AGENDA - FINAL

WAUKESHA COUNTY PARK AND PLANNING COMMISSION - Regular Meeting Thursday, March 14, 2024 1:00 P.M. Room AC 255/259 Administration Center, 515 W. Moreland Blvd., Waukesha, WI 53188

CALL TO ORDER
CORRESPONDENCE
MEETING APPROVAL
PUBLIC COMMENT

CONDITIONAL USE AND PLAN OF OPERATIONS

CU104 (Glenn Benidt) Town of Ottawa, Section 11

Part of the NE ¼ of Section 11, T6N, R17E, Town of Ottawa. More specifically, the property is located at W350 S2505 Waterville Road.

Request: Conditional Use approval for a limited family business for the online sale of

wholesale vehicles.

SP225 (Glenn Benidt) Town of Ottawa, Section 11

Part of the NE ¼ of Section 11, T6N, R17E, Town of Ottawa. More specifically, the property is located at W350 S2505 Waterville Road.

Request: Site Plan/Plan of Operation approval for a limited family business for the online

sale of wholesale vehicles.

CU106 (Evan McCarthy) Town of Oconomowoc, Section 26

Lot 15, Bauers Bays, part of the NE ¼ of Section 26, T8N, R17E, Town of Oconomowoc.

More specifically, the property is located at N60 W35144 Lake Drive.

Request: Allow the existing nonconforming use (two dwelling units) to be maintained as a

legal non-conforming use to accommodate a new main residence.

CU107 (Brian and Sandy Flood) Town of Oconomowoc, Section 30

Part of Lot 1, Lac La Belle Park, part of the SE ¼ of Section 30, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N56 W39312 Wisconsin Avenue. Request: Conditional Use approval for an addition to the existing residence for an in-law

unit.

SP228 (Brian and Sandy Flood) Town of Oconomowoc, Section 30

Part of Lot 1, Lac La Belle Park, part of the SE ¼ of Section 30, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at N56 W39312 Wisconsin Avenue.

Request: Site Plan/Plan of Operation approval for an addition to the existing residence for

an in-law unit.

ADJOURNMENT

James Siepmann, Chairperson

Park and Planning Commission

Thursday, March 14, 2024

(The Staff Reports and Recommendations for the issues listed above are available upon request. For questions regarding this agenda, please call (262) 548-7790).

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE STAFF REPORT AND RECOMMENDATION CONDITIONAL USE AND SITE PLAN/PLAN OF OPERATION

DATE: March 14, 2024

FILE NO(S).: CU104 and SP225

TAX KEY NO.: OTWT 1625.999

PETITIONER/OWNER: Glenn Benidt

d/b/a Milwaukee Motor Cars LLC W350 S2505 Waterville Road Oconomowoc, WI 53066

LOCATION:

The subject property is described as part of the NE ¼ of Section 11, T6N, R17E, Town of Ottawa. More specifically, the property is located at Waterville Road address cited above.

ZONING CLASSIFICATION(S):

RRD-5 Rural Residential Density District 5, and EC Environmental Corridor and C-1 Conservancy Overlays.

EXISTING LAND USE(S):

Single family residence, two story detached accessory building with an exposed lower level, and a shed.

REQUESTED LAND USE(S):

Limited Family Business Conditional Use (CU) from an office in a detached accessory building on the property to wholesale vehicles online.

<u>COMPLIANCE WITH THE WAUKESHA COUNTY COMPREHENSIVE DEVELOPMENT PLAN</u> (WCCDP) AND THE TOWN OF OTTAWA COMPREHENSIVE DEVELOPMENT PLAN (CDP):

The Town's CDP designates the property as 10 acre Agricultural Density, PEC, and Other Open Lands to be Preserved, and the County's CDP designates the property as Rural Density and Other Agricultural Land (5 acre density), Other Open Lands to be Preserved, and PEC. The request complies with both plans as a Limited Family Business CU is allowed in areas designated in these land use categories.

PUBLIC HEARING DATE: February 5, 2024

PUBLIC COMMENT:

Citizen concerns included loading/unloading on the road (vehicles will not be delivered to the site and he will not own the vehicles, they will be transfers only); signage (WDOT requires one small sign on the building); lighting (residential only, no change); hours of operation (online business from an office in the existing accessory building); employees (one part time employee who also works online and mostly off site); violations (will be pursued by the County or State as appropriate).

TOWN PLAN COMMISSION ACTION:

On February 4, 2024, the Town of Ottawa Plan Commission unanimously recommended approval of the request to the Waukesha County Park and Planning Commission subject to the conditions as listed below.

