of the request and to state their name and address.

Anthony Socher, 30276 Pinewood Drive, Breezy Point MN.

Anthony, I own the property to the Northeast and have a contract for deed with the property to the South.

I am opposed to the variance request because we are making an exception to rules to allow the applicant to build. This sets a precedence for the neighborhood as well. This would put houses five feet from my yard and every time someone pulled into the driveway they would shine their lights into my bedroom.

There are rules and characteristics to this neighbor. The reason I moved up here is because I do not want a neighborhood to grow up around me. If this variance is granted they would be getting approved for a want and not what the property is supposed to be.

Chair, is your concern the size of the home or that a home may be placed on the lot. Because the proposed residence is meeting all setbacks that are required of any other lots in the area. The variance is needed because the lot does not meet the current minimum required lot width.

Anthony, I have problem because the house is being pushed five feet closer to my property line.

Zierden, so you are concerned the building is getting closer to your lot line.

Anthony, yes and it also sets precedence to build larger than what is allowed, all they have to do is ask for a variance.

Zierden, the proposed residence is actually meeting all ordinance requirements related to the structure. The variance is needed for lot width being around 10.9 feet short of the required width.

Anthony, so you are telling me if I buy Peterson's property I could just build a house on that as well if it doesn't meet the minimum size.

Zierden, potentially, but first you would need to request a variance from the minimum lot size to proceed.

Zierden, the lot was platted in the 1960s like the rest of the lots in the neighborhood. Lot size requirements have changed since then and the applicant is requesting a variance from the minimum lot width to build a structure that meets all setback requirements.

If application is denied we would be telling the applicant they could build nothing. That is essentially saying all lots in the area that are similar in size that they could never build. The Planning Commission exists to review these requests on an individual basis and make decisions based on the merit of each application.

Zierden, if I am understanding you correctly you are saying that he should not be allowed to build anything.

Anthony, no I think he could build a smaller home.

Zierden, the proposed house does meet all ordinance requirements.

Chair, what Commissioner Zierden is saying is the applicant would need a variance even to build a tiny home.

The variance request is for minimum lot width.

Anthony, I understand that. However, if I bought an unbuildable lot I would never think I could build anything on it. Like Peterson's lot is 1000 feet to small, I would never take a risk and think I could build on it.

Zierden, that is the difference. The applicant took the risk and bought this property and is asking for a variance in order to build.

Theis, are you concerned about any slope of the land that would create runoff problems.

Anthony, yes its sloped and stormwater would come towards my property. My driveway is almost on his property line.

There was various discussion regarding the distances of the driveway and the property lines.

The Chair asked for any other public comment.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

None.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See findings on file.

With 1 condition, the applicant must build to the plans submitted and approved by this variance and remain under the imperious surface allowed by ordinance.

The Chair asked the Commission if there were any further discussion regarding the findings.
None.

The Chair asked for any other additional Board discussion on the site plan layout or impervious surface coverage. If we deny this lot we are essentially saying this is an unbuildable lot, even though we have allowed development on many other lots in the area in regard to similar size and situation. The lot width is what is based on the 1960 platt.

Theis, I am going to bring to the attention the gutters that they appear to drain towards the road. Can there be condition placed on this to mitigate this concern.

Gansen, yes. When it comes to stormwater, it is not legal for construction projects to drain stormwater onto the neighboring properties or change drainage pattern that effects their neighbors. Albeit this is often a situation that would require a civil litigation between the effected properties. Unfortunately, this is one of the most common complaints when it comes to construction, is erosion and runoff control etc.,

If the Commission is not comfortable with the plans submitted in this application. The Commission can deny the application and require them to resubmit with professionally prepared stormwater management plans. This is a common requirement on lakeshore properties but not quite as common in non-lake shore areas such as this.

This could also be sufficed by a condition to require all stormwater management to be contained onsite.

Zierden, could we ask for a swale to be placed on the south property line or would it be more simple with a condition.

Gansen, I would recommend the condition because requiring something specific like a swale can put the Commission in the designer seat. I would rather see that condition left open to the applicant to design the system that would achieve the stormwater management required.

Zierden, summarized that we are looking at the dimensions of the project which must meet ordinance requirements and stormwater management.

Chair, summarized the request is for a residential unit allowance that would not be allowed because the lot does not meet the minimum lot width.

Brisbin stated there is two story blue home down the road and asked the public works supervisor if he saw that and if that house is on a 65 foot wide lot.

Public Works Superivsor Zierden, yes I think all the residential lots and houses are fairly similar in this area.

Brisbin, I wanted to check if they were also on 65 foot wide lots.

Gansen, likely yes and a variety. Because when this was platted in 1962 they platted to the size they wanted as lot size requirements did not exist.

Brisbin, I noticed that house was a lot taller, where as this house is wider.

Chair, the foot print and plans in the application meets todays setbacks.

The Chair recapped the request again. The variance is for the lot dimension size allowance for a residential use. The proposed residence meets all applicable setbacks.

Brisbin, have variances been allowed on other lots in this situation.

Gansen, yes.

Chair, yes frequently.

Gansen summarized, the proposed build-out is in conformance with all other ordinance requirements including the driveway setback. If the applicant was requesting to build outside of their setbacks etc., staff would be recommending denial as it would not fit the lot. However the plans proposed today appear to meet ordinance requirements, eg., setbacks and imperious surface allowance.

The Chair asked for a motion.

The Chair made a motion to approve with 2 conditions.

Zierden seconded.

All members voting yes (Weaver, Ayers, Zierden) 3-2 voting no (Brisbin, This) to approve Variance Application V-24-11.

Conditions:

1. **The applicant must build to the plans submitted and approved by this variance and remain under the imperious surface allowed by ordinance.**
2. **All stormwater runoff must be managed on the subject property.**

See file for findings and notice of decision.

B. Conditional Use Permit Application C-24-004 - City of Breezy Point

The Commission Chair Weaver noted the applicant was present.

The Chair asked for the staff report.

Gansen read the staff report into record noting Public Works Supervisor Zierden is present to answer any questions related to the City's perspective on the project design features.

See staff report on file.

The Chair asked if there were any questions relating to the staff report.

Zierden, is this survey for the City's property or the private property.

Gansen, it is survey of the private property boundaries. The City owns everything surrounding the private property.

Theis, what kind of fence is this and color.

Public Works Supervisor, its regular chain link and galvanized.

The Chair asked if there were any more questions relating to the staff report.

