

Planning Memorandum

To: Sunfish Lake Planning Commission

From: Tom Ramler-Olson, AICP, City Planner

Date: May 25, 2021
City Council Meeting June 1, 2021

Re: 2158 Charlton Road – Major Site Plan Review
WSB Project No. 017919-000

GENERAL INFORMATION

Applicant:	Pat Henry, Prestige Pools		
Property Owner:	Stephen and Jennifer Ettinger		
Project Location:	2158 Charlton Rd – PID 380300054031		
Existing Land Use / Zoning:	Detached Single-Family; Zoned Residential District, R-1 within Shoreland Overlay		
Surrounding Land Use / Zoning:	North:	Residential; Zoned Single-Family Residential District, R-1 with Shoreland Overlay	
	East:	Residential; Zoned Single-Family Residential District, R-1 with Shoreland Overlay	
	South:	Sunfish Lake	
	West:	Residential; Zoned Single-Family Residential District, R-1 with Shoreland Overlay	
Comprehensive Plan:	The City of Sunfish Lake (2008) Comprehensive Plan guides this property for Rural Residential land use.		
Deadline for Agency Action:	Application Date:	04-13-2021	
	60 Days:	06-12-2021	
	Extension Letter Mailed:	N/A	
	120 Days:	08-11-2021	

CONSIDERATIONS RELATED TO THE REQUEST

1. Overview.

Pat Henry of Prestige Pools (“applicant”) has applied on behalf of Stephen and Jennifer Ettinger (“property owner”) for a major site plan review to add an in-ground swimming pool on the property located at 2158 Charlton Road (“subject property”). With an area of 5.54 acres, the subject property is already developed with a single-family home.

The proposed swimming pool is considered an accessory structure and, along with the surrounding pool deck, will disturb about 1,995 square feet of the subject property’s area.

Accessory structures of 1,000 square feet or more require the review and approval of a major site and building plan. Additionally, the proposal requires a conditional use permit because of its size and location. Swimming pools are identified as a low-profile accessory structure that are limited to an area of 1,000 square feet when placed between the principal structure and the ordinary high water mark, except by conditional use permit.

Site and Building Plan Review and conditional use requests require a public hearing, and review and recommendation by the Planning Commission, followed by review and consideration by the City Council. The requests were heard at the May 20 Planning Commission meeting where the Commission passed a motion to recommend approval of the request on 5-0 vote subject to the findings of fact and conditions of approval noted in the staff report dated May 13, 2021. A condition was added to address the possibility that the homeowner install pool-related lighting sometime in the future, but the applicant said that lighting is not proposed and not part of the application.

2. General Zoning Review

The proposed structure would be located south of the principal structure within the lakeside portion of the subject property. The grade of the location of the proposed swimming pool was previously flattened to accommodate a putting green. The edge of the pool closest to Sunfish Lake is proposed to be 207 feet from the ordinary high water level. The total area of improvements is approximately 1,995 square feet, which include both the pool and surrounding pool deck.

Per Section 1243.10 of the Zoning Ordinance, notice for the requests at the subject property were sent to the Department of Natural Resources. Staff from the DNR commented that the amount of impervious cover above 25 percent be addressed to mitigate stormwater runoff generated by that impervious cover. Shown in the table below, with the added improvements, the amount of impervious cover will be 8.4 percent. DNR staff also included a reminder that, should there be a need to conduct dewatering of surface water or ground water in volumes that exceed 10,000 gallons per day or one million gallons of water per year to construct the swimming pool or install utilities, a DNR Water Appropriation Permit is required for the appropriation.

Below is a summary table of the dimensional requirements for lots and structures in the R-1 and Shoreland Overlay District. The project would comply with all other applicable requirements.

	R-1 Minimum Requirement	Shoreland Overlay Requirement	Proposed
Buildable Lot Area	2.5 acres (net lot area)	2.5 acres (building area)	>2.5 acres (buildable area)
Lot Width at Building Setback	200 feet	200 feet	220 feet
Lot Width at OHWM		150 feet	220 feet
Minimum Building Setback: Side	25 feet		25 feet
Building setback from OHWM		200 feet	207 feet
Lot Coverage		30% maximum	8.42%

3. Ordinance Authority

SECTION 1204.02. CONDITIONAL USE PERMIT PROCEDURES provides the process for review of a conditional use permit which requires public notice and notification, a public hearing, and review and recommendation by the Planning Commission, followed by review and consideration by the City Council.