STAFF ANALYSIS:

The subject property is approximately 21.8 acres in size and contains a single family residence, two story detached accessory building with an exposed lower level, and a shed. The applicant is requesting a Limited

Family Business CU and associated Site Plan/Plan of Operation (SPPO) to utilize an existing office on the second floor of the detached accessory building to conduct wholesaling of vehicles online. Since the method of sales is conducted online, the hours of operation will be flexible. There will be two part time employees - the applicant and another remote worker who also works online.

The applicant has applied for a wholesale automobile dealer's license which will allow the transfer and wholesale of vehicles directly to licensed dealers only as wholesale dealers can only sell, offer, or negotiate sales of motor vehicles to licensed dealers per the Wisconsin DMV. To sell or lease vehicles to the general public requires a retail dealer license per the Wisconsin DMV. Therefore, there will be no retail operations conducted from the property or by the remote worker and no vehicles brought or delivered to or stored on the property as all sales will occur online and the vehicles will be shipped directly to the dealers. No signage will exist on the site pertaining to the wholesale operation with the exception of a small sign on the building as required by the WDOT.

Since no business will be conducted at the subject property, there will be no customers and the provision of customer parking or vehicle storage will not be necessary. No exterior lighting, other than existing residential lighting, is proposed.

STAFF RECOMMENDATION:

Based on the above analysis, the Waukesha County Department of Parks and Land Use - Planning and Zoning Division staff recommends **approval** of the request subject to following conditions:

- 1. This Conditional Use (CU) and Site Plan/Plan of Operation Permit (SPPO) applies to tax key number OTWT 1625.999 (the subject property), which is owned by Glenn Benidt (the petitioner), and all terms and conditions described herein apply to the subject property and the petitioner.
- 2. All online wholesale buying and selling of vehicles, where the petitioner purchases wholesale vehicles and resells them to dealerships for a profit, shall be conducted from the office in the detached accessory building on the subject property through the Limited Family Business Conditional Use Permit and Site Plan/Plan of Operation Permit, with the exception of the work conducted by the remote part time employee. No vehicles associated with the wholesale business shall be brought or delivered to or stored on the site as the vehicles will be shipped directly to the dealers.
- 3. All activities on the subject property herein shall not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.
- 4. All employees, except one full-time equivalent, shall be members of the family residing on the subject property. The hours of operation are allowed to be flexible given that the wholesaling is done online.
- 5. The Conditional Use and SPPO permits shall automatically expire and terminate on the sale of the subject property or its transfer to a non-occupant of the subject property. The wholesale dealer's license is non-transferrable.
- 6. The subject property must comply with all Federal, State, County, and local laws, ordinances, codes, rules, and regulations. Copies of all required licenses and permits shall be on file with the Town of Ottawa and Waukesha County at all times. The petitioner shall supply the Town of Ottawa and Waukesha County with a copy of the approved wholesale automobile dealer's license, **prior to the issuance of any permits.**

- 7. Subject to the applicant allowing the subject property to be available for inspection by the Town of Ottawa and Waukesha County officials at any reasonable time and upon reasonable notice.
- 8. The sale of products on the subject property that are not produced by the Limited Family Business are prohibited. No retail sales are permitted on the subject property and no customers of any kind are permitted on the subject property. All wholesaling shall be conducted online only and to licensed dealers only as wholesale dealers can only sell, offer, or negotiate sales of motor vehicles to licensed dealers per the Wisconsin Department of Motor Vehicles, and there shall be no sales at the subject property (off premise sales directly to licensed dealers only).
- 9. The Wisconsin Department of Transportation requires a small sign near the entrance door to identify the dealership, hours, and that sales are restricted to licensed dealers only. No other business signage is permitted on the subject property.
- 10. The wholesale vehicles shall be titled to the property owner as a dealership for sale purposes only, and not for ownership of the vehicles.
- 11. The wholesale business facilities statement MV3188, #3 states all vehicles are displayed indoors. A condition of this approval is that there shall be no storage of the wholesale vehicles on site and this condition shall override statement MV3188.
- 12. The dealer's license requires the applicant to retain a Dealer Bond which is enforced by the State of Wisconsin.
- 13. Documentation shall be submitted to the Town Planner that Waukesha County has reviewed, approved, and signed the Wisconsin Department of Transportation application indicating that the use conforms to the Waukesha County zoning regulations, **prior to the issuance of any permits.**
- 14. The Conditional Use Permit (CUP) shall be issued within one year from the date of the final approval or the approval of this CUP shall be null and void, unless an extension is granted by the Town of Ottawa Plan Commission.
- 15. All uses permitted in the zoning district/districts designated on the subject property/properties that is/are the subject of this conditional use request are still permitted in conjunction with the approval of this conditional use request.
- 16. Documentation shall be submitted to the Waukesha County Planning and Zoning Division and the Town Planner that the Waukesha County Environmental Health Division has reviewed and approved a Preliminary Site Evaluation for the proposed use, **prior to the issuance of any permits**.
- 17. The Town Building Inspector shall inspect the entire premises to determine compliance with all applicable building codes and any compliance violations shall be corrected to the Building Inspector's satisfaction, **prior to the issuance of an Occupancy Permit**. *This condition is enforceable by the Town only*.
- 18. The Fire Chief shall inspect the entire premises to ensure compliance with all applicable fire codes, if applicable, and all compliance violations shall be corrected to the Fire Chief's satisfaction, **prior** to the issuance of an Occupancy Permit. This condition is enforceable by the Town only.

