

**SUMMER VILLAGE OF SUNBREAKER COVE
SUBDIVISION AND DEVELOPMENT APPEAL BOARD AGENDA
STOP ORDER ISSUED – UNAUTHORIZED DRIVEWAY DEVELOPMENT
JUNE 7, 2022 @ 10:00 a.m.**

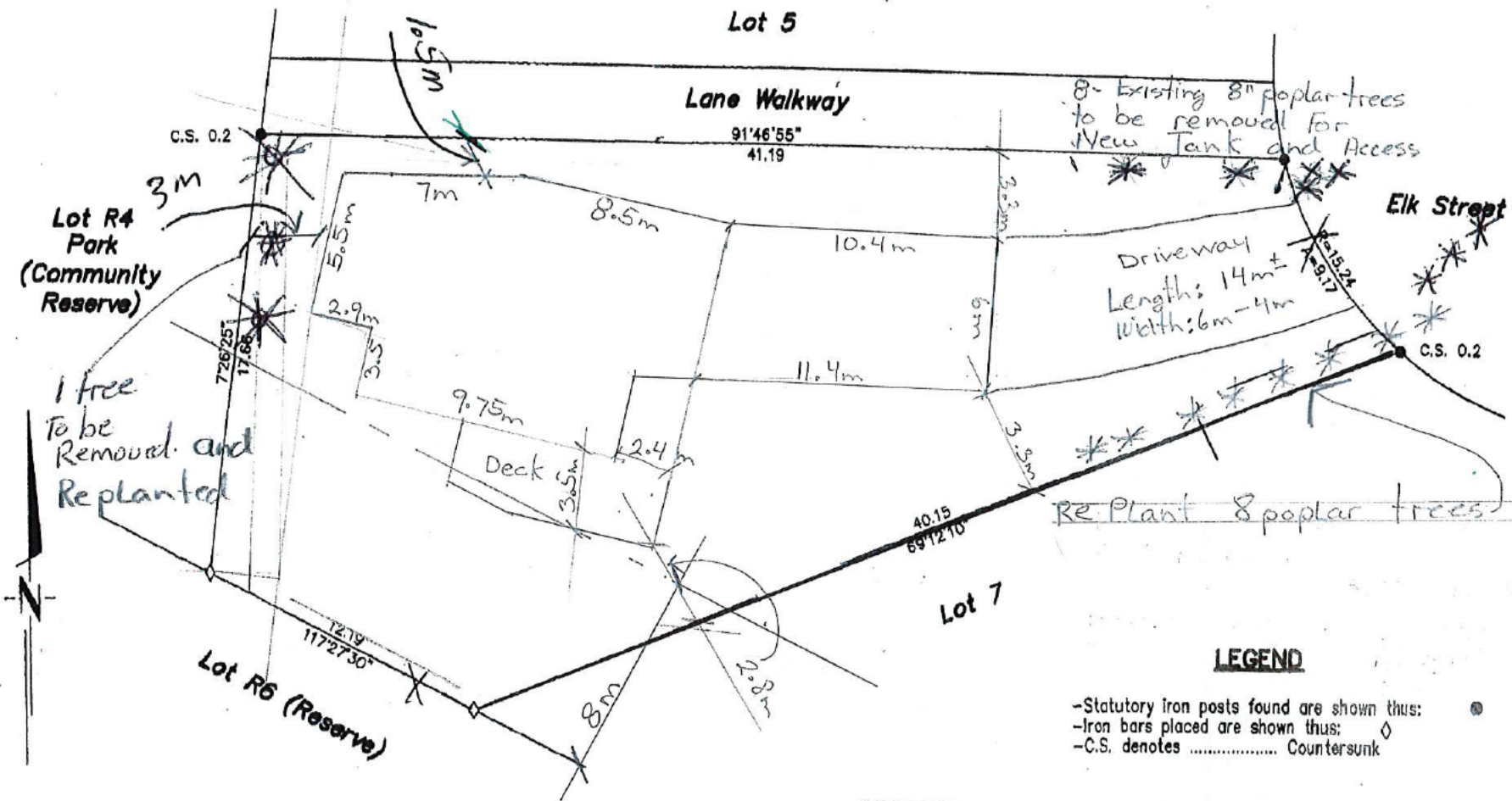
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|-----|---|-------------------------|
| 1. | Call to Order | Chairman |
| 2. | Purpose of Hearing/Confirmation of Notice | Secretary |
| 3. | Polling for Objections to members | Secretary |
| 4. | Background of appeal | CAO |
| 5. | Duties & Jurisdiction | CAO |
| 6. | Hearing Procedures | Chairman |
| 7. | Background from Development Officer | Development Officer |
| 8. | Statement & Presentation | |
| | (a) Appellant(s) | Ralph & Charlotte White |
| | (b) Appellant(s) | Tina Nielsen |
| | (c) Applicant(s) | Brian Bakgaard |
| 9. | Questions from the board | |
| 10. | Written letters supporting appeal | Secretary |
| 11. | Speakers supporting appeal | |
| 12. | Questions from the board to speakers | |
| 13. | Written letters supporting development | Secretary |
| 14. | Speakers supporting development | Secretary |
| 15. | Questions from board to speakers | |
| 16. | Rebuttal Statement from Appellant | |
| | (a) Appellant(s) | Ralph & Charlotte White |
| | (b) Appellant(s) | Tina Nielsen |
| | (c) Applicant(s) | Brian Bakgaard |
| 17. | Development Officer Summary | Development Officer |
| 18. | Additional questions from Board to anyone | |
| 19. | Conclusion of Public Hearing | |

Two appeals were received, one on May 11, 2022, and the second on May 16, 2022, from affected residents, appealing Development Permit #222032 issued by the Development Officer, on April 26, 2022, for demolition and a dwelling development, in the Summer Village of Sunbreaker Cove.

Under the provisions of the *MGA*, the Subdivision and Appeal Board may deny the appeal and uphold the permit; or allow the appeal and deny the permit; or allow the appeal and approve the permit with or without variations to the permit.

NOTICE BEING GIVEN by mail on May 16, 2022, to the appellant/applicant and owners of property located within 200' radius of the proposed development and published on the Municipal website.

LOT BOUNDARY SKETCH



Kara's Questions answered:

1	parcel coverage :	this page
2	Drainage Plan	Page 2
3	Shared Driveway	NO
4	Trees Replanted	this page
5	Existing Grades	To Remain
6	Building Height	Page 506

DEVELOPMENT PERMIT

NO: 222032

CONDITIONALLY APPROVED

ON: APR 26 2022

BY: Hem Kishor
(Approving Authority & Signature)

9 PAGES

LEGAL DESCRIPTION

Lot(s) 6 Block 6 Plan 1823 MC

REGISTERED OWNER(S)

MUNICIPAL ADDRESS

747 ELK STREET, SUMMER VILLAGE OF SUNBREAKER COVE, ALBERTA.

Drawn By: DF Chk'd: DM

Date: October 1, 2015

Scale: 1 : 250

File No.: L-027-15 lot

BEMOCO LAND SURVEYING LTD

100, 6040-47th Avenue
Red Deer, Alberta

PHONE: 403-342-2611

Proposed New Develop

Site Footprint:

Drive-way

House, Garage, East Deck 2240

Front Deck

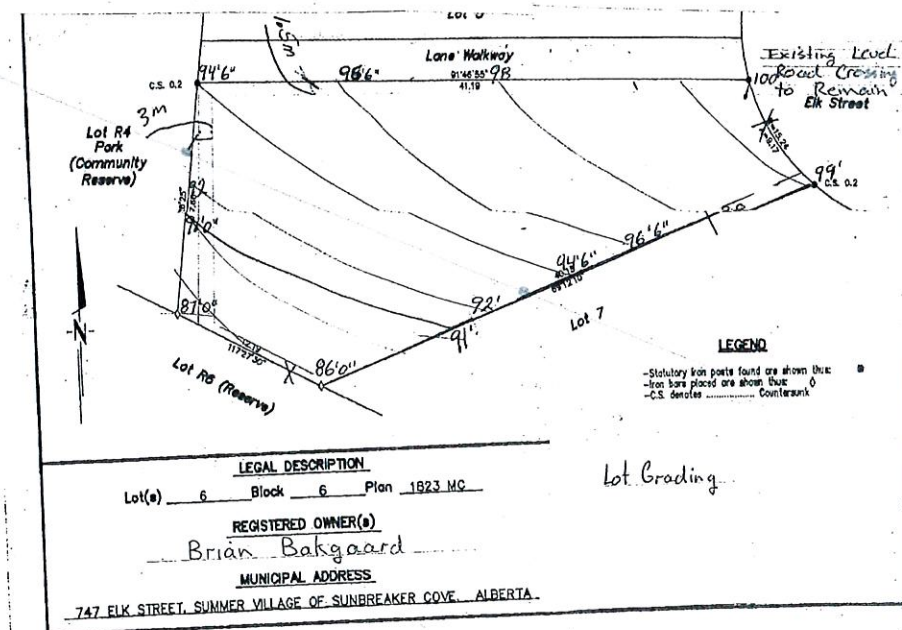
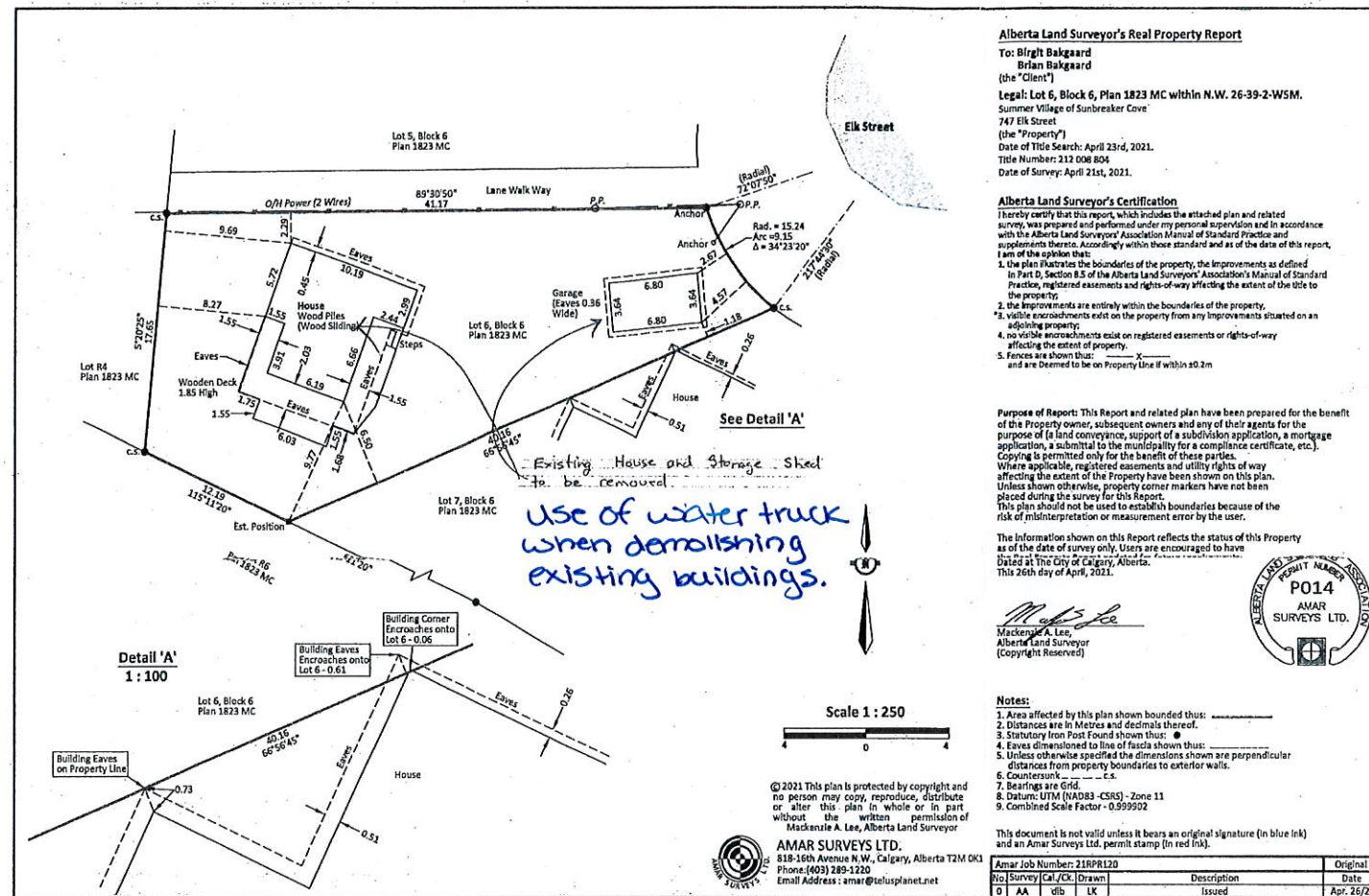
Stairs and Entrance

Exposed Lower Walkout	175
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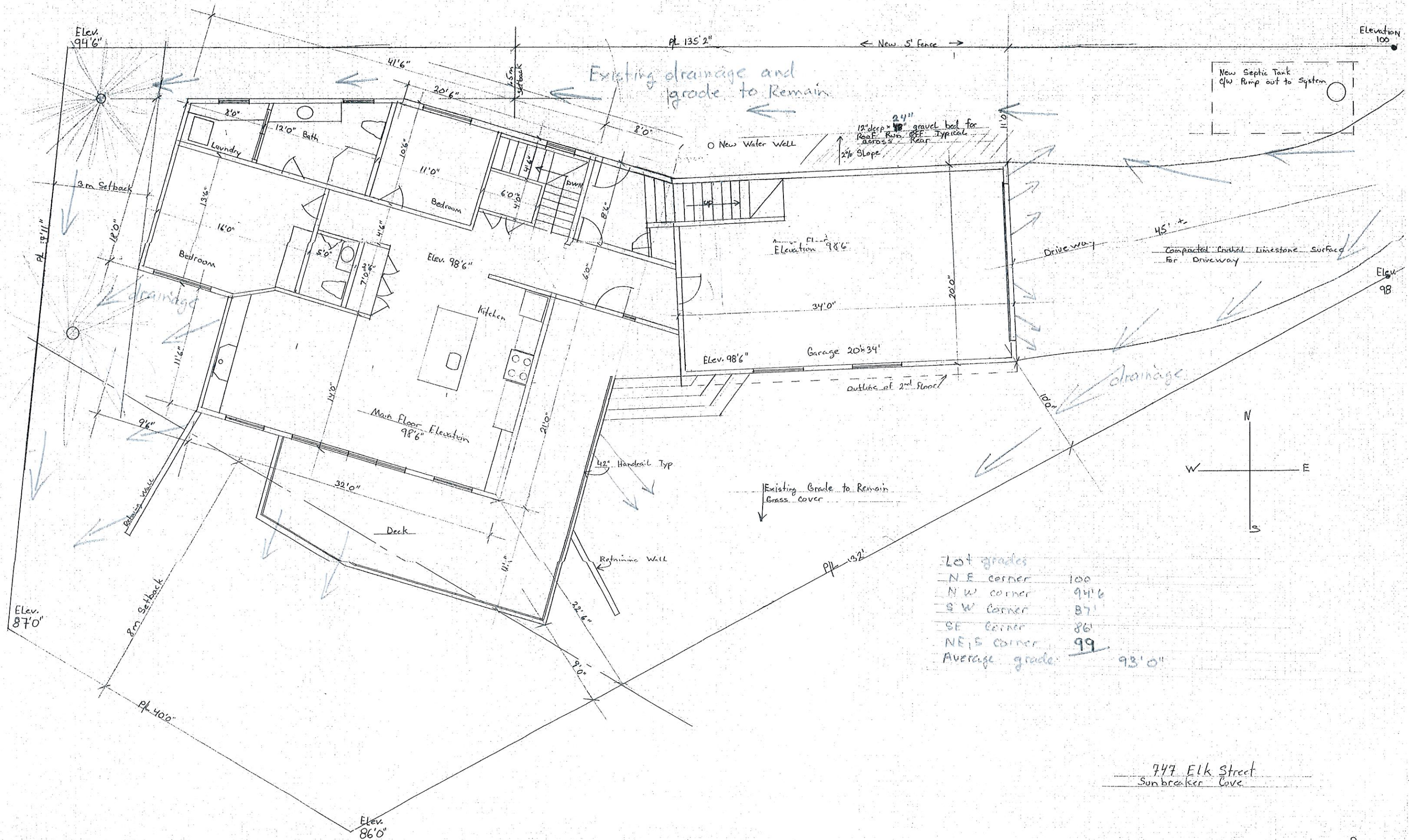
Rear trench