SECTION 1208.03.B. MAJOR SITE PLAN APPROVAL PROCEDURES provides the process for review of a major site and building plan which requires public notice and notification, a public hearing, and review and recommendation by the Planning Commission, followed by review and consideration by the City Council.

SECTION 1217.01. MAJOR SITE PLAN APPROVAL PROCEDURES. C. states that a detached accessory building, except by conditional use permit, shall not exceed one thousand (1,000) square feet.

SECTION 1243.03. SHORELAND OVERLAY DISTRICT GENERAL PROVISIONS. C. describes the design and location standards of low-profile accessory structures on lots located within the Shoreland Overlay District.

SECTION 1243.10 ADMINISTRATIVE PROCEDURES states that notices for public hearings that concern requests for lots within the Shoreland Overlay District need to be sent to the Department of Natural Resources ten (10) days prior to said hearing.

4. Site Plan Review Criteria

The Planning Commission, as its basis of recommendation, and the City Council, as its basis for decision on major projects, shall evaluate the effects of the proposed site and building plans. This review shall include, but is not limited to the following, with staff's comments provided in *italics*:

- A. Whether the proposed improvements are compatible and in harmony with the existing structures in the surrounding community.

The project proposes the construction of a swimming pool and pool deck, which are permitted accessory uses in the R-1 District. Other properties also feature swimming pools, further evidence of the compatibility of the proposal. The improvements comply with the applicable setback, yard, and lot coverage requirements.

- B. Whether the proposed improvements preserve the character and nature of the surrounding community, including the natural landscape and woodland characteristics of the community.

The proposed improvements will disturb approximately 0.05 acres out of the property's 5.5 acres, or 0.1 percent of the lot area. The pool and pool deck will replace a putting green, comply with side and OHWL setbacks, and not disturb any wooded areas on the property.

- C. Whether the proposed improvements are not constructed of unsightly, improper or unsuitable materials.

Based on plans submitted, the proposed pool and pool deck will not be constructed of unsightly, improper, or unsuitable materials.

- D. Whether the proposed improvements will not materially adversely affect any natural resources in the community, except when there is no feasible and prudent alternative to the proposed location of the improvements. For purposes of this clause, "natural

resources" shall include, but not be limited to, all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, historical, scenic, and aesthetic resources.

The project is not expected to adversely impact any of the above noted natural resources.

- E. Whether the proposed site and improvements shall have an appearance that will not have an adverse effect upon adjacent residential properties.

The proposed improvements will be screened from properties to the east with existing vegetation, and a landscape plan was submitted that shows plantings that will screen the use from properties to the west. Based on these plans, the improvements will not have an appearance that will adversely affect adjacent residential properties.

- F. Whether the proposed site improvement complies with drainage requirements, as provided in Section 1216.04 of this Ordinance.

Drainage plans were reviewed by the City Engineer. The proposed improvements would comply with requirements regarding engineering, stormwater management and site grading.

- G. Whether the proposed site and improvements are consistent with the purposes of this Ordinance and the Property Owner Reference & Development Guide Manual, as established by City Council resolution.

The proposed improvements comply with the general provisions of the R-1 District, Shoreland Overlay District, and other applicable design and performance standards.

5. Conditional Use Criteria

The Planning Commission, as its basis of recommendation, and the City Council, as its basis for decision on conditional use permits, shall evaluate the effects of the proposed conditional use. This review shall include, but is not limited to the following, with staff's comments provided in *italics*:

1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.

The Comprehensive Plan guides the site for Rural Residential land use. The proposed swimming pool is consistent with the types of land uses envisioned by this future land use category.

2. The proposed use's compatibility with present and future uses of the area.

Surrounding properties are developed with similarly situated accessory uses and they too are guided to remain rural residential.

3. The proposed use's conformity with all performance standards contained herein.

The proposed use is anticipated to comply with the applicable performance standards contained in the Zoning Ordinance including provisions related to noise, refuse, and light.

4. The proposed use's effect on the area in which it is proposed.

The proposed use is consistent and compatible with neighboring single-family residential land uses.