- 19. The Town Attorney and Town Planner shall review and approve of the conditions as to form. In the event clarification is required, the item shall be referred back to the Town Plan Commission for clarification. *This condition has been satisfied*.
- 20. Subject to the Town of Ottawa Standard Conditional Use and SPPO conditions as follows:
 - A. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Town Plan Commission and the Waukesha County Park and Planning Commission for determination.
 - B. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this Permit shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, code, regulation, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This Permit shall not be deemed to constitute a Zoning or Building Permit, nor shall this Permit constitute any other license or permit required by Town ordinance or other law.
 - C. This Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission and the Waukesha County Park and Planning Commission as being in compliance with all pertinent ordinances.
 - D. Should the permitted Conditional Use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Town Plan Commission and the Waukesha County Park and Planning Commission, pursuant to the enforcement provisions of this Conditional Use Permit, and all applicable ordinances.
 - E. Any change, addition, modification, alteration and/or amendment of any aspect of this Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
 - F. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Permit may be amended upon the prior approval of the Town Plan Commission and the Waukesha County Park and Planning Commission if the Town Plan Commission and the Waukesha County Park and Planning Commission find the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Town Plan Commission and the Waukesha County Park and Planning

- Commission feel, in their sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- G. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- H. If any aspect of this Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the Conditional Use, the more restrictive provision shall be controlling as determined by the Town Plan Commission and the Waukesha County Park and Planning Commission.
- I. The Petitioner is obligated to file with the Municipal Clerk a current mailing address and a current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this Conditional Use Permit. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this Conditional Use Permit, including proceedings to terminate this Conditional Use Permit.
- J. The petitioner shall accept the terms and conditions of the Conditional Use approval in its entirety, in writing, **prior to the issuance of any permits**. This Conditional Use/SPPO shall not be effective until and unless the Petitioner accepts the terms and conditions in writing as required.
- K. Professional Fees. The petitioner shall, on demand, reimburse the Town of Ottawa for all costs and expenses of any type that the Town incurs in connection with this Conditional Use, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions. *This condition is enforceable by the Town only*.
- L. Payment of Charges. Any unpaid bills owed to the Town of Ottawa by the petitioner, property owner, or their agents, tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town must be paid on demand and prior to issuance of any permits, and shall be placed upon the tax roll for the Subject Property if not paid within 30 days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval. *This condition is enforceable by the Town only*.

As conditioned, the petitioner will be allowed to conduct the online wholesale automobile dealer use in accordance with the Limited Family Business provisions of the Waukesha County Shoreland Protection Ordinance while also protecting the interests of adjacent property owners as no physical transactions will take place on the subject property. The use is also regulated by the WDOT and the DMV, which ensures that business is being conducted in accordance with state regulations. As conditioned, the proposed use will conform with the purpose and intent of the Waukesha County Shoreland Protection Ordinance and complies with the Town and County Comprehensive Development Plans.

Respectfully submitted,

Sandra Q. Scherer

Sandy Scherer Senior Planner

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WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE STAFF REPORT AND RECOMMENDATION CONDITIONAL USE

DATE: March 14, 2024

FILE NO.: CU106

OWNER: Evan McCarthy

N60 W35144 Lake Drive

Oconomowoc, WI 53066-2414

APPLICANT: Regency Builders, Inc.

1133 Quail Court, Ste. 300 Pewaukee, WI, 53072

TAX KEY NO.: OCOT 0533.015

LOCATION:

The subject property is described as Lot 15, Bauers Bays, part of the NE ¼ of Section 26, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Lake Drive address cited above containing approximately 1.34 acres.

ZONING CLASSIFICATION(S):

R-3 Residential.

EXISTING USE(S):

Two (2) single family cottages, two (2) detached garages, a shed and boathouse.

REOUEST:

Allow the existing