

Planning Memorandum

To: Sunfish Lake Mayor Dan O'Leary and City Council Members

From: Lori Johnson, City Planner

Date: 04.05.2022

Re: 2 Sunfish Lane, Sunfish Lake, MN 55118; Lot 2 And Outlot A, Block 1, Knutsen Addition.
WSB Project No. 019818-000

GENERAL INFORMATION

Applicant: Tim Johnson, LIVIT Site + Structure

Property Owner: Linval Joseph

Project Location: 2 Sunfish Lane, Sunfish Lake, MN 55118

Existing Land Use: Rural Residential (Comprehensive Plan)

Zoning: R-1 Single Family Residential and Shoreland Overlay District

Surrounding Land Use / Zoning:

North:	Rural Residential, R-1 Single Family Residential
East:	Rural Residential, R-1 Single Family Residential and Shoreland Overlay District
South:	Sunfish Lake
West:	Rural Residential, R1Single Family Residential and Shoreland Overlay District

Code Sections:

1204 of the Zoning Ordinance (Administration – Conditional Use Permits)
1217 of the Zoning Ordinance (Accessory Buildings Structures Uses and Equipment)
1218 of the Zoning Ordinance (Fencing/Screening)
1241 of the Zoning Ordinance (R-1)
1243 of the Zoning Ordinance (Shoreland Overlay)

Attachments:

- Resolution
- Location Map
- Overall Site Plan
- Minimized Site Plan
- Fence and Play Structure Details
- Email from John Johansson

Deadline for Agency Action:	Application Complete Date:	2/28/2022
	60 Days:	4/29/2022
	City Council:	4/5/2022
	Extension Letter Mailed:	NA
	120 Days:	NA

CONSIDERATIONS RELATED TO THE REQUEST

1. Overview.

The applicant is requesting minor site plan review and two conditional use permits to construct three new improvements to the property located at 2 Sunfish Lane. The proposed improvements include: a fence to enclose a dog play area, a new play structure and a recreational court.

The property currently has an existing shed located on the west side of the property, along with a hot tub, stone patio, a concrete pool deck, and pool located on the south side of the property.

The Zoning Ordinance, in Section 1217.01 (D), indicates that a conditional use permit is required for more than one accessory structure on a lot. The site currently has three accessory structures: the pool, hot tub and the existing shed. The two new accessory structures include the new play structure and recreational court.

The Zoning Ordinance also states in Section 1217.01(A) that a conditional use permit is required for an accessory structure in the front yard. The recreational court is located within the front yard.

The proposed recreational court is a total of 1,800 square feet and will be made of concrete or sport court material. The court will include a basketball hoop and a surrounding retaining wall with a trap rock boarder. According to site plans, the court has a setback of 35 feet from the northwest side lot line, meeting the minimum side yard setback requirement of 25 feet. The court will not include outdoor lighting.

The play structure is a Rainbow Play Systems structure that will be located 25 feet from the side lot line, and a retaining wall will surround the south, west and north sides of the play area and structure. The site plan indicates a total square footage of 462 square feet and 12-14 feet in height.

The applicant is proposing to fence in a small area on the south side of the existing shed to be used for a dog run. According to Section 1218.01 (A), all fence installations are required to go through the minor site plan review process. A retaining wall will border the southwestern corner of the fenced in area. The fence being proposed is a 5-foot high black-flat top rail- Ameristar Fence. The Zoning Ordinance states that fences cannot be higher than 6 feet in height and fences must be constructed of certain materials, including wrought iron. This proposed fence meets ordinance requirements.

In addition to the three improvements, the applicant is proposing to lay new sod along the entire west side of the property, plant a small area of seed surrounding the proposed dog run area and recreational court, and transplant 2 spruce trees for additional screening. The two

spruce trees being transplanted are currently located in the area adjacent to the sport court. The trees will be taken out for the construction of the court and relocated adjacent to the court for screening purposes.

The applicant is proposing to remove 80 cubic yards of excavated soils off site. This could negatively impact the shared private driveway. The applicant must develop a plan to mitigate this impact (perhaps including the use of smaller trucks hauling lesser loads) and must get written approval from the other residents that are part of that private road maintenance agreement. This agreement must be submitted to the City Engineer prior to any work being performed on site.