Zierden, I think I need a little more background of where this project is located.

Gansen, the project site is delineated on the color coded maps.

Zierden, I was thinking about parking.

Gansen, the request is related solely to the height of a fence.

There was various discussion regarding the layout of the gardens.

The Chair specified we are here to discuss the height of the fence.

The Chair asked the applicant to state their name and address and to summarize the request before the Commission.

Joe Zierden, Public Works Supervisor, City of Breezy Point.

Public Works Supervisor, the Parks Commission identified this as a project and identified the site for the Community Garden Project.

The height of the proposed fence for the garden is due to the high potential for deer.

Ayers, how will the selection of the gardeners be determined.

Public Works Supervisor, that will be determined at tomorrow's meeting and probably not finalized until next spring.

Zierden, the purpose of the fence is for animal deterrence.

Public Works Supervisor, correct 8 feet in hopes to keep most animals out of the garden space.

The Chair called for audience comment in favor or opposition of the request and to state their name and address

Greg Harvey, we own the properties surrounded by the City property and if the City was willing we would be willing to sell these lots.

Zierden, are the lots vacant.

Greg, yes.

Zierden, thank you for that however this Commission is not the venue for those considerations. I would advise you express that desire to the City Council.

Gail Arne, 32692 North Woods Circle, Breezy Point MN.

Gail, I am the chair of the Parks and Rec Board. Because of the new City Hall build we would look to do most of our beautification efforts and activities in this area.

We are very excited for the project to begin and let me know if you have any questions.

Chair, what prompts this particular fence height.

Gail, yes mostly in consideration to deer. We contacted other areas and deer will jump over a six foot fence. Then they have to put two feet or barb wire around it and then it looks like a prison fence. We really want this to look like an inviting place, so we wanted to go for an 8 foot fence.

Thesis, asked about the orientation of the gardens.

Gail went into detail about the layout of the site plan for the garden plots and the layout of the project in general.

Chris Cullen, asked about rezoning some land on the other side of the airport as this property doesn't seem to fit the residential zoning class.

The Commission confirmed, there have been no rezoning requests relating to that area.

The Chair asked for any other public comment.

None.

The Chair closed the public comment period and opened the meeting to Board deliberation.

Chair then read the findings of fact questions to the Planning Commission for consideration.

See findings on file.

The Chair asked the Commission or Staff if there were any further discussion regarding the findings or conditions.

None.

This made a motion to approve.

Zierden seconded.

All members voting 5-0 to approve Conditional Use Permit Application C-24-004.

Conditions:

None.

See file for findings and notice of decision.

Old Business

A. None.

The Chair called for staff reports.

Staff Reports

Gansen updated the Commission on the City Administrator resignation and the interim process.

There will likely be a variance application at the next meeting if the applicant can get their survey completed before the submittal deadline.

The next PC meeting is Tuesday, October 8th.

That concludes the staff report.

The Chair asked for any Commissioner reports.

Commissioner reports

A. None.

There being no further business the meeting adjourned at 8:11 p.m.

Submitted by Peter Gansen
Planning & Zoning Administrator.



8319 County Road 11
 Breezy Point, MN 56472
 Phone: (218) 562-4093
 Fax: (218) 562-4486
www.cityofbreezypointmn.us

Received by City: PLH Section 6, Item A.
 Application Number: 24-012
 Non-refundable Fee Paid: 250-
 Receipt #: 23714

Variance Application

Name of Applicant Brian Lee
 Address 1881 Auburn St NW
 City, State, Zip Elk River, MN 55320
 Phone 763-516-1246 Alternate Phone _____

Physical Address / Location of Property 9168 Indian Hill, Breezy Point

Legal Description of Property Lot 27
3rd addition to Breezy Point estate

Parcel ID Number 10161098 Zoning District R-3

Applicant is:	Title Holder of Property (if different than applicant):
<input checked="" type="checkbox"/> Legal Owner of Property	Name <u>Same</u>
<input type="checkbox"/> Contract Buyer	Address _____
<input type="checkbox"/> Option Holder	City, State, ZIP _____
<input type="checkbox"/> Agent	Phone _____
<input type="checkbox"/> Other _____	

State the nature of your request in detail. What are you proposing for your property?
Building paved patio

Signature of Owner, authorizing application Brian Lee
 (By signing, the owner is certifying that he/she has read and understands the instructions accompanying this application.)

Signature of Applicant (if different than owner) _____
 (By signing, the applicant is certifying that he/she has read and understands the instructions accompanying this application.)

By signing above, I acknowledge that I understand that I am responsible for all fees incurred by the City as a result of professional services provided by the City Engineer, City Attorney, and other contracted agencies in reviewing my application.

APPLICANTS, PLEASE NOTE: Pursuant to the Breezy Point Zoning Ordinance, the applicant should be prepared to explain the unique situation on the property that requires the proposed variance. The Zoning Ordinance defines a hardship as the follows: "A hardship exists if the property in question cannot be reasonably utilized under the conditions allowed by the official controls, if the plight of the landowner is due to circumstances unique to the property"

and not of his own making, and the variance (if granted) would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship as reasonable use of utilization of the property exists under the terms of the Ordinance."

The following questions must be answered.

1. What changes are you proposing to make to this property?

Building: _____

Landscaping: Paver Patio

Parking/Signs: _____

2. What are the unique circumstances of the property (parcel size, shape, topography, or other characteristics not created by the landowner) that make strict interpretation of the Ordinance impractical?

Parking lot + sidewalk on my property that I do not own.

3. How is granting this variance consistent with the intent of the City of Breezy Point Zoning Ordinance?

Impervious surface will remain at 30% max development
Existing coverage is encumbered by concrete sidewalk + asphalt.

4. How will reasonable use of the property be deprived if the variance is not granted?

Reasonable to have a patio for outdoor enjoyment.
Allowed without permit with absence of parking lot.

5. What other options, either conforming or non-conforming, have been considered and why were those options not chosen?

Impacted by encroaching parking + concrete sidewalk + are
required to request variance.

6. Describe the impact on the use and enjoyment of other property in the immediate vicinity. If there is no impact, explain why.

There is no impact, firepit exists + will just improve aesthetic function.

7. Describe the character of the area and the existing patterns and uses of development in the area. How is this proposal consistent with those patterns and uses?

Neighbors all have same lots + patios.

8. Discuss any environmental limitations of the site or the area that limit building in other areas.

Building within the established set back

9. Please include any other comments pertinent to this request.

The existence of the parking lot + sidewalk are out of our control.