5. The proposed use's impact upon property values in the area in which it is developed.
The use is not anticipated to have negative impacts on surrounding property values.
6. Traffic generated by the proposed use is in relation to capabilities of streets serving the property.
The proposed use will not produce traffic in excess of the capability of the public and private roadways serving the site.
7. The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.
The proposed use will not have any impact on demand of parks, schools, streets, utilities, and City services.

Additional Shoreland Overlay evaluation criteria: A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site shall be made to ensure:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
The City Engineer has reviewed the proposal and is recommending approval.
2. The visibility of structures and other facilities as viewed from public waters is limited.
The proposed swimming pool is a low-profile structure set back more than 200 feet from the lakeshore. Between the pool and lake shore is thick vegetation and terrain that further obscures the appearance of the pool when viewed from the lake.
3. The site is adequate for water supply and on-site sewage treatment.
Not applicable.
4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
Not applicable

RECOMMENDATION

Based on the foregoing considerations and applicable ordinances, staff recommends conditional approval of the site and building plan subject to the following findings of fact and conditions of approval:

Findings of Fact:

1. The location of the subject property is as follows:

2158 CHARLTON ROAD,
SUNFISH LAKE, MN 55118
2. The planning report dated May 13, 2021 prepared by WSB is incorporated herein by reference.

3. The Applicant submitted applications for a major site and building plan review and a conditional use for a swimming pool at the subject property.
4. Requests for major site and building plan review and conditional uses require Planning Commission review and City Council approval.
5. Notices for public hearings regarding requests on lots within the Shoreland Overlay district must be sent to the Department of Natural Resources.
6. The Sunfish Lake Planning Commission reviewed the applicant's request for major site and building plan and conditional use permit approval at the May 20, 2021 Planning Commission meeting.
7. Upon review of the planning report and application information, the Planning Commission found that the proposed site and building plan request and proposed conditional use meet Ordinance requirements. The following findings support the Planning Commission's recommendation for approval:
 - a. The proposed improvements meet accessory structure standards, and R-1 and Shoreland Overlay District requirements and standards.
 - b. The proposed swimming pool addresses Ordinance requirements pertaining to grading, drainage and stormwater management, and screening.
 - c. The development meets other applicable Zoning Ordinance criteria.

Conditions of Approval:

1. Construction shall occur in substantial conformance with the plans presented at the May 20, 2021 Planning Commission meeting.
2. The Applicant must obtain all other permits as may be required.
3. The Applicant shall comply with all applicable federal, state, and local laws, rules and ordinances.
4. The Applicant must adhere to and remain in compliance with the requirements of this Resolution, applicable performance standards, and such other requirements as may apply.
5. All conditions of the site plan review must be complied with, shall run with the land, and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Property.
6. This Resolution is subject to the condition that all representations, written and oral, made by the Applicant and its agents and representatives to the City contained in and concerning the Applicant's application for the site plan review must have been true, complete and accurate at the time they were made, and that they remain true and accurate for the duration of the development.
7. By undertaking the activities approved by the requests, the Applicant agrees to all conditions.
8. The Applicant must have a silt fence properly installed on the lakeside of the excavation prior to the start of any digging. The silt fence must be inspected and approved for location and proper installation prior to start of excavation.
9. All soils must be removed from the site and placed at an approved disposal site.
10. At the time of building permit application, plans for the proposed swimming pool must indicate a retractable cover.
11. If the applicant or property owner decides to add lighting to the proposed improvements, said lighting must meet all requirements of Section 1216.06 of the Zoning Ordinance.

Subject Site



**CITY OF SUNFISH LAKE
DAKOTA COUNTY, MINNESOTA**

RESOLUTION NO. 21-XX

**RESOLUTION APPROVING A MAJOR SITE AND BUILDING PLAN REVIEW AND
CONDITIONAL USE PERMIT TO CONSTRUCT A SWIMMING POOL AND POOL
DECK AT 2158 CHARLTON ROAD, SUNFISH LAKE, DAKOTA COUNTY,
MINNESOTA.**

WHEREAS, Pat Henry, Prestige Pools, on behalf of owners Stephen and Jennifer Ettinger, submitted an application for a major site and building plan review and conditional use permit to allow construction of a swimming pool and pool deck on the property located at 2158 Charlton Road, legally described as:

All that part of the Southwest 1/4 of Section 30, Township 28, Range 22 described as follows:

Commencing at a point on the South line of the Southwest 1 / 4 of said Section 30, 1266.70 feet West of the South 1/4 corner of said Section 30; thence North parallel with the North and South 1 / 4 section line to a point, which is 1589.28 feet South of the East and West 1/4 section line of said Section 30, thence Northwesterly 125 feet to a point which is 1366.70 feet West of, the North and South section line of said Section 30 and 1514.28 feet South of the East and West 1 / 4 section line of said Section 30; thence west parallel with the East and West 1/4 section line 100 feet, more or less, to the center line of Sunfish Lake Road; thence Southwesterly along the center line of Sunfish Lake Road to a point which is 1466.70 feet West of the North and South 1 / 4 section line of said Section .30; thence South parallel with the North and South 1 / 4 section line to the South line of said Southwest 1/4 of Section .30 and thence East along said South line of said Southwest 1/4 of Section .30, 200 feet to the place of beginning.

AND ALSO,

That part of the Southwest 1/4 of Section 30, Township 28 North, Range 22 West. Dakota County, Minnesota described as follows: Commencing at the Southwest corner of said Section 30; thence North 89 degrees 14 minutes 27 seconds East, assumed bearing, along the South line of said Southwest 1/4, a distance of 1150.03 feet to the point of beginning of the parcel to be described; thence North 89 degrees 14 minutes 27 second East, 25.00 feet; thence North 0 degrees 56 minutes 17 seconds West to the center line of Charlton Road (formerly Sunfish Lake Road); thence Southwesterly along said center line to the intersection with a line parallel with the East line of said Southwest 1/4 and 1486.70 feet West of said East line (measured parallel with the South line of said Southwest 1/4); thence Southwesterly along a line having a bearing of South 0 degrees 56 minutes 11 seconds East to said point of beginning and there terminating.

Dakota County, Minnesota.

Records of Dakota County, Minnesota.

With PID 38.03000.54.031; and

WHEREAS, a request for a major site and building plan review and conditional use permit each requires Planning Commission review and City Council approval; and

WHEREAS, City staff reviewed the application and outlined their review comments in a planning report dated May 13, 2021 prepared by WSB; and

WHEREAS, the Sunfish Lake Planning Commission held a public hearing at their May 21, 2021 meeting and reviewed the conditional use permit application, along with the referenced staff report; and

WHEREAS, upon hearing the staff presentations, applicant testimony, and public testimony, the Planning Commission closed the public hearing and recommend to the City Council approval of the conditional use permit on a vote of 5-0; and

WHEREAS, the following findings support the Planning Commission recommendation for approval:

1. The address of the subject property is as follows:

2158 CHARLTON ROAD,
SUNFISH LAKE, MN 55118

2. The planning report dated May 13, 2021 prepared by WSB is incorporated herein by reference.
3. The Applicant submitted applications for a major site and building plan review and a conditional use for a swimming pool at the subject property.
4. Requests for major site and building plan review and conditional uses require Planning Commission review and City Council approval.
5. Notices for public hearings regarding requests on lots within the Shoreland Overlay district must be sent to the Department of Natural Resources.
6. The Sunfish Lake Planning Commission reviewed the applicant's request for major site and building plan and conditional use permit approval at the May 20, 2021 Planning Commission meeting.
7. Upon review of the planning report and application information, the Planning Commission found that the proposed site and building plan request and proposed conditional use meet Ordinance requirements. The following findings support the Planning Commission's recommendation for approval:

- a. The proposed improvements meet accessory structure standards, and R-1 and Shoreland Overlay District requirements and standards.
- b. The proposed swimming pool addresses Ordinance requirements pertaining to grading, drainage and stormwater management, and screening.
- c. The development meets other applicable Zoning Ordinance criteria.

WHEREAS, the Sunfish Lake City Council considered the application for the conditional use permit at their meeting on June 1, 2021 and agrees with the findings of the Planning Commission.