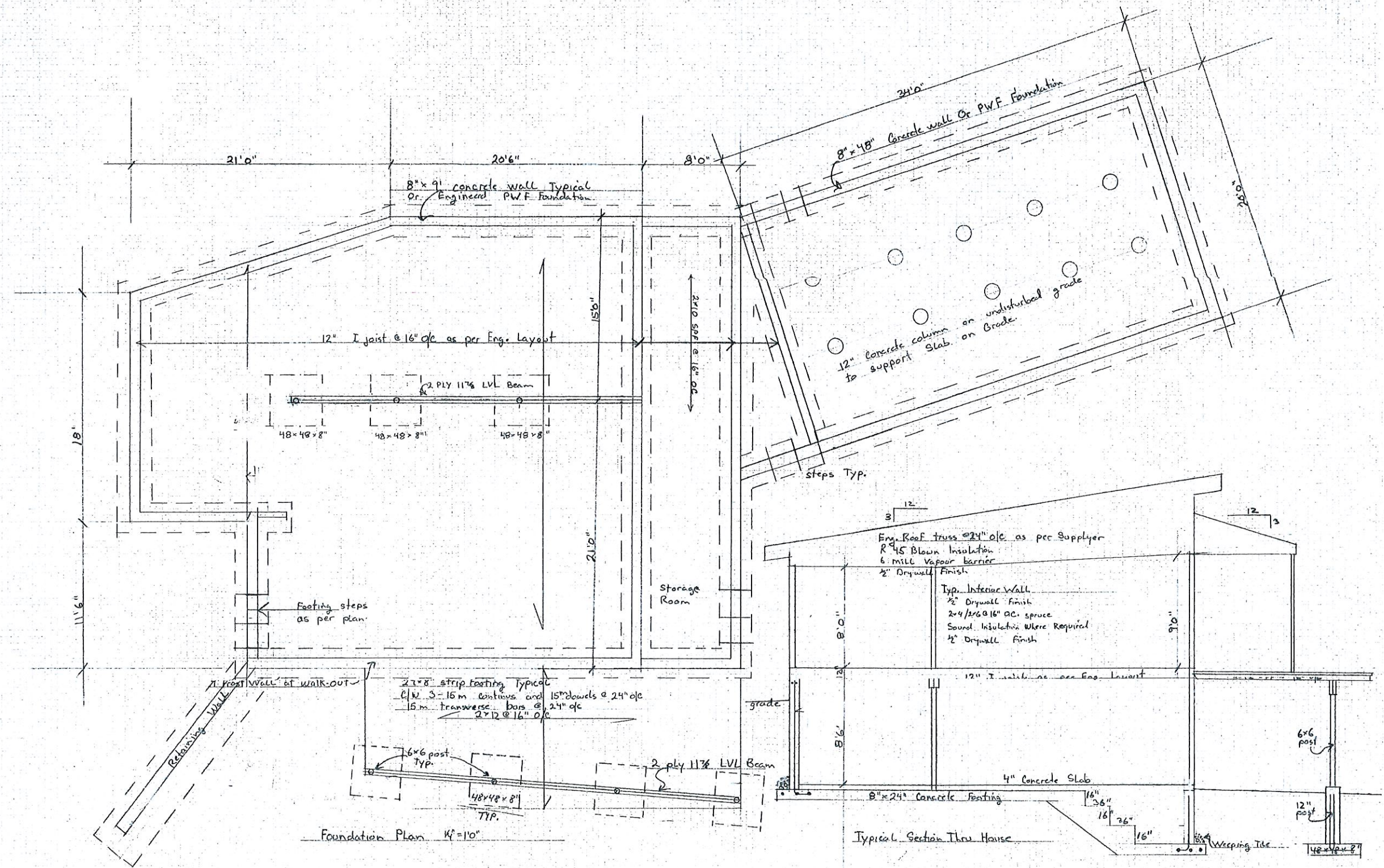
total	3746	sq. ft
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= 50% site coverage