INSTRUCTIONS TO THE APPLICANT

Completed applications, with all submittal requirements, must be submitted to the Planning & Zoning Department no fewer than 25 days prior to the meeting date. In order for your application to be accepted as complete, and to have a public hearing scheduled, the following

- 1. This application must be completed, including responses to all parts of this application.
- 2. The required fee must be paid. See fee schedule for details.
- 3. Certificate of Survey with the following information, as a minimum, unless waived by the Planning Commission / Board of Adjustment.
 - Legal description of the site.
 - Site plan, prepared by a licensed surveyor, showing parcel and existing structure dimension, water features, and 10 foot contour lines (smaller contour lines may be required if deemed necessary by the Planning Department, Planning Commission, or City Council).
 - Location of all structures and their square footage.
 - Existing and proposed curb cuts, driveways, access roads, turn-arounds, parking including RV, boat and additional vehicle storage, off-street loading, and sidewalks. Size and type of surface should also be included.
 - Proposed landscaping and screening plans: garbage dumpsters, areas preserved in natural state including buffer areas, areas to be developed into lawn (grass), areas to be covered by woodchips or mulch, garden areas, shrubbery, types, size, age, and number of proposed trees and their locations, exterior lighting to be proposed including location and type, any other items deemed appropriate.
 - Square footage of all impervious coverage. Impervious coverage includes the horizontal area of all buildings, decks, roof overhangs, patios, walks, driveways, and any other parking areas and drives constructed of any material.
 - Proposed drainage plan.
 - Proposed and existing sanitary sewer and water supply plans with estimated usages on peak day.
 - Soils data showing capability for building and on-site sewage treatment.
 - Existing iron pipe boundary monuments marked with proof of survey.
 - Approximate location of any proposed signs (if applicable).
- 4. Color scheme for all existing and proposed structures.
- 5. Outside storage proposal.
- 6. Elevation plans for all existing and proposed structures.

Breezy Point Land Usage

§ 153.003

the Atomic Energy Act of 1954, being 42 U.S.C. § 2011 as amended; any hazardous waste as defined in M.S. § 116.06, Subd. 11 and any substance identified as a hazardous waste pursuant to rules adopted by the Minnesota Pollution Control Agency under M.S. § 116.07, as amended and any hazardous waste as defined in the Resource Conservation and Recovery Act under 42 U.S.C. § 6903, which is listed or has the characteristics identified under 42 U.S.C. § 6921, as amended, not including any hazardous waste, the regulation of which has been suspended by act of Congress.

HOLDING TANK. A sewage treatment system holding tank that consists of a tank that stores sewage effluent and that is regularly pumped as the tank is not connected to a drainfield.

HOME OCCUPATION. The use of commercial nature conducted by an occupant of a dwelling entirely within the dwelling or accessory buildings, which use is clearly incidental and secondary to the use of the dwelling for residential purposes.

HOUSEHOLD WASTE. Any material including garbage, trash and sanitary waste in septic tanks derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.



IMPERVIOUS SURFACE. The horizontal area of buildings, roof overhangs, decks and patios constructed of any materials, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of storm water, including drives and parking areas of any material.

IMPROVED LOT. A lot on which a primary structure has been constructed.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

INFESTATION. The presence of insects, rodents, vermin or other pests on the premises which constitutes a health hazard either to the occupants of the premises and/or to surrounding properties and/or residents.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a continuous path, strip, row or block.

Zoning

§ 153.003

PATIO. An uncovered, unscreened platform without attached railings or seats, which platform is at grade at its highest point and does not exceed 300 square feet cumulative of all patios on the property.

PERMITTED USE. A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issuable by the Zoning Administrator.

PERSON. Any human being, any municipality or other governmental or political sub-division or other public agency, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing or any other legal entity.

PERVIOUS HARD SURFACES. Permeable hard surfaces (concrete, concrete pavers, asphalt) installed over an engineered sub-surface. These surfaces shall be professionally designed, installed, and periodically maintained to capture rain water in a network of voids that allow it to percolate into the underlying soil. These surfaces may be utilized for roadways, parking areas, sidewalks, and patios.