The Planning Commission voted 4-0 to approve the minor site plan review and conditional use permits at their March 17, 2022 meeting. Prior to the meeting, an on-site meeting was held and Commissioner Naves was present with the applicant and City Planner. Comments that arose at both meetings were in regard to landscaping details, noise from barking dogs, lighting, retaining walls and damage to the private road from construction traffic.

The adjacent neighbor at 7 Sunfish Lane shared concerns at the public hearing about barking dogs, construction traffic on the private drive, construction hours and concerns about the number of accessory structures allowed in the City.

John Johansson at 1 Sunfish Lane sent an email stating his comments and concerns with the proposal. He is generally supportive of all improvements on the site but had lighting concerns and barking dog concerns.

To reiterate, lighting is not allowed for accessory structures or uses. Barking dogs are considered noise complaints and would need to be directed to the Police Department. After talking with the applicant, it is the homeowner's intention to have a place to put the dogs when the family is outside so the dogs are not running loose on the property. It is not his intention to keep the dogs outside by themselves for long periods of time.

2. Site Plan Review Criteria

The Planning Commission, as its basis of recommendation, and the City Council, as its basis for decision on major or minor projects, shall evaluate the effects of the proposed site plan. This review shall include, but is not limited to the following:

- A. Whether the proposed improvements are compatible and in harmony with the existing structures in the surrounding community.
- B. Whether the proposed improvements preserve the character and nature of the surrounding community, including the natural landscape and woodland characteristics of the community.
- C. Whether the proposed improvements are not 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.

- E. Whether the proposed site and improvements shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- F. Whether the proposed site improvement complies with drainage requirements, as provided in Section 1216.04 of this Ordinance.
- 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.

3. Conditional Use Permit 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 conditional use. This review shall include, but is not limited to the following:

- 1. The proposed action in relation to the specific policies and provisions of the official City Comprehensive Plan.
- 2. The proposed use's compatibility with present and future uses of the area.
- 3. The proposed use's conformity with all performance standards contained herein.
- 4. The proposed use's effect on the area in which it is proposed.
- 5. The proposed use's impact upon property values in the area in which it is developed.
- 6. Traffic generated by the proposed use is in relation to capabilities of streets serving the property.
- 7. The proposed use's impact upon existing public services and facilities including parks, schools, streets and utilities, and the City's service capacity.

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses listed above. The following additional evaluation criteria and conditions apply within shoreland areas:

A. 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.
- 2. The visibility of structures and other facilities as viewed from public waters is limited.
- 3. The site is adequate for water supply and on-site sewage treatment.
- 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 watercraft.

The information provided in this staff report and on the proposed plans indicate that all above criteria have been met for minor site plan review and conditional use permits.

NOTE: These plans and report have been sent to the DNR representative as required by the Shoreland Overlay District requirements.

RECOMMENDATION

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

Findings of Fact:

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

2 Sunfish Lane
2. The planning reports dated 3/17/2022 and 04/05/2022 prepared by WSB are incorporated herein by reference.
3. The Applicant submitted applications for a conditional use permit for more than one accessory structure and an accessory structure located in the front yard; and a minor site plan application for the approval a fence.
4. Requests for a conditional use permit for more than one accessory structure and a conditional use permit for an accessory structure located in the front yard; and a minor site plan approval for a fence require Planning Commission review and City Council approval.
5. Upon review of the planning report and application information, the Planning Commission found that the proposed site plan meets Ordinance requirements. The following findings support the Planning Commission's recommendation for approval:
 - a. The proposed improvements meet R-1 District and Shoreland Overlay District requirements.
 - b. The proposal 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 3/17/2022 Planning Commission meeting and the 04/05/2022 City Council 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. Silt fence must be installed and inspected prior to project start.
9. Road restrictions will be in place and must be adhered to – this may dictate the project schedule.
10. If upon project completion, staff sees indications of construction site erosion that has migrated to the infiltration basin, the applicant will have a double ring infiltrometer test to confirm that the pond infiltrates to the design rates. Applicant will make corrections to the pond as directed by a licensed engineer (and as approved by the city) to bring the pond back in to conformance with the original design.
11. Sunfish Lane is a private road, and the residents have a joint maintenance agreement. With 80 cubic yards of soil being trucked off-site, this could negatively impact the roadway. The applicant must develop a plan to mitigate this impact (perhaps including the use of smaller trucks hauling lesser loads) and must get written approval from the other residents that are part of that private road maintenance agreement. This agreement must be submitted to the City Engineer prior to any work being performed on site.