Proposed Development
 747 ELK Street
 Sunbreaker Cove

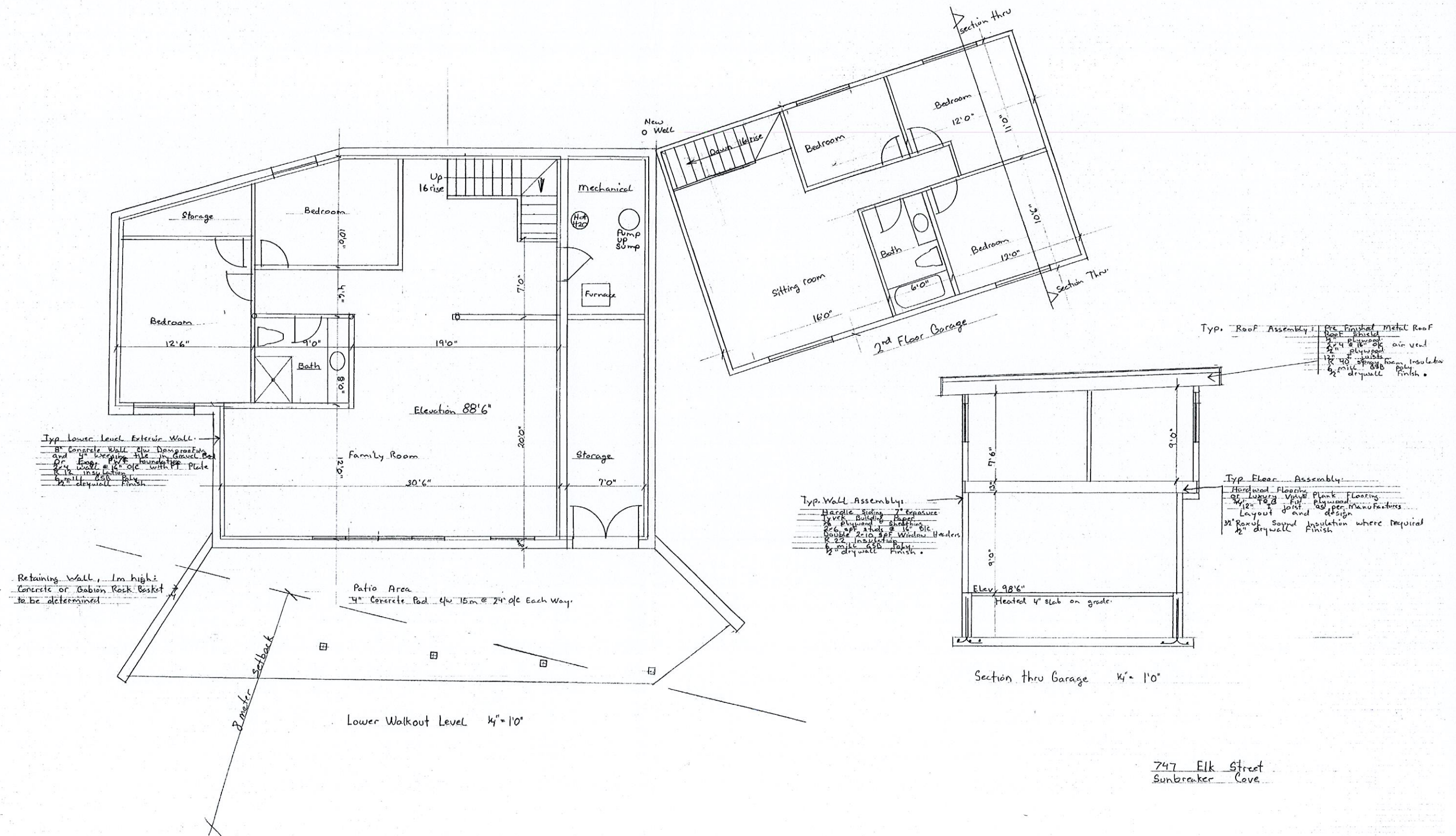




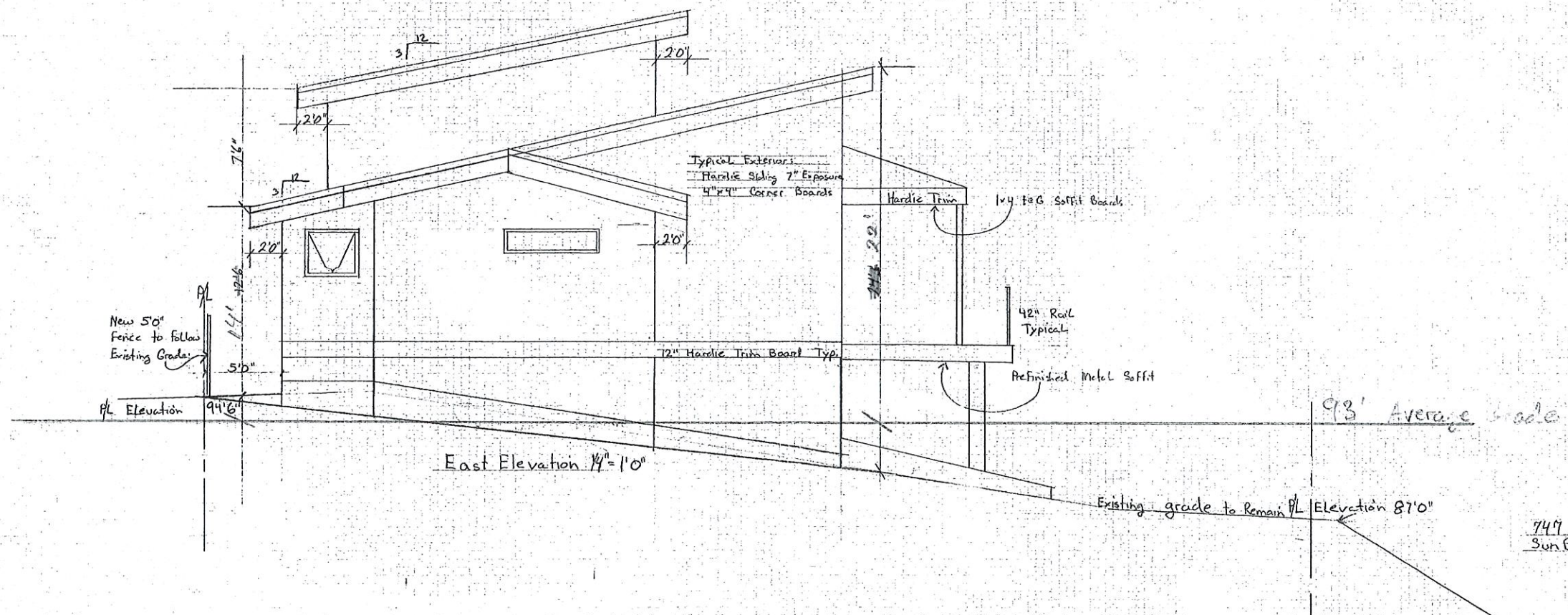
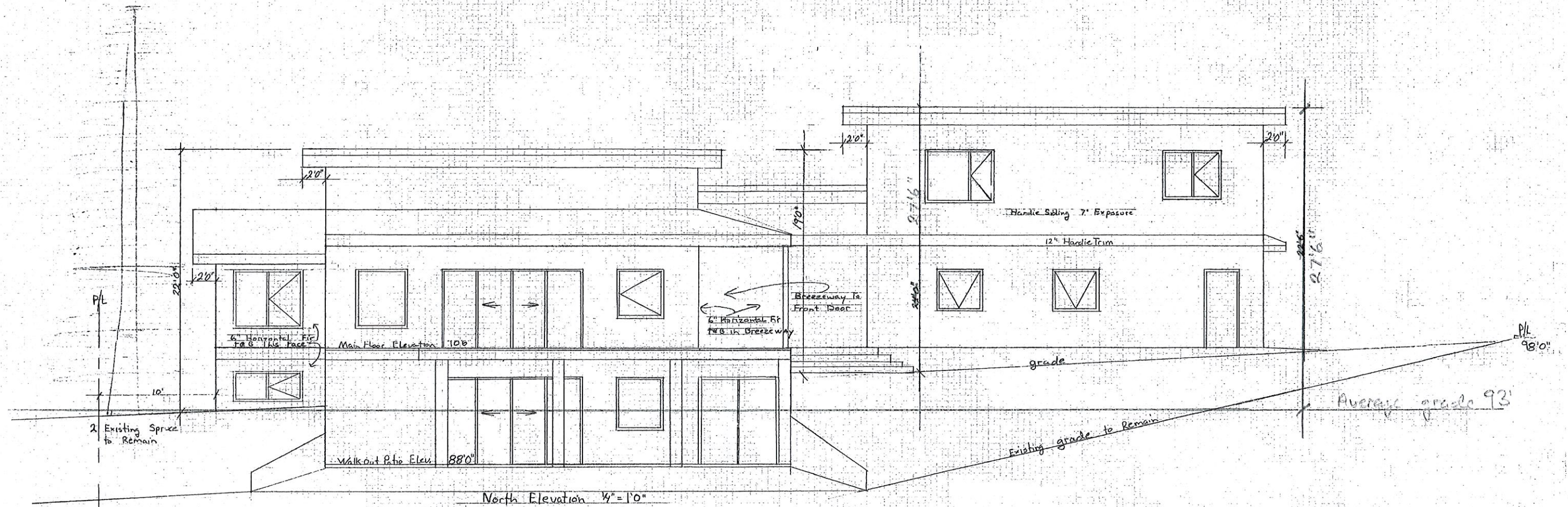
Note:

Due to limited Site Access for Concrete Pumping
an Engineered Pressure Treated Wood Foundation
May be Considered by Owner.

747 Elk Street
Sunbreaker Cove



747 Elk Street
Sunbreaker Cove



P/L
Elevation
100'

Elev 93' Average grade

Black Prefinished Metal Roof

Black Prefinished Metal Roof

Hardie Siding 7" Exposure

Hardie Siding 7" Exposure

Main Floor Elevation

98'6"

2 Existing
Spruce to
Remain

P/L
Elevation
94'6"