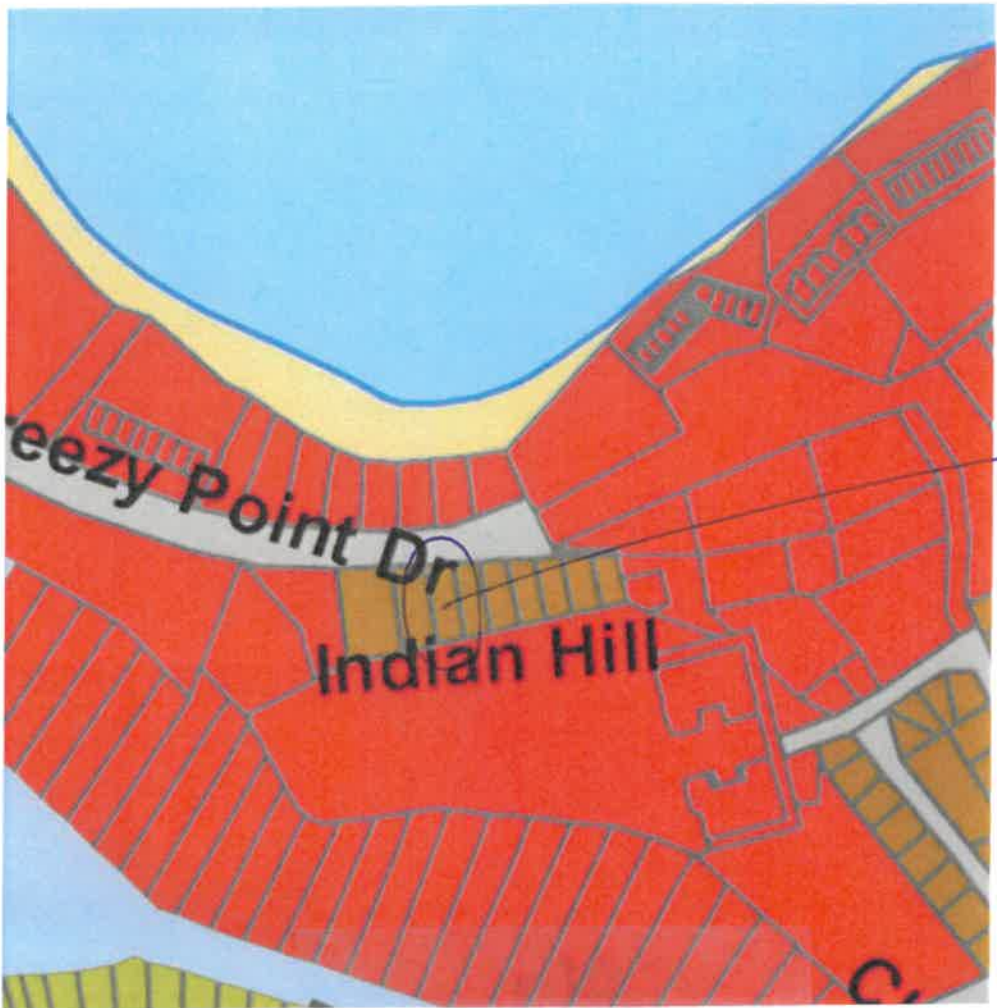


PET. An animal, bird, reptile or fish commonly associated with human habitation, not considered under animal husbandry and not raised for production of income.

PLANNED UNIT DEVELOPMENT (PUD). A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases and mix of structure types and land uses. These developments may be organized and operated as condominiums, timeshare condominiums, co-operatives, full free ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential, condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.













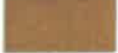
PLANNING COMMISSION. The body duly appointed by the City Council to determine the development of the city and make recommendations to the City Council on Comprehensive Plans, zoning district boundaries, subdivision of land and capital improvements and decide conditional use permits. The Commission shall decide

§ 153.003



R-3
Sewered

Official Zoning

- | | |
|--|---|
|  Urban Reserve (UR) |  Commercial (C) |
|  Estate Lots (EL) |  Resort Commercial |
|  Wooded Residential (WR) |  Airport (A) |
|  Low Density Residential (R-1) |  Public (P) |
|  Medium Density Residential (R-2) |  ROW |
|  Original Neighborhood (R-3) |  Water |
|  Multi Family Residential (R-4) | |



153.045 Lot Size; Dimension Chart

Lot Size/Dimension Chart (Areas in Square Feet and Distances in Feet Unless Otherwise Noted)										
	UR	WR	EL-R	R-1	R-2 Sewered and/or GD	R-2 Unsewered and/or GD	RD Lake	R-3 Sewered	R-3 Unsewered	R-4 Sewered
Structure Setbacks										
OHW	150	150	75		50	75	100			
Road right-of-way; city	50	50	40	35	30	30	30	35	35	35
Road right-of-way; county	50	50	40	35	35	35	35	35	35	35
Side	50	30	25	15	10	10 and 15	10 and 15	10	10 and 15	20
Between buildings										15
Rear (off lake lots only)	50	50	40	35	30	30		35	35	35
Side/rear; storage shed	3	3	3	3	3	3	3	3	3	3
Top of bluff	30	30	30	30	30	30	30	30	30	30
Wetland	30	30	30	30	30	30	30	30	30	30
Setback; driveways			25	15	5	5	5	5	5	20
Impervious coverage (percent)	10%	10%	15%	20%	25%	25%	20%	30%	25%	30%
Building height	None	35	35	35	35	35	35	35	35	35
Maximum permitted accessory structure height	20	20	20	15	15	15	15	15	15	15
Frontage on public ROW	33	33	33	33	33	33	33	33	33	33



