

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: IV. E.

From: Wayne D. Houle, PE, Director of Engineering

Action

Discussion

Date: November 20, 2012

Information

Subject: Encroachment Agreement, 4166 Monterey Avenue

Action Requested:

Authorize Mayor and Manager to sign attached encroachment agreement for 4166 Monterey Avenue

Information / Background:

The property owner of 4166 Monterey Avenue has requested to encroach onto the unimproved right-of-way of Natchez Avenue in order to reconstruct a home; see attached site plan. The encroachment agreement includes re-grading the right-of-way, removing a 14-inch diameter cottonwood tree, and planting four two-inch trees as specified and located by the City Forester. Staff has reviewed the request and prepared the attached agreement.

Attachments:

Encroachment Agreement
Site Plan of 4166 Monterey Avenue

[Reserved for Recording Data]

ENCROACHMENT AGREEMENT

AGREEMENT made this _____ day of _____, 2012, by and between the **CITY OF EDINA**, a Minnesota municipal corporation ("City"), and **MATHIAS W. SAMUEL** ("Owner").

1. BACKGROUND. Owner is the fee owner of certain real property located in the City of Edina, County of Hennepin, State of Minnesota, legally described as follows:

Lot 20, William Scott's Addition
(Parcel ID No. 07-028-24-13-0129)

having a street address of 4166 Monterey Avenue, Edina, Minnesota 55416 ("Subject Property").

The City owns a public right-of-way abutting the Subject Property. Owner has requested permission to grade the unimproved abutting public right-of-way in conjunction with building a new home on the Subject Property.

2. ENCROACHMENT AUTHORIZATION. The City hereby approves the encroachment for grading purposes in accordance with the grading plan attached hereto as Exhibit

“A.” The Owner must grade the area in accordance with Exhibit “A.” Owner may remove a 14-inch diameter tree to perform the grading. The owner shall replace the 14-inch diameter tree with four 2-inch diameter trees to be specified and located within the unimproved right-of-way by the City Forester. The property owner shall be responsible for the maintenance of these trees. All areas disturbed by the grading shall be reseeded within forty-eight (48) hours after the completion of the work, unless authorized and approved by the City Engineer. Seed shall be in accordance with the City's current seeding specifications. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention. The parties recognize that time is of the essence in controlling erosion. The Owner shall provide the City a cash escrow of \$5,000.00 to guarantee compliance. If the Owner does not satisfactorily and timely complete the work, the City may use the escrowed fund to complete the work.

3. HOLD HARMLESS AND INDEMNITY. In consideration of being allowed to encroach in the Encroachment Area, Owner, for himself, his heirs and assigns, hereby agrees to indemnify and hold the City harmless from any damage caused to the Subject Property or the private sewer and water lines located within the Encroachment Area caused in whole or in part by the encroachment onto the Encroachment Area. Further, Owner hereby agrees to defend and indemnify the City for any damage or injury incurred by Owner, his employees, agents, contractors or assigns in connection with the construction, installation, repair, use or maintenance of the private utilities within the City's alley.

4. TERM. The term of this Encroachment Agreement is from November 21, 2012 ending on December 31, 2013.

5. RECORDING. This Agreement shall run with the land and shall be recorded against the title to the Subject Property.

6. **BINDING AFFECT.** This Agreement is binding upon the parties, their heirs, successors and assigns.

**EXHIBIT "A"
TO
ENCROACHMENT AGREEMENT**

Grading Plan

The designs shown and described herein including all technical drawings, graphics and specifications thereof, are proprietary and cannot be copied, duplicated or commercially exploited, in whole or in part, without the express written permission of Travis Van Liere Studio, LLC. These are available for limited review and evaluation by clients, consultants, contractors, government agencies, and vendors only in accordance with this notice.