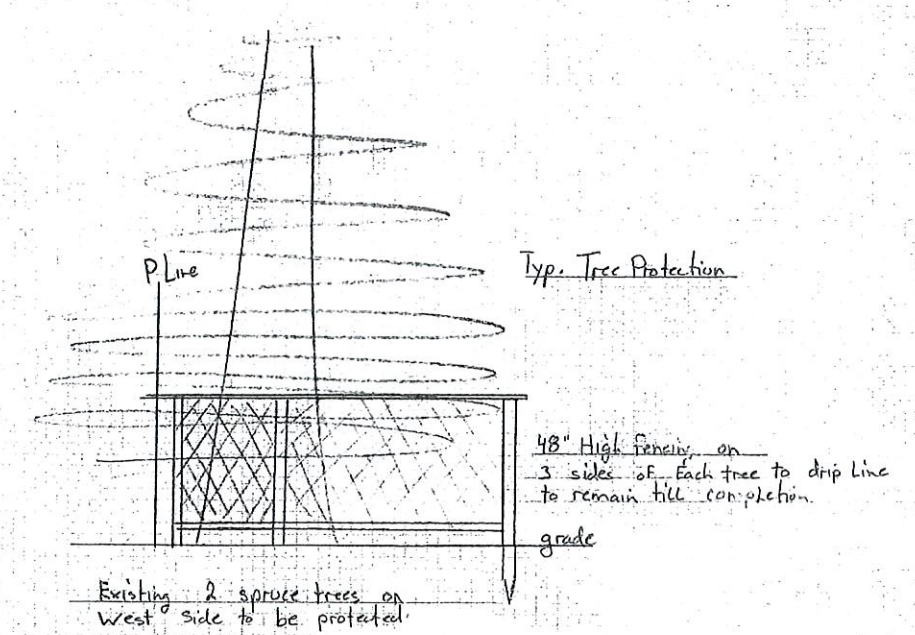
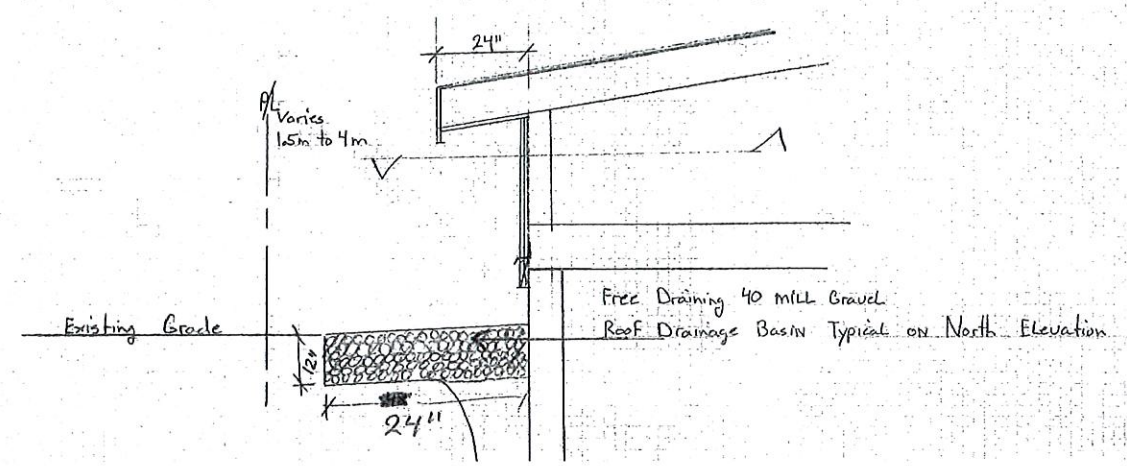
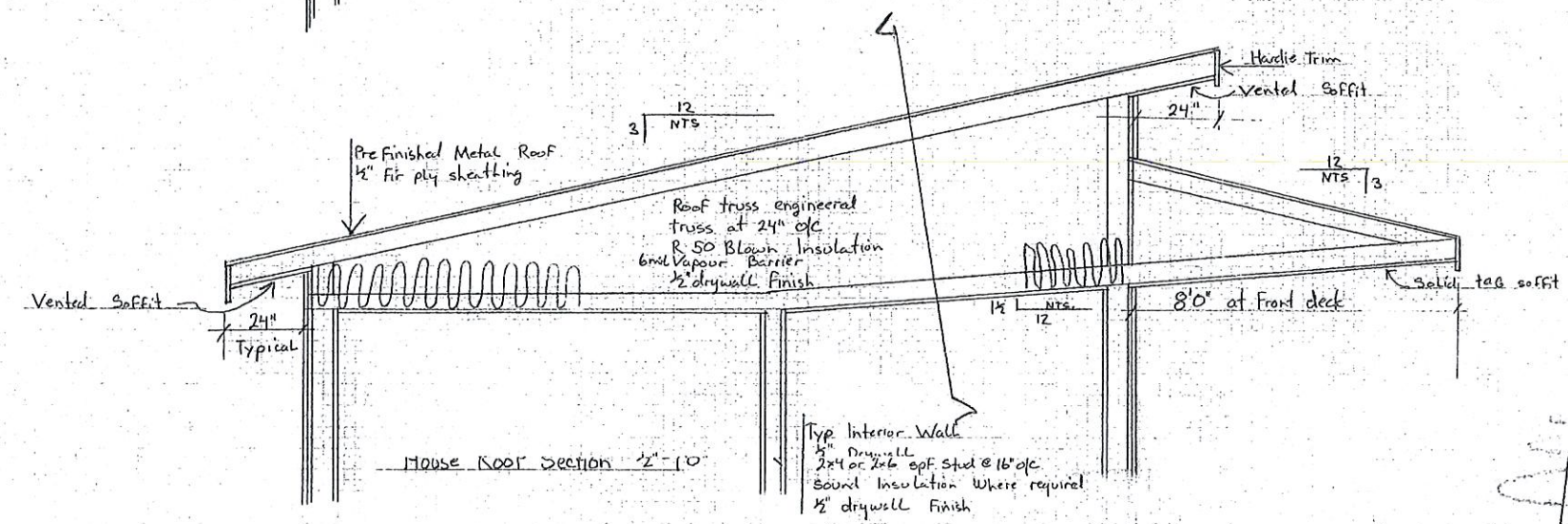
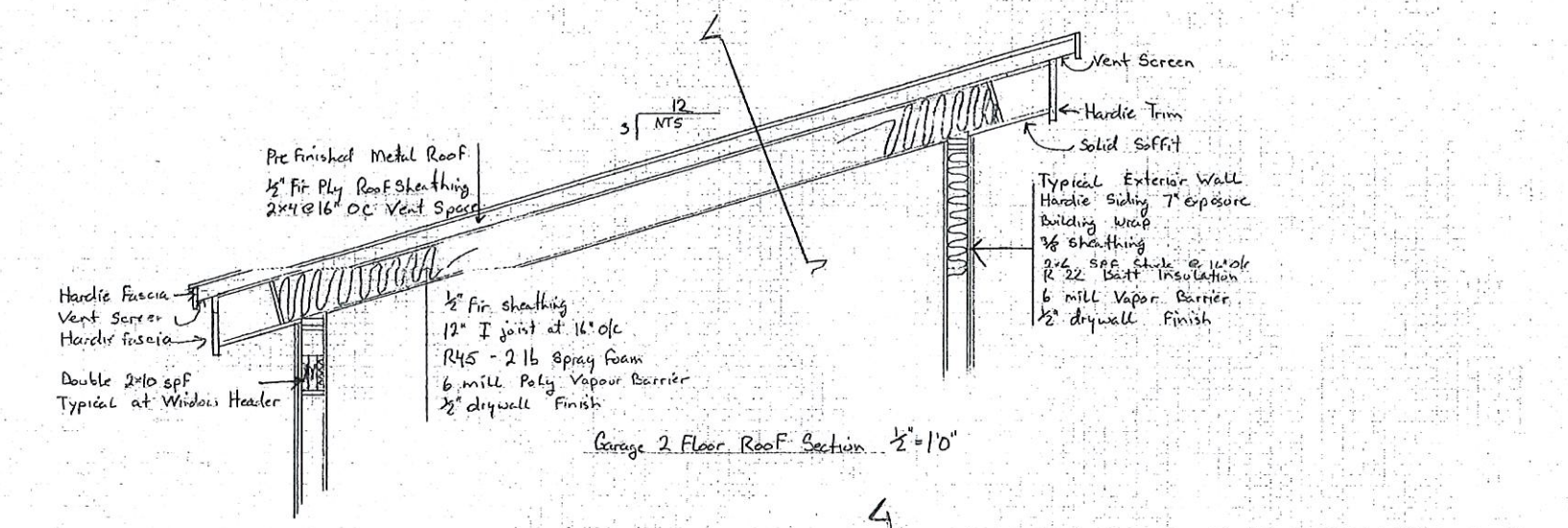
South Elevation $1/4" = 1'0"$

Concrete
Paving

West Elevation $1/4" = 1'0"$

Average Grade 93'