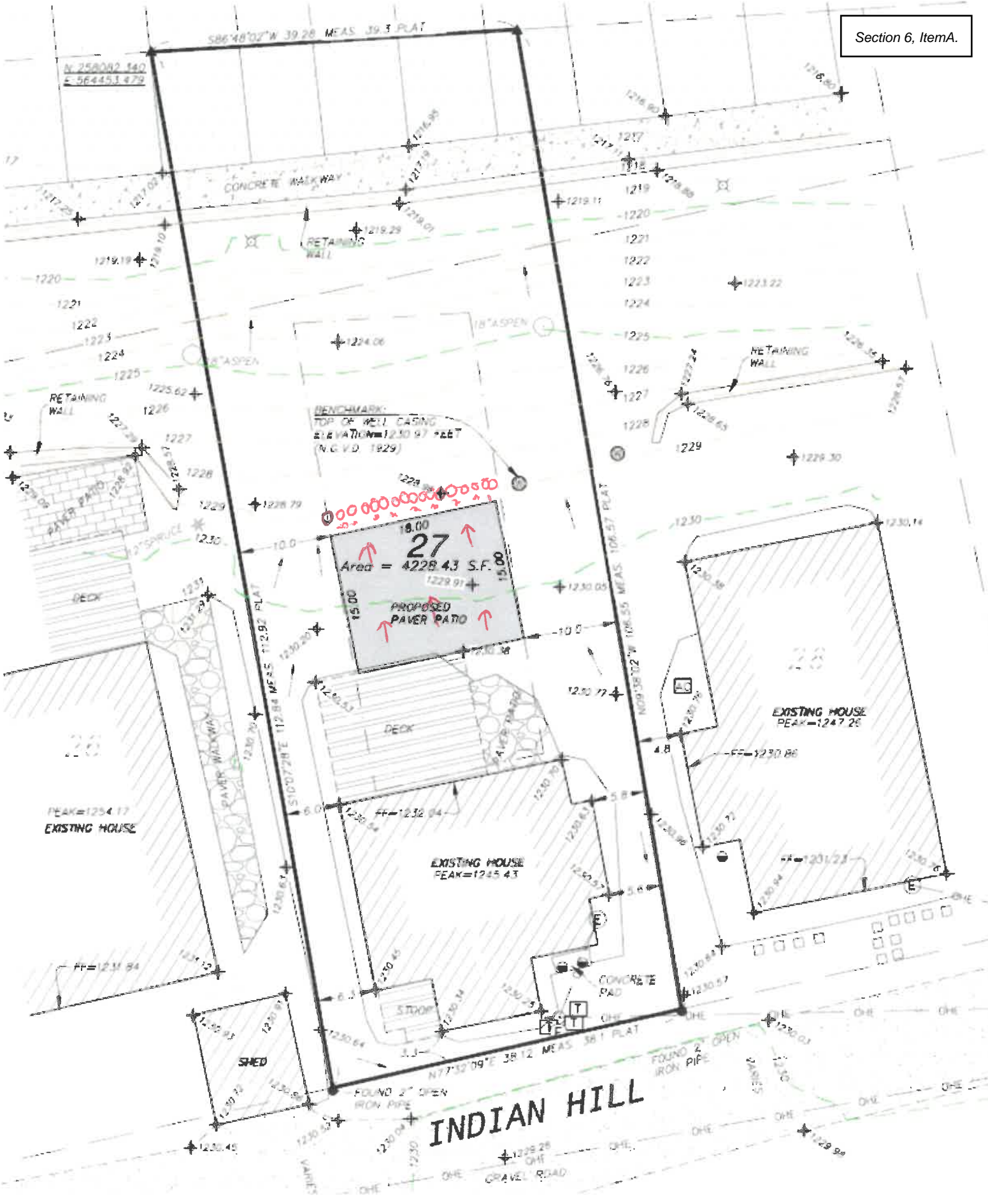
Single Feature

Available Reports
Plat Drawing Go

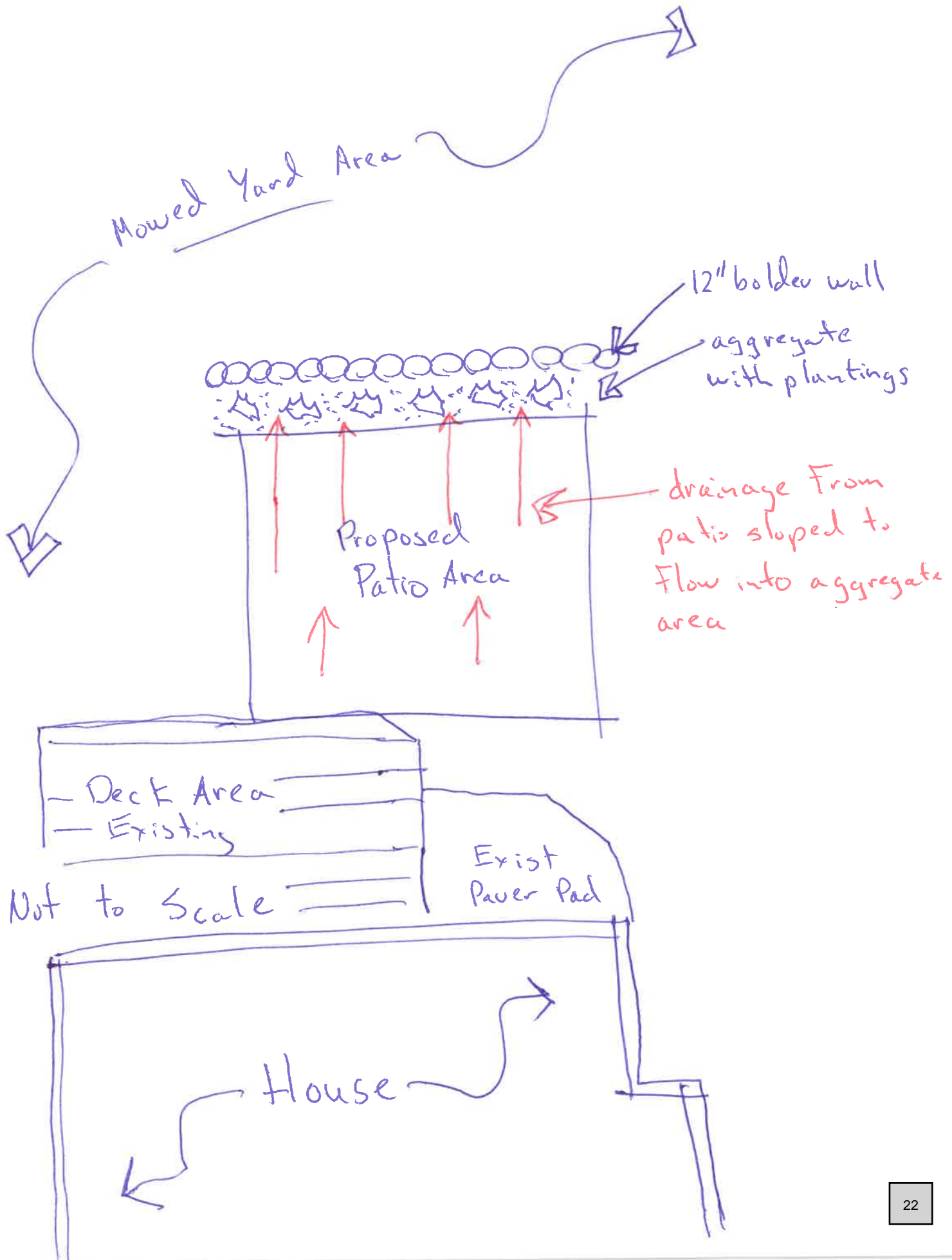
Zoom to Feature

Feature Information

Name	Value
PARCEL NUMBER	10161098
APPRCL	101360000270009
TDTDNM	CITY OF BREEZY POINT
OWNIDN	182126
OWNAME	LEE, BRIAN R
OWADR1	19881 AUBURN ST NW
OWADR2	
OWADR3	ELK RIVER MN 55330
OWADR4	
TAXIDN	182126
TXNAME	LEE, BRIAN R
TXADR1	19881 AUBURN ST NW
TXADR2	
TXADR3	ELK RIVER MN 55330
TXADR4	
PHYSADDR	9168 INDIAN HILL
PHYSCTY	BREEZY POINT
PHYSZIP	55128



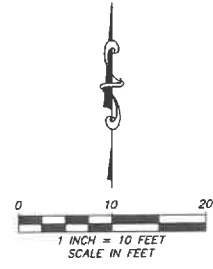
Storm water drains down to aggregate & plantings with 12" boulders in front



CERTIFICATE OF SURVEY

PREPARED FOR: BRIAN LEE

PART OF GOVERNMENT LOT 5, SECTION 16,
T136N, R28W, CROW WING COUNTY,
MINNESOTA



PARCEL DESCRIPTION

Lot 27, Third Addition to Breezy Point Estates, Crow Wing County, Minnesota according to recorded plat thereof.