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Sunfish Lake hereby approves the major site and building plan review and conditional use permit for 2158 Charlton Road with the following conditions:

1. Construction shall occur in substantial conformance with the plans presented at the May 20, 2021 Planning Commission meeting.
2. The Applicant must obtain all other permits as may be required.
3. The Applicant shall comply with all applicable federal, state, and local laws, rules and ordinances.
4. The Applicant must adhere to and remain in compliance with the requirements of this Resolution, applicable performance standards, and such other requirements as may apply.
5. All conditions of the site plan review must be complied with, shall run with the land, and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Property.
6. This Resolution is subject to the condition that all representations, written and oral, made by the Applicant and its agents and representatives to the City contained in and concerning the Applicant's application for the site plan review must have been true, complete and accurate at the time they were made, and that they remain true and accurate for the duration of the development.
7. By undertaking the activities approved by the requests, the Applicant agrees to all conditions.
8. The Applicant must have a silt fence properly installed on the lakeside of the excavation prior to the start of any digging. The silt fence must be inspected and approved for location and proper installation prior to start of excavation.
9. All soils must be removed from the site and placed at an approved disposal site.
10. At the time of building permit application, plans for the proposed swimming pool must indicate a retractable cover.
11. If the applicant or property owner decides to add lighting to the proposed improvements, said lighting must meet all requirements of Section 1216.06 of the Zoning Ordinance.

This resolution is adopted by the City Council of the City of Sunfish Lake this 1st day of June 2021.

Dan O'Leary, Mayor

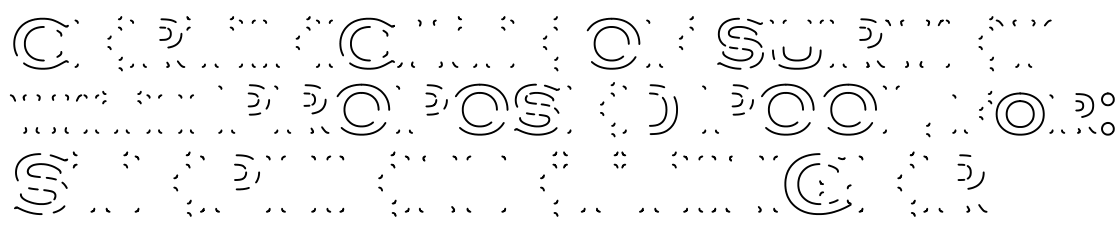
Attest:

Catherine Iago, City Clerk

I state and affirm that I agree with and accept the terms and conditions of the foregoing reviews of the major site and building plan and conditional use permit. I acknowledge that violation of any of these terms and conditions will be cause to revoke my approval. Additionally, violation of any of these terms and conditions subjects me to the sanctions of Sunfish Lake Ordinance 1210 to include, but not be limited to, misdemeanor charges.

Dated: _____

Name:



Legend:
---x900.0--- Fence
---x900.0--- Power Pole
---x900.0--- Existing Elevation
---x900.0--- Existing Contour

IMPERVIOUS SURFACE:

Lot Area = 241,417 SF or 5.54 Acres

IMPERVIOUS SURFACE:

House = 4,058 SF
Concrete Drive/Stoop = 4,911 SF
Asphalt Driveway = 8,551 SF
Sheds = 318 SF
Patios/Steps = 492 SF
Proposed Pool Deck = 1,195 SF
Total = 19,525 SF
= 8.1%

NOTE: 800 SF Proposed Pool not included as Impervious Surface

All that part of the Southwest 1/4 of Section 30, Township 28, Range 22 described as follows:

Commencing at a point on the South line of the Southwest 1/4 of said Section 30, 1266.70 feet West of the South 1/4 corner of said Section 30; thence North parallel with the North and South 1/4 section line to a point, which is 1589.28 feet South of the East and West 1/4 section line of said Section 30, thence Northwesterly 125 feet to a point which is 1366.70 feet West of, the North and South section line of said Section 30 and 1514.28 feet South of the East and West 1/4 section line of said Section 30; thence west parallel with the East and West 1/4 section line 100 feet, more or less, to the center line of Sunfish Lake Road; thence Southwesterly along the center line of Sunfish Lake Road to a point which is 1486.70 feet West of the North and South 1/4 section line of said Section 30; thence South parallel with the North and South 1/4 section line to the South line of said Southwest 1/4 of Section 30, 200 feet to the place of beginning.