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

RESOLUTION NO. 22-XX

**RESOLUTION APPROVING A MINOR SITE PLAN REVIEW AND TWO
CONDITIONAL USE PERMITS FOR THE PROPERTY AT 2 SUNFISH LANE,
SUNFISH LAKE, DAKOTA COUNTY, MINNESOTA.**

WHEREAS, Tim Johnson, on behalf of Linval Joseph, submitted an application for the approval of a minor site plan review and two conditional use permits for the property at 2 Sunfish Lane, Sunfish Lake, Dakota County, Minnesota, legally described as:

SECTION 30 TWN 28 RANGE 22 PT OF S ½ OF SE ¼ BEG 2615.1 FT W OF SE COR
N 638.10 FT N 64D33M E 186.78 FT N 18D14M E 163.58 FT TO INT WITH NW'LY
EXT OF N'LY LINE OF KNUTSON ADD SE'LY ON SAID EXT OF N'LY LINE TO W
LINE OF PLAT S'LY ON SAID W LINE TO S LINE SE ¼ W 181.35 FT TO BEG ALSO
PT OF LOTS 1 & 2 AUDITORS SUBDIVISION NO 41 COM 2615.1 FT W OF NE COR
SECTION 31 S 300 FT E 181.35 FT N 300 FT TO N LINE SAID SEC 31 W 181.35 FT
TO BEG, LOT AND BLOCK 20 28 22

WHEREAS, a request for minor site plan review and conditional use permits requires Planning Commission review and City Council approval; and

WHEREAS, City staff reviewed the application and outlined their review comments in planning reports dated March 17, 2022 and April 5, 2022, prepared by WSB; and

WHEREAS, the Sunfish Lake Planning Commission held a public hearing at their March 17, 2022 meeting and reviewed the minor site plan review and conditional use permit applications, 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 minor site plan review and conditional use permits on a vote of 4-0 vote; and

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

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

2 Sunfish Lane
2. The planning reports dated 3/17/2022 and 04/05/2022 prepared by WSB are incorporated herein by reference.

3. The Applicant submitted applications for minor site plan review for the approval a fence, and conditional use permits for more than one accessory structure and an accessory structure located in the front yard.
4. Requests for minor site plan review for a fence and conditional use permits for more than one accessory structure and for an accessory structure located in the front yard require Planning Commission review and City Council approval.
5. Upon review of the planning report and application information, the Planning Commission found that the proposed site plan meets Ordinance requirements. The following findings support the Planning Commission's recommendation for approval:
 - a. The proposed improvements meet R-1 District and Shoreland Overlay District requirements.
 - b. The proposal 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 major site plan approval and conditional use permit at their meeting on April 5, 2022 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 minor site plan review and conditional use permits for 2 Sunfish Lane with the following conditions:

1. Construction shall occur in substantial conformance with the plans presented at the 3/17/2022 Planning Commission meeting and the 04/05/2022 City Council 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 and conditional use permits 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. Silt fence must be installed and inspected prior to project start.
9. Road restrictions will be in place and must be adhered to – this may dictate the project schedule.

10. If upon project completion, staff sees indications of construction site erosion that has migrated to the infiltration basin, the applicant will have a double ring infiltrometer test to confirm that the pond infiltrates to the design rates. Applicant will make corrections to the pond as directed by a licensed engineer (and as approved by the city) to bring the pond back in to conformance with the original design.
11. Sunfish Lane is a private road, and the residents have a joint maintenance agreement. With 80 cubic yards of soil being trucked off-site, this could negatively impact the roadway. The applicant must develop a plan to mitigate this impact (perhaps including the use of smaller trucks hauling lesser loads) and must get written approval from the other residents that are part of that private road maintenance agreement. This agreement must be submitted to the City Engineer prior to any work being performed on site.