LEGEND

- FOUND MONUMENT
- FOUND P.K. NAIL
- FF=1002.20 EXISTING FINISHED FLOOR ELEVATION
- ⊕ 1002.20 EXISTING SPOT ELEVATIONS
- EXISTING WATER DRAINAGE DIRECTION
- 998 EXISTING MINOR CONTOUR
- 1000 EXISTING MAJOR CONTOUR
- ⊕ EXISTING WELL
- ⊕ AC EXISTING A/C UNIT
- ⊕ EXISTING LP TANK
- ⊕ EXISTING ELECTRIC METER
- ⊕ EXISTING TELEPHONE PEDESTAL
- ⊕ EXISTING POWER POLE
- ⊕ EXISTING CONIFEROUS TREE
- ⊕ EXISTING DECIDUOUS TREE
- OHE EXISTING OVERHEAD ELECTRIC LINES
- EXISTING SETBACKS FRONT - 30 SIDE - 10 REAR - 30

ORIENTATION OF BEARINGS

The West Line of Lot 27, THIRD ADDITION TO BREEZY POINT ESTATES, Crow Wing County according to the recorded plat thereof, is assumed to bear S10°07'28"E

EXISTING IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
CONCRETE WALKWAY	172	S.F.
BITUMINOUS PARKING	472	S.F.
TOTAL	1544	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	36.51%	

PROPOSED IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
PROPOSED PAVER PATIO	270	S.F.
TOTAL	1170	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	27.67%	

SURVEY NOTES

- Coordinate System: Crow Wing County NAD83 (2011adj)
- This survey was done without the benefit of titlework
- Reference Benchmark: DNR 0.00 Gauge on North Side of Pelican Lake - Elevation = 1205.28 Feet (NGVD29)
- PID: 10161038
- Parcel Address: 9168 Indian Hill, Breezy Point, Minnesota
- Observed evidence of utilities has been shown hereon and combined with plans and markings (if provided). The surveyor further does not warrant that the underground utilities shown are in the exact location indicated, although does certify that they are located as accurately as possible from the information available. The surveyor has not physically located the underground utilities.

SURVEYOR'S CERTIFICATE

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

PRELIMINARY



Community Land Solutions
ANIMANDALE, MN 55302
SAUK RAPIDS, MN 56379
www.CommunityLandMN.com
(320)-249-2164

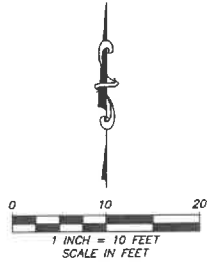
Certificate of Survey
Section 16, T136N, R28W
Job Number: 2024.133
DRAWN BY: SOS DATE: 9-11-24
CHECKED BY: MSM DATE: 9-11-24
CHECKED BY: DATE:



CERTIFICATE OF SURVEY

PREPARED FOR: BRIAN LEE

PART OF GOVERNMENT LOT 5, SECTION 16,
T136N, R28W, CROW WING COUNTY,
MINNESOTA



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- ⊙ EXISTING CONIFEROUS TREE
- ⊙ EXISTING DECIDUOUS TREE
- OHE EXISTING OVERHEAD ELECTRIC LINES
- EXISTING SETBACKS FRONT - 30 SIDE - 10 REAR - 30

ORIENTATION OF BEARINGS

The West Line of Lot 27, THIRD ADDITION TO BREEZY POINT ESTATES, Crow Wing County according to the recorded plat thereof, is assumed to bear S10°07'28"E

EXISTING IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
CONCRETE WALKWAY	172	S.F.
BITUMINOUS PARKING	472	S.F.
TOTAL	1544	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	36.51%	

PROPOSED IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
PROPOSED PAVER PATIO	270	S.F.
TOTAL	1170	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	27.67%	

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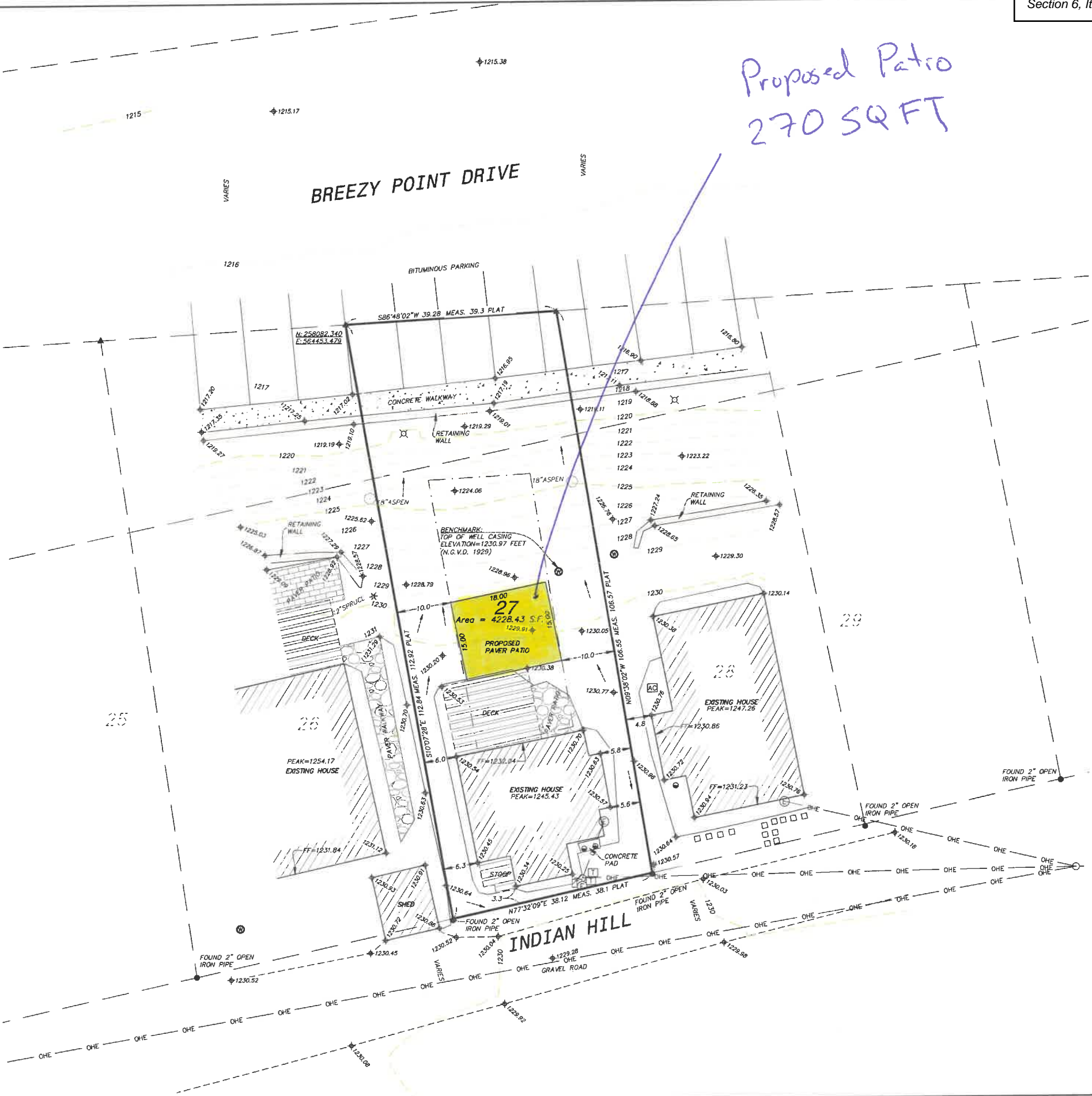
SURVEYOR'S CERTIFICATE