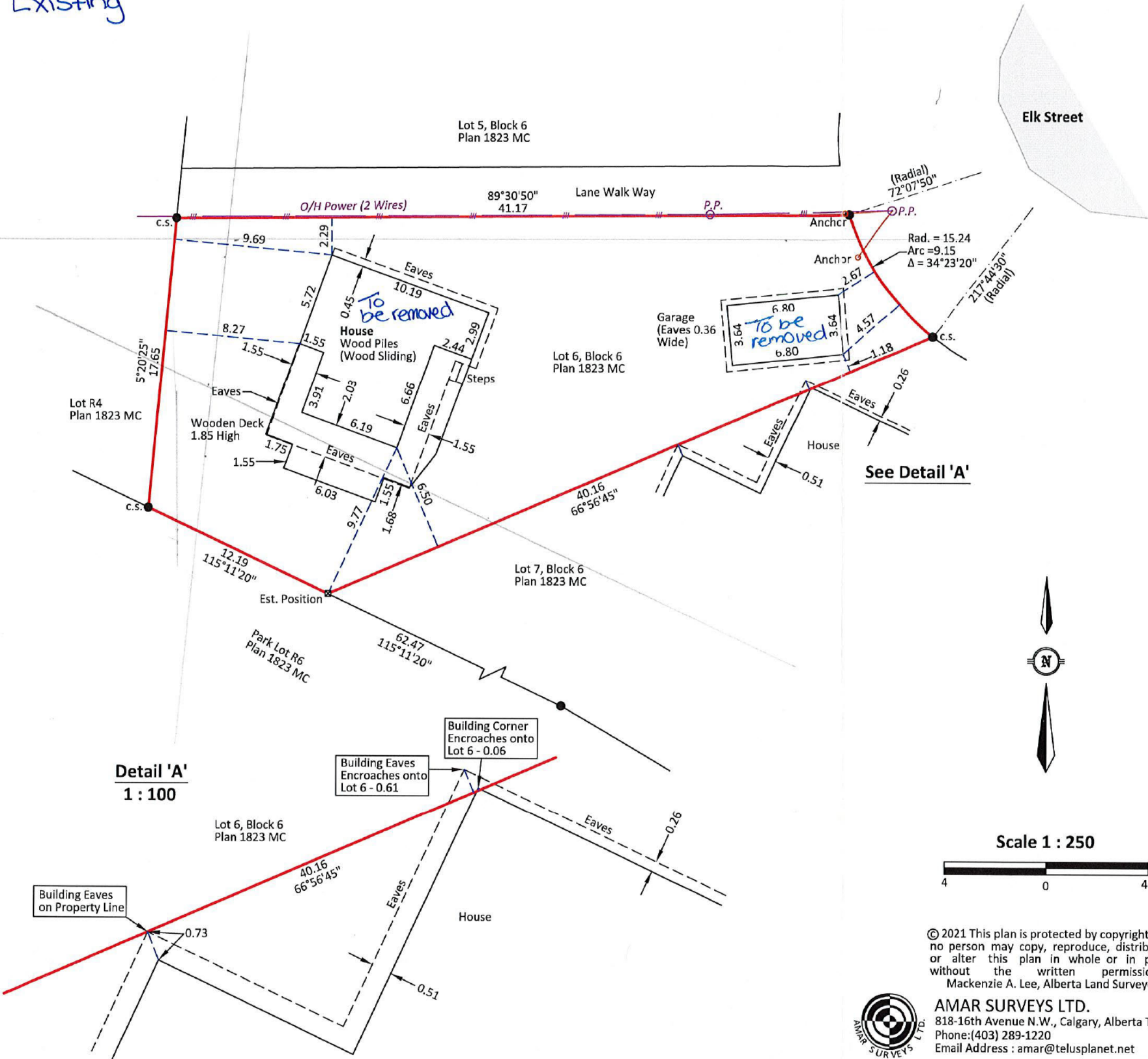
747 Elk Street
Sunbreaker Cove



Window Schedule			
Dining	5' x 5'	Fixed Casement	
Front Room	12' x 7'	Patio Door	Sealed Slider Slider Sealed
Front Room	5' x 5'	Fixed	
Master Bed	6' x 5'	Fixed Casement	
Master Bed	1'6" x 6'	Fixed	
Laundry	3' x 3'6"	Awning	
Master Bath	3' x 3'6"	Awning	
Bedroom	5' x 4'	Fixed Casement	
Stair well	3' x 4'	Fixed	
Back Entrance			
Garage North	16' x 6'	Fixed	
Garage South	4' x 3'6"	Awning	
Garage Back	5' x 3'6" x 3	Fixed Casement	
Garage Living	6' x 4'6"	Fixed Casement	
Lower Level Living	4' x 4'6"	Fixed	
Walk out	12' x 7'	Patio Door	
Bedroom	6' x 2'6"	Fixed Casement	Egress
Door			
Entrance Door Schedule			
Garage	16' x 7'	over head	
Garage Exit	2'8" x 7'		
Garage Exit	2'8" x 7'		
Front Entrance	3'4" x 7'	plus side light	
Rear	2'8" x 7'		

747 Elk Street

Existing



Alberta Land Surveyor's Real Property Report

To [REDACTED]

(the "Client")

Legal: Lot 6, Block 6, Plan 1823 MC within N.W. 26-39-2-W5M.

Summer Village of Sunbreaker Cove

747 Elk Street

(the "Property")


Date of Title Search: April 23rd, 2021.

Title Number: 212 008 804

Date of Survey: April 21st, 2021.

Alberta Land Surveyor's Certification


I hereby certify that this report, which includes the attached plan and related survey, was prepared and performed under my personal supervision and in accordance with the Alberta Land Surveyors' Association Manual of Standard Practice and supplements thereto. Accordingly within those standard and as of the date of this report, I am of the opinion that:

1. the plan illustrates the boundaries of the property, the improvements as defined in Part D, Section 8.5 of the Alberta Land Surveyors' Association's Manual of Standard Practice, registered easements and rights-of-way affecting the extent of the title to the property;
2. the improvements are entirely within the boundaries of the property;
- *3. visible encroachments exist on the property from any improvements situated on an adjoining property;
4. no visible encroachments exist on registered easements or rights-of-way affecting the extent of property.
5. Fences are shown thus:  and are Deemed to be on Property Line if within $\pm 0.2m$

Purpose of Report: This Report and related plan have been prepared for the benefit of the Property owner, subsequent owners and any of their agents for the purpose of (a land conveyance, support of a subdivision application, a mortgage application, a submittal to the municipality for a compliance certificate, etc.). Copying is permitted only for the benefit of these parties. Where applicable, registered easements and utility rights of way affecting the extent of the Property have been shown on this plan. Unless shown otherwise, property corner markers have not been placed during the survey for this Report. This plan should not be used to establish boundaries because of the risk of misinterpretation or measurement error by the user.





The information shown on this Report reflects the status of this Property as of the date of survey only. Users are encouraged to have the Real Property Report updated for future requirements.

Dated at The City of Calgary, Alberta.
This 26th day of April, 2021.


Mackenzie A. Lee,
Alberta Land Surveyor
(Copyright Reserved)



Notes:

1. Area affected by this plan shown bounded thus: 
2. Distances are in Metres and decimals thereof.
3. Statutory Iron Post Found shown thus: 
4. Eaves dimensioned to line of fascia shown thus: 
5. Unless otherwise specified the dimensions shown are perpendicular distances from property boundaries to exterior walls.
6. Countersunk  — — — c.s.
7. Bearings are Grid.
8. Datum: UTM (NAD83 - CSRS) - Zone 11
9. Combined Scale Factor - 0.999902

This document is not valid unless it bears an original signature (in blue ink) and an Amar Surveys Ltd. permit stamp (in red ink).

Amar Job Number: 21RPR120				Original
No.	Survey	Cal./Ck.	Drawn	Date
0	AA	dlb	LK	Apr. 26/21
Issued				



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AMAR SURVEYS LTD.
818-16th Avenue N.W., Calgary, Alberta T2M 0K1
Phone: (403) 289-1220
Email Address: amar@telusplanet.net



Summer Village of Sunbreaker Cove
#2 Erickson Drive
Sylvan Lake, AB T4S 1P5

DEVELOPMENT PERMIT

Permit Number: 222032

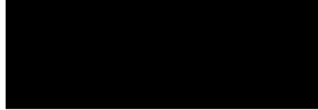
Municipal Address: 747 Elk Street

Lot: 6

Block: 6

Plan: 1823MC

Applicant:



On Behalf Of: -

The Development Involving: *Demolition & Dwelling*

Has Been Approved Subject to the Following Conditions:

- 1) The payment of all outstanding property taxes or the making of arrangements, satisfactory to the Council, for the payment thereof, prior to the commencement of the development.
- 2) The development commences and continues in the manner applied for and that all development complies with the regulations and specifications of the Land Use By-Law under which this permit was issued.
- 3) The construction shall be completed within 12 months and the landscaping shall be completed within 2 years of the date of permit issuance.
- 4) The payment of a \$5,000.00 completions deposit to ensure all conditions of this development permit have been met, including the completion of building construction within a one-year period, landscaping completed with two years, and any or all road damage repaired.
- 5) All parcels shall be graded to ensure that storm water is directed to a drainage ditch without crossing adjacent land, except as permitted by the Development Authority. All maintenance and upkeep shall be the responsibility of the property owner. A lot grade certificate may be required at completion to ensure that proper drainage on the property exists.
- 6) The height of the dwelling shall not exceed 10m (32.81ft.) in building height measured from grade.
- 7) Footing check survey required from an Alberta Land Surveyor at the time of footings prior to continuation of construction.
- 8) Any damage to public roads due to the construction shall be repaired immediately at the expense of the permit holder.
- 9) Final as build real property report from an Alberta Land Surveyor at completion of landscaping that includes parcel coverage.
- 10) Copies of all applicable Building, Electrical, and Plumbing & Gas permits shall be provided to the administration office to be kept on file.
- 11) Electrical power from the property line to any building shall be constructed underground.
- 12) Applicant to tie into the main sewer system within 2 years of the issuance of this permit. All equipment/inspections to be satisfactory of the Summer Village. A Plumber who is contracted out by the Summer Village is the only persons allowed to do the municipal sewer system connection to the main line (curb stop), at the applicant's expense. It is the responsibility of the applicant to contact the administration office to arrange for the turning on/off of the curb stop valve, at the applicant's expense. Failure to do this will result in forfeit of the Development Permit's Completion Deposit. No other private sewage disposal systems will be permitted.
- 13) Sewer curb stop must remain accessible at all times, during and after construction.
- 14) All existing accessory buildings shall be removed.
- 15) The maximum width of the driveway shall be 10m (32.80ft.). Driveway width shall be measured within the carriageway.
- 16) Landscaping to be completed according to the landscaping plan.
- 17) Any development commenced prior to May 17, 2022 (21-day appeal period), is at the applicant's own risk.

You are hereby authorized to proceed with the development specified, provided that any stated conditions are complied with, that the development is in accordance with any approved plans and applications, and that construction conforms with any provincial and federal requirements relative to this development.

Date of Decision: April 19, 2022

Date of Issuance of Development Permit: April 26, 2022

Development Authority

Note:

- 1) The issuance of a development permit in accordance with the notice of decision is subject to the condition that it does not become effective until 21 days after the date that the development permit is issued.
- 2) This permit is valid for a period of 12 months from the date of its issue, or the date of the decision of the Council confirming it. If at the expiry of this period, the development has not been commenced or carried out with reasonable diligence as determined by the development officer, this permit shall be null and void, unless an extension to this period, being no longer than an additional 12 months, has been previously granted.
- 3) Development Authority may carry out on-site inspections of the development at any time.