AND ALSO,

That part of the Southwest 1/4 of Section 30, Township 28 North, Range 22 West, Dakota County, Minnesota described as follows: Commencing at the Southwest corner of said Section 30; thence North 89 degrees 14 minutes 27 seconds East, assumed bearing, along the South line of said Southwest 1/4, a distance of 1150.03 feet to the point of beginning of the parcel to be described; thence North 89 degrees 14 minutes 27 seconds East, 25.00 feet; thence North 0 degrees 56 minutes 17 seconds West to the center line of Charlton Road (formerly Sunfish Lake Road); thence Southwesterly along said center line to the intersection with a line parallel with the East line of said Southwest 1/4 and 1486.70 feet West of said East line (measured parallel with the South line of said Southwest 1/4); thence Southwesterly along a line having a bearing of South 0 degrees 56 minutes 11 seconds East to said point of beginning and there terminating.

Dakota County, Minnesota.

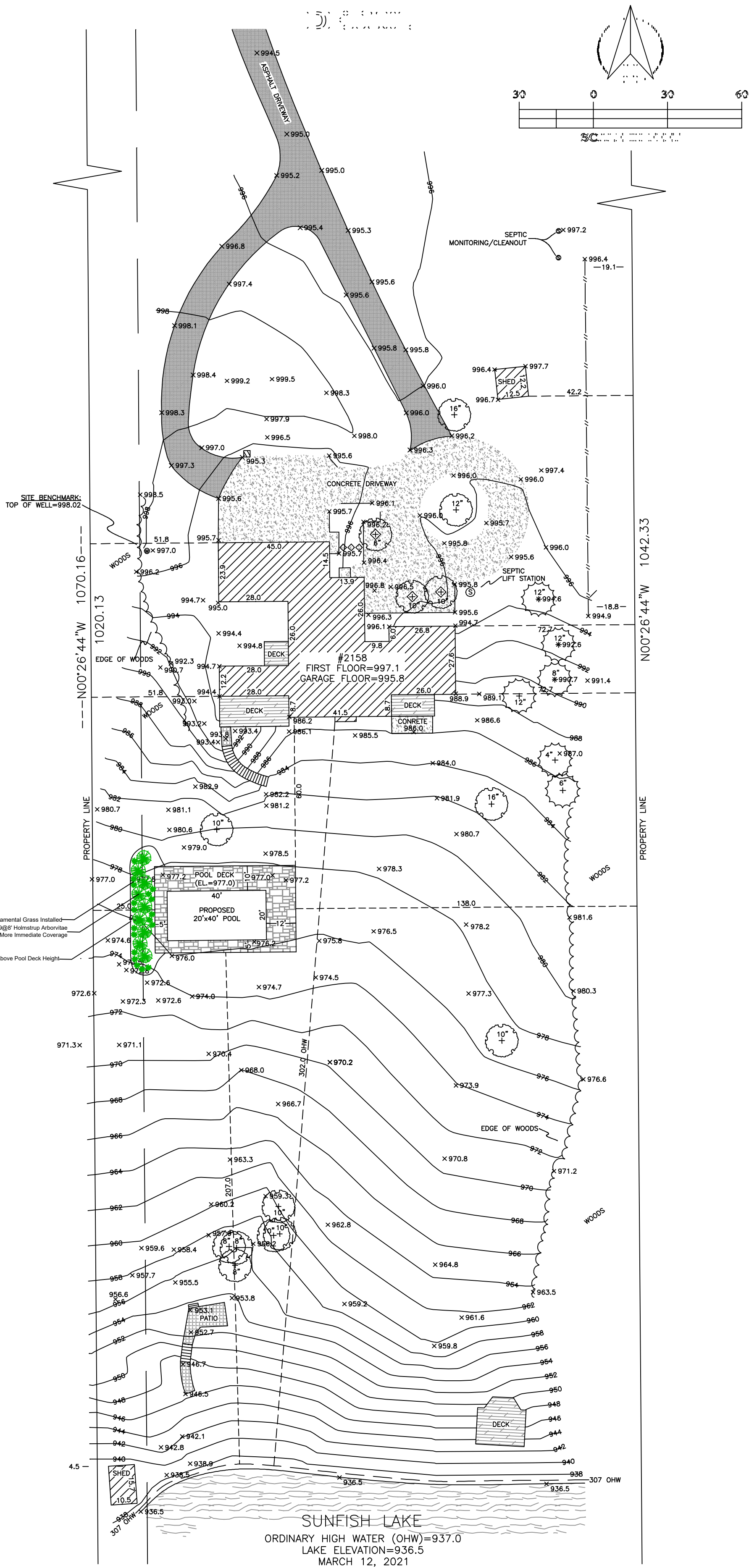
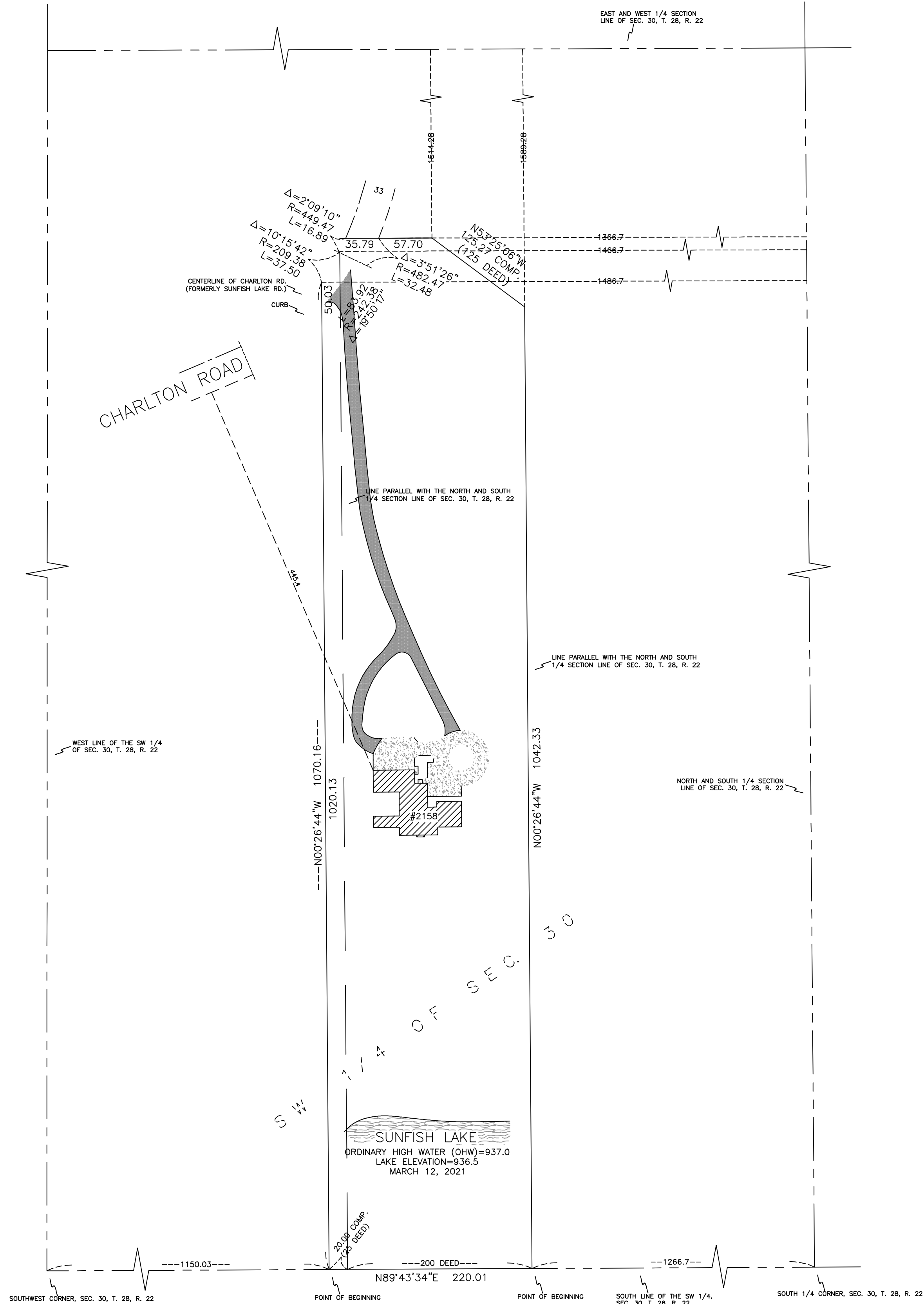
Records of Dakota County, Minnesota.

NOTES:

-All existing building dimensions are measured to the finished siding and not the building foundation.

-No search was made for any easements.

-The location of all utilities shown are from either observed evidence in the field and/or from plans furnished by the utility companies and are approximate. Utility companies should be notified for exact location before doing any excavation.



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

Surveyor's Seal and Signature

06/20/21

Surveyor's Seal and Signature

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