

Date: November 30, 2023

To: Town of Mukwonago Plan Commission and Town Board

From: Tim Schwecke, Town Planner

Subject: Special exception for placement of detached accessory building in front of proposed principal dwelling for property located at S66W30184 CTH I (MUKT1881993) pursuant to Section 36-733 of the zoning code; Lori and Lou Boehmke, applicant

Application: 2023-24; <https://s.zoninghub.com/ZNFIGSN4SG>

Meeting: December 6, 2023 Plan Commission and Town Board meeting

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Lori and Lou Boehmke own the property at S66W30184 CTH I and want to build a house with an attached garage. The property is currently vacant except for a garage that was constructed sometime before 1970. There was no Town or County zoning at that time. As proposed, the existing garage will be in front of the proposed house.

### Subject Property



The subject property is about 5 acres and is zoned A-1. The offset is 30 feet for the side and rear lot lines. The existing garage is about 186 feet from the front lot line and about 20 feet off of the east lot line. As such, the garage is nonconforming. Based on the zoning and size of property, the standard amount for accessory buildings is 1,500 square feet. The garage is about 1,152 square feet.

The building inspector has inspected the exterior and believes it is structurally sound.

**Review procedure** With regard to special exceptions, the Plan Commission offers a recommendation and the Town Board makes the final decision.

Section 36-424 of the zoning code includes a list of factors that should be considered in reviewing all types of special exceptions.

- (1) the size of the subject property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception permit would be in keeping with the overall intent of this chapter;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;

- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit; and
- (8) any other factor that relates to the purposes of this chapter as set forth in s. 36-5 or as allowed by state law.

In addition to the factors listed above, that apply to all special exceptions, the Plan Commission and Town Board must consider the following factors as set forth in s. 36-733 of the zoning code that apply to this type of special exception:

- (1) the size of the subject property,
- (2) the character of the area,
- (3) the size of the proposed accessory building,
- (4) the extent to which the proposed accessory building is visible from public and private streets and other properties in the area,
- (5) the practical difficulty in placing the proposed accessory building in the location described in this subsection, and
- (6) other factors related to relevant circumstances.

**Imposition of conditions** In approving a special exception, the Plan Commission may recommend and the Town Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening.

**Motion by Plan Commission for approval** Motion to recommend to the Town Board the approval of the petitioner's request, subject to the terms and conditions listed below.

- (1) The property owner must submit a zoning permit application for the proposed house and obtain approval within 9 months of this date.
- (2) The property owner must obtain a building permit for the proposed house and commence construction within 12 months of this date and work in good faith to completion.
- (4) Prior to issuance of a building permit for the proposed house, the petitioner must file a deed restriction in the office of the county register of deeds, as approved by the Town Attorney, setting forth the nature of the approval and any conditions that may be imposed.
- (5) The deed restrictions must include a provision that prohibits the owner from applying for another special exception to place any other building in front of the house.

**Attachments:**

1. Application materials



Special Exception  
Town of Mukwonago

Version: February 10, 2022

Town of Mukwonago  
W320 S8315 Beulah Road  
Mukwonago, WI 53149

**Overview:** The Town Board may, on a case-by-case basis, grant a special exception for those development standards specifically noted as special exceptions in the zoning code. (See section 4 of this application for a listing). In making its decision, the Town Board must consider a variety of factors. General evaluation criteria apply to all special exceptions and special evaluation criteria may also apply as listed for the special exception.

**Governing regulations:** The procedures and standards governing the review of this application are found in Article 5 of the Town's zoning code (Chapter 36).

**General instructions:** Application materials should be submitted to the Town Clerk at the mailing address shown above or online at <https://townofmukwonago.zoninghub.com/tools/OnlineApplication.aspx>. If you have any questions, do not hesitate to contact the Town Planner at (920) 728-2814 or via email at [tim.schwecke@civitekconsulting.com](mailto:tim.schwecke@civitekconsulting.com).

1. **Applicant and agent contact information.** Include the names of those agents, if any, that helped prepare this application including the supplemental information. Agents may include surveyors, engineers, landscape architects, architects, planners, and attorneys.

	<u>Applicant</u>	<u>Agent (if any)</u>
Name	Lori and Lou Boehmke	Casey Masterson
Company		Sarana Homes
Street address	W256S440 Shadow Ridge Dr	1507 E Sunset Dr, Suite 125
City, state, zip code	Waukesha WI 53189	Waukesha WI 53189
Daytime telephone number	262.227.5986	262.894.1659
Email	boehmke4@hotmail.com	casey@saronahomes.com

2. **Subject property information**

Physical address S66W30184 County Rd I, Mukwonago

Tax key number(s) MUKT- 1881993 MUKT- MUKT- MUKT-

Note: The tax key number can be found on the tax bill for the property or it may be obtained from the Town Clerk.

Parcel size 5.0428  acres OR  square feet

Is the subject property currently in violation of the Town's Zoning Code?

No

Yes

If yes, please explain.

Accessory structure < 30' from side lot line.

Comment: Pursuant to Section 36-136 of the Town's zoning code, the Town may not issue a permit or other approval that would benefit a parcel of land that is in violation of the zoning code, except to correct the violation or as may be required by state law.

Are there any unpaid taxes, assessments, or other required payment that are specifically related to the subject property?

No

Yes

If yes, please explain.

Comment: Pursuant to Section 36-137 of the Town's zoning code, the Town may not issue a permit or other approval that would benefit a parcel of land where taxes, assessments, or other required payments are delinquent and due.

**3. Zoning information**

The subject property is located in the following zoning district(s). (check all that apply)

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> C-1 Conservancy             | <input type="checkbox"/> R-1 Residential    | <input type="checkbox"/> EC Environmental corridor (overlay) |
| <input checked="" type="checkbox"/> A-1 Agricultural | <input type="checkbox"/> R-2 Residential    | <input type="checkbox"/> HS Hydric soils (overlay)           |
| <input type="checkbox"/> RH Rural home               | <input type="checkbox"/> B-2 Local business |  |
| <input type="checkbox"/> SE Suburban estates         | <input type="checkbox"/> P-1 Public         |  |

Is the subject property located within Waukesha County's shoreland jurisdiction (generally defined as being within 300 feet of a stream or 1,000 feet of a lake)?

- Yes       No

**4. Type of special exception.** Select the special exception(s) you are requesting as referenced in the zoning code.

- s. 36-686(b)      Parking of trucks and equipment as an ancillary use to a residential use
- s. 36-702      Reasonable accommodations
- s. 36-713      Modify depth-to-width ratio for lots
- s. 36-718      Increase in maximum attached garage size
- s. 36-719      Increase in maximum detached accessory building
- s. 36-726(b)      Reduction in separation to EC overlay zoning district
- s. 36-733      Allow detached accessory building in front of principal building
- s. 36-764      Allow a second driveway
- s. 36-773(b)(4)      Modification of requirements for decorative facing on the side of a principal building
- s. 36-773(b)(12)      Allow overhead doors to face a public street
- s. 36-1504      Allow construction within an offset area
- Appendix B (1.03)      Modify minimum lot area for intensive animal production
- Appendix B (4.01)      Modify requirements for exterior materials for duplexes
- Appendix B (4.02)      Modify requirements for exterior materials for multifamily buildings
- Appendix B (4.03)      Modify requirements for exterior materials for single-family dwellings
- Appendix B (9.04)      Modify offset requirements for commercial kennels
- Appendix B (9.20)      Modify offset requirements for veterinary clinics
- Appendix B (13.14)      Modify provisions for home occupations for operator with a disability
- Appendix B (13.25)      Modify offset and setback requirements for a free-standing solar energy system
- Appendix B (13.25)      Modify placement requirements for a free-standing solar energy system
- Appendix B (14.01)      Grant an extension of time for an earth materials stockpile
- Appendix C      Increase height of detached accessory building (Footnote #14)

**5. Previous special exception applications for the subject property.** Describe any special exception applications that have been submitted for the property; include the year, a general description, and whether the application was approved or not.

n/a

**6. Proposed project.** Describe what you would like to do if the special exception is granted.

We are proposing the construction of a single-family residence. Because of the topography of the lot and location of an existing well that will be reused, we are requesting to place the primary residence behind the existing accessory structure. The lot is heavily wooded and neither the house nor the accessory structure will be clearly visible from County Hwy 1.

**7. General evaluation criteria.** The following general factors are considered in reviewing your application:

- (1) the size of the subject property in comparison to other properties in the area;
- (2) the extent to which the issuance of the special exception permit would be in keeping with the overall intent of the zoning regulations;
- (3) whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception permit;
- (4) the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception permit was granted;
- (5) the nature and extent of anticipated positive and negative effects on properties in the area;
- (6) actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- (7) a factor specifically listed under a section of this chapter authorizing the issuance of a special exception permit; and
- (8) any other factor that relates to the purposes of this chapter as set forth in s. 36-5 or as allowed by state law.

In the space below, address each of these to the extent necessary to show why you believe the special exception should be granted. Add additional pages if necessary.

The issuance of the special exception to allow an existing accessory building to remain on a property in front of a proposed residence is keeping with the overall intent of the zoning regulations. The structure has existed for over 40 years and is surrounded by mature vegetation. The construction of a residence behind the accessory building has no impact to the rural character of the property or surrounding neighborhood. The proposed home is situated in a location that will result in the least amount of tree cutting and grading. Placing the home in front of the existing garage will only create a more visible developed lot.

**8. Specific evaluation criteria.** In addition to the general evaluation criteria listed in section 7 above, specific evaluation criteria are often listed in the zoning code for each of the different types of special exceptions (refer to section 4 above for the corresponding zoning code section number). In the space below, list those factors and why you believe the special exception should be granted. Add additional pages if necessary.

Per Section 36-733:

**Size of the subject property:** The property is 5 acres in size, which is consistent with the surrounding properties. The location of the existing detached garage and proposed home are positioned to protect the natural topography and mature vegetation to the greatest extent possible. If either of the structures are relocated, additional tree cutting and grading would be required.

**Character of the area:** The property is located in a rural environment. The location of the existing garage and proposed home maintain the rural character by preserving the natural environment to the greatest extent possible. The existing garage is already part of the neighborhood landscape and the residence will be located further from view of the road. There is a nearby property located at W303 S6740 CTH 1 with a shed located closer to the road than the residence. The shed on said property is visible to the road compared to the shed being screened from view on the subject property.

**Size of the accessory building:** The accessory building existed prior to 1970 and the size complies with the current zoning requirements related to size. The structure is approximately 1,152 sq. ft., whereas 1,300 sq. ft. is allowed. The structure was constructed prior to the current owner obtaining the property.

**Extent to which the proposed accessory building is visible from public and private streets and other properties in area:** The existing structure has existed for over 40 years and is screened with mature evergreen vegetation from the road and adjacent property.

**Practical difficulty in placing the accessory building in the location described in the ordinance:** It would be more impactful to construct a new accessory building that complies with the ordinance vs allowing the existing building to remain. As previously stated, relocating the building would require additional tree removal and grading.

9. **Project map.** Attach a project map. It can consist of a single page or multiple pages depending on the complexity of the features that need to be depicted.

The following items need to be included *as appropriate* to the project and the special exception that is being requested.

Background Project Information

- Project name
- Applicant name
- Preparation date

Survey Information

- North arrow and graphic scale
- Address of subject property or legal description
- Property boundaries
- Acreage of subject property

Project Development Information

- Easements/rights-of-ways (location, width, purpose, ownership)

Setting

- Property boundaries within 50 feet of the subject property
- Land uses within 50 feet of the subject property
- Zoning district boundaries within 50 feet of the subject property
- Municipal boundaries within 50 feet of the subject property

Site Features (existing and proposed)

- Ground contours when any slope exceeds 10 percent
- Wetlands
- Woodlands
- Wildlife habitat, including critical wildlife habitat
- Environmentally sensitive features
- Water resources (rivers, ponds, etc.)
- Floodplain boundaries
- Environmental and manmade development constraints and hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, and high-pressure natural gas lines

Buildings and Outdoor Storage/Activity Areas

- Existing and proposed
- Existing within 50 feet of subject property

Required Setbacks

- Yard setbacks (front, side, rear and shore)
- On-site septic systems
- On-site wells and off-site wells within 10 feet of the perimeter of the subject property

Utilities (existing and proposed)

- Location
- Type (sewer, telephone, etc.) (buried or overhead, if applicable)

Transportation Facilities (existing and proposed)

- Streets
- Driveways and road access onto public and private roads
- Parking lots
- Sidewalks / trails
- Fire lanes (i.e., fire apparatus access)
- Clear visibility triangles (location and dimensions)

10. **Attachments.** List any attachments included with your application.

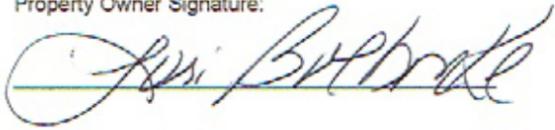
Survey  
Grading Plan  
Aerial view of the property  
Photos of the property and existing accessory structure.

11. **Other information.** You may provide any other information you feel is relevant to the review of your application.

**12. Applicant certification**

- I certify that all of the information in this application, along with any attachments, are true and correct to the best of my knowledge and belief.
- I understand that I may be charged additional fees (above and beyond the initial application fee) consistent with sections 2-2 and 2-3 of the Town of Mukwonago municipal code.
- I understand that submission of this application authorizes town officials, Plan Commission members, Town Board members, employees, and other designated agents to enter the property to conduct whatever site investigations are necessary to review this application. This does not authorize any such individual to enter any building on the subject property, unless such inspection is specifically related to the review of this application and the property owner gives his or her permission to do so.
- I understand that this application and any written materials relating to this application will become a permanent public record and that by submitting this application I acknowledge that I have no right to confidentiality. Any person has the right to obtain copies of such written materials or view it online.
- I understand that the Town Planner will review this application to determine if it contains all of the required information. If he or she determines that the application is incomplete, it will not be scheduled for review until it is deemed to be complete.

Property Owner Signature:



Date:



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# PLAT OF SURVEY

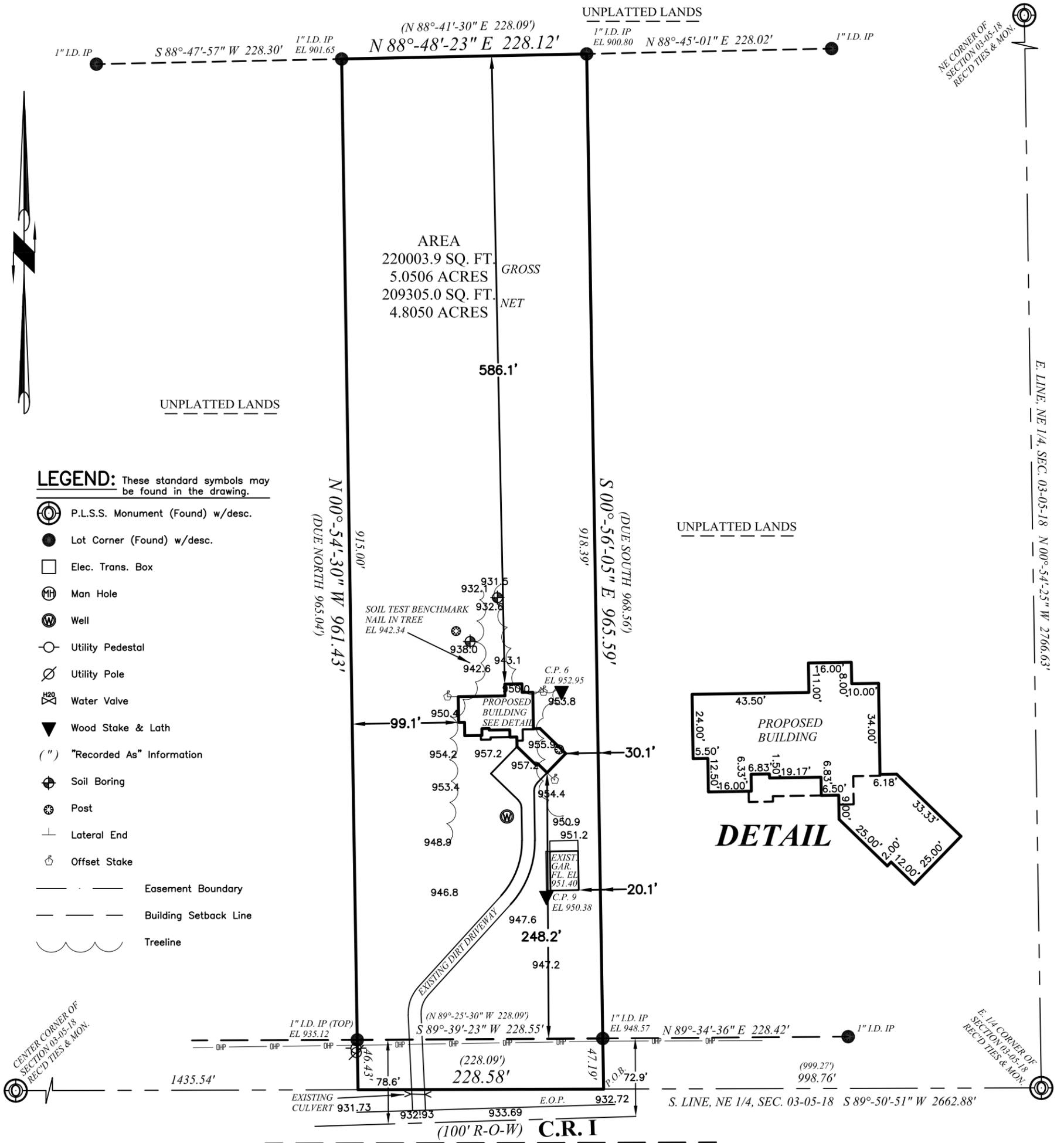
FOR ALL THAT PART OF THE SE 1/4 OF THE NORTHEAST QUARTER OF SECTION 3,  
TOWN 5 NORTH, RANGE 18 EAST, TOWN OF MUKWONAGO, WAUKESHA COUNTY,  
WISCONSIN, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

DEED DESCRIPTION (PER DOC. NO. 3233196):

"...BEGINNING AT A POINT ON THE EAST QUARTER LINE OF SECTION 3, SAID POINT BEING NORTH 89° 25' 30" WEST OF AND 999.27 FEET DISTANT FROM THE EAST QUARTER CORNER OF SAID SECTION, SAID POINT ALSO BEING THE CENTER LINE OF COUNTY TRUNK HIGHWAY "I"; THENCE CONTINUING NORTH 89° 25' 30" WEST, ALONG SAID EAST QUARTER LINE, 228.09 FEET; THENCE DUE NORTH PARALLEL TO THE EAST LINE OF SECTION 3, 965.04 FEET; THENCE NORTH 89° 41' 30" EAST, 228.09 FEET; THENCE DUE SOUTH, 968.56 FEET TO THE AFORE MENTIONED EAST QUARTER LINE AND THE PLACE OF BEGINNING, CONTAINING 5.062 ACRES MORE OR LESS."

SURVEYOR'S MEETS AND BOUNDS DESCRIPTION:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 3; THENCE SOUTH 89°-50'-51" WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, 9598.76 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREINAFTER DESCRIBED; THENCE CONTINUING SOUTH 89°-50'-51" WEST, ALONG SAID SOUTH LINE, 228.58 FEET; THENCE NORTH 00°-54'-30" WEST, ALONG A MONUMENTED LINE AND ITS EXTENSION, 961.43 FEET TO A FOUND, ONE-INCH INSIDE DIAMETER IRON PIPE; THENCE NORTH 88°-48'-23" EAST, ALONG A MONUMENTED LINE, 228.12 FEET TO A FOUND, ONE INCH INSIDE-DIAMETER IRON PIPE; THENCE SOUTH 00°-56'-05" EAST, ALONG A MONUMENTED LINE AND ITS EXTENSION, 965.59 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 220,003.9 SQUARE FEET, OR 5.0506 ACRES, OF LAND GROSS AND 209,305.0 SQUARE FEET, OR 4.8050 ACRES, OF LAND NET TO THE MONUMENTED NORTH RIGHT-OF-WAY LINE OF "COUNTY ROAD I", MORE OR LESS.

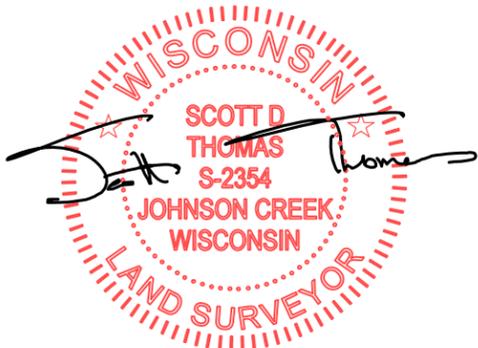


**LEGEND:** These standard symbols may be found in the drawing.

- P.L.S.S. Monument (Found) w/desc.
- Lot Corner (Found) w/desc.
- Elec. Trans. Box
- Man Hole
- Well
- Utility Pedestal
- Utility Pole
- Water Valve
- Wood Stake & Lath
- "Recorded As" Information
- Soil Boring
- Post
- Lateral End
- Offset Stake
- Easement Boundary
- Building Setback Line
- Treeline

NOTE: EXCAVATOR AND MASON MUST VERIFY AT LEAST TWO BENCH MARKS SHOWN ABOVE.

IF THE SURVEYOR'S SEAL IS NOT WET STAMPED IN RED AND SIGNED IN OPPOSABLE INK, THE PLAT IS A COPY THAT SHOULD BE ASSUMED TO CONTAIN UN-AUTHORIZED ALTERATIONS. THE CERTIFICATION ON THIS DOCUMENT DOES NOT APPLY TO ANY COPIES NOR DIGITAL FORMATS UNLESS VERIFIED DIGITAL CERTIFICATE BY SAME EXISTS UN-ALTERED.



PROPOSED TOP OF FOUNDATION: 957.17  
PROPOSED GARAGE FLOOR EL: 956.83  
PROPOSED FINAL YARD GRADE: 956.50  
PROPOSED EXPOSED YARD GRADE: 947.50  
PROPOSED TOP OF FOOTING: 948.17  
DRIVEWAY SLOPE: 6.7% TO PAVEMENT (ASSUMING 9' WALL - CHECK PLAN)

PROJECT: 20-013  
BUILDER: Saronah Holdings, LLC  
1507 E. Sunset Dr. Ste. 25  
Waukesha, WI 53189  
Ph: (262) 235-2048  
www.saronahomes.com

BEARINGS ARE REFERENCED TO THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 03-05-18, WHICH IS ASSUMED TO BEAR N 00°-54'-25" W.

State of Wisconsin }  
County of Jefferson } SS.

I, Scott D. Thomas, L.P.L.S., do hereby certify that I have made this survey and that the information as shown on the above Plat of Survey is a true and correct representation thereof and that this survey complies with Wisconsin Administrative Code A-E 7. Lots are drawn from subdivision plats/C.S.M.s; unplatted lands from recorded deeds/surveys. Boundary survey plats reflect field-located information; consult a title attorney to discover all the legal encumbrances attached to any property.

HOLLAND & THOMAS, L.L.C. - LAND SURVEYORS  
202 West Street Johnson Creek, WI 53038 (920) 699-3305



# GRADE DETAIL

FOR ALL THAT PART OF THE SE 1/4 OF THE NORTHEAST QUARTER OF SECTION 3,  
TOWN 5 NORTH, RANGE 18 EAST, TOWN OF MUKWONAGO, WAUKESHA COUNTY,  
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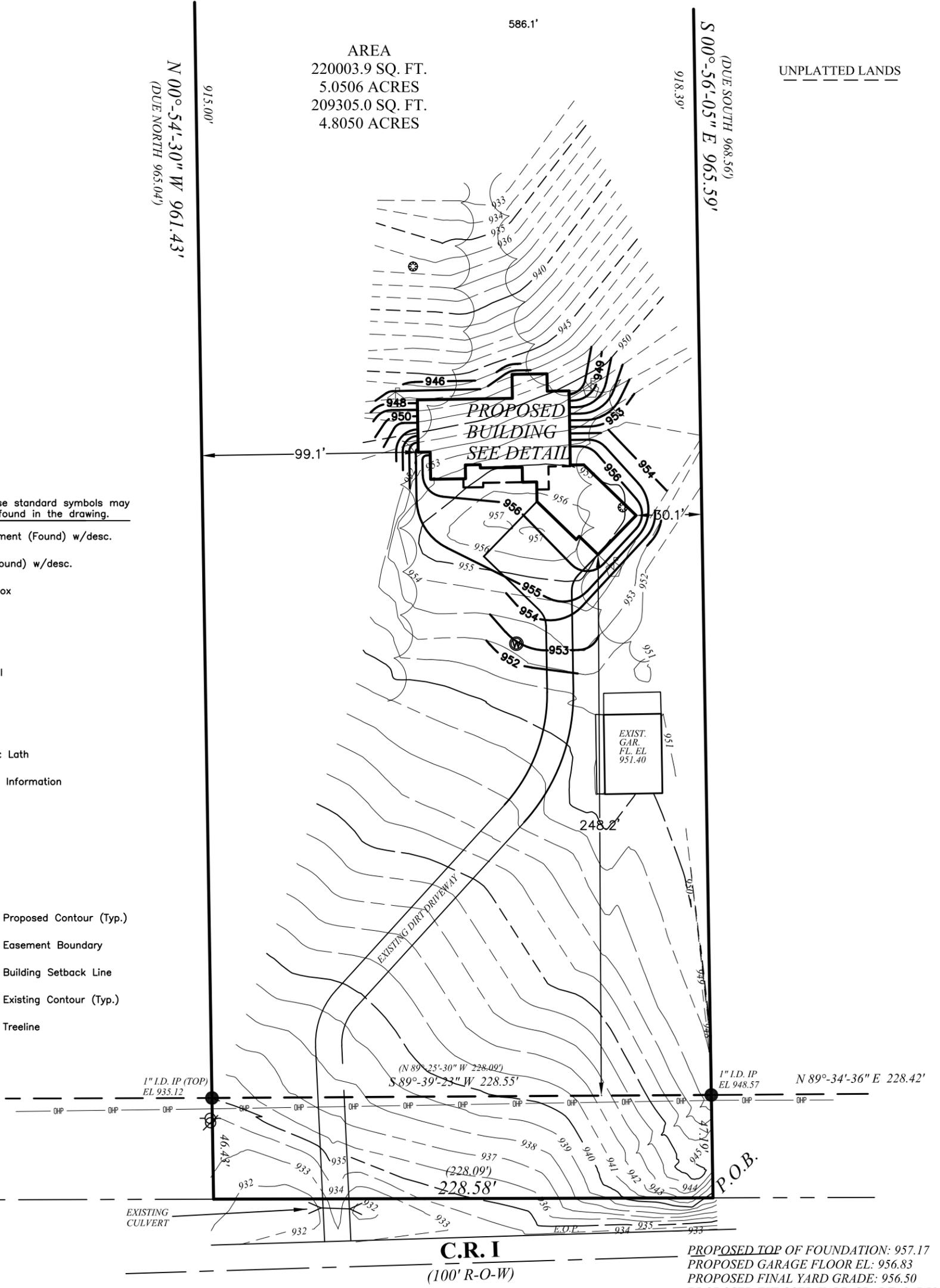
AREA  
220003.9 SQ. FT.  
5.0506 ACRES  
209305.0 SQ. FT.  
4.8050 ACRES

UNPLATTED LANDS



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- Lot Corner (Found) w/desc.
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HOLLAND & THOMAS, L.L.C. - LAND SURVEYORS  
 202 West Street Johnson Creek, WI 53038 (920) 699-3305



C:\Holland&Thomas\230950.dwg; Drawn By: NLH; Checked By: SDT; F.W.F.: 10-05-23; S: 11-01-23; Rev. 11-09-23.



961.53'

965.04'

,596

968.5'

968.56'

972.07'

975.59'

1881 994

1881 995

1881 993

1881 992

1881 995 001

1881 991

228.09'

V V

228.09'

V V

228.09'

V

228.09'

V

I





From house to east neighbor



From house to garage