Summer Village of Sunbreaker Cove,
Subdivision and Development Appeal Board
#2 Erickson Drive,
Sylvan Lake, AB, T4S 1P5

May 11, 2022

Dear Sir / Ms.:

As the registered owners of 751 Elk Street, Sunbreaker Cove, we are appealing the decision to grant Development Permit #222032 for 747 Elk Street based on misinterpretation of the land use bylaw.

We have several concerns about the proposed development including

- 1) The height of the accessory building,
- 2) The square footage of the accessory building,
- 3) The purpose of the accessory building,
- 4) The developed area of the lot,
- 5) And the Notice of Decision is incomplete.

In order:

1) It is our contention that the building containing the garage exceeds the bylaw maximum height. We feel that this building is a separate building to the main structure even though the design shows it is connected to the house with a short, roofed hallway. The hallway appears to be designed to circumvent the Summer Village's definition of a breezeway between the two buildings. The "garage" is in fact, an "accessory" building and will therefore be referred to as such in this document. Our reasons for this claim are:

- a) The accessory building's purpose is incidental to the main building (house).
- b) Each of these structures, the house and the accessory building, have a separate roof which indicates a disconnection, and therefore are two separate buildings.
- c) The applicant's Lot Boundary Sketch states that the house, garage, and East deck have a total area comprising 2240 square feet. The applicant has identified by this statement that these are three separate entities.
- d) There is a partial "breezeway" between these two buildings as stated on the applicant's view to the North. The Sunbreaker Cove Bylaw no. 99/13 defines a "breezeway" as a roofed

open passage connecting two or more buildings. Therefore, by this definition, these are two separate buildings.

The Sunbreaker Cove Bylaw 99/13 Part 3, section 1.1 (d) on page 34 states that an accessory building shall not be more than 5 m (16.40 ft.) in building height measured from grade. Referring again to the applicant's view to the North, this accessory building is identified as 27 ft. 6 inches in height from grade. This is in direct contravention of this Bylaw.

2) The area allowed for an accessory building housing a garage is defined in the by-laws as 8% of the total parcel area. 8% of 7513 square feet is 601 square feet. The accessory building housing the garage is shown to be planned at 20 feet by 34 feet or 680 square feet. This is a direct contravention of Bylaw 99/13 Part3, section 1 (1) (g) on page 34.

3) There is no mention as to what the accessory building is to be used for other than a garage. A typical garage does not have to be 34 feet long and the question arises as to what is going to be contained in this "garage" and why. If the second floor above the garage is to be used as "guest housing", this is a considerable area for this purpose and the "garage" has been enlarged simply to accommodate more bedrooms. Again, we question the motive for this type of development. Is it of a commercial nature or more permanent (family) housing?

4) The area of the building development is exactly 50% of the total parcel area which is the limitation as defined in Bylaw 99/13 Part 4, Site Development: 1 (d) on page 50. At exactly 50%, it does not allow the applicant to install any future facilities such as a shed, fire pit, a walkway to the lake, etc. The Summer Village requires a lot to maintain 50% of the area be reserved for native grasses etc. Future monitoring of this potential infringement will be required.

5) In addition to these problems, the Notice of Decision on the Summer Village's website is incomplete. On the final page of the applicant's submission, the Lot Boundary Sketch, it refers to 9 pages being included in the submission. However, the website only has 8 pages including the notice. We believe the notice is incomplete.

We are objecting to the approval of Development Permit #222032 for 747 Elk Street based on these five issues.

Further, we are baffled by the fact that we were not notified directly of the development permit's conditional approval from the planning commission. The by-laws clearly state that we should have been notified. Except for the notification by our neighbours, this development permit with all of its contraventions may have been passed indiscriminately and to our detriment. This does not seem like the fair practice a commission should uphold.

We, as owners of 751 Elk Street, will have our view of the lake severely impacted if the accessory building is allowed to be built at this contravening height. We recognize that the municipal planning commission may grant a variance to this permit however Bylaw 99//13 section 2.4 (3) (a) (i) states that no variance can be granted from building height. Section 2.4 (2) (a) (ii) also states that this variance cannot affect the enjoyment or value of neighbouring parcels of land. Not only would our enjoyment be affected but also the value of our property.

We are asking that this appeal be upheld and that the development permit be rescinded at least until the height of the accessory building (housing the garage) can be modified to meet the criteria of less than 5 m (16.40 ft.) in height from grade. We ask that the applicant address our concerns and submit a new application that adheres to the by-laws. We ask this in good faith and are simply trying to protect our investment and enjoyment of our property. We recognize that this is a major engineering, construction and financial undertaking but the rights of affected neighbours must be taken into account.

We ask to be apprised of any discussion or decisions made. Unfortunately, we will be travelling in Europe in the short term and it is expected that our cell phone coverage will be erratic. Due to the short notice we were given, we require notification via email which will be checked daily. We ask that any in-person conversations or questions may be scheduled after our return on June 6, 2022.

Yours truly,

Ralph White, P.Eng.

Charlotte White



May 14, 2022

Kara Kashuba
Development Officer
Subdivision and Development Appeal Board
Summer Village of Sunbreaker Cove

Dear Ms. Kashuba and
Subdivision and Development Appeal Board,

I, Tina Nielsen, owner of 749 Elk Street am submitting my appeal to the conditionally approved Demolition and Development Permit 222032 / 747 Elk Street. My husband, Rick Nielsen, and I were surprised to discover this permit was conditionally approved without any prior notice as we frequently monitor the summer village website.

The main contention for our appeal is about the size and height of the proposed garage. We believe our neighbours at 747 Elk Street must readjust the size and height of the accessory building to meet the Sunbreaker Cove Bylaws.

By definition the proposed garage is considered an accessory building. It has a separate foundation, roof and entry. This is not in dispute as the applicant also recognizes it as an accessory building since their drawings title the “garage” and is separate from the main building.

1.3 Definitions:

“accessory building(s)” means a building separate and subordinate to the main building, the use of which is incidental to that main building and is located on the same parcel of land 2 and includes, in the residential district, such things as storage sheds garages, and a guest house. Accessory buildings are not intended for commercial purposes and do not include sea cans;

- 1) **SIZE of the accessory building:** The proposed garage is larger than the Bylaw allows. 747 Elk Street’s lot size is 7513 square feet. Therefore, the maximum allowable size is 601 square feet. This proposed garage is 680 square feet.

Amendment Bylaw #136-18 Land Use Bylaw 99-13 Part 3 shall not be larger than the parcel’s total area.

2. Part Three: 1(1), revise (g) to: An accessory building’s footprint shall be no larger than 8% of the parcels total area.

- 2) **HEIGHT RESTRICTION for accessory building:** This proposed accessory building the proposed garage height is 27.5 feet from grade which is higher than allowed in the Bylaw stated below.

Sunbreaker Cove Bylaw 99/13 Part 3, section 1.1 (d) Notwithstanding section 1.1(6)(b), an accessory building shall not be more than 5 m (16.40 ft.) in building height measured from grade

As a lake front property, 747 Elk Street's proposed accessory building will impede our view and decrease the enjoyment and value of our property. It will also negatively affect neighbouring properties. We recognize the Municipal Planning Commission may approve this permit by a variance but it clearly contradicts the Bylaws below. We believe rules were created for a reason and everyone in the community should abide by them. Approval will set a bad precedence.

Bylaw 99//13 2.4 Variances (2) (a) The proposed development would not: (ii) Materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land(ii) also states that this variance cannot affect the enjoyment or value of neighbouring parcels of land.

And

(3) In approving an application for development pursuant to subsections (2)(a) and (2)(b), the Municipal Planning Commission shall adhere to the following: (a) A variance shall be considered only where warranted by the merits of the proposed development and in response to irregular parcel lines, parcel shapes or site characteristics which create difficulties in siting structures within the required setback or in meeting the usual bylaw requirements; (i) Except as otherwise provided in this bylaw, there shall be no variance from the following: B. Building height

Finally, in reviewing the drawings, we noticed a violation of the parcel usage. Combined, the main dwelling, deck, accessory building, lower patio, driveway and fence exceeds fifty percent of the parcel and does not provide the other fifty percent of the lot to remain natural as per the Bylaw below:

Bylaw No. 99/13 Part Four: Land Use District Regulations (R1) Site Development 1(d) Maximum parcel coverage: fifty (50) percent, other fifty (50) percent shall remain as is or contain native grasses, trees, shrubs, or ornamental plantings, satisfactory to the Development Authority. Amended by Bylaw #133/18.