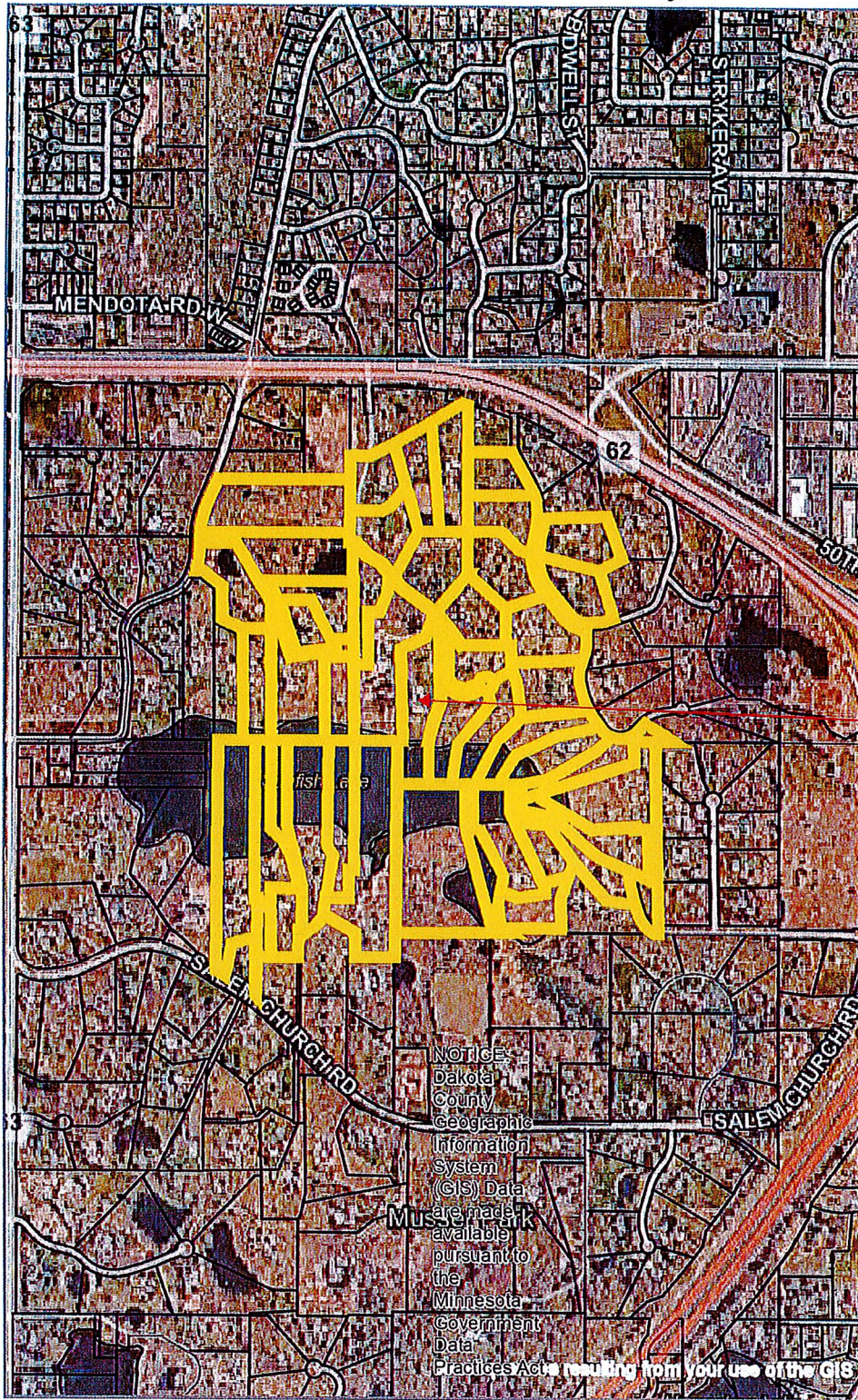
This resolution is adopted by the City Council of the City of Sunfish Lake this 5th day of April, 2022.

Dan O'Leary, Mayor

Attest:

Catherine Iago, City Clerk

Dakota County, MN



Property Information

Parcel Lines



Tax Parcels



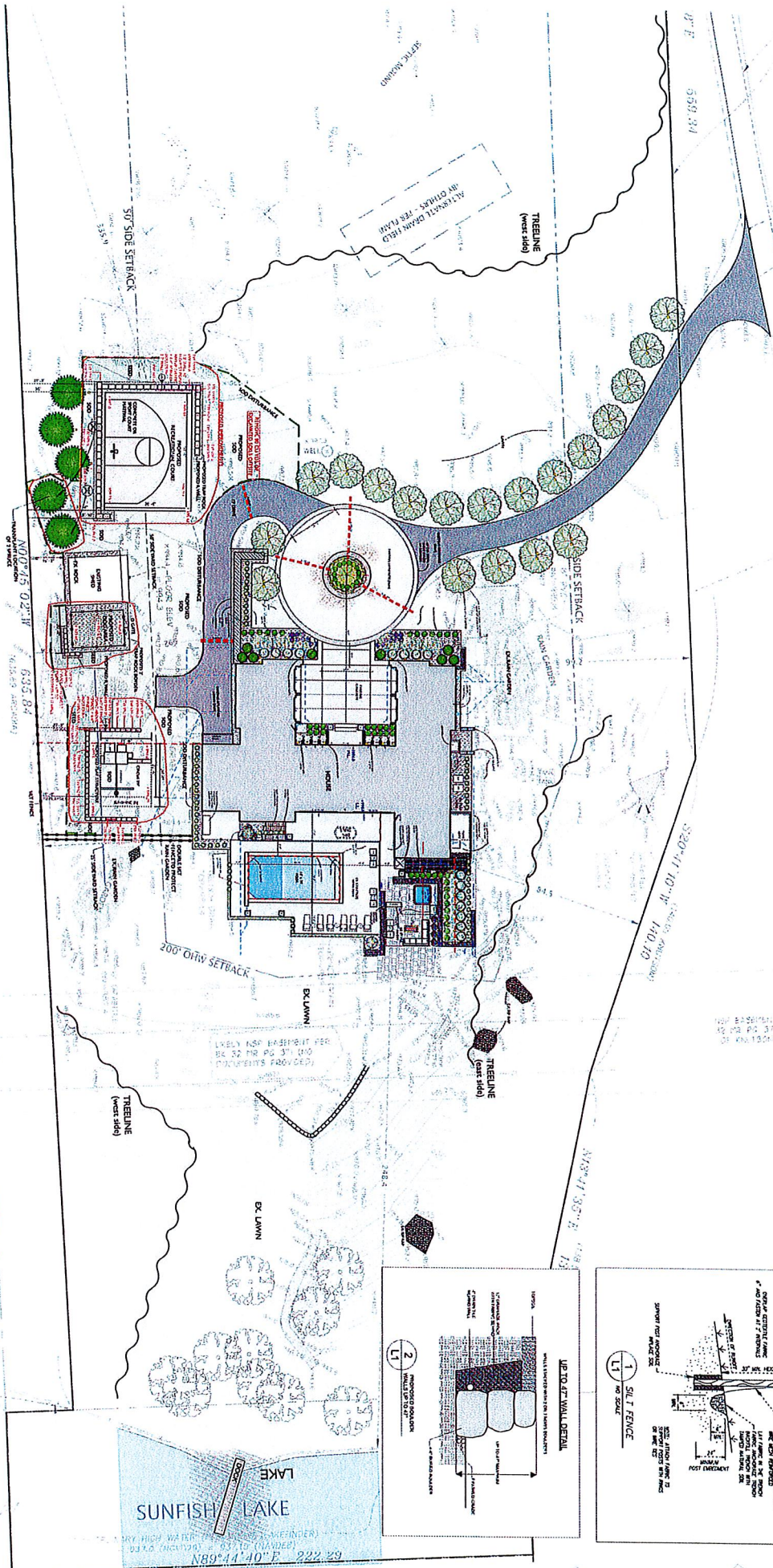
2 Sunfish Lane



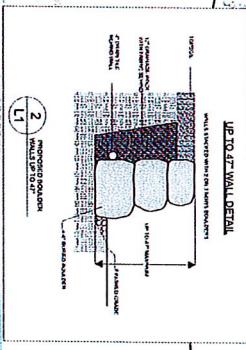
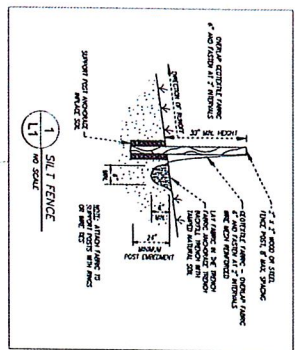
Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed.
This is not a legal document and should not be substituted for a title search, appraisal, survey, or
for zoning verification.

Map Scale
1 inch = 1200 feet
2/28/2022

ALL NOTES AND DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE. DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE. DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.