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

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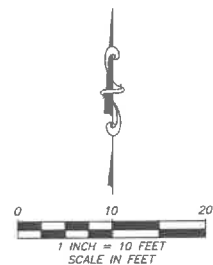
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CERTIFICATE OF SURVEY

PREPARED FOR: BRIAN LEE

PART OF GOVERNMENT LOT 5, SECTION 16,
T136N, R28W, CROW WING COUNTY,
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Lot 27, Third Addition to Breezy Point Estates, Crow Wing County, Minnesota according to recorded plat thereof.

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- OHE — EXISTING OVERHEAD ELECTRIC LINES
- - - EXISTING SETBACKS FRONT - 30 SIDE - 10 REAR - 30

ORIENTATION OF BEARINGS

The West Line of Lot 27, THIRD ADDITION TO BREEZY POINT ESTATES, Crow Wing County according to the recorded plat thereof, is assumed to bear S10°07'26"E

EXISTING IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
CONCRETE WALKWAY	172	S.F.
BITUMINOUS PARKING	423	S.F.
TOTAL	1544	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	36.51%	

PROPOSED IMPERVIOUS SURFACE AREA		
HOUSE	574	S.F.
DECK	218	S.F.
STOOP	34	S.F.
CONCRETE PAD	7	S.F.
PAVERS	67	S.F.
PROPOSED PAVER PATIO	270	S.F.
TOTAL	1170	S.F.
LOT AREA	4228.43	S.F.
LOT PERCENTAGE	27.67%	

SURVEY NOTES

- Coordinate System: Crow Wing County NAD83 (2011adj)
- This survey was done without the benefit of titlework
- Reference Benchmark: DNR 0.00 Gauge on North Side of Pelican Lake - Elevation = 1205.28 Feet (NGVD29)
- PID: 10161098
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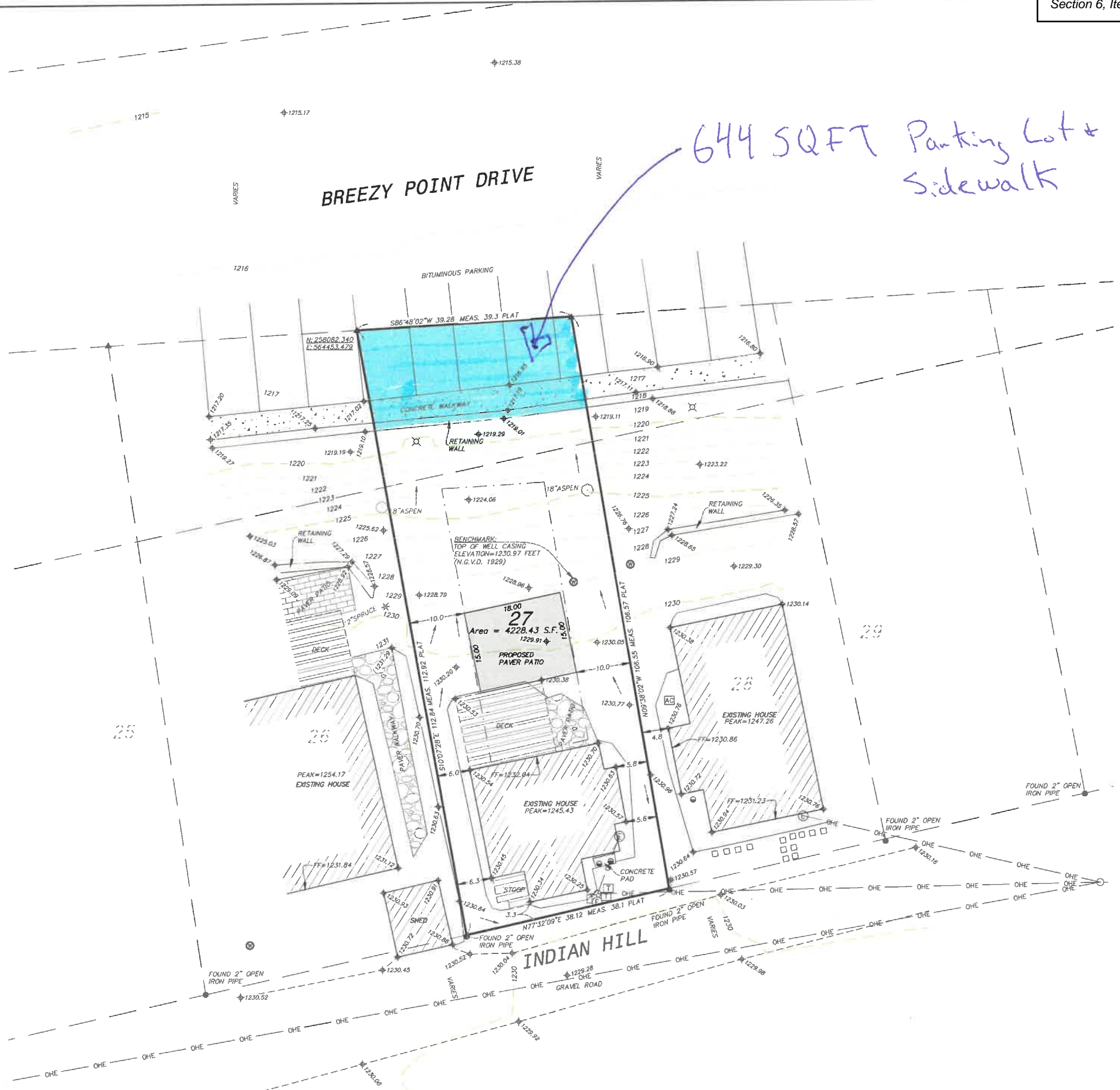
SURVEYOR'S CERTIFICATE