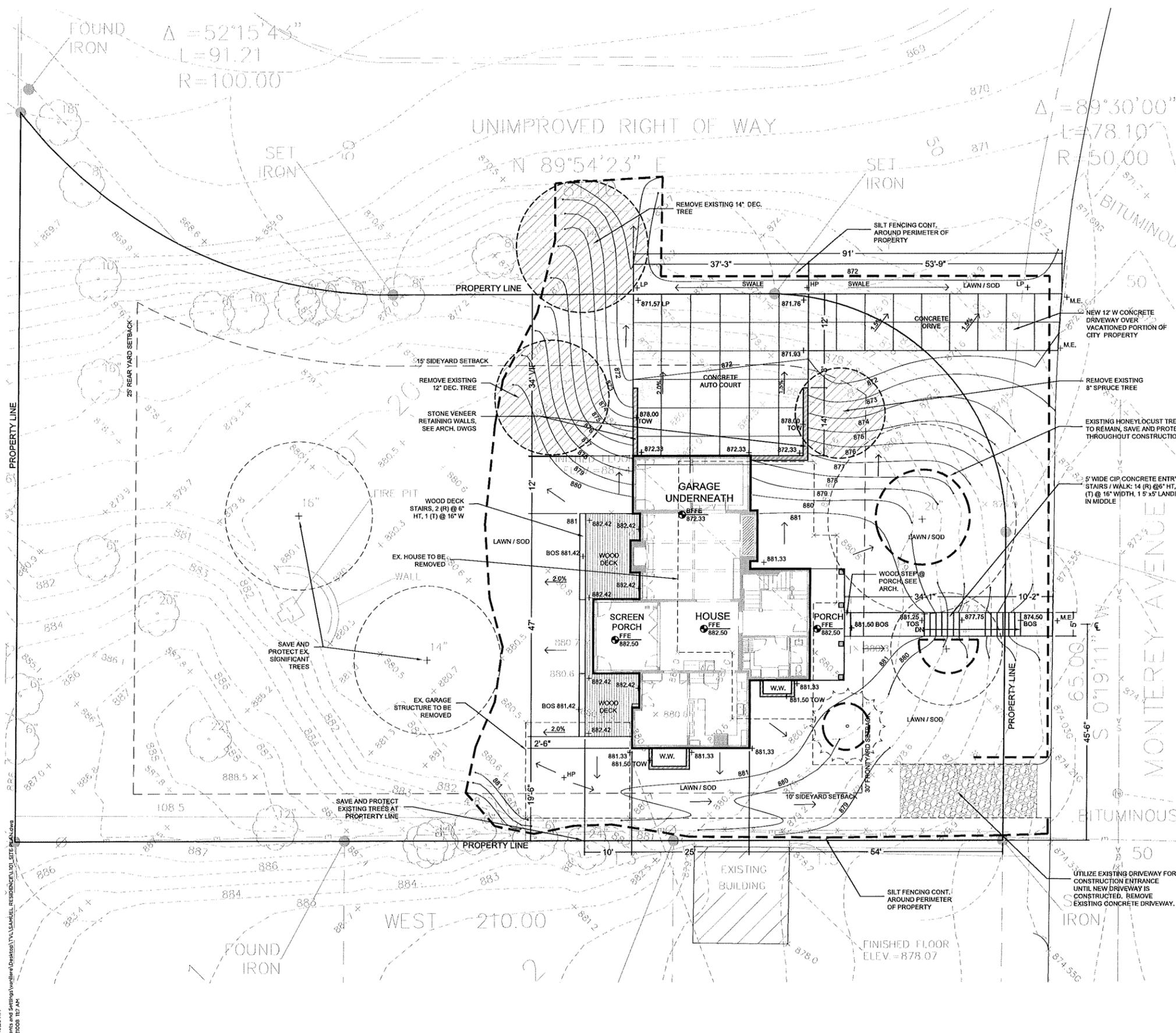
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GENERAL NOTES:

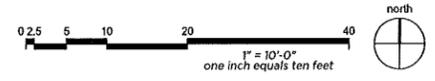
1. REFER TO ARCHITECTURAL DRAWINGS FOR BUILDING INFORMATION.
2. ELECTRICAL CONTRACTOR, MECHANICAL CONTRACTOR, AND IRRIGATION CONTRACTOR TO COORDINATE W/ PAVING, CONCRETE, AND WALL CONTRACTORS ON SLEEVE LOCATIONS UNDER DRIVEWAYS, WALKS, AND WALLS.
3. REFER TO SITE SURVEY FOR BOUNDARY INFORMATION. ALL CONSTRUCTION STAKING MUST BE PERFORMED BY A REGISTERED LAND SURVEYOR.
4. DO NOT SCALE THE DRAWINGS. WRITTEN DIMENSIONS ARE TO BE USED FOR ALL LAYOUT WORK.
5. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT OF ANY LAYOUT DISCREPANCIES.
6. ALL SITE ELEMENTS SHALL BE STAKED IN THE FIELD AND APPROVED BY LANDSCAPE ARCHITECT PRIOR TO CONSTRUCTION.
7. AUTOCAD FILE AVAILABLE TO CONTRACTOR UPON REQUEST FOR FIELD LAYOUT.

LEGEND

- | | | | |
|--|--|--|--------------------------------------|
| | LAWN / SOD | | NO MOW FESCUE |
| | AGGREGATE SURFACING | | CONCRETE SURFACING |
| | GROUNDCOVER PLANTING | | EXISTING SITE FEATURES TO BE REMOVED |
| | EXISTING CONTOUR | | PROPOSED CONTOUR |
| | EXISTING SPOT ELEVATION | | PROPOSED SPOT ELEVATION |
| | EXISTING TREES TO BE PROTECTED AND SAVED | | PROPOSED NEW TREE |
| | EXISTING TREES TO BE REMAIN | | PROPOSED SHRUB / PERENNIAL |
| | EXISTING TREES TO BE REMOVED | | DRAINAGE FLOW |



1 SITE PLAN
SCALE: 1" = 10' - 0"



create date: 201208 10:29 AM
filepath: C:\Documents and Settings\vanliere\My Documents\TVLS\LAND\RESID\CFR\101 SITE PLAN.rvt
last save: vanliere 201208 10:29 AM

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

print name: TRAVIS VAN LIERE
signature: *Travis Van Liere*
license no: 43728 date: 10 08 2012

NOTE:

Issue	Revision

Samuel Residence

4166 Monterey Avenue
Edina, MN 55416

Site Plan

Project	1220
Drawn by	TVL
Date	10.08.12
Scale	1"=10'-0"
Sheet	