FOR SETBACKS FOR BY 42.5' TO 37' (SEE PLAN) OF 100' FROM ADJACENT



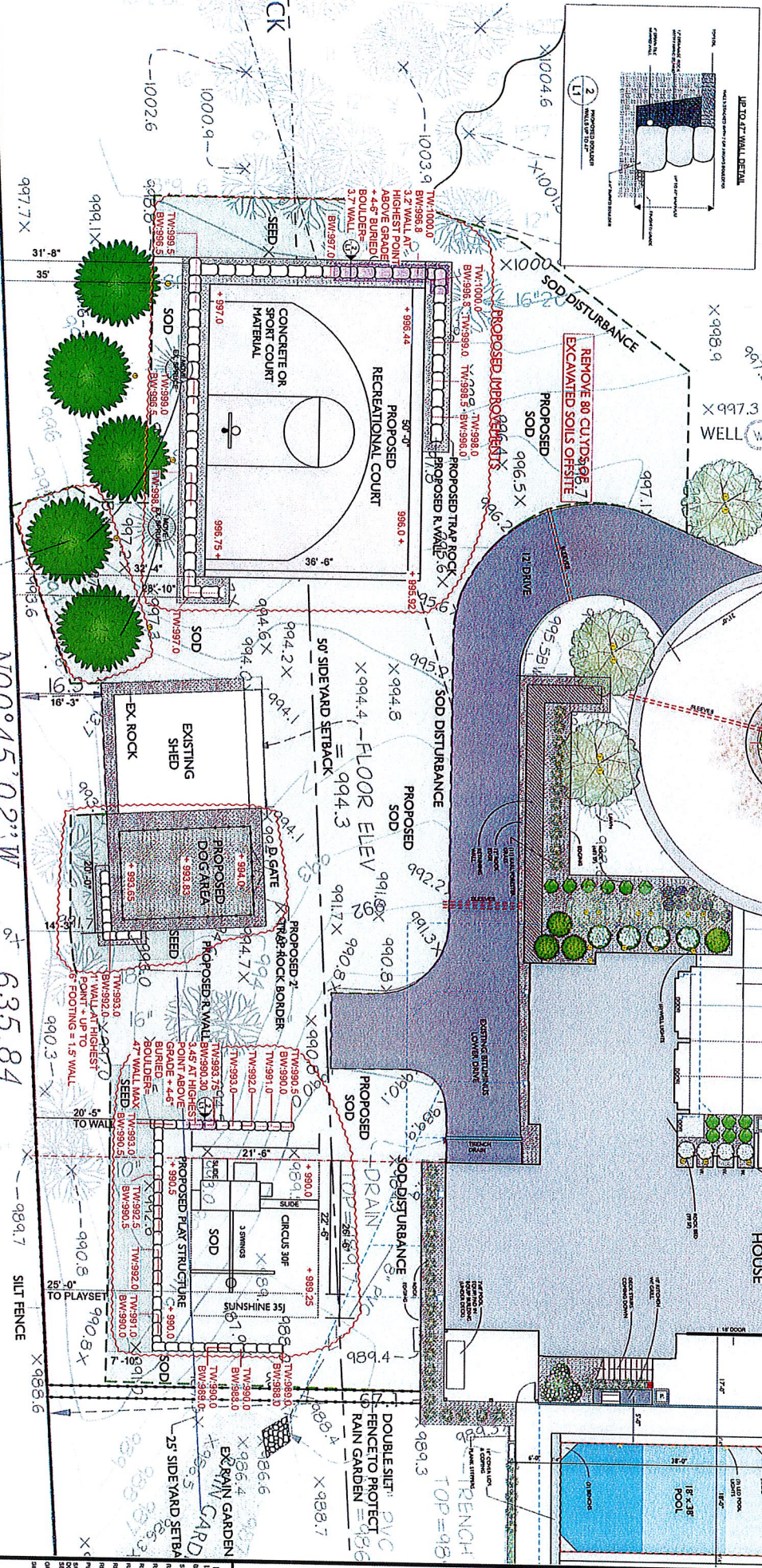
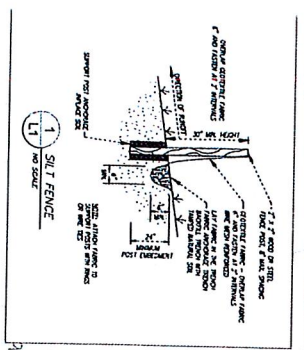
PROPOSED LANDSCAPE PLAN FOR THE JOSEPH RESIDENCE

2 SUNFISH LN

651.755.45
The Joseph Residence
Landscape Plan
LVT Landscape Architecture
Any landscape plan shall be in accordance with the LVT logo.

