Minutes – Executive Policy Committee – October 20, 2021

REPORTS

Item No. 10 Zoning Agreement Amendment – 4 de Caigny Cove (St. Boniface Ward) File ZAA 3/2021

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Riel Community Committee and recommended to Council:

1. That the Zoning Agreement under File DAZ 8H/86 (DASSF 87/88) dated October 15, 1986 (By-law 4928/1988), be amended as follows:

   A. That Clause 2(a) be amended by adding the following:

   Excepting Lot 1 Block 1 Plan 23514 which shall provide a minimum of 23.77 Metres (78 Feet) measured from the rear lot line to any principal building.

   B. That Clause 2(c) be amended by adding the following:

   Excepting Lot 1 Block 1 Plan 23514, which shall provide a minimum of 6.93 Metres (22.75 feet) measured from that rear lot line to the temporary gazebo structure and a minimum of 12.19 Metres (40 feet) from that rear lot line to any swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with Recommendation 1, and such other agreements as determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

Moved by Councillor Allard,

That the recommendation of the Riel Community Committee be concurred in and forwarded to Council.

Yea:	Bowman, Allard, Browaty, Gillingham, Gilroy, Mayes, Rollins	7
Nay:		0

Carried

COMMUNITY COMMITTEE RECOMMENDATION:

On October 1, 2021, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, submitted its recommendation to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

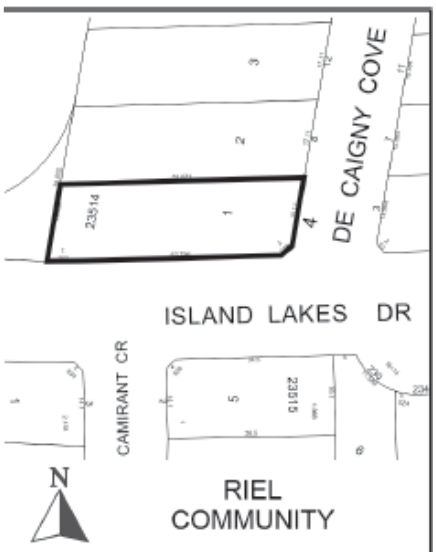
File: ZAA 3/2021

Before: Riel Community Committee
Councillor Chambers, Chairperson
Councillor Allard
Councillor Mayes

Public Hearing: October 1, 2021
Council Building, 510 Main Street

Applicant: Brennenstuhl (Karen Appler)

Subject:



APPLICANT : Karen Appler
FILE : ZAA 3/2021
PROPOSAL : To amend the Zoning Agreement DAZ 8H/86 (DASSF 87/88), By-law 4928/88 affecting the land shown outlined above by amending Clause 2.(a) and (c) to allow a minimum of 23.77 metres (78 feet) measured from a rear lot line to any principal building, a minimum of 12.19 metres (40 feet) from the rear lot line to an existing swimming pool and a minimum of 6.93 metres (22.75 feet) from a rear lot line to an existing gazebo. **For information, phone, E. Finnigan, Planner at 204-986-8602.**
DEMANDEUR : Karen Appler
N° DE DOSSIER : MCZ 3/2021
PROJET : Modifier la convention de zonage DAZ 8H/86 (DASSF 87/88), règlement municipal n° 4928/88, visant le bien-fonds délinéé ci-dessus par modification des dispositions 2.(a) et (c) afin de permettre une distance minimale de 23,77 mètres (78 pieds) entre la limite arrière de lot et tout bâtiment principal, une distance minimale de 12,19 mètres (40 pieds) entre la limite arrière de lot et une piscine existante, et une distance minimale de 6,93 mètres (22,75 pieds) entre la limite arrière de lot et un kiosque de jardin existant. **Pour obtenir des renseignements, veuillez appeler E. Finnigan, urbaniste, au 204-986-8602.**

Premises Affected: 4 de Caigny Cove

For submission to: Executive Policy Committee

Prepared by: Rebecca Ford, Committee Clerk
Riel Community Committee

Report date: October 4, 2021

Community Committee Recommendation:

On October 1, 2021, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service and, via the Priority Rezoning Process, recommended to the Executive Policy Committee:

1. That the Zoning Agreement under File DAZ 8H/86 (DASSF 87/88) dated October 15, 1986 (By-law 4928/1988), be amended as follows:

    A. That Clause 2(a) be amended by adding the following:

    Excepting Lot 1 Block 1 Plan 23514 which shall provide a minimum of 23.77 Metres (78 Feet) measured from the rear lot line to any principal building.

    B. That Clause 2(c) be amended by adding the following:

    Excepting Lot 1 Block 1 Plan 23514, which shall provide a minimum of 6.93 Metres (22.75 feet) measured from that rear lot line to the temporary gazebo structure and a minimum of 12.19 Metres (40 feet) from that rear lot line to any swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with Recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Riel Community Committee provided the following supporting reasons for its recommendation:

1. We have a case here where the homeowner went through the process of getting a City permit. This process identified a number of issues with the zoning agreement. The landowner then took the steps to ensure that they could become in compliance with the Zoning, and so I think the amendments to the Zoning Agreement are reasonable.

2. They are supported by the Public Service, they are supported by the land-owner, who is looking to improve their property and to bring their property in-line with our by-laws and our rules at the City of Winnipeg. I think this is a good news story, and wanted to repeat the commendation to the land-owner for having gone through this process.

3. I know for people who, in particular, are owners of a single-family houses, this may be the one time that these land-owners are going through this process and they may never have to do this type of process again, so I know it can be challenging going through Zoning and Planning and Permits as the owner of a single-family home, so congratulations to all involved.

Exhibits Filed:

1. Application dated May 24, 2021
2. Notification of Public Hearing dated September 2, 2021
3. Manitoba Status of Title 2447494/1
4. Surveyor's Building Location Certificate and sketch dated September 1, 2020
5. Caveat 1128825
6. Plans (15 pages)
7. Report from the Urban Planning Division dated September 16, 2021
8. Inspection Report

REPRESENTATIONS:

In Support:

Karen Appler
Richard Appler

In Opposition:

Nil

For Information:

Nil

For the City:

E. Finnigan, Planner, Planning, Property and Development Department
S. Jerez, Planner, Planning, Property and Development Department

Exhibit "7" referred to in File ZAA 3/2021

ADMINISTRATIVE REPORT

Title: ZAA 3/2021 – 4 de Caigny Cove

Issue: For consideration at the Public Hearing to amend a Zoning Agreement under File DASZ 8H/86, to allow the maintenance of a sunroom, gazebo and swimming pool.

Critical Path: Riel Community Committee – Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
E. Finnigan	N/A	N/A	

RECOMMENDATIONS

1. That Zoning Agreement under File DAZ 8H/86 (DASSF 87/88) dated October 15, 1986 (By-law 4928/1988), be amended as follows:

   A. That Clause 2(a) be amended by adding the following:

   Excepting Lot 1 Block 1 Plan 23514 which shall provide a minimum of 23.77 Metres (78 Feet) measured from the rear lot line to any principal building.

   B. That Clause 2(c) be amended by adding the following:

   Excepting Lot 1 Block 1 Plan 23514, which shall provide a minimum of 6.93 Metres (22.75 feet) measured from that rear lot line to the temporary gazebo structure and a minimum of 12.19 Metres (40 feet) from that rear lot line to any swimming pool not enclosed within a building.

2. That the City enter into, execute and deliver an agreement to amend the Zoning Agreement in accordance with recommendation 1, and such other agreements as determined necessary by the City Solicitor and Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").
3. That authority be delegated to the Director of Planning, Property and Development to negotiate and approve the terms and conditions of the agreement to amend the Zoning Agreement, and the Ancillary Agreements, in accordance with this report and such other

terms and conditions deemed necessary by the City Solicitor and Director of Legal Services to protect the interests of the City.

4. That, the proper officers of the City be authorized to do all things necessary to implement the intent of the forgoing.

REASON FOR THE REPORT

- The applicant is proposing to modify the existing zoning agreement which regulates the minimum rear yard setback to a retention pond.
- Modification of caveats on a Land Title requires a Zoning Agreement Amendment application.
- Approval of a Zoning Agreement Amendment application requires a public hearing as per the Development Procedures By-law and The City of Winnipeg Charter.
- The Report is being submitted for the Committee's consideration of the development application at the public hearing.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the Urban Planning Division are concurred in, the subject Zoning Agreement will be **amended** and the caveat will be modified.

HISTORY

DASZ 8/86 and DAZ 8H/86

- On October 15, 1986, Council recommended approval of the application DASZ 8/86 to subdivide and rezone land south of Bishop Grandin Boulevard, east of Lagimodiere Boulevard and north of John Bruce Road. This site is now part of the Island Lakes neighbourhood. A condition of approval for DASZ 8/86 was that the applicant enter into a zoning agreement with the City of Winnipeg. Among the conditions included in the recommended zoning agreement was the restriction on rear yard setbacks for structures on lots abutting the storm water retention ponds.
- DASZ 8/89 was a large subdivision and the zoning by-law for specific areas was enacted in phases. On March 2, 1989, By-Law 4928/88 under file DAZ 8H/86 came into force and effect confirming the rezoning of lands along De Caigny Cove, which included the subject site. The specific zoning agreement for these lands was tied to DAZ 8H/86. Conditions included in this zoning agreement relevant to the subject application (ZAA 8/10) are as follows:

  2. Each of Lots 1 to 18 both inclusive in Block 1 of the land have a rear lot line abutting or partly abutting the boundary of public lands containing a storm water retention lake and accordingly there shall be provided and maintained on each of those lots the following special rear yard setback as illustrated on Schedule "A" to this agreement, namely:

  a) a minimum of 25.9 metres (85 feet) measured from that rear lot line to any principal building, and

  b) a minimum of 20.4 metres (67 feet) measured from that rear lot line to any detached accessory building, and

c) a minimum of 12.8 metres (42 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed with a building.

- In 2021, it came the Public Service's attention (when the applicant applied for a permit to enclose an existing outdoor balcony on an existing sunroom) that the sunroom, when initially constructed, had not been built in compliance with the Zoning Agreement under DAZ 8H/86. As well, the existing swimming pool and existing gazebo were also identified to be out of compliance with the Zoning Agreement. The subject application is intended to bring these works into compliance with the Zoning Agreement.

CONSULTATION

In preparing this report there was consultation with:

- Water & Waste Department, Engineering Division, Land Drainage & Flood Protection Branch

OUR WINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department	Planning, Property and Development
Division	Urban Planning
Prepared by:	Elise Finnigan, MA Planning
Date:	September 16th, 2021
File No.	ZAA 3/2021

List of Schedules and Attachments

1. Appendix A – Planning Discussion

APPENDIX 'A'

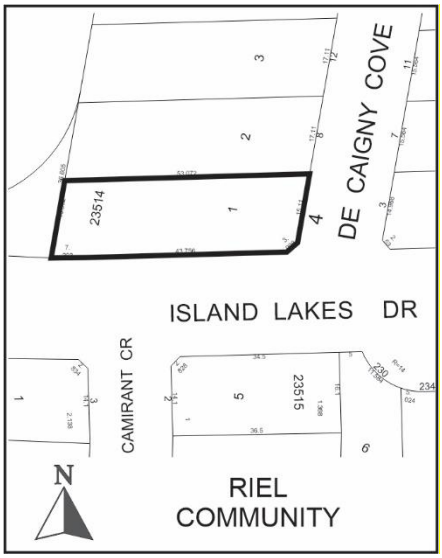
DATE: September 16th, 2021

FILE: **ZAA 3/2021**
RELATED FILES:
COMMUNITY: Riel
NEIGHBOURHOOD #: 5.556 – Island Lakes

SUBJECT: For consideration at the Public Hearing to amend to amend Clause 2(a) and 2(c) of the Zoning Agreement to permit the maintenance of a sunroom and a swimming pool.

LOCATION: 4 de Caigny Cove

LEGAL DESCRIPTION: LOT 1 BLOCK 1 PLAN 23514 RCMP



APPLICANT: Karen Appler (Brennenstuhl)
4 de Caigny Cove
Winnipeg, Manitoba R3X 1T3

OWNER: Karen Appler (Brennenstuhl)
4 de Caigny Cove
Winnipeg, Manitoba R3X 1T3

RECOMMENDATION: Approval

SITE DESCRIPTION

- The subject property is located at the northwest corner of de Caigny Cove and Island Lakes Drive, in the Island Lakes neighbourhood of the St. Boniface ward.
- The site is approximately 9,550 square feet in area and contains a two-storey single-family dwelling and attached garage built in 1990, as well as an outdoor swimming pool.
- The property backs onto a storm water retention lake to the west.
- The site is located within the 'Areas of Stability – Recent Community' policy area under the *Complete Communities Direction Strategy*, and is zoned 'R1-M' Residential Single-Family Medium.



Figure 1: Aerial Photo of Subject Site and Surrounding Uses *(flown 2018)*

SURROUNDING LAND USE AND ZONING (See Figure 2)

North: Residential uses zoned 'R1-M' Residential Single-Family Medium.

South: Intersection of Island Lakes Rive and Camirant Crescent, and residential uses zoned 'R1-M' Residential Single-Family Medium.

East: De Caigny Cove, then residential uses zoned 'R1-M' Residential Single-Family Medium.

West: Storm water retention lake zoned 'PR1' Parks and Recreation 1 (Neighbourhood), then residential uses zoned 'R1-M' Residential Single-Family Medium. Detached single-family dwellings zoned "R1-M" Residential Single-Family Medium.

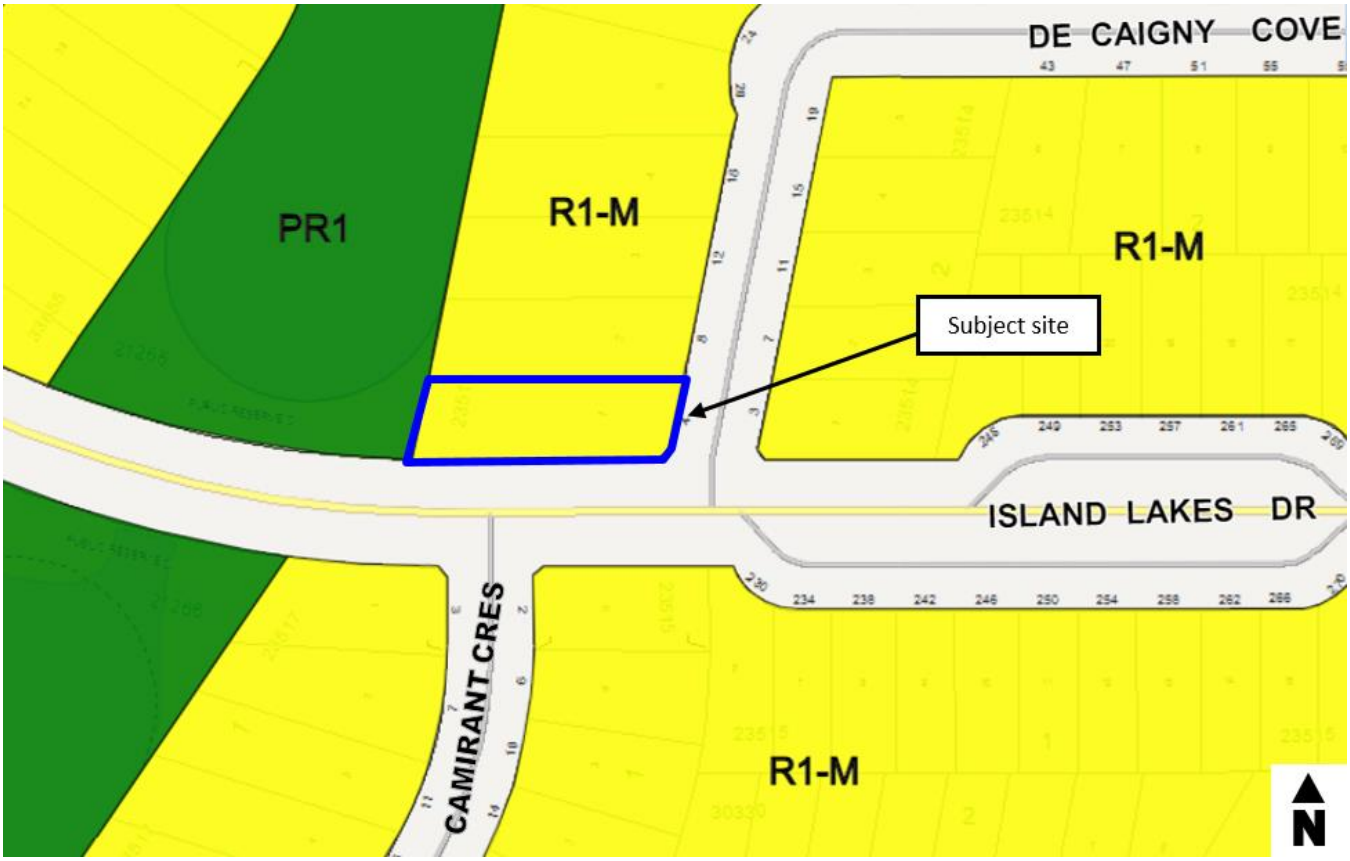


Figure 2: Zoning of the Site and Surrounding Area

DESCRIPTION OF THE PROPOSED DEVELOPMENT

- The applicant is proposing to enclose an existing balcony on top of an existing four-season sunroom at the rear of the dwelling. When applying for permits for this work, it was discovered that the sunroom's original construction was not done in compliance with the rear yard setback of the Zoning Agreement. The subject application is intended to bring it, the existing swimming pool, and an existing gazebo into compliance with the Zoning Agreement.
- The proposed second-floor addition/enclosure is 14 feet by 14 feet in area, with windows facing the rear yard to the west. A new exterior deck, three feet wide, is proposed along the north side of the sunroom, and a new staircase to the second storey is proposed on the south side of the sunroom. Drawings have been provided.

ANALYSIS AND ISSUES

COMPLETE COMMUNITIES DIRECTION STRATEGY

- The subject property is located within the 'Areas of Stability – Recent Communities' policy area under the *Complete Communities Direction Strategy.*
- Recent Communities are primarily residential areas with the following characteristics:
  - Dispersed, low to medium-density development patterns.
  - Curvilinear local road pattern with many cul-de-sacs.

- Typically planned after 1950.

- Key relevant policies guiding development within Areas of Stability include:
  - *Support low to moderate change in low-density neighbourhoods through development and redevelopment that is complimentary to the existing scale, character and built form.*
  - *Support Complete Communities by ensuring diverse and high quality housing stock.*
  - *In order to meet the full life-cycle of housing needs within the community, promote a mix of housing type and tenure, such as duplexes, low rise apartments, secondary suites, semi-detached homes, townhouses.*
- The subject ZAA application to enable the enclosure of a balcony on the existing sunroom does not alter the character of development in this Recent Community and is thereby consistent with the vision for Recent Communities as described in the *Complete Communities Direction Strategy.*

CITY OF WINNIPEG ZONING BY-LAW 200/2006

'R1-M' Dimensional Standards

- The 'R1-M' district requires a minimum lot width of 25 feet, a minimum lot area of 3,500 square feet, side yards of 4 feet, a front yard of 15 feet, and a rear yard of 25 feet. The maximum building height is 35 feet and the maximum lot coverage is 45 percent.
- No Variances to the standards are required with the proposed sunroom addition.

Zoning Agreement DASZ 8H/86

- Clause 2 of the Zoning Agreement for DASZ 8H/86 states the following:

  Each of Lots 1 to 18 both inclusive in Block 1 of the land have a rear lot line abutting or partly abutting the boundary of public lands containing a storm water retention lake and accordingly there shall be provided and maintained on each of those lots the following special rear yard setback as illustrated on Schedule 'A' to this agreement, namely:

  a) a minimum of 25.9 metres (85 feet) measured from that rear lot line to any principal building, and

  b) a minimum of 20.4 metres (67 feet) measured from that rear lot line to any detached accessory building, and

  c) a minimum of 12.8 metres (42 feet) measured from that rear lot line to any temporary structure or swimming pool not enclosed with a building.
- The existing sunroom has a setback of 78 feet from the rear property line, instead of the required 85 feet. The existing swimming pool has a setback of 40 feet from the rear property line and the existing gazebo has a setback of 22.75 feet from the rear property line instead of the required 42 feet. As these setbacks do not comply with the Zoning Agreement, the works must be brought into compliance.

ZONING AGREEMENT ANALYSIS

- The rear yard setback incorporated into the Zoning Agreement is intended to accommodate fluctuations in the water level of the storm water retention pond.

- The rear yard setback applied to principal and detached buildings, temporary buildings and swimming pools is intended to provide for an adequate amount of usable on-site rear yard space after the lake has reached its highest design level, which is a 100-year storm frequency. Further, the setback stipulated in the Zoning Agreement is also intended to guard against potential legal repercussions in the event of a 100-year storm.
- With applications proposing changes to any yard setback onto a retention pond, the Urban Planning Division consults with the Water and Waste Department to determine the suitability of the proposed yard setback. Water and Waste were consulted about the subject application and had no concerns.
- In 2011, the City of Winnipeg approved an amendment to Clause 2(b) of the same Zoning Agreement, on the same block of de Caigny Cove (ZAA 8/2010), amending the required rear yard setback at 56 de Caigny to the same retention lake for an accessory structure constructed without permits. This was also done through consultation with Water and Waste.
- The existing sunroom, pool, and gazebo have been previously constructed and have virtually no impact on neighbouring views of the retention pond. As well, the proposed enclosure of the balcony above the existing sunroom is not anticipated to have a negative impact on neighbouring views of the retention pond.

RECOMMENDATION

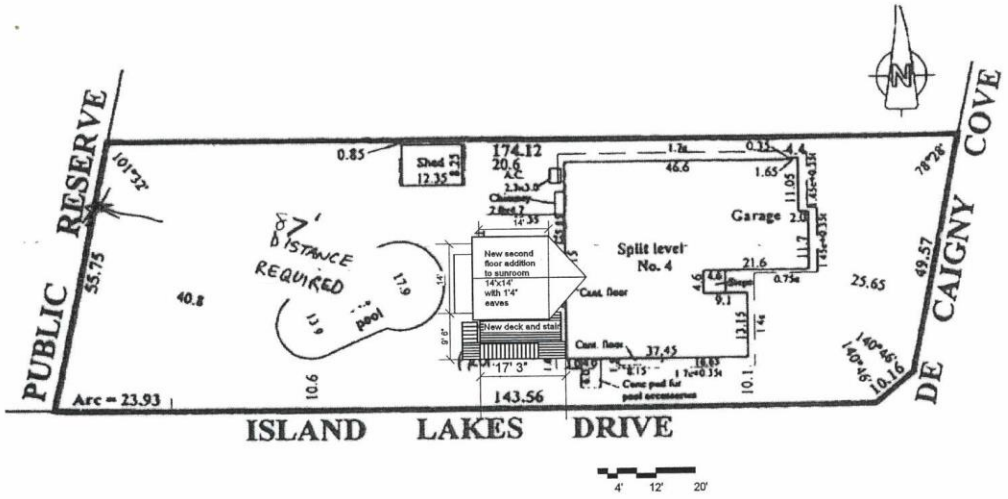
The Urban Planning Division recommends **approval** for the following reasons:

- The primary reason for including the rear yard setbacks stipulated in the zoning agreement is to protect structures on lots abutting the retention pond from flooding and related damage in the event of a 100-year storm.
- Water and Waste were consulted about the subject application and had no concerns regarding the impact of the structures on the retention pond.
- The existing sunroom, sunroom addition, pool and gazebo have virtually no impact on neighbouring views of the retention pond.
- Clause 2(b) of the Zoning Agreement was amended in 2011 under ZAA 8/2010 to permit a reduced rear yard setback for a property on the same block at 56 de Caigny Cove.

This Report Submitted by:
Planning, Property and Development Department
Urban Planning Division

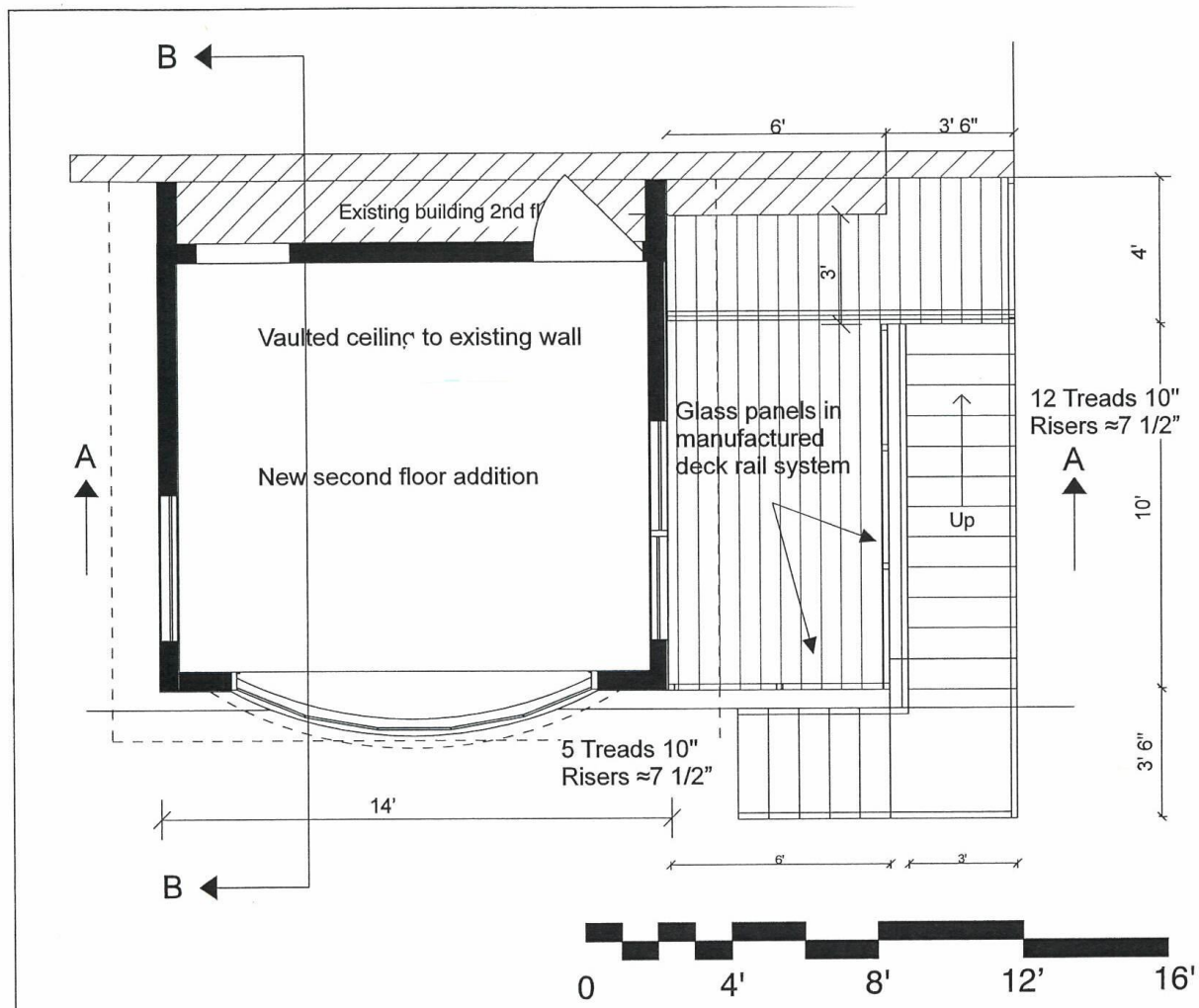
Report Prepared By: Elise Finnigan, MA Planning
PPD File # ZAA 3/2021

Exhibit “6” referred to in File ZAA 3/2021



Project
Terry Walker 10 Camirant Cres. Winnipeg,MB R3X 1T4
Drawing Description
Site plan
Drawing Number
Drawn by:
TJW
Date
June 22, 2020
Scale:
1/16” = 1’
Revision
2020-07-23

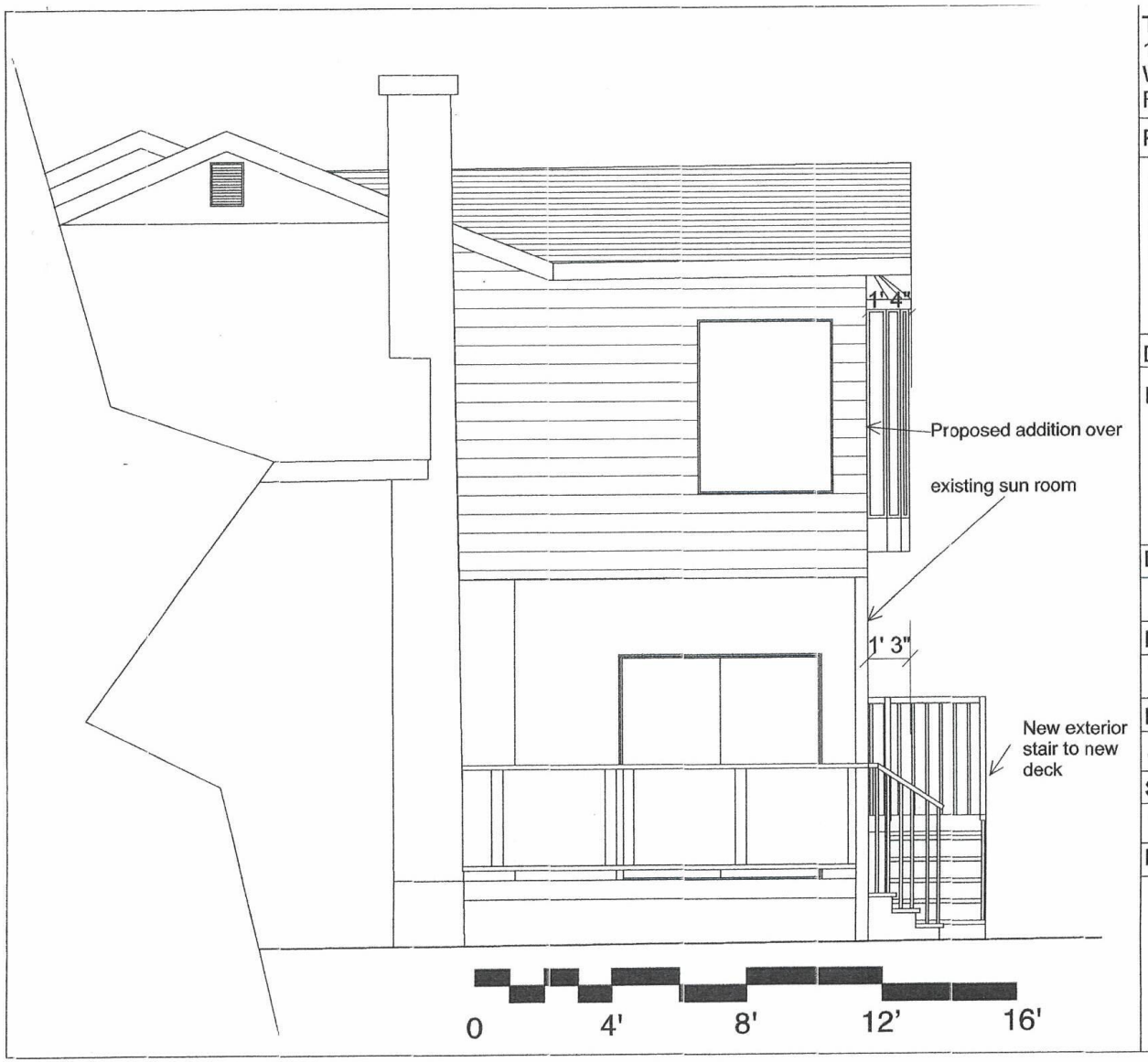
PROVINCE OF MANITOBA
FRIESEN
Member
4907
REGISTERED PROFESSIONAL ENGINEER



Terry Walker 10 Camirant Cres. Winnipeg,MB R3X 1T4
Project
4 De Caigny Cove Sun Room 2nd Floor Addition with deck and stairs
Drawing Description
Plan
Drawing Number
Drawn by:
TJW
Date
June 22, 2020
Scale:
1/4" = 1'
Revision
2020-07-23

PROVINCE OF MANITOBA
J. FRIESEN
Member
4907
REGISTERED PROFESSIONAL ENGINEER

(2)



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

North Elevation

Drawing Number

Drawn by:

TJW

Date

June 22, 2020

Scale:

1/4" = 1'

Revision

3



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Rear Elevation

Drawing Number

Drawn by:

TJW

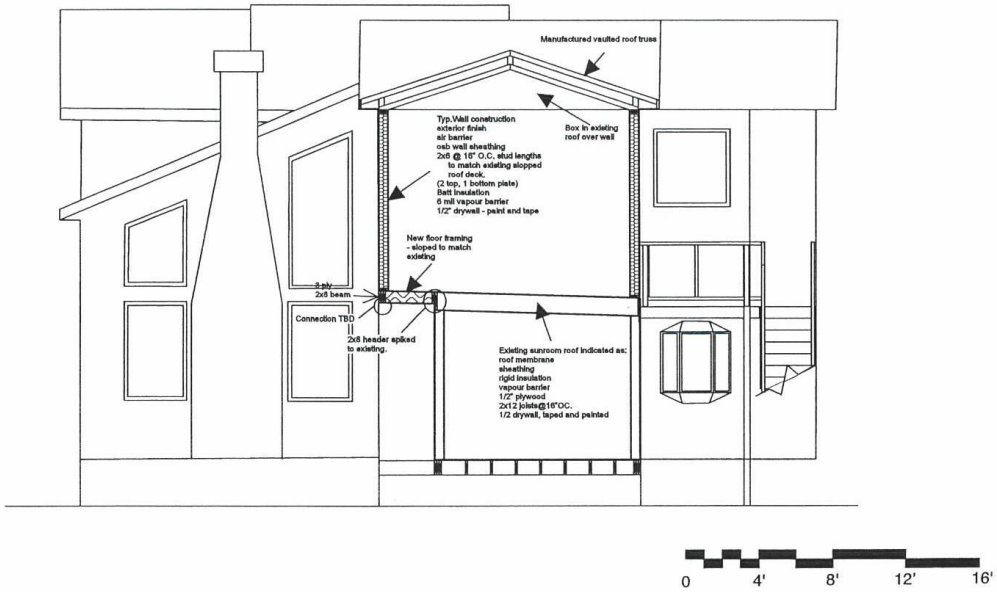
Date

June 22, 2020

Scale:

1/8" = 1'

Revision



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Section A-A

Drawing Number

Drawn by:

TJW

Date

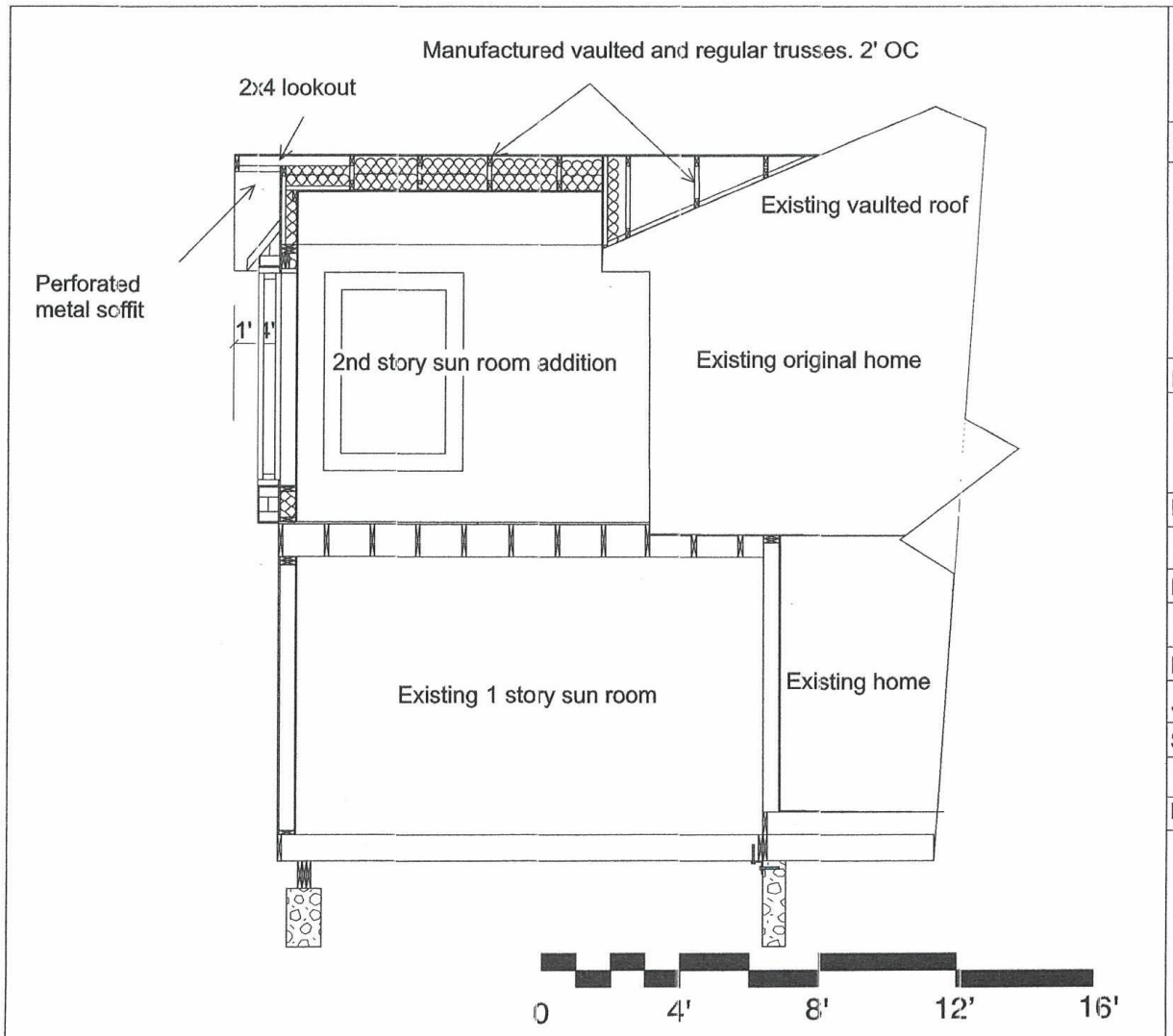
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Revision

(5)



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Section B-B

Drawing Number

Drawn by:

TJW

Date

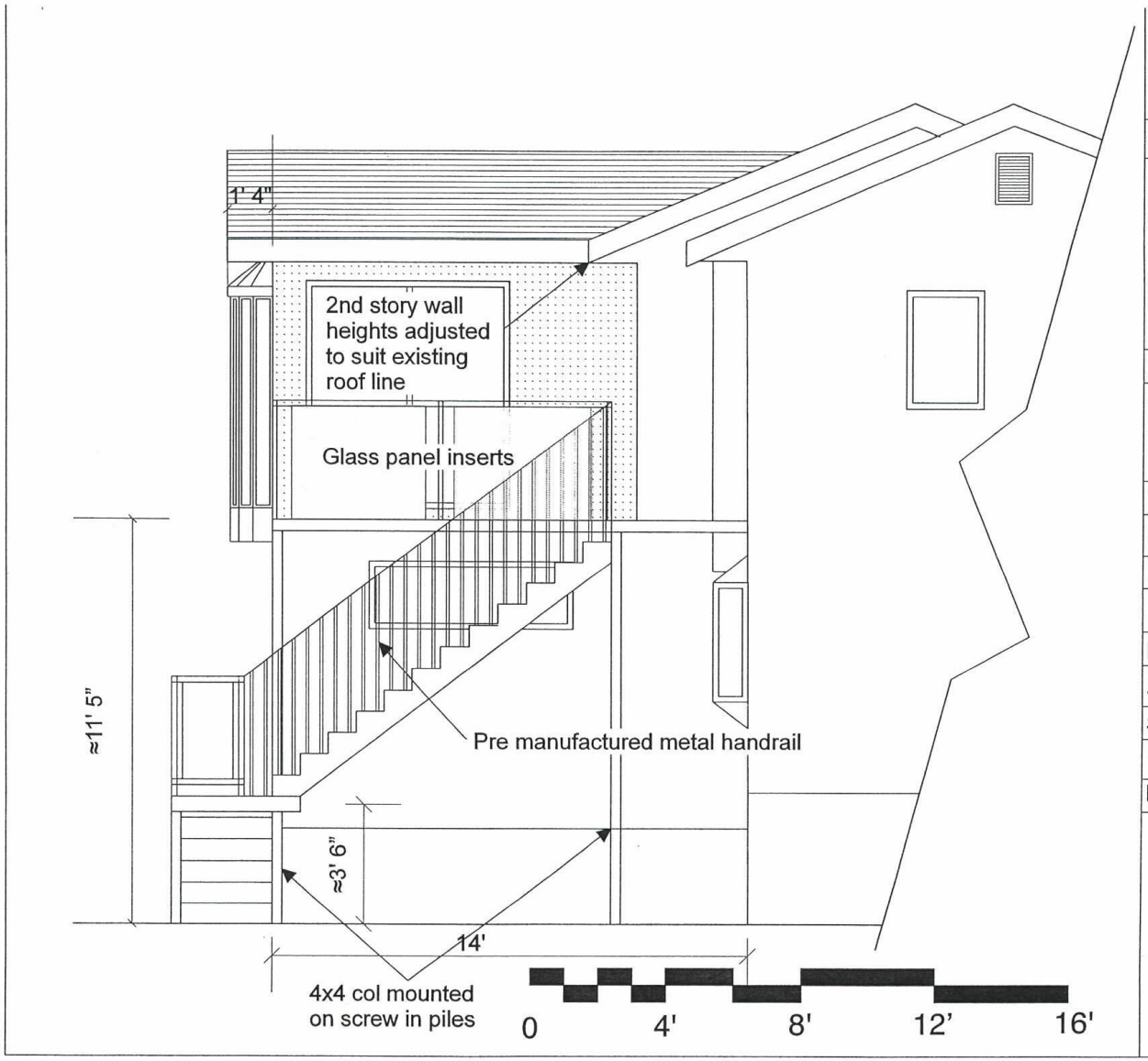
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Revision

(6)



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

South Elevation

Drawing Number

Drawn by:
TJW

Date

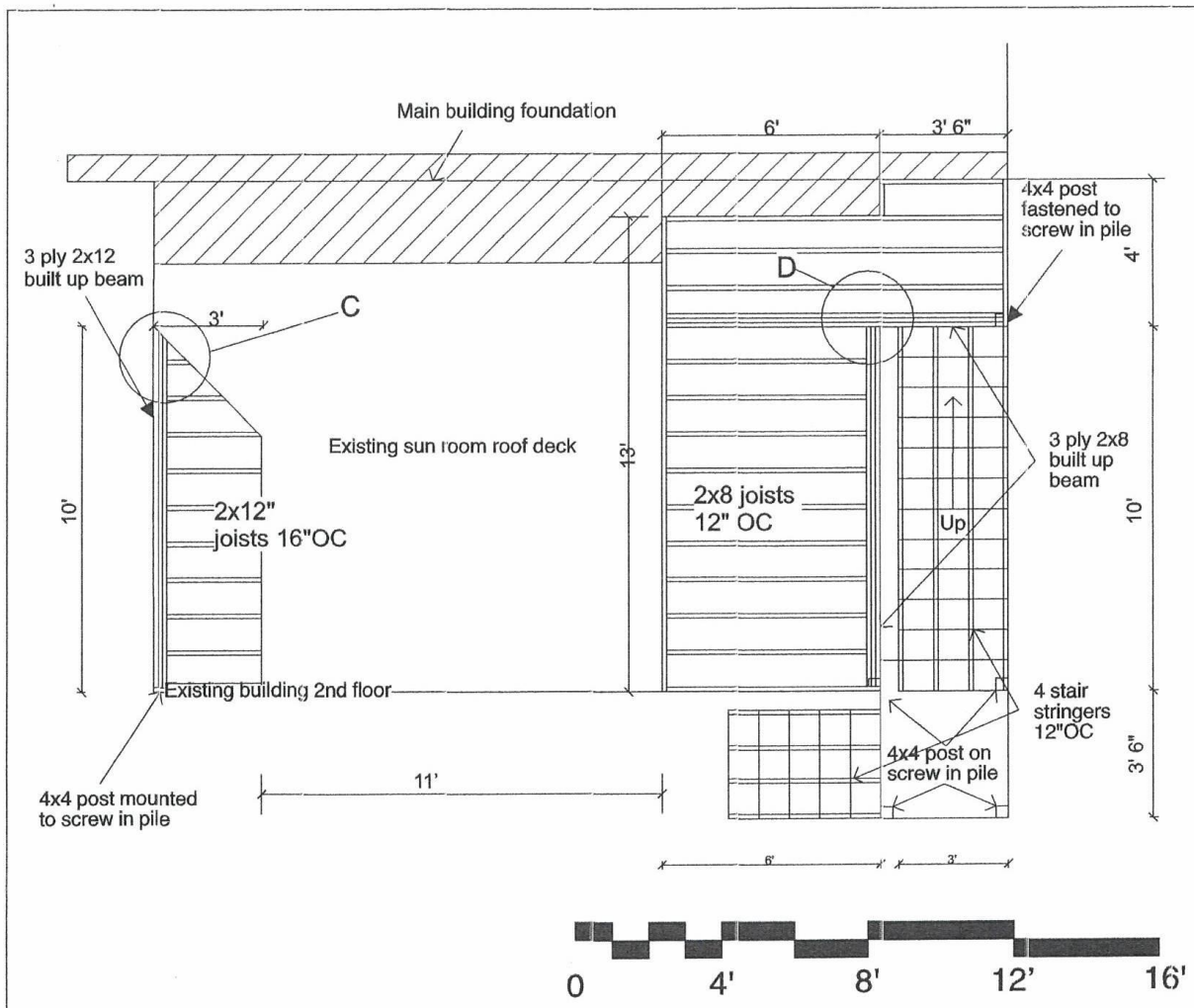
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Revision

7



Terry Walker
10 Carnirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Deck and addition framing

Drawing Number

Drawn by:

TJW

Date

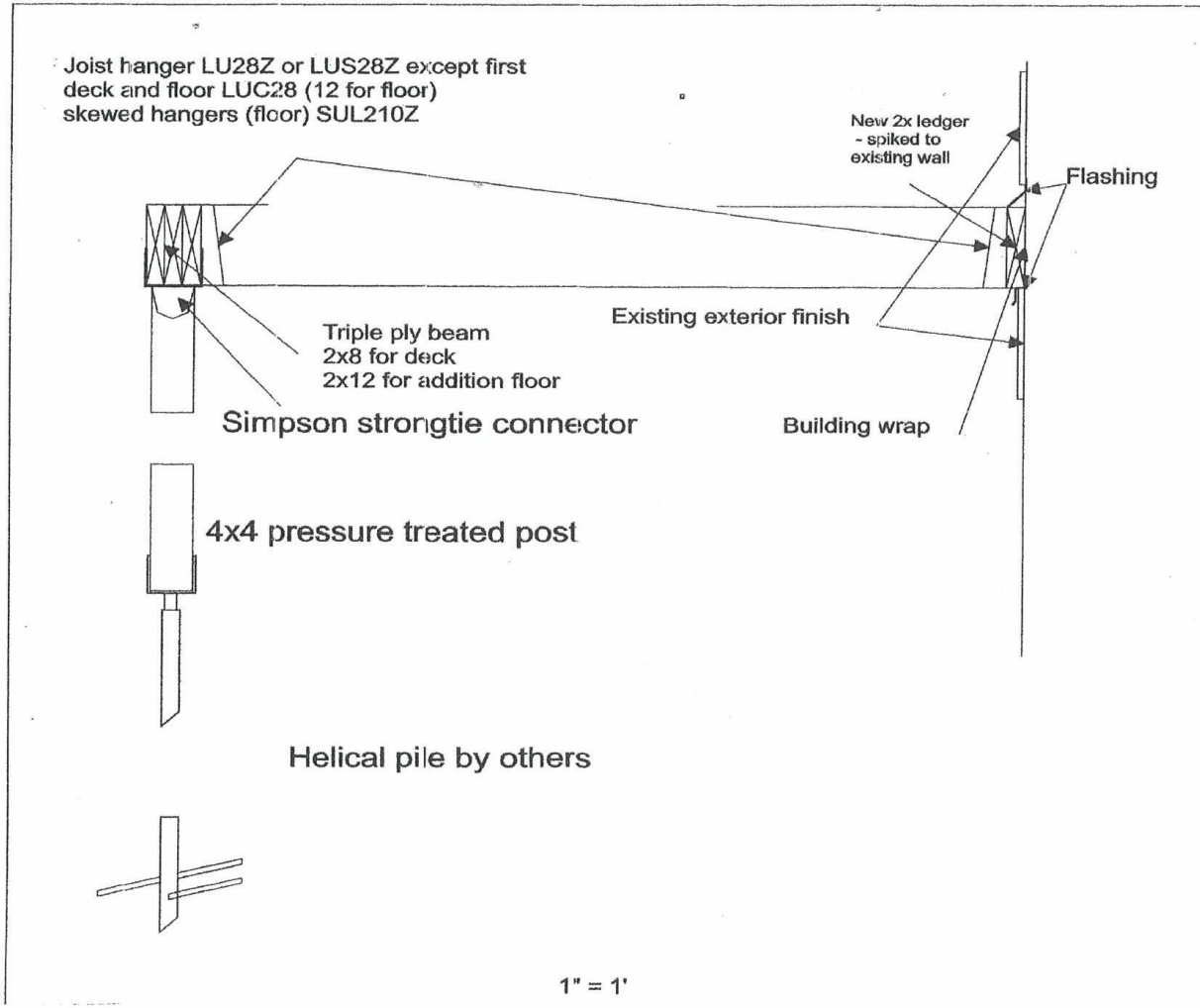
June 22, 2020

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Revision

(8)



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Typical framing detail

Drawing Number

Drawn by:
TJW

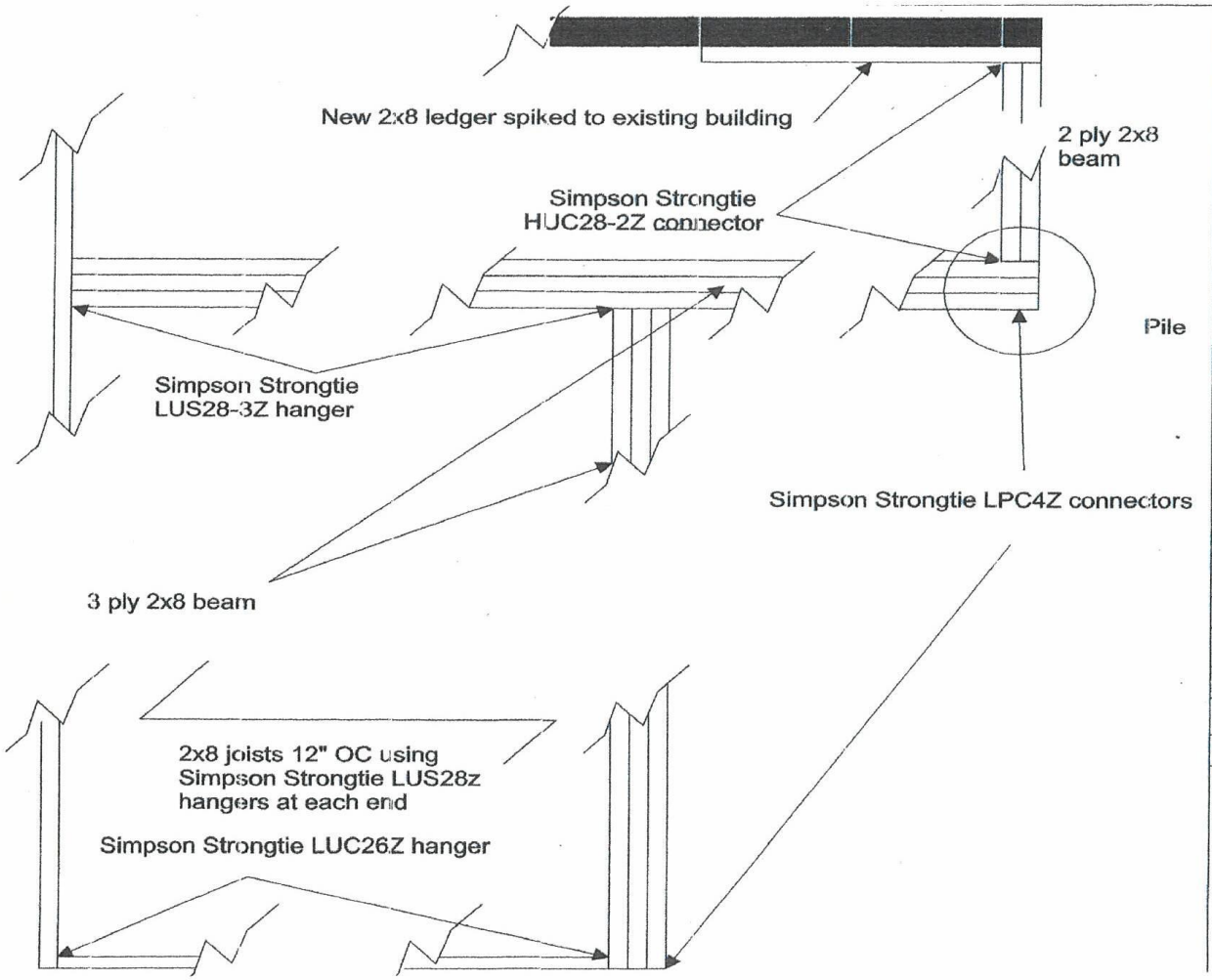
Date
July 10, 2020

Scale:
1" = 1'

Revision
2020-07-23

PROVINCE OF MANITOBA
J. FRIESEN
Member
4907
REGISTERED PROFESSIONAL ENGINEER

(9)



Terry Walker
10 Camirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Detail D
Deck framing connectors

Drawing Number

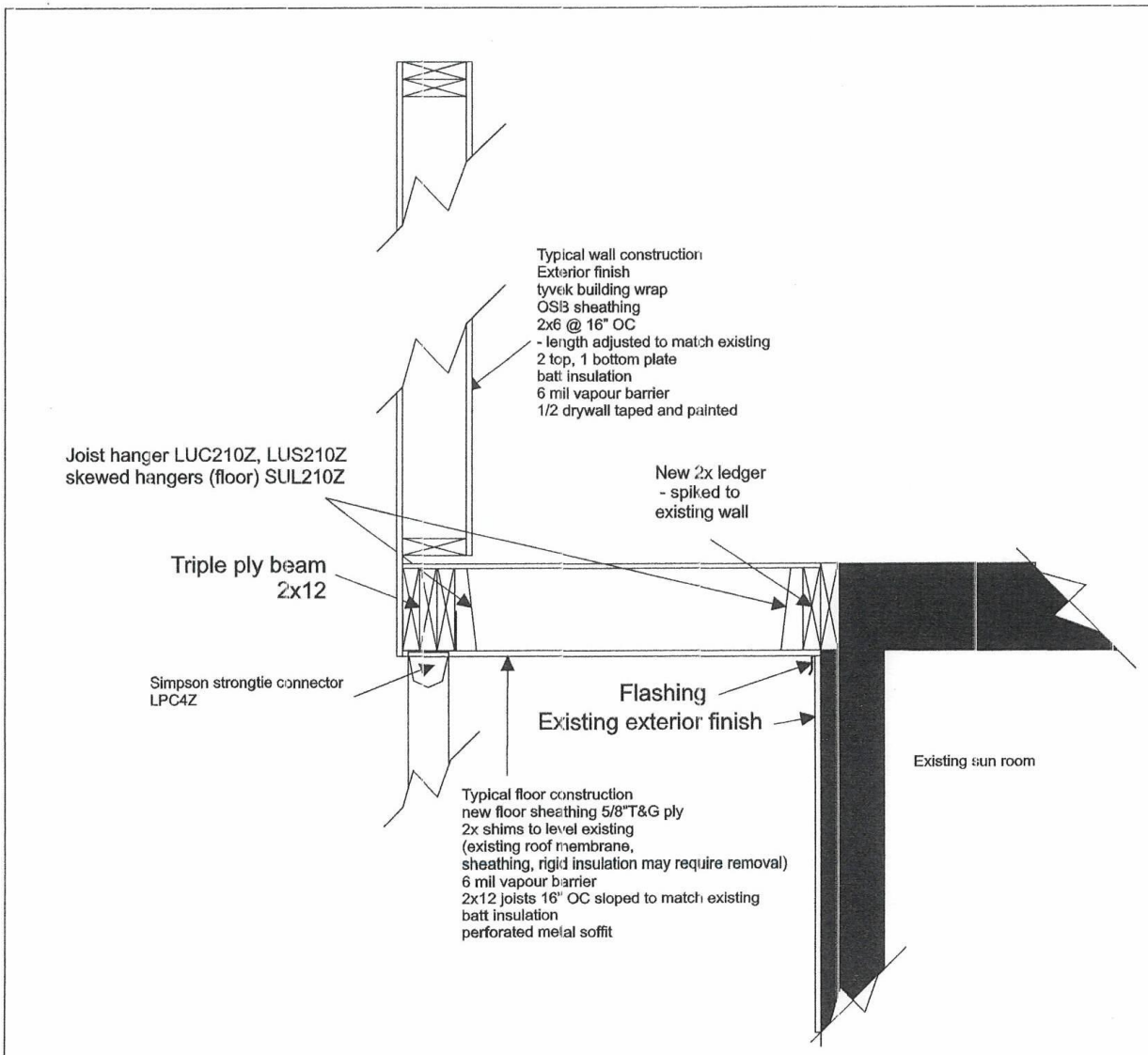
Drawn by:
TJW

Date
July 10, 2020

Scale:
1" = 1'

Revision

(10)



Terry Walker
10 Carnirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Typical wall detail

Drawing Number

Drawn by:
TJW

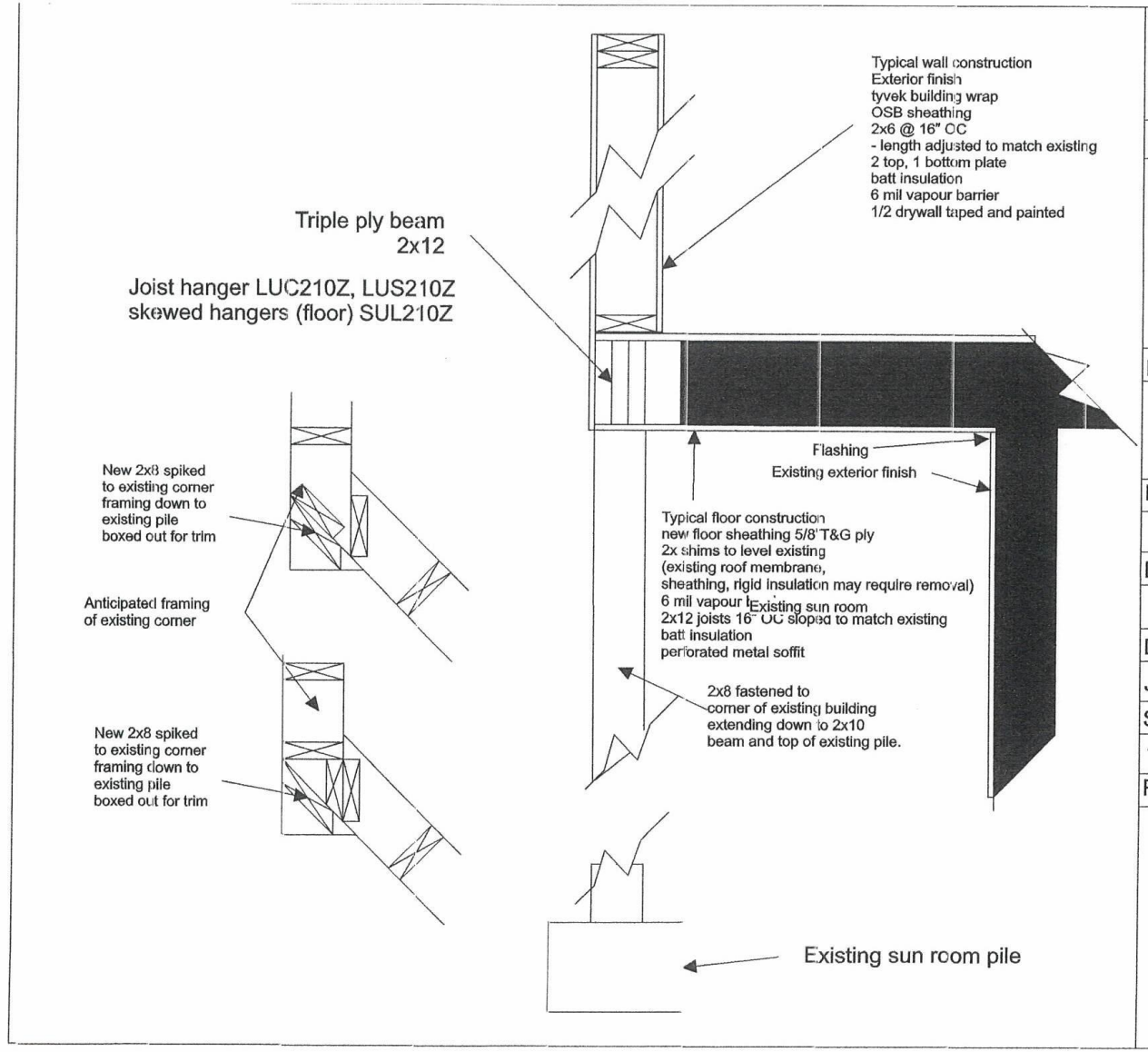
Date

July 10, 2020

Scale:

1" = 1'

Revision



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10 Carnirant Cres.
Winnipeg,MB
R3X 1T4

Project

4 De Caigny Cove
Sun Room
2nd Floor Addition
with deck and stairs

Drawing Description

Detail C
Beam to existing
angled wall/pile
connection

Drawing Number

Drawn by:
TJW

Date

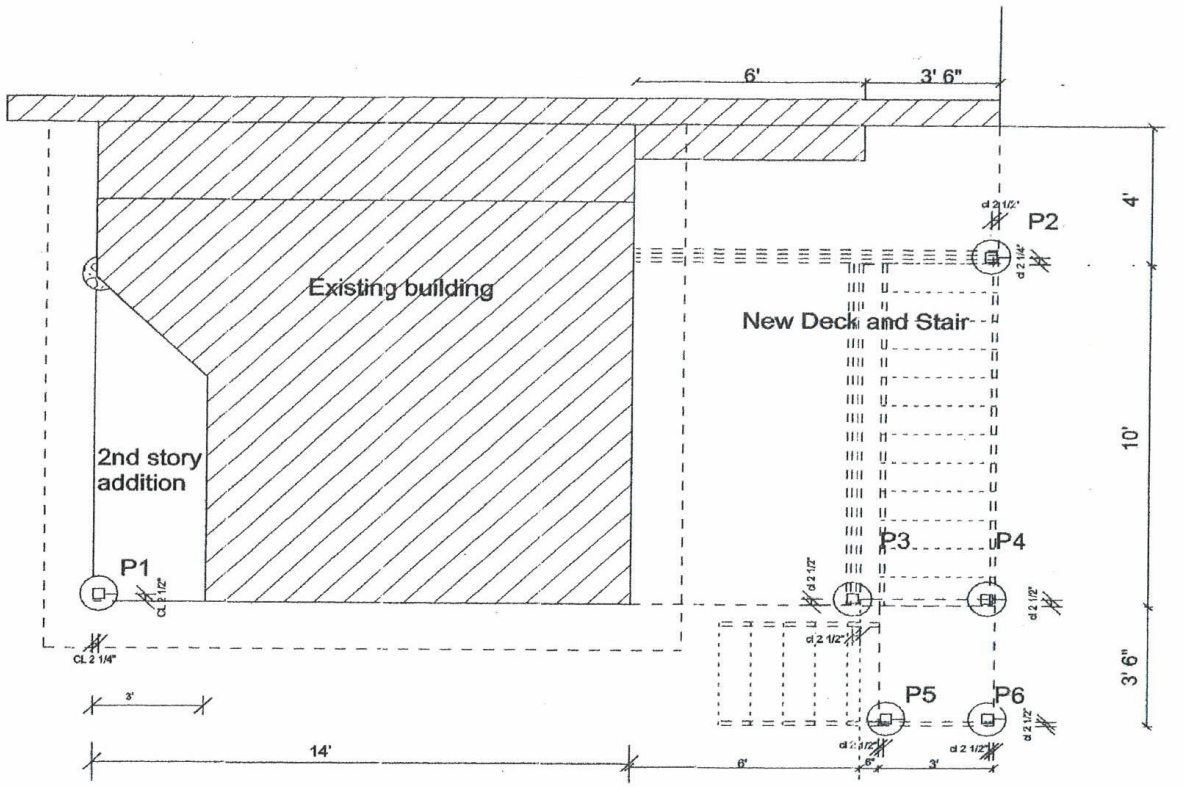
July 10, 2020

Scale:

1" = 1'

Revision

(12)



Note: All screw in piles (P1-6)
are to be Postech, P312L10-16, 6,000 Lb,
or Technopost P2-12 5000lb
or approved equivalent.
Pile length to be determined as per capacity

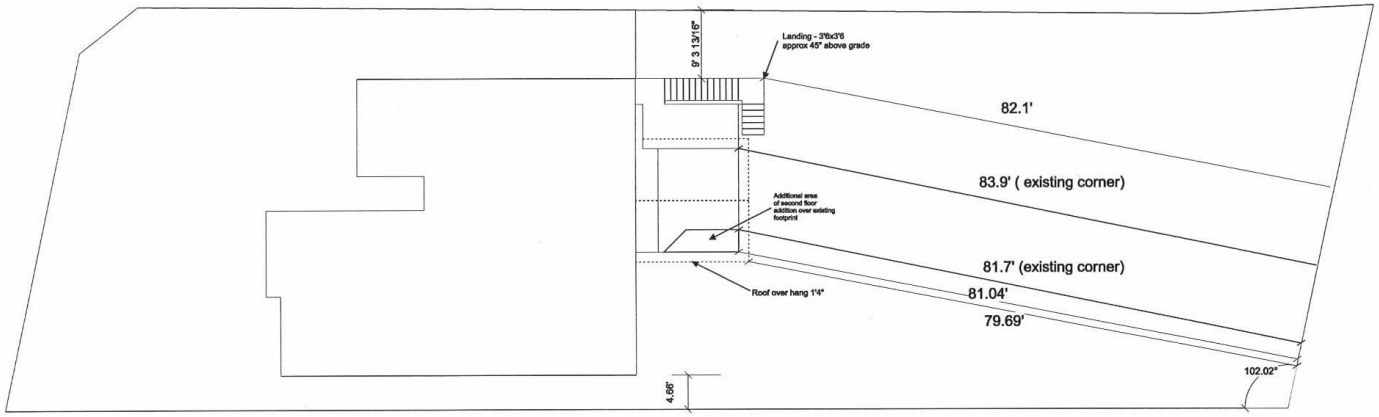
Terry Walker
10 Camirant Cres.
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R3X 1T4

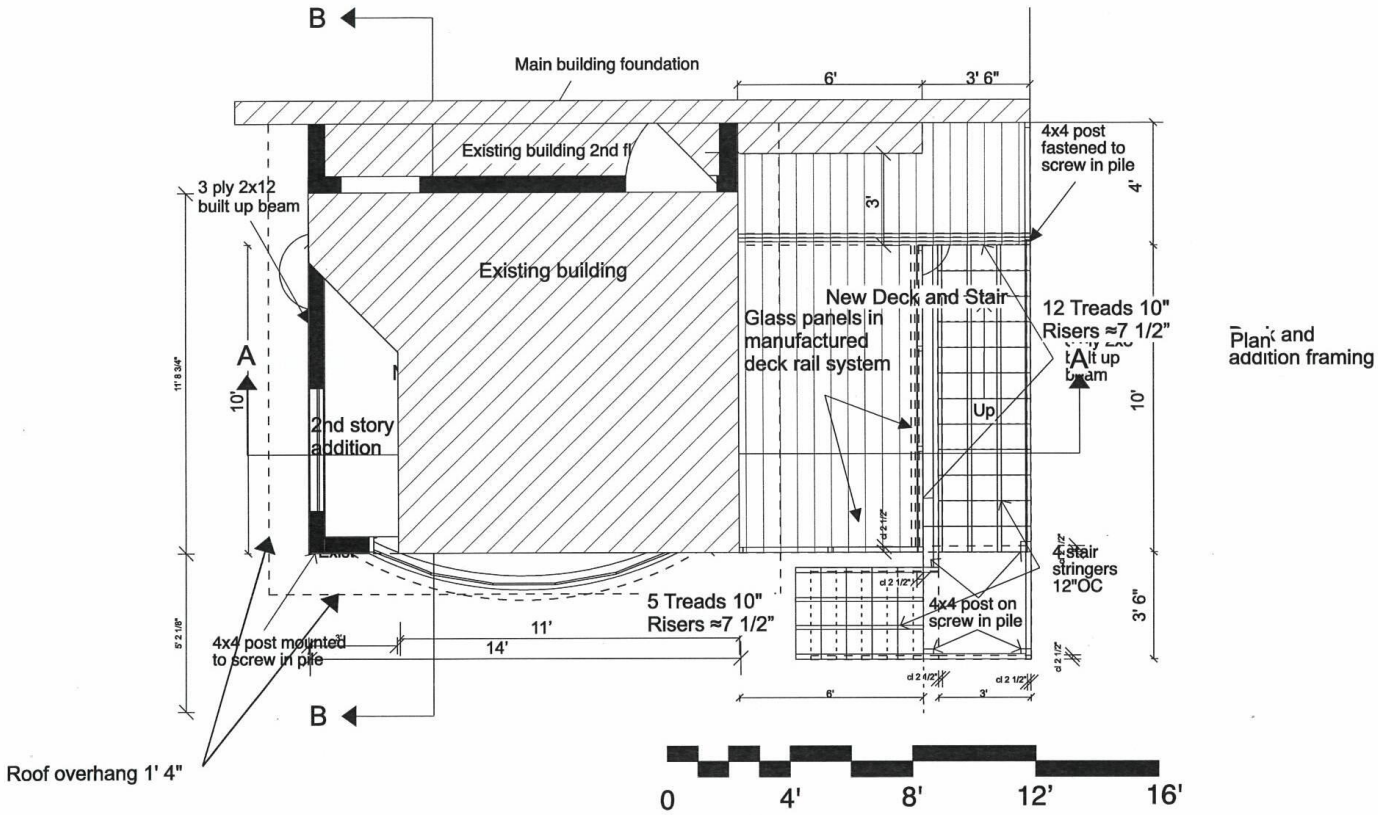
Project
4 De Caigny Cove Sun Room 2nd Floor Addition with deck and stairs
Drawing Description
Pile layout Plan
Drawing Number
Drawn by:
TJW
Date
July 22, 2020
Scale:
1/4" = 1'
Revision

2020-07-23

PROVINCE OF MANITOBA
FRIESEN
Member
4907
REGISTERED PROFESSIONAL ENGINEER

(13)


9' 3 13/16"
Landing - 3'6x3'6
approx 45" above grade
82.1'
83.9' (existing corner)
Additional area
of second floor
addition over existing
footprint
81.7' (existing corner)
Roof over hang 1'4"
81.04'
79.69'
102.02°
4.66'



Plan and addition framing