Thank you for reviewing our concerns. We will be in attendance for the SDAB Hearing on June 7th.

Best,

Tina Nielsen

A large black rectangular redaction box covering the signature of Tina Nielsen.



This is to advise that two appeals have been received, one on May 11, 2022, and the second on May 16, 2022, appealing the issuance of development permit #222032 for demolition and a dwelling at 747 Elk Street (Lot 6, Block 6, Plan 1823MC) in the Summer Village of Sunbreaker Cove. Both appeals are based on the size, the height, and the belief the development would materially interfere with or affect the use, enjoyment, or value of neighbouring parcels of land.

The Development Appeal Board Hearing will be held as follows:

DATE: **Tuesday, June 7, 2022**

TIME: **10:00 a.m.**

LOCATION: **Summer Villages on Sylvan Lake**
 2 Erickson Drive
 Sylvan Lake, AB T4S 1P5

Documents regarding the development permit, and the notice of appeal are available for public inspection on the Summer Village Administration Office website. The Subdivision and Development Appeal Board will hear the appellant or any person acting on behalf of the appellant; the development authority or a person acting on behalf of the development authority; any person who received this notice and wishes to be heard or a person acting on behalf of that person; and any other person who claims to be affected by the decision.

Written submissions addressed to the Subdivision and Development Appeal Board Secretary and received at the Administration office prior to 4:00 p.m. on June 6, 2022, will be submitted to the Board at the Hearing.

Teri Musseau
Subdivision and Development Appeal Board Secretary

Summer Village of Sunbreaker Cove

Subdivision and Development Appeal Board

Duties and Jurisdiction Report

Part 17 of the Municipal Government Act (MGA) establishes a framework for municipal planning and development that is supported by provincial legislation, municipal statutory plans and bylaws. The SDAB evaluates each case before it with reference to the provincial planning framework, statutory plans and bylaws. In making the decision on an appeal case the SDAB must consider among other things, the provincial and municipal legislative and planning framework of any application. An SDAB must:

- Stay within the limits of the legislation;
- Act fairly and reasonably within the limits imposed by administrative law and the principles of natural justice;
- Act in accordance with its enabling bylaw; and
- Apply the applicable planning framework to the appeal before it.

A SDAB must act within its jurisdiction when it makes a decision. Without jurisdiction, the SDAB does not have the authority to make a decision. In order to maintain jurisdiction, the SDAB must:

- Adhere to the statutory requirements prescribed for SDABs in the MGA
- Comply with the principles of natural justice; and
- Must only make decisions on matters which are properly before the Board.

A SDAB's jurisdiction defines the matters and geographical area over which a SDAB has power to decide. Without jurisdiction, SDABs cannot make binding decisions. The SDAB cannot change land use bylaw or statutory plans.

The MGA sets out the following guidelines for an appeal of a decision of a development authority. An appeal may be launched:

- Where a permit is not issued within the 40 days
- If a permit was issued with or without conditions
- If a permit was refused

- If a stop order was issued.

The subdivision and appeal board may revoke an order or decision, or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,

- (i) the proposed development would not:
 - a. unduly interfere with the amenities of the neighbourhood, or
 - b. materially interfere with or affect the use prescribed for that land or building in the land use bylaw,
- (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

The appeal before the board today is against a decision issued by the Development Authority for a permitted use located at 747 Elk Street. The approved development permit allowed for the demolition of an existing dwelling and the construction of a new dwelling with an attached garage. No relaxation or variance was requested.

Development Permits for a permitted use can only be appealed if the Land Use Bylaw was relaxed, varied, or misinterpreted in the issuance of the permit or the application was deemed to be refused. This means that unless a variance or relaxation has occurred, or the applicant or affected party can outline how the development authority misinterpreted the Land Use Bylaw, no appeal is possible.

The Subdivision and Development Appeal Board should take a short recess to determine if this appeal falls within their jurisdiction prior to proceeding.

SUBDIVISION & DEVELOPMENT APPEAL BOARD HEARING

June 7, 2022 @ 10:00 A.M.

Permitted Use Development Permit Appeal

747 Elk Street

Appellants – Ralph & Charlotte White

Tina Nielsen

Development Officers Report:

In April 2022, a development permit was issued by the development authority for demolition and a new dwelling at 747 Elk Street. The property had an existing dwelling and detached garage to be demolished. The approved development permit includes a two-story dwelling with a walkout basement and attached garage. The proposed dwelling development complies with the Land Use Bylaw regulations, is considered a permitted use, and required no variances. The Land Use Bylaw states:

“permitted use(s) means a use which is compatible with other uses in the district and for which a Development Permit shall be issued provided it otherwise conforms with the Land Use Bylaw”.

“For a permitted use in any district:

(a) The Development Officer shall approve, with or without conditions, an application for a Development Permit where the proposed development conforms in every respect to this Land Use Bylaw, the Municipal Government Act, Subdivision and Development Regulations, approved statutory plans, and the Sylvan Lake Management Plan: 2000 Update;

The main argument by the appellants appears to be that administration has misinterpreted the difference between an attached or detached garage. The Land Use Bylaw section 1.3 states the following:

“Detached dwelling(s) means a residential building containing one dwelling unit and everything physically attached to said dwelling unit (e.g. breezeways and attached garages), which is physically separate from any other residential building, and does not included a manufactured dwelling unit”

Accessory building(s) means a building separate and subordinate to the main building, the use of which is incidental to that main building and is located on the same parcel of land”.

The drawings included in the supporting documents show that the garage is attached not only with walls, deck, and a roof, but also with an interior stairway that leads from the second floor above the garage into the remainder of the dwelling. The garage has no other man door access other than the one leading inside the dwelling. The only thing making the design unique is that the garage portion of the dwelling is set on an angle to accommodate the driveway and vehicle entrance into the garage. The drawing on page 6 of the supporting documents appears to show them separately, but this is deceiving as it is showing the second floor above the garage next to the lower floor of the walk-out.

The garage is physically and structurally attached and therefore part of the detached dwelling, is not considered to be a separate building, and is therefore required to comply with the Land Use District regulations for a detached dwelling in the Land Use Bylaw.

Below I have included responses addressing concerns to the appellant's letters of appeal.

- 1) Height – The total height of proposed dwelling is 27.4' (8.38m) and is 5.4' (1.64m) under the maximum allowable height of 32.8' (10m).
- 2) Square Footage – There is no maximum square footage size for a dwelling on a property, the size can vary depending on how it meets the Land Use Bylaw requirements. (Setbacks, parcel coverage etc.).
- 3) Use of the building – It is common to see extra bedrooms above attached garages, and is a requirement for developers to provide floor plans for a dwelling but there are no regulations on what exactly the floor plans can and can't have for rooms. For this development there is no indication that the rooms above the attached garage will be used as guest housing.
- 4) Parcel Coverage – The calculations on the site plan result in a proposed parcel coverage total of 49.86% and is within the maximum 50%. A condition on the development permit states, *"Final as build real property report from an Alberta Land Surveyor at completion of landscaping that includes parcel coverage."* This condition is to ensure that the parcel coverage is within the maximum. We can not require developers to be under the 50% as it is the maximum allowable and it is their decision to develop to the maximum with the understanding that any future property changes will have to accommodate that total.
- 5) Notice of Decision – After receiving the appellants letter it had come to our attention that one page of the supporting documents was missing from the documents on the website. This was corrected and all of the documents were re-sent to the appellant, there was no reason for the page to not be shared with the public. The requirement of notice as stated in the Land Use Bylaw is listed below:

"Development Permits and Notices.

For permitted and discretionary uses:

- (i) Mail a notice of the decision to all persons whose use, enjoyment or value of property may, in the opinion of the Development Authority, be affected; and*
- (ii) Post a notice of the decision on the Summer Villages' website;"*

A notice of decision was mailed to all adjacent properties and the notice was posted on the Summer Villages website for the period of appeal.

Summary:

It is clear in the eyes of the development authority that the garage is physically and structurally attached to the dwelling. Therefore the approved development permit for the

dwelling is a permitted use that is within the regulations of the Land Use Bylaw. Further, the height of the proposed dwelling is actually 5.4' less than the maximum allowable height, so theoretically an application for a larger and higher dwelling could still be considered a permitted use on this lot. The development plans submitted have been carefully reviewed to ensure it complies with the regulations and in administration's opinion there has been no misinterpretation. The design of the dwelling is situated on the parcel to fit within the lot, it is angled to facilitate the driveway/approach which then has resulted in different roof lines and layout of the dwelling to keep the garage attached to the building.

Prepared By:

Kara Kashuba

Development Officer