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PROPOSED LANDSCAPE PLAN FOR THE JOSEPH RESIDENCE

2 SHEET 1 IN

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 LVI
 LANDSCAPE ARCHITECTS
 1000 N. 10TH AVE.
 SUITE 100
 DENVER, CO 80202
 (303) 733-1111
 www.lvi-landscapes.com

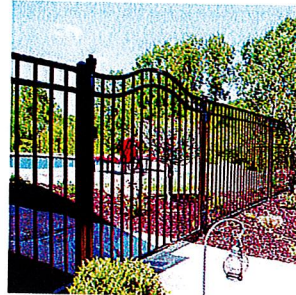
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Joseph Selection Sheet

2 Sunfish Lane

Fence: Ameristar Fence-Montage, Color: Black, Flat top rail, 5' in height.



Play Set: Option 1: Rainbow Play Systems - Rainbow Clubhouse Pkg V Magnificent (38F) - Dimensions: 23.5' x 25.5' x 14'



Option 2: Rainbow Play Systems - Sunshine Clubhouse Pkg V Fantastic (35J) Dimensions: 26.5' x 21.5' x 13



Option 3: Rainbow Play Systems - Circus Clubhouse Pkg V Fantastic (30F) - Dimensions: 22.5' x 21.5' x 12.5'



Lori Johnson

From: John Johansson <John.Johansson@transwestern.com>
Sent: Saturday, March 12, 2022 11:46 AM
To: Lori Johnson
Cc: John Johansson
Subject: 2 Sunfish Lane - comments from John Johansson - 1 Sunfish Lane resident.
Attachments: [Untitled].pdf

EXTERNAL EMAIL

Lori –

Hello.

I have received the notices regarding the proposed changes at 2 Sunfish Lane.

I own the immediate adjacent property at 1 Sunfish Lane – we share a property line.

I realize Linval is in California with his football obligations – so they have not reached out to me, and I have not had the chance to meet him and review the proposed changes. I did reach out to Gary Uecke, who helps him on his property – and we talked once. I also inquired this morning for some details on the proposed dog area. Gary has not had the chance to get back to me yet.

My comments are as follows:

1. As for the sport court – it looks like fun. I have no issues with a neighboring property owner using their yard/lot for activities such as this. These are big lots – and the owners should be afforded the opportunity to use the large lot. For the record, when I sneak over, I will not be attempting to dunk on Linval. My only concern would be as to lighting. The sport court abuts our mutual property line. Mr. Uecke thought there would not be any lighting. But, if there is lighting proposed, I would only suggest that the design includes cut-off shields on the fixtures such that the light is directed to the sport court and not to the neighboring property. The light source should not be visible to any neighboring properties – which is again another standard specification that is available on most light fixtures. I would also suggest that the lighting is only on when there is someone using the court – and not used as decorative or ambient lighting at other times.
2. The Sport court being in the front yard is logical given the grade and slope on Linval's lot. Understood. No concern.
3. The fence in the side yard appears to actually be for a "Dog Area". I reached out to Gary on this for more details. My only concerns are the logical ones as to noise. I inquired with Gary as to if it is a permanent, overnight home for dogs, how many dogs, etc. What we do if a dog barks constantly, etc. The proposed dog area is again directly on our shared property line. I am not sure what the City standards are on number and/or noise from dogs. Certainly, I want to be a cooperative neighbor – but would regret not saying anything now if the Dog area ends up being a pen for one or more dogs that bark constantly. Hopefully we can find a way to avoid that. I am assuming Linval would like to avoid that also. I will perhaps have more foundation when I hear back from Gary.

Thanks for listening. My intent is to cooperate and allow Linval to move forward. Just want to make sure we take some simple and logical steps now.

Thank you

JJJ

John J. Johansson
Managing Director of Retail Services

TRANSWESTERN

7601 France Avenue South
Suite 525
Edina, Minnesota 55435
Direct: 612.359.1680
Cell phone: 612.817.2302
john.johannson@transwestern.com

From: Sunfish <jjjsunfishprinter@gmail.com>
Sent: Saturday, March 12, 2022 12:20 PM
To: John Johannson <john.johannson@transwestern.com>
Subject:

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