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

PRELIMINARY

Community Land Solutions
ANKANDALE, MN 56302
SAUK RAPIDS, MN 56379
www.CommunityLandMN.com
(320)-249-2184

Certificate of Survey
Section 16, T136N, R28W
Job Number: 2024.133
DRAWN BY: SOS DATE: 9-11-24
CHECKED BY: MSM DATE: 9-11-24
CHECKED BY: DATE:



City of Breezy Point
Notice of Public Hearing
Tuesday October 8, 2024, 7:00 p.m.
Breezy Point City Hall

To Whom It May Concern:

Notice is hereby given that the City of Breezy Point Planning Commission / Board of Adjustment will hold a public hearing on October 8, 2024 at 7:00 p.m. or shortly thereafter at Breezy Point City Hall, 8319 County Road 11, to consider the following;

Variance Application V-24-012

LEE, BRIAN R 19881 AUBURN ST NW ELK RIVER MN 55330. LOT 27, 3RD ADDITION TO BREEZY POINT ESTATES. Parcel 10161098. Is requesting a variance from the maximum allowed impervious surface coverage of 30% to 43% to construct a 270 SQFT patio. Zoned R-3.

A notice relative to above listed requests is sent to all property owners located within 350 feet of the applicant's property. Please share this information with your neighbor in the event that any property owner has been missed, or that our records are not correct.

Public is invited to attend and be heard on these matters.

Peter Gansen
Planning & Zoning Administrator
City of Breezy Point
218-569-1003
pgansen@cityofbreezypointmn.us

Echo Journal September 25, 2024



TO: Planning Commission
 FROM: Peter Gansen, Planning & Zoning Administrator
 RE: Staff Report for V-24-012
 DATE: October 08, 2024 Regular Meeting

Variance Application V-24-012
 Applicant: BRIAN LEE
 Property Address: 9168 INDIAN HILL
 Legal Description: LOT 27 3RD ADDITION TO BREEZY POINT ESTATES
 Parcel ID: 10161098
 Zoned: R-3 Original Neighborhood/Sewered

- Applicant has filed the appropriate application.
- Applicant has paid the appropriate fee for the application.
- Public notice of the Hearing was published in the legal newspaper and all property owners within 350’ were mailed a notice of hearing.
- Public notice was given to the DNR, as the property is in the shoreland district.

Variance Request:

- Is requesting a variance from the maximum allowed impervious surface coverage of 30% to 43% to construct a 270 SQFT patio.

Summary of the property

This property was platted\subdivided in 1963 as the Third Addition to Breezy Point Estates prior to land use ordinance adoption and minimum lot size requirements.

The property is in a residential zoned area with small seasonal cabins surrounded by resort commercial zoned property and fronted by a large street and parking area on both sides.

The adjacent neighbor’s properties are similarly developed with single-family year-round/seasonal cabins.

The City has established structural setbacks with minimum residential structure sizes and the proposed project appears to meet these standards.

However, the property exceeds the maximum 30% impervious surface allowance in the R-3 zoning district.

Based on the information presented at this time and in the applicants survey it appears the subject property is affected by parking and sidewalk that has encroached onto the property.

If the parking and sidewalk areas that encroach onto the applicant's property were not considered in the impervious surface calculations the project would not require a variance.

Please see the impervious surface table on the site plan drawing.

There are other remedies that exist that could be explored to alleviate the need for the variance these include but are not limited to.

The applicant could install engineered pervious product that would not require a variance.

The applicant could look into if there were alternatives to remove or relocate the parking and sidewalk that is encroaching on the property.

The applicant could pursue a rezone to resort commercial zoning which is the majority of the zoning classification in this area. This would allow the applicant 50% impervious coverage and not require a variance.

These options seem to be more extreme and expensive options than crediting the applicant areas affected by the parking area and sidewalk.

All the same, there are many non-conforming properties that are bought and sold and have very limited or no expansion opportunities. It is also the landowner's responsibility to be aware of development limitations with property's as rules change over time.

The proposed project in the application material submitted at this time appears to meet the spirit and intent of ordinance. Meaning the lot appears to have the capacity to support a reasonably sized patio that would remain under the impervious limits if there was not a parking area and sidewalk encroaching onto the property, which is outside both the former and current owner's control.

Please keep in mind that granting a variance does not create or set a precedence. The Planning Commission is the venue for deciding whether unique circumstances exist that create a practical difficulty and justify variance approval.

The Commission can grant a variance on one property and not on another, given they follow the proper procedure and adopt the appropriate findings. This is based on prior case law and the findings of fact can be considered uniquely and applied to the subject property in different place and time.

Staff recommends the Commission consider approval based on the plans submitted the application with the following proposed condition.

- 1) **All stormwater runoff associated with the patio must be mitigated and maintained onsite.**

The following are recommended findings the Commission can adopt.

Notice of Decision and Findings of Fact

The Planning Commission shall consider the following in its decision and make written findings concerning the variance approval or denial.

- (1) The strict interpretation of the ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner;

Yes, the lot would be considered maxed out on impervious surface coverage due to the encroaching parking area and sidewalk. If the encroaching parking area and sidewalk were not on the property the impervious amounts would be within ordinance allowances.

- (2) The deviation from the ordinance with any attached conditions will still be in keeping with the spirit and intent of the ordinance;

Yes, the patio’s location is conforming, and the proposed structure dimensions meet residential structure size requirements.

- (3) The land use created by the variance is permitted in the zoning district where the property is located;

Yes, patios are allowed in this zoning district.

- (4) The variance will not alter the essential character of the locality;

The prosed request is residential similar to the adjacent neighbors and shares the same setbacks. The immediate neighbors have decks and or patios and the rest of locality is a highly developed resort that allows 50% impervious surface coverage.

- (5) The variance is not for economic reasons alone, but reasonable use of the

property does not exist under the ordinance.

Yes, without the variance the landowner would not be allowed a patio. The current or prior owners did not create practical difficulty or hardship. The hardship and practical difficulty was created when the parking areas and sidewalks were installed. This circumstance is unique to this property as most properties do not have parking areas that encroach onto them. See findings 1-5.

The following are recommended conditions.

- 1) All stormwater runoff associated with the patio must be mitigated and maintained onsite.**