

Board of Adjustment Agenda

**December 21, 2016
City Hall, Council Chambers
749 Main Street
6:30 PM**

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
 - November 16, 2016
- V. Public Comments on Items Not on the Agenda
- VI. Regular :
 - **1166 Harper Lake Drive** Request for of a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) to allow an increase in the maximum lot coverage from 20% to 31% to allow a deck expansion. **Case VAR-000014-2016– Public Hearing**
 - Applicant: Mosaic Outdoor Living
 - Case Manager: Robert Zuccaro, AICP
 - ✓ Open Public Hearing
 - ✓ Opening Statement by Chair
 - ✓ Public Notice and Application Certification
 - ✓ Disclosures
 - ✓ Staff Presentation and Questions of staff
 - ✓ Applicant Presentation and Questions of applicant
 - ✓ Public Comment
 - ✓ Applicant discussion of public comment, if any
 - ✓ Closing statement by staff and applicant and Final questions by board
 - ✓ Close public hearing and Board discussion and action
- VII. Business Items tentatively scheduled for January 18, 2017
- VIII. Staff Comments
- IX. Board Comments
- X. Discussion Items for Next Meeting January 18, 2017
- XI. Adjourn

**Board of Adjustment
Meeting Minutes
November 16, 2016
City Hall, Council Chambers
749 Main Street
6:30 PM**

Call to Order: Meseck called the meeting to order at 6:33 PM.

Roll Call was taken and the following members were present:

Board Members Present:

Andrew Meseck, Chair
Thomas DeJong, Vice
James Stuart
Lowell Campbell

Board Members Absent:

Gunnar Malmquist
Leslie Ewy

Staff Members Present:

Rob Zuccaro, Dir of Planning and Building Safety
Susie Bye, Planning Clerk

Approval of Agenda:

Stuart moved and **Gorsevski** seconded a motion to approve the November 16, 2016 agenda as prepared by Staff. Motion passed by voice vote.

Approval of Minutes:

Campbell made a motion to approve and **Stuart** seconded the motion to approve the October 19, 2016 minutes. Motion passed by voice vote.

Public Comments on Items not on the Agenda: None

Regular Business

- **826 Coal Creek Circle – Floodplain Development Permit** – Request for a Floodplain Development Permit to Construct a 40,000 Square-Foot Building Addition in the Flood Regulatory District **Case #16-033-FL – Public Hearing**

- Applicant: Davis Partnership Architects
- Case Manager: Robert Zuccaro, AICP

Meseck opened the meeting and reviewed the procedures for the meeting being held for an application on a flood plain development permit by Davis Partnership Architects, the address for which this permit is requested is 826 Coal Creek Circle.

This hearing is open to the public and is being electronically recorded. I ask that each person addressing the Board first identify yourself by name and address and whether you are a representative of any person or organization. I may limit testimony or questioning that is repetitive, cumulative, argumentative, or not pertinent to the issues, and may set a time limit on

the length of the testimony if I determine it to be necessary because of the number of persons signed up to testify.

The Board will not observe formal rules of evidence but may consider any matter which I conclude is reasonable reliable and calculated to aid the Board in reaching an accurate determination of the issue involved. Board members may question any person addressing the Board at any time. The attorney for the Board is not present at this hearing.

The hearing will be conducted in the following order:

1. The Board will first receive a presentation by City Staff, followed by any questions.
2. Next, the Board will receive a presentation by the Applicant, followed by any questions.
3. The Board will then receive evidence or testimony from persons supporting the application, followed by any question; and then receive evidence or testimony from persons opposing the application, followed by any questions.
4. The Applicant will then be allowed an opportunity to rebut or respond to any of the evidence or testimony presented and may be questioned on its rebuttal or response.
5. The Applicant and City Staff will then be asked to make a closing statement if they so desire.
6. Once all presentations, evidence, and testimony has been received, the public hearing will then be closed.
7. Following the conclusion of the public hearing, the Board will discuss the evidence presented here tonight. The Board may then either render its decision this evening or take the matter under advisement for further deliberations.
8. In order to approve a request for a flood plan application, the affirmative vote of a majority of the Board members is required.

In making its decision on the application, the Board will be acting in a quasi-judicial capacity and may grant the variance **only** if it finds that **all** of applicable variance criteria have been satisfied. Copies of the variance criteria from City Code are available on the table next to the entryway. Persons speaking at tonight's hearing should focus their comments on whether or not these variance requirements are satisfied.

Before the Applicant's presentation, I will ask for certification of proper notice. Is the application complete and have the notice requirements been satisfied with respect to the Applicant?

Zuccaro, Director of Planning and Building Safety, verified the application to be heard this evening is complete, and public notice was posted in City Hall, Public Library, Recreation Center, and the Courts and Police Building, mailed to surrounding property owners on Sept 30 2016, and published in the Boulder Daily Camera on Oct 2, 2016 and the property was posted on posted on September 30, 2016. This is originally scheduled for the October 19, 2016 meeting and was continued to tonight.

Campbell moved and **Stuart** seconded a motion that all requirements have been satisfied and the application submitted by the applicants has been properly filed. Motion passed by unanimous voice vote.

Meseck says does any person have any objection to the hearing procedure I have described, or any objection to proceeding with the hearing tonight? If not, are there any other preliminary matters that need to be taken care of.

Meseck calls for any disclosure by the Board members of any site, any ex parte contact, any conflicts of interest, or other disclosures.

Campbell did no site visit, no ex-parte contact, no conflict of interest, or other disclosure.

DeJong did site visit, no ex-parte contact, no conflict of interest, or other disclosure.

Meseck has knowledge of site, did no site visit, no ex-parte contact, no conflict of interest, or other disclosure.

Stuart did site visit, no ex-parte contact, no conflict of interest, or other disclosure.

Gorsevski did no site visit, no ex-parte contact, no conflict of interest, or other disclosure.

Meseck asked the applicants if they were ready to proceed with the hearing. The applicants indicated they were ready to proceed with the hearing.

Staff Report of Facts and Issues:

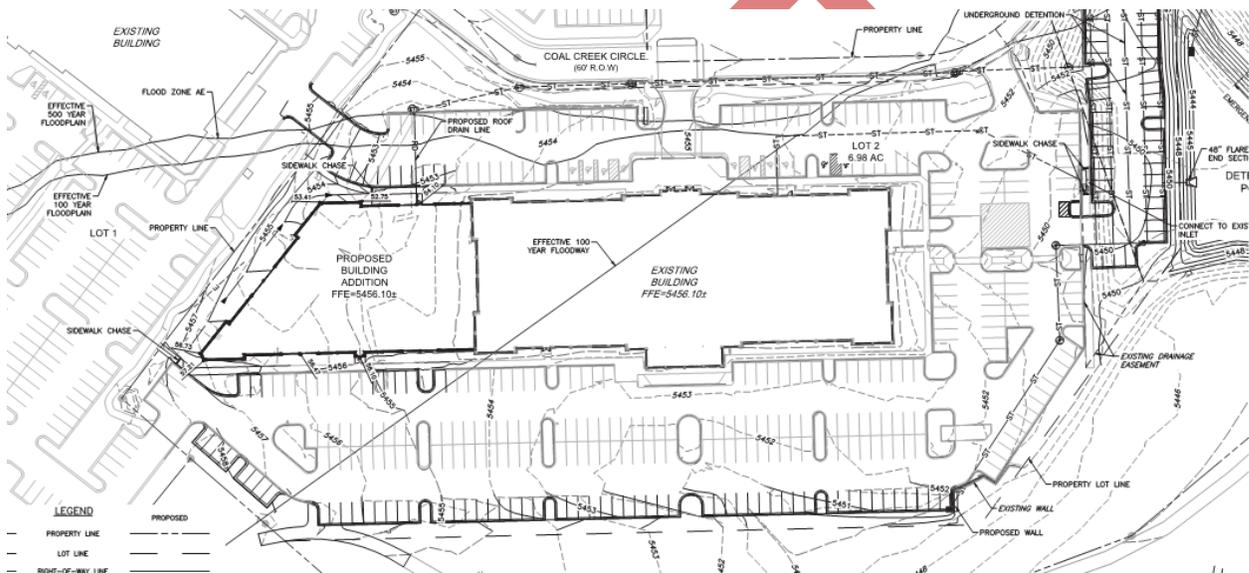


Zuccaro presented from Power Point:

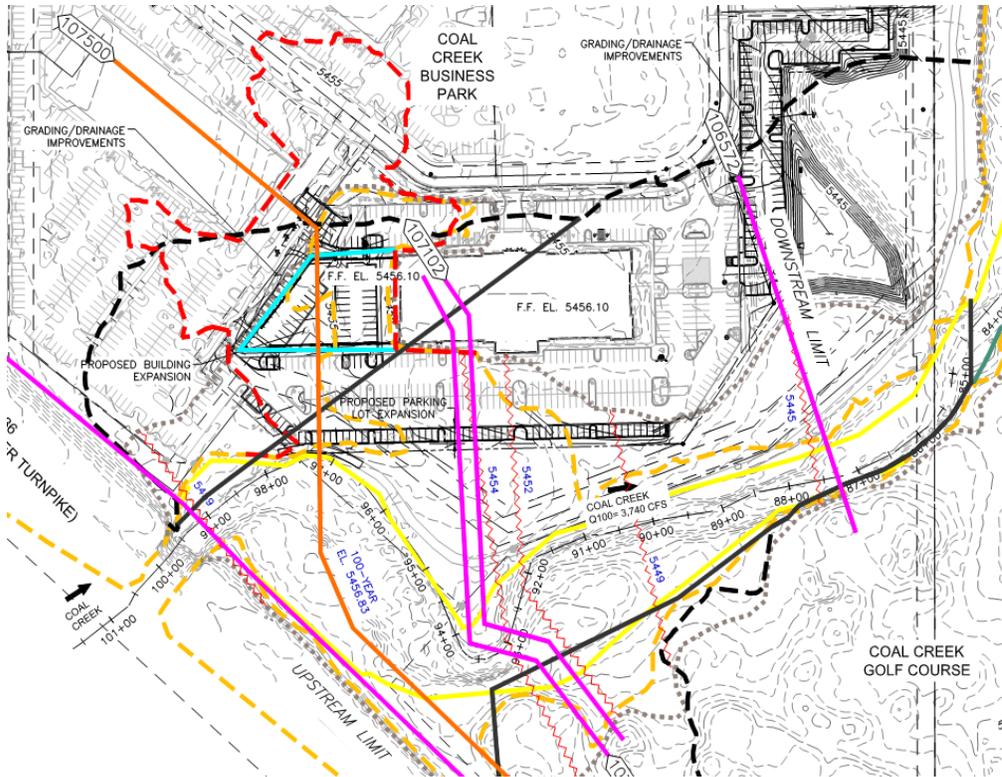
- Request for floodplain development permit to construct a 40,000 square foot office building addition in the flood regulator district at 826 Coal Creek Circle
- Property currently contains an office building of approximately 120,000 SF
- Located in Coal Creek Business Park



- Dillon Road to the north, Coal Creek Circle to the south and southeast, US 36 to the south
- Proposal to add 40,000 SF addition to existing 120,500 SF office
- Proposal also includes expansion of the parking to the northeast
- Flood Regulatory District (100 year floodplain) is the blue areas (floodplain and floodway) and any building expansion requires a floodplain development permit. Turquoise area is the floodplain. Dark blue area is the floodway and water course with higher set of regulations. The proposal is not within the floodway but within the greater area of the floodplain.
- Parking and landscaping improvements in floodplain do not require a floodplain development permit. Requested parking expansion is in the floodplain and is allowed under code.
- Proposing reconfiguring some parking drive aisles and landscaping throughout the site



- Applicant will apply for a Planned Unit Development (PUD) and amended plat as part of this development. Those reviews go to Planning Commission and City Council.
- This is the first step in the review process. If the floodplain development permit is approved, they can proceed with the PUD and amended plat proposal.
- City's currently adopted floodplain regulatory map is from the December 18, 2012 Flood Insurance Rate Map (FIRM).
- There is another study called 2014 Flood Hazard Area Delineation (FHAD) study for the area with updated, newer, updated information that will eventually replace the FIRM .
- Staff has asked the applicant provide an analysis of both sets of data from FIRM and FHAD to make sure under both sets of data, it is meeting our regulations.
- Black dotted line is outer extent of floodplain and solid black line is the floodway based on the FIRM
- Yellow and orange lines are FHAD. We think the floodplain will turn into this area once FEMA has an opportunity to adopt it.
- The proposed addition will be within the FHAD.
- Applicant has provided another line (pink and orange) which is the estimated existing floodplain based on the FHAD.



LEGEND

EFFECTIVE 500-YR REGULATORY FLOODPLAIN (PER 2014 FHAD)
EFFECTIVE 100-YR REGULATORY FLOODPLAIN (PER 2014 FHAD)	-----
EFFECTIVE 100-YR REGULATORY FLOODWAY (PER 2014 FHAD)	—————
ESTIMATED EXISTING FLOODPLAIN (PER THIS FLOODPLAIN STUDY)	- - - - -
ESTIMATED PROPOSED FLOODPLAIN (TIES INTO ESTIMATED EXISTING FLOODPLAIN)	—————
EFFECTIVE 100-YR REGULATORY FLOODPLAIN (PER FEMA FLOOD HAZARD LAYER)	- - - - -
EFFECTIVE 100-YR REGULATORY FLOODWAY (PER FEMA FLOOD HAZARD LAYER)	—————
DECEMBER 2012 EFFECTIVE MODEL SECTION LOCATION AND ID (PER 1996 TAGGART STUDY)	12336
FHAD CROSS SECTION BASED ON MARTIN/MARTIN INC. JANUARY 2015 SURVEY	—————
ADDED FHAD CROSS SECTION BASED ON MARTIN/MARTIN INC. JANUARY 2015 SURVEY	—————
BASE FLOOD ELEVATION	5501
EXISTING CONTOURS	4480
PROPOSED CONTOURS	5750

Review Criteria

When developing within the 100 year floodplain or flood regulatory district, there are several regulations to must be met in order to meet the City's requirements.

- LMC Sec. 17.56.160 and Sec. 17.56.210. Development may not cause rise in base flood elevation more than ½ foot. No rise based on FIRM and FHAD data.

Staff finds application complies

- Finished floor must be at least 1-foot above base flood elevation or structure must be floodproofed below this elevation. Finished floor is 5456.10, below base flood elevation of 5456.83. Therefore, Applicant proposes floodproofing. Study provides certification this floodproofing and other structural requirements will be done.

Staff finds application complies

Staff Recommendations:

Staff recommends approval as submitted and that the Board makes a motion for approval and adoption of the findings and analysis in the November 16, 2016 Staff memorandum.

Commission Questions of Staff:

Campbell says you mentioned two elevations. Can you repeat them?

Zuccaro says according to the plans, the proposed finished floor elevation of the addition is 5456.1' which is below the base flood elevation of 5456.83'.

DeJong says since it is being proposed to be built without the minimum requirement above the floodplain, then floodproofing would be required for both the new and existing structure.

Zuccaro says my understanding is only the new addition has to be floodproofed. The requirement in the LMC is if the addition exceeds the value of the existing building by 50% or more, then you must bring the entire building into compliance. The applicant can confirm it. The City has not verified it and Staff's assumption is the addition is less than 50%.

DeJong asks if the City engineers or planning department have received any plans or specifications with regard to the floodproofing as proposed.

Zuccaro says we have not received specifications. We anticipate receiving them at the time of building permit and then verify they meet code at the time of building permit review. We have certification in the engineer's report that it will be done.

DeJong asks where the certification is in the report and who the certifier is.

Zuccaro says it is referenced in the Staff memo, I reference page 10 of the Flood Plain Study, revision date October 26, 2016. The Flood Plain Study is one of the attachments to the report. I do not have the engineer's name or engineering firm but it is an attachment and included in the packet.

DeJong says on page 10, it says,

"Pursuant to Sec. 17.56 of the City of Louisville Municipal Code the addition to 826 Coal Creek Circle will be provided with flood proofing measures for all portions of the building that are below one foot above the base flood elevation. The building will be made watertight with walls that are substantially impermeable to the passage of water by utilizing waterproof coatings, impermeable membranes, or supplemental layers of masonry or concrete. Also, doors, windows, and other openings below the FPE will be equipped with permanent or removable shields or flood gates, and backflow valves will be installed in sewer lines and drains. The flood proofing measures that will be implemented will be designed to resist hydrostatic and hydrodynamic forces specific to the regulatory floodplain adjacent to the structure." I see no evidence of that.

Zuccaro says Staff was considering the engineer's report as a commitment to do the floodproofing at construction. As far as a stamped construction drawing certifying compliance, we do not have that at this time. It would be reviewed by the Building department at permitting.

Gorsevski says to clarify, the scope of our review and the permit we would be issuing would authorize them to proceed through the additional regulatory processes that the City has in place. What we are authorizing is for them to proceed through that process and give them the greenlight to proceed in general terms and compliance with the application they have submitted, but that the final criteria and specifications would be determined at a later date.

Zuccaro says the floodplain aspects would not be reviewed again until building permit. The rest of the development application would go through a further process. The BOA will make a final determination on the floodplain development permit, which could be appealed to City Council. This is the final determination on the floodplain development permit. The PUD and the platting

would not analyze the floodplain development permit. The next stop for that would be at building permit to verify the floodproofing methods and to comply with code.

DeJong says it is my understanding that as far as our approval, it could be contingent upon subsequent analysis and approval of the floodproofing by the City.

Zuccaro says yes, Staff thought it was an assumed condition, but it would not hurt to make it an explicit condition if you approve the proposal.

DeJong says the BOA can approve it specifically contingent upon the floodproofing standards, the certification by a registered professional engineer or architect, and satisfaction of the floodproofing by the City and permits thereafter.

Meseck says to speak to Allison's question, we have not heard a floodplain development permit recently. My understanding is that our scope is limited on those. We are simply determining whether we agree with Staff's recommendation that the impact to the floodplain is minimal or negligible.

Gorsevski says we are operating under the assumption that some of these issues will be addressed such as the floodproofing of the building and that the process will adhere to the City's rules and regulations.

Meseck says the primary reason for this is to insure we are not impacting other structures or parts of City property by this construction.

Zuccaro says the general purpose and intent is to insure that the floodplain is not being impacted in any way to create an adverse impact up or down stream, and to make sure that the on-site development is appropriate, safe, and limits any potential property damage.

Campbell asks about the map that has the blue and light blue. I am not familiar with the terms you used. Previously, I understood that floodplains were 100 year and 500 year.

Zuccaro says the turquoise and the darker blue areas are the 100 year floodplain. There are two areas of the 100 year floodplain. The darker blue is called the floodway which is the water course and where the actual floodwaters would flow. The lighter blue is where water would build up but it is not flowing. I call it the backwaters. The 500 year floodplain is the orange and not part of the City's regulations. Only the 100 year floodplain falls under the City regulations.

Applicant Presentation:

Ryan Byrne, Civil Engineer, PE, CFM, Martin/Martin, Inc., 12499 West Colfax Avenue, Lakewood, CO

Joseph Lear, Davis Partnership Architects, 2901 Blake Street, #100, Denver, CO

Byrne presents. We were tasked with preparing the floodplain study for the floodplain development permit. Staff discussed the existing affected FEMA floodplain which was the aerial imagery. It is what FEMA currently recognizes as the affected floodplain and the analysis to support it was prepared by a consulting firm in 1996 before the Coal Creek development was built. In this map, the floodplain does not make sense with the topography and buildings that exist today. The subsequent Flood Hazard and Delineation (FHAD) study was done by RESPEC Consulting & Services in November 2014. The State and Urban Drainage has adopted that study as the regulatory study and the best information available. We have prepared both pre- and post-project conditions in support of the floodplain development permit, and it supports the no rise condition. The black line shown on the map is the FEMA effective line. The topography of the buildings presently there does not support the delineation and it is outdated. The addition is located in the 100 year floodplain as discussed. The floodway is the area reserved to convey the 100 year floodplain without causing an increase of a specified value. Anything more than ½ foot rise would trigger a Conditional Letter of Map Revision (CLOMR) process. In Section 17.56 regulations, any development within a floodway is prohibited 100% without causing no-rise. Those limits can be superseded or overridden if a CLOMR or Letter of Map Revision (LOMR) process has gone through and remapping is done. Typically, after a project is completed, a LOMR is completed and it remaps the floodplain. The comparison is between pre- and post-project conditions. It is not a comparison from the effected floodplain study that is currently viewed by FEMA as regulatory. The pre- and post-project

analysis supports the no-rise condition. The finished floor elevation of the addition will match the finished floor of the existing structure and be set at an elevation below what the regulatory water surface elevation is. If the new building is greater than 50% of market value, then the existing entire structure has to be brought into compliance. It is our understanding that it will be a substantial improvement and the entire structure would have to be floodproofed. Those measures will be provided upon construction documents.

Commission Questions of Applicant:

Campbell asks if you are an engineer in Colorado?

Byrne says I am a Colorado civil engineer and work for Martin/Martin Consulting Engineers. I have my professional engineering license and my CFM (certified floodplain manager). I am not the person who will stamp the report, but the principal in my department, **Patrick Horn** listed on the study. I have prepared most of the analysis under him and with his support.

Meseck says the prior studies were done by FEMA before the construction took place of these buildings. Was there any effort to look at what took place in the September 2013 flood?

Byrne says there was discussion that the existing building did receive some flooding during the 2013 flood. There was storm water piping that came up through the floor. The red line on the map shows our approximation of the 100 year flood which was exceeded in 2013. It would be somewhere close to that red line.

Meseck says the red line is yours and the black line is a FEMA line.

Byrne says the orange line, which is difficult to see, is what is considered regulatory by the State and Urban Drainage, the 2014 FHAD, and the 100 year floodplain delineation by their approximation. It is considered a broad study. This is considered a backwater area and a hydraulically disconnected area not conveying storm water. You can fill in that area and not cause an upstream or downstream impact to the floodplain or adjacent property owners.

Gorsevski says the floodway appears unchanged by the most recent study.

Byrne says it has been changed. The black line is the new floodplain. All of the improvements are outside of the floodway for what is regulatory per the State.

Gorsevski says I understand it is included in the floodplain in either pre- or post-study. It is the designation of the waterway, where the actual flood was flowing in the stream system. There are two black parallel lines. That has changed.

Byrne says that has been re-delineated and is more accurate.

DeJong says with regard to the floodplain study, the document lists principal in charge, **Andre Schlappe, PE**. You had stated that **Patrick Horn** is the engineer responsible.

Byrne says **Andre Schlappe** is the overall PM for the site development project and **Patrick Horn** is the principal on the water resources side. Both **Horn** and I are CFM.

DeJong says I see no responsible party for the data and the conclusions within this study. I see no signature by anyone or a stamp in the Martin/Martin group.

Byrne says it is a document that can be stamped and signed. It can be provided but it was not requested.

DeJong asks who is the professional engineer responsible for this document?

Byrne says it would be **Andre Schlappe**. He has oversight.

DeJong quotes *(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of subsection F.2 of this section. Such certifications provided to the director as set forth in Section 17.56.180,* is for the floodproofing methods. This floodplain study is not signed or stamped.

Zuccaro says I think this is a good observation and oversight by Staff, since we should have requested that they sign and stamp the report. Staff will support the report with a stamp and signature by a Colorado registered professional engineer. I would recommend that this be an additional condition if you approve this.

DeJong says will we get something on the record of who is the professional engineer responsible for the document presented to us.

Zuccaro says we can ask the applicant if they wish to designate the engineer. You could delegate it to Staff to verify that it is appropriately signed and stamped.

DeJong says we have been told that **Patrick Horn** is the engineer responsible although the document lists **Andre Schlappe** as the principal-in-charge. We have a professional engineer presenting tonight making the presentation, but we don't know which one is the responsible party. Can we add this as another contingency? The document itself is signed by Davis Partnership Architects, **Julie Eck, ALSA**.

Joseph Lear, Davis Partnership Architects, speaks. I am here representing Tritower Financial Group, LLC. We are the owner of the property who has been retained to come up with development options you are seeing today. We are the architecture and landscape firm working on those portions for the development. We are working in conjunction with Martin/Martin for civil engineering and floodplain analysis. **Julie Eck** is the head of the landscaping department and she heads up much of our entitlement efforts. She has submitted her signature. ALSA stands for American Society of Landscape Architects. She was unable to attend tonight due to sickness.

DeJong says is Davis Partnership Architects the general contractor?

Lear says we are the architect design firm. We are not a contracting firm. We do the architectural design, interior design, and landscape firm. We work with consultants on the structural side and civil engineering side.

DeJong says is it fair to say that Davis Partnership Architects has reviewed and accepted all of the data and conclusions identified within this report as presented and takes it upon themselves as if Davis Partnerships has issued this report themselves.

Lear says yes, they are our consultants and under our contract.

Campbell says **Zuccaro** said the finished floor elevation would be 5456.1' and the base flood elevation is 5456.83'. That is 7/10th of a foot. Is there some particular reason you haven't gone above that? Why wouldn't you raise it one foot?

Lear says the existing building floor elevation is the same and they have a desire to maintain the same floor elevation for functional reasons within the building. We look to not raise the floor elevation above the floodplain. We are looking at floodproofing the building one foot above the 100 year floodplain line. A change in floor elevation makes it extremely difficult to move equipment so there is a large desire to keep the existing floor elevation the same.

Meseck says this is probably outside of our scope and we don't have the authority to push them in one direction or another.

DeJong asks Staff after this approval, who is the next City stakeholder in this?

Zuccaro says the PUD application and an amended plat application running concurrently will be reviewed by the Planning Commission at a public hearing. They make recommendations on the PUD and the plat to City Council, who will make a final determination on the PUD and plat application. Once all of the documents associated with the approvals are executed, they could be issued a building permit. They can apply at any time during the process and Planning would review it for compliance with code and any conditions associated with these approvals. When an applicant applies for a building permit prior to approvals, we let them know it is at their own risk and they may have to revise their building permit application if something changes during floodplain permit or PUD or platting process. This is the first step in the approval process.

DeJong says my questions regard the certification by a registered professional engineer or architect for the floodproofing methods.

Zuccaro says we see this as a technical matter. The applicant would have to come up with a compliant design. There are several different ways they can do that. It makes sense to not determine it at this point because once they get into the final design stages, they may choose different methods. As long as it is appropriately floodproofed and certified, and the Building Department does their level of review required, Staff recommends giving them flexibility.

Public Comment: None.

Summary and request by Staff and Applicant:

Staff recommends approval of **826 Coal Creek Circle – Floodplain Development Permit – Request for a Floodplain Development Permit to Construct a 40,000 Square-Foot Building Addition in the Flood Regulatory District Case #16-033-FL.**

Staff recommends the conditions may be:

1. that the report be stamped and signed by a Colorado registered professional engineer
2. there be an engineer certification on the floodproofing method to comply with LMC.

Staff would approve the conditions.

Closed Public Hearing and discussion by Commission:

Stuart makes motion to close public hearing, **DeJong** seconds, approved by voice vote.

Meseck says we need to resolve what these contingencies are.

Stuart says I think it is fine to approve this with the contingency to stamp and certify the report and another to say that the floodproofing will be certified and approved at some later date.

Meseck says are we inserting redundancy into this by requesting floodproofing. That is the City's job.

DeJong says if we don't approve, they don't get the building.

Meseck says we can approve the floodplain development permit without contingencies. Do we need to add two contingencies to it in the record?

DeJong says in my reading of this document, there is no responsible party. I need to have a professional engineer as a responsible party to say this is a valid report with valid conclusions.

Stuart says the contingency would be to leave it to Staff to verify it is stamped and signed appropriately.

DeJong says the other contingency is that the Building Department accepts the certification and floodproofing methods.

Meseck says that is part of their normal daily business.

Gorsevski says I would like to discuss these two contingencies separately. I don't have any issue with the contingency that we see a stamped copy. I agree that the rules provide for it. I am not convinced that it is not redundant to put a condition about the specific methods of floodproofing. Reviewing this language on page 3 of the study, it states the type of floodproofing that will be appropriate and used in the structure. I have confidence that Staff can apply the rules and regulations to make sure the floodproofing proposed at the time we move to the building permit complies with the applicable standards. They recognize that the structure must be floodproofed, so we let Staff work out the details.

Meseck says I question the redundancy of it as well. This is just another check box that has to be done as part of the process, and not something we need to address tonight.

Gorsevski says it would be a different situation if we felt that the floodproofing to be done in this circumstance was different or not consistent with FEMA requirements.

Meseck says if we go back to the statement that the LMC requires the following information submitted for all floodplain development permits and look at #3 and certification by a registered engineer, we do not have it at this time to approve the floodplain permit.

DeJong says there are no floodproofing methods specified. I have no idea if they would meet the standards because an engineer hasn't told me.

Gorsevski says the study does specify the methods that will be used to floodproof. We are not in a position to review whether those methods are adequate or not.

DeJong says the study states that these may include.

Gorsevski says if that is a position we want to take, then we would tie them to specific methods at this time as a term of their floodplain development permit.

Meseck says as opposed to being checked at a later date by the Building Department.

Gorsevski says going to the exact language in Staff's summary, I am referring to the Martin/Martin report on page 5 where the full language is cited, Section 17.56.250,

DeJong reads #5, Section 17.56.250,

Prior to issuance of a floodplain development permit a registered professional engineer or architect shall develop structural designs, specifications, and plans for the construction which include floodproofing methods, subject to accepted standards and practices of the Uniform Building Code, as adopted, and the FEMA requirements. Prior to the issuance of a certificate of occupancy a floodproofing certificate shall be completed and submitted to the director.

Gorsevski asks if we are saying that the floodproofing methods they have identified are not in accordance with accepted standards and practices.

DeJong says no, prior to a floodplain development permit, the words “shall develop structural designs, specifications, and plans” are stated, but the BOA has none right now.

Stuart says the words state “*Prior to the issuance of a certificate of occupancy a floodproofing certificate shall be completed and submitted to the director.*”

Meseck says it is certification versus proposed.

Gorsevski says our position is that they have not provided them.

DeJong says all we have is a statement of “may include” this method, etc. Even those methods have different ways of implementation.

Meseck says I don’t think it is in our scope to determine which one.

DeJong says we rely on the certification of a professional engineer. Section 17.560.250 states “shall”...

Gorsevski says “shall” means nondiscretionary. I am having trouble interpreting what “develop structural designs, specifications, and plans” means when Staff has accepted that they have complied or stated some methods that are standard practices and accepted. We have an additional layer of review that will come in to insure that the specific methods are acceptable.

DeJong says I am proposing to leave it contingent upon approval by someone who has the training to evaluate and agree.

Meseck says that falls on the Building Department because the final sentence does say “subject to accepted standards and practices of the Uniform Building Code, as adopted, and the FEMA requirements”. My question is, if we approve this with no contingencies per se, other than the certification and the stamp, what are the chances of this coming back to the BOA. We need 3 out of 5 to approve this. What does the rest of the BOA think?

DeJong says do we approve with no contingencies?

Gorsevski says the second contingency for floodproofing is less restrictive.

Meseck says I feel more comfortable with allowing the Building Department to take responsibility for this and not tie their hands any further.

DeJong says the certification and approvals for the floodproofing methods must be approved by the Building Department. They are the ones with the training and knowledge to understand the methods. The BOA has not seen the floodproofing methods. Therefore, we are giving approval to the Building Department.

Zuccaro says if your issue is 17.560.210, #3, being comfortable with the finding of compliance, you could be very specific on your condition of approval and say that “in order to satisfy the criteria of LMC 17.56.210, paragraph 3, the applicant shall submit certified construction drawings to the City as part of their building permit in compliance with the LMC.” Your approval would be addressing all of your obligations as the BOA to review the application.

DeJong says we do not have the document that certifies and shows the methods. Our approval would be contingent upon somebody else receiving certification.

Zuccaro says you would be delegating it and making it clear that if not for that, you would not be approving this application.

Meseck asks if **Gorsevsky** is still leaning in the direction of eliminating the second contingency.

Gorsevski says I am leaning toward eliminating the second contingency.

DeJong says I would include the specific language as specified in #3 which is *Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing standards and practices specified in section 17.56.250*; with it to be received by and accepted by the Building Department. I don’t know if that document must be produced in a specific amount of time, but obviously before the

building permit because the Building Department would have to approve the floodproofing methods.

Zuccaro says the BOA can put into the condition “prior to issuance of the building permit”, it would take place. That would provide the most flexibility.

DeJong says how about prior to the building permit application.

Zuccaro says either prior to or at the same time as submittal of the building permit application.

Meseck asks how the other Board members think about this suggestion. If there is language that stated #1, that the BOA requires floodproofing methods be submitted prior to building permit application” and “that we get stamped certification from a registered professional engineer or architect”, where do the other members stand?

Campbell says I am leaning toward denial.

Meseck says would it be a barrier to the proposal to require the floodproofing methods?

Gorsevski says I don't think it would be a barrier. Because that process is more restrictive, I think I could be comfortable with it. I would vote to approve without the contingency and therefore, I think it would be inconsistent to hold it up.

Stuart says I prefer to not do the second contingency.

Gorsevski makes motion to approve **826 Coal Creek Circle – Floodplain Development Permit** – Request for a Floodplain Development Permit to Construct a 40,000 Square-Foot Building Addition in the Flood Regulatory District **Case #16-033-FL**, with the contingent

1. that the applicant provide to City Staff for their review a stamped and certified copy of the analysis included as part of the application by a registered professional engineer, seconded by **Stuart**, Roll call vote.

Name	Vote
Andrew Meseck	Yes
James Stuart	Yes
Leslie Ewy	n/a
Gunnar Malmquist	n/a
Thomas DeJong	No
Lowell Campbell	No
Alison Gorsevski	Yes
Motion passed/failed:	Pass

Motion passes 3-2.

Business Items tentatively scheduled for December 21, 2016: None.

Staff Comments:

Zuccaro says the three positions are for renewal. Applications are due November 15, 2016 and applicant review. There are many applicants for many positions. At this time, **Gunnar Malmquist** and **Allison Gorsevski** are not seeking reappointment.

Board Comments: None.

Discussion Items for December 21, 2016 Meeting: None at this time.

Adjourn:

Stuart moved and **DeJong** seconded a motion to adjourn the meeting. Motion passed unanimously by voice vote. Meeting adjourned at 7:56 pm.

CITY OF LOUISVILLE
BOARD OF ADJUSTMENT
STAFF REPORT
December 21, 2016

APPLICANT: Mosaic Outdoor Living

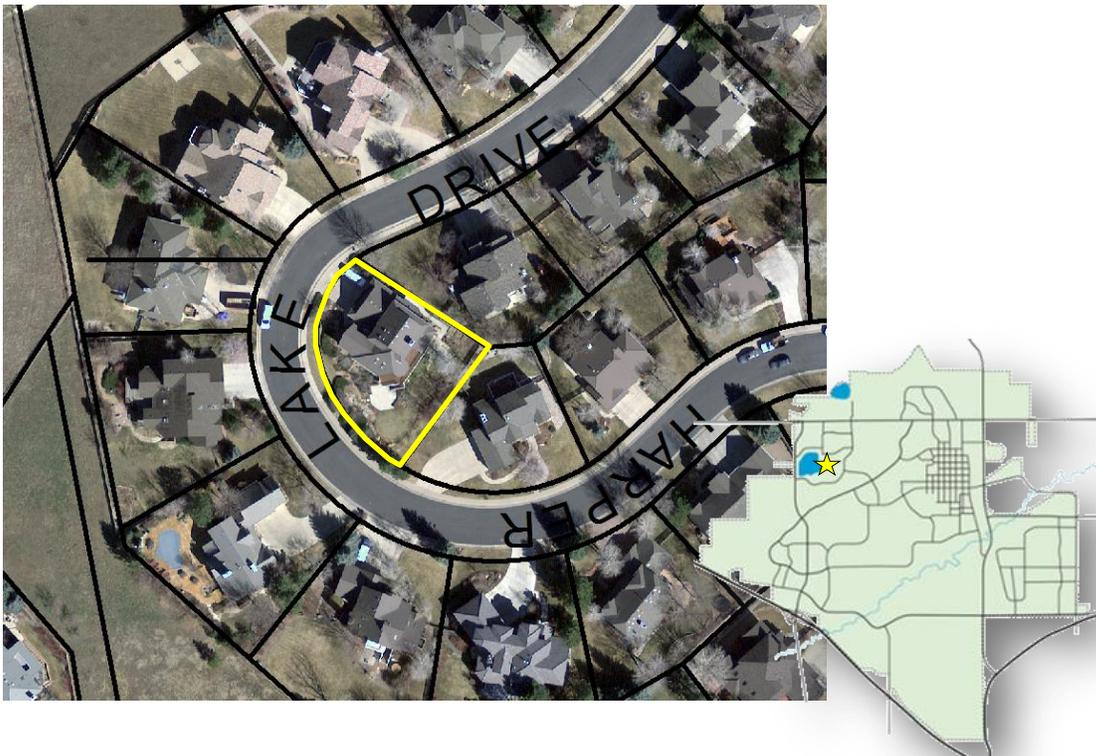
OWNER: Joe Adams and Pat Habel

STAFF PLANNER: Robert Zuccaro, Planning & Building Safety Director

LOCATION: 1166 Harper Lake Drive, Lot 17, Grove at Harper Lake

ZONING: Residential Estate (RE)

REQUEST: **Case VAR-000014-2016;** Request for of a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) to allow an increase in the maximum lot coverage from 20% to 31% to allow a deck expansion



SUMMARY:

The applicant requests a variance from Section 17.12.040 of the Louisville Municipal Code (LMC) to allow an increase in the maximum lot coverage from 20% to 31% to allow a deck expansion of approximately 580 square feet. The subject property is 11,432 square feet in area. Current lot coverage is 2,985 square feet (26% of lot area). With the proposed deck expansion, total coverage is 3,565 square feet (31% of lot area).

BACKGROUND:

The subject lot is zoned Residential Estate (RE) and located in the Grove at Harper Lake Subdivision. The City approved the Subdivision and a Planned Unit Development (PUD) for the Grove at Harper Lake in 1987. The Grove at Harper Lake Subdivision abuts Harper Lake to the west, Coyote Run Open Space to the north, Saddle Back Subdivision to the east and Centennial Subdivision to the South. The Grove at Harper Lake and the abutting subdivisions are zoned RE.

The RE zoning includes a minimum lot area of 12,000 square feet and maximum lot coverage of 20%. The PUD includes minimum front and rear setbacks of 20 feet and minimum side setback of 5 feet. The lots in the Grove at Harper Lake neighborhood range in size between 9,918 square feet and 18,060 square feet, with the average lot size at 12,708 square feet. As mentioned previously, the subject lot is 11,432 square feet, slightly below the minimum lot area requirement and the average for the neighborhood.

Maximum allowed lot coverages generally decrease as minimum lot sizes increase across the residential zone districts in the City. The following table summarizes lot coverage and lot size requirements by residential zone district:

<i>District</i>	<i>Minimum Lot Area</i>	<i>Maximum Lot Coverage</i>
RH	7,000 sq. ft.	40%
RM	7,000 sq. ft.	35%
RL	7,000 sq. ft.	30%
SF-HD	7,000 sq. ft.	25%
RE	12,000 sq. ft.	20%
SF-MD	12,000 sq. ft.	20%
RR	20,000 sq. ft.	20%
SF-LD	21,700 sq. ft.	20%
SF-E	43,560 sq. ft.	15%
SF-R	43,560 sq. ft.	10%
R-RR	43,560 sq. ft.	10%

REVIEW CRITERIA:

The Board of Adjustment has authority grant or deny a variance request based on the review criteria found in Municipal Code Sections 17.48.110.B.1-6. The applicant has provided a written analysis of the variance criteria (see attached Application Materials). Following is staff’s analysis of the criteria with recommended findings on each.

1. *That there are unique physical circumstances or conditions such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property.*

The property has an irregular shape with two sides bordered by a curved street frontage. While this irregular shape could impact the ability to meet minimum setbacks on this lot, it does not affect the total lot area used to calculate lot coverage and the applicant’s lot area at 11,432 square feet is within the typical range for the neighborhood and close to the minimum for the zone district of 12,000

square feet. The requested coverage of 31% is more similar to allowed lot coverage for residential zoning with 7,000 square foot lots. Staff finds there are no unusual circumstances related to the variance request and that this criterion is not met.

2. *That the unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.*

The lot size of 11,432 square feet is similar to the average of 12,708 square feet found in the neighborhood. In addition, staff finds there are no unusual circumstances as described for the previous criterion. Staff finds the lot size is similar to others in the neighborhood and close to the zone district minimum and that this criterion is not met.

3. *That because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of Title 17 of the Louisville Municipal Code.*

Staff finds that there are no physical circumstances or conditions affecting lot area. Without the variance, the lot can develop with up to 20% lot coverage, which is the standard limit for zoning with 12,000 square foot minimum lots. In addition, the applicant can maintain the existing deck as a nonconforming structure without expansion, including replacement in the same configuration if needed for maintenance. Staff finds the applicant can reasonably develop the lot within the zoning standards and that this criterion is not met.

4. *That such unnecessary hardship has not been created by the applicant.*

Staff finds that because there are no unique conditions in comparison to other properties in the neighborhood that affect lot coverage and the property may develop with lot coverage appropriate for the lot size that there is no unnecessary hardship this criterion is not met.

5. *That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property.*

Surrounding properties in the neighborhood are subject to the 20% maximum standard. In some RE neighborhoods, many lots are below the minimum lot area of 12,000 square feet and in these circumstance administrative variances for lots 8,000 square feet or less may be granted up to 30%. However, the smallest lot in the Grove at Harper Lake neighborhood is 9,918 square feet. Because all lots in this neighborhood are subject to the 20% standard and no administrative adjustments would be permitted, staff finds that granting the variance would alter the essential character of the neighborhood and that this criterion is not met.

6. *That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the provisions of Title 17 of the Louisville Municipal Code that is in question.*

Staff finds that no relief is needed from the lot coverage requirements for this property to develop with lot coverage consistent with other lots in the neighborhood and for lots of similar size and that this criterion is not met.

PUBLIC COMMENTS:

Staff has not received any public comments.

STAFF RECOMMENDATION:

Staff finds the review criteria in Municipal Code Section 17.48.110 are not met as described above and recommends that the Board of Adjustment adopt staff's findings outlined in this report and deny the request.

BOARD ACTION:

The Board may approve (with or without condition or modification), deny, or continue the application to a future meeting for additional consideration. The Board may also request additional information if they feel it is needed for their proper consideration of the variance application. In approving an application, the Board must find that all six variance criteria, insofar as applicable, have been met. The Board should adopt specific findings for each review criterion in support of any motion.

ATTACHMENTS:

1. Application Materials
2. Site Plan

LAND USE APPLICATION

CASE NO. VAR-14-2016

APPLICANT INFORMATION

Firm: Mosaic Outdoor Living

Contact: Andy Hashman

Address: 133-D McCaslon Blvd
Louisville, CO 80027

Mailing Address: _____
Same

Telephone: 303-926-9292

Fax: 303-926-1554

Email: andy@mosaicmasterpieces.com

OWNER INFORMATION

Firm: _____

Contact: Joe Adams and Pat Habel

Address: 1166 Harper Lake Dr
Louisville, CO 80027

Mailing Address: _____
Same

Telephone: 303-885-4291

Fax: email: joseph.adams1219@gmail.com

Email: pat.habel0527@gmail.com

REPRESENTATIVE INFORMATION

Firm: _____

Contact: _____

Address: _____

Mailing Address: _____

Telephone: _____

Fax: _____

Email: _____

PROPERTY INFORMATION

Common Address: 1166 Harper Lake Dr

Legal Description: Lot 17 Blk _____

Subdivision: Erave at Harper Lake

Area: 11,432 Sq. Ft.

TYPE (S) OF APPLICATION

- Annexation
- Zoning
- Preliminary Subdivision Plat
- Final Subdivision Plat
- Minor Subdivision Plat
- Preliminary Planned Unit Development (PUD)
- Final PUD
- Amended PUD
- Administrative PUD Amendment
- Special Review Use (SRU)
- SRU Amendment
- SRU Administrative Review
- Temporary Use Permit: _____
- CMRS Facility: _____
- Other: (easement / right-of-way; floodplain; variance; vested right; 1041 permit; oil / gas production permit)

PROJECT INFORMATION

Summary: Variance request - to increase maximum lot coverage on the property to 30% for the purpose of replacing an existing deck.

Current zoning: _____ Proposed zoning: _____

SIGNATURES & DATE

Applicant: [Signature] 11-1-2016

Print: ANDY HASHMAN

Owner: [Signature]

Print: JOSEPH ADAMS PATRICIA HABEL

Representative: _____

Print: _____

CITY STAFF USE ONLY

- Fee paid: _____
- Check number: _____
- Date Received: _____



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October 28, 2016

City of Louisville
Department of Planning and Building Safety
Board of Adjustment
749 Main Street
Louisville, CO 80027

To Whom It May Concern:

This is a request for a variance at Lot 17, Grove at Harper Lake, commonly referred to as 1166 Harper Lake Dr., Louisville, CO 80027. This variance would increase the maximum lot coverage on the property to 30% for the purpose of replacing an existing deck. Code of Ordinances, Section 17.12.040 states a maximum lot coverage in zoning district RE of 20%.

The reason for this variance is to allow the homeowner to replace their existing deck with a larger deck.

Review criteria:

1. Unique circumstances exist: The existing structure including the deck are already over the maximum lot coverage at 27%. Much of the lot is bordered by street front, so a large portion of the lot cannot be used as back yard space. This is not the case for most lots in the area.
2. These unique circumstances do not exist throughout the neighborhood as most homes are such that the decks are less than 30" above grade and therefore do not count toward maximum lot coverage.
3. Because of the architecture and floor plan of the home, the deck is more than 30" above grade and therefore the square footage of the deck counts toward maximum lot coverage.

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SHOWROOM • BOULDER COUNTY 133D McCaslin Boulevard, Louisville, CO 80027 • 303.926.9292

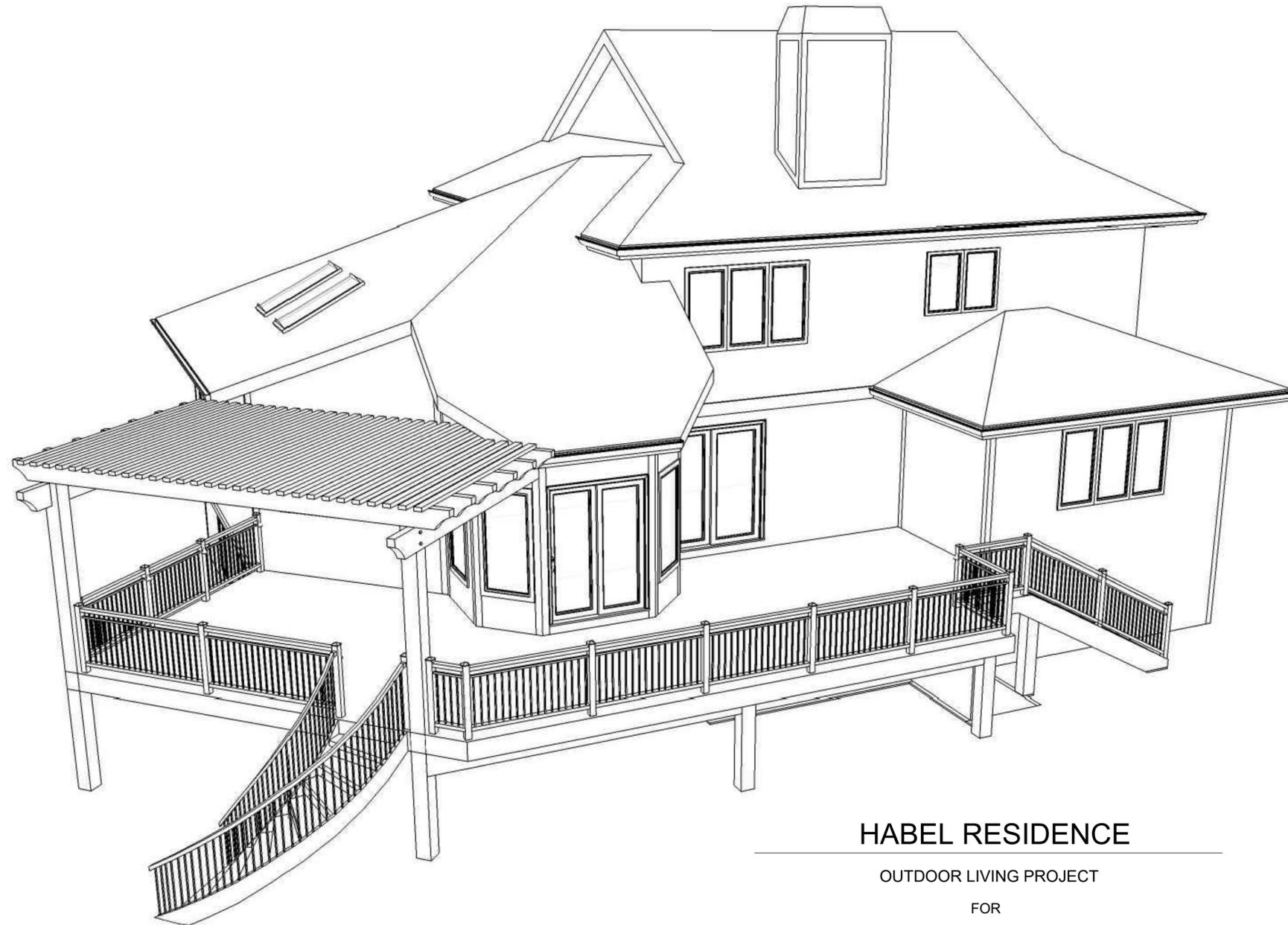
SHOWROOM • COLORADO SPRINGS 3255 Austin Bluffs Parkway, Colorado Springs, CO 80918 • 719.573.6000

4. These unique circumstances have not been created by the applicant/homeowner.
5. The essential character of the neighborhood will not be altered. The deck addition is designed to aesthetically enhance the appearance of the home, specifically by respecting the existing architecture of the home and keeping in tune with the character of the neighborhood. Furthermore, the type of outdoor living space the deck will provide will increase the value of the home, in turn having additional positive impact on the neighborhood as a whole. We have obtained HOA approval for the project.
6. We are requesting a 10% increase in lot coverage over and above what is required by Louisville zoning code. However, only a 3% increase over and above the current lot coverage.

I greatly appreciate your attention in this matter. Please contact me with any questions.

Sincerely,

Andy Hashman
Designer
303-888-3869
Andy@MosaicMasterpieces.com



HABEL RESIDENCE

OUTDOOR LIVING PROJECT

FOR

PAT HABEL & JOE ADAMS
1166 HARPER LAKE DR.
LOUISVILLE, CO 80027

DESIGNED
BY

ANDY HASHMAN

10/01/16

INDEX OF DRAWINGS

- A0.0 TITLE PAGE
- A1.0 PLOT PLAN
- A2.0 ELEVATIONS
- A3.0 PLAN VIEW

Design Criteria:

Ground Snow Load = 72.8 psf.
2015 IRC.
Deck Floor Live Load = 50.9 pcf.
Wind Load = 100 mph Exp. C.
Frost Depth = 36"
Seismic Category B
Floor Dead Load = 15 psf.



133 SOUTH McCASLIN BLVD.
SUITE D
LOUISVILLE, CO 80027

PHONE: 303-926-9292
FAX: 303-926-1554

www.MosaicMasterpieces.com

DATE: 11/3/16

DRAWN BY: SMT
CHECKED BY:

SCALE: N/A

REVISIONS:

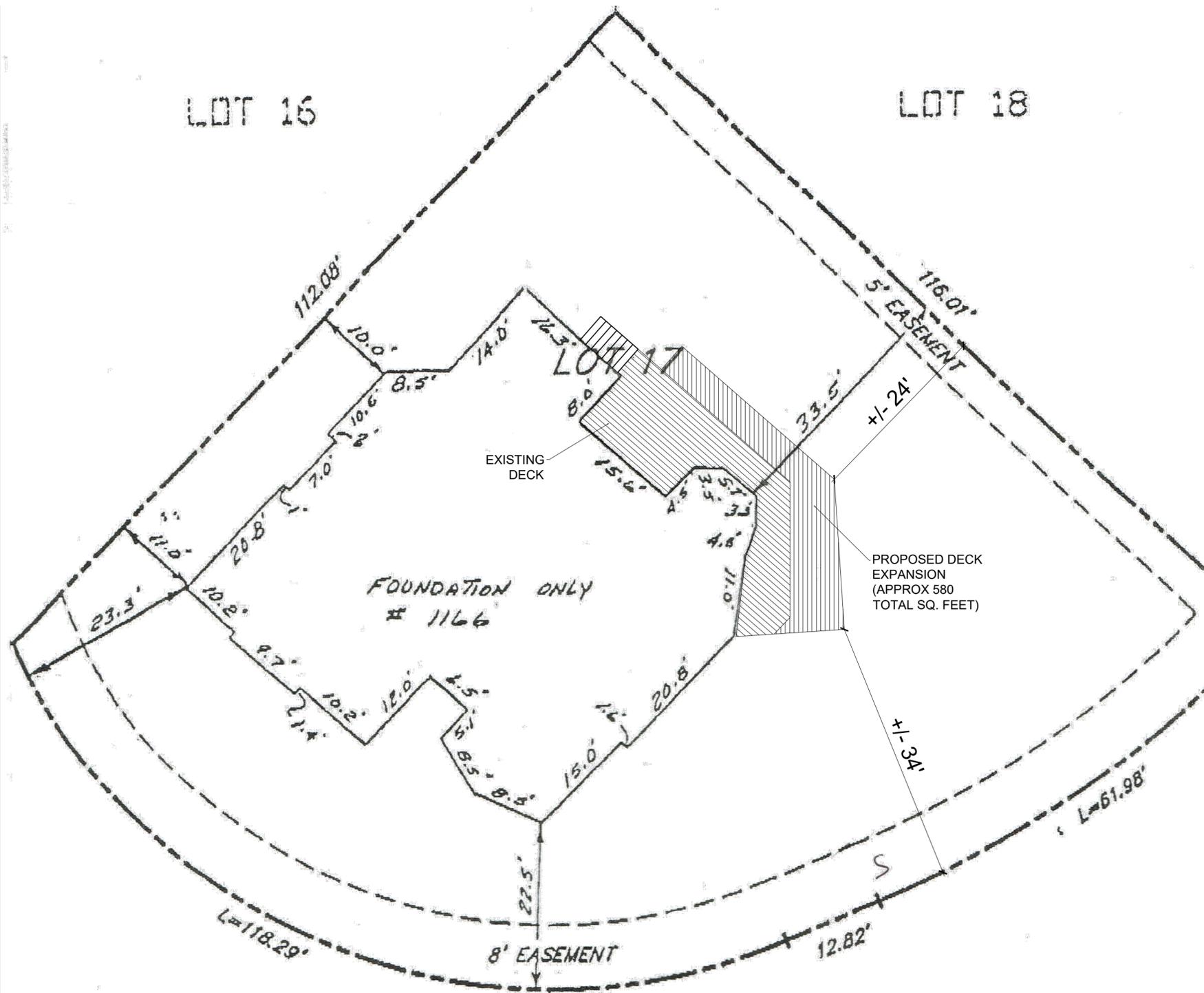
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PAT HABEL & JOE ADAMS
1166 HARPER LAKE DR.
LOUISVILLE, CO 80027

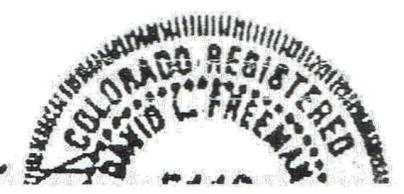
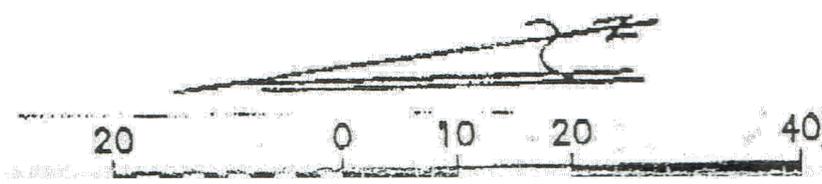
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1166 HARPER LAKE DRIVE



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SCALE: AS NOTED

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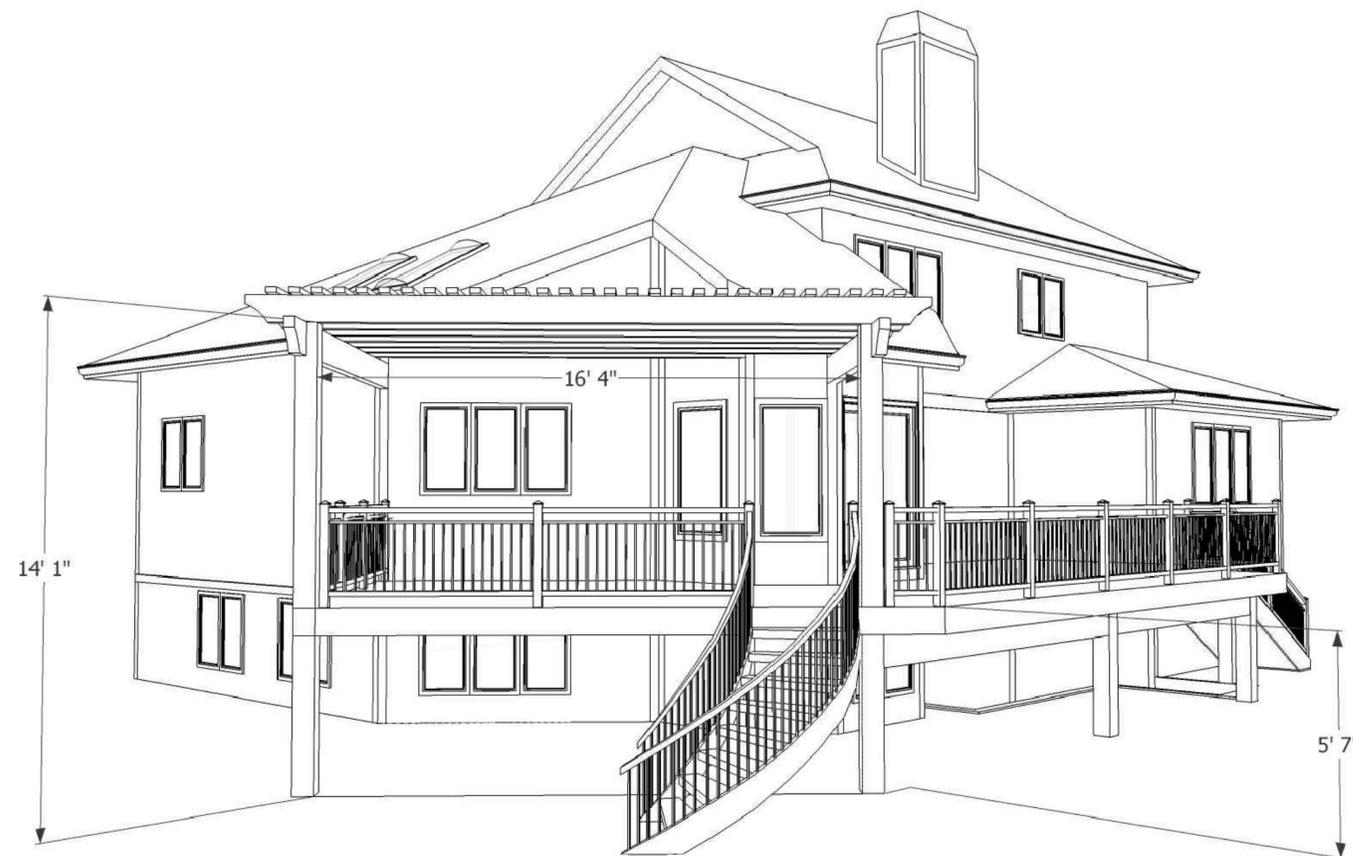
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1 FRONT ELEVATION
SCALE: NTS



2 SIDE ELEVATION
SCALE: NTS



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DATE: 11/3/16

DRAWN BY: SMT
 CHECKED BY:

SCALE: AS NOTED

REVISIONS:

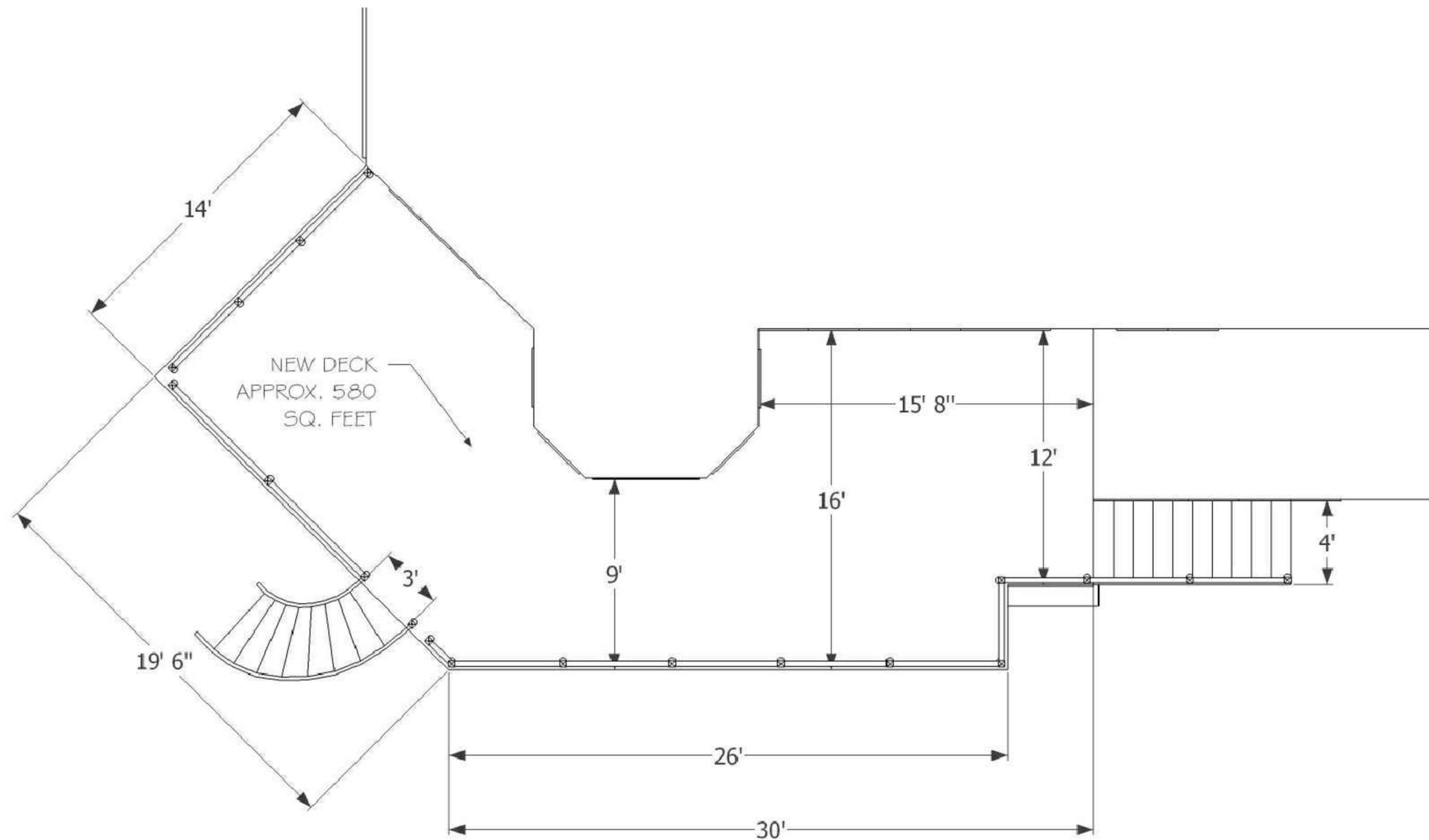
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PAGE NUMBER:

A3.0



1 DECK PLAN
 SCALE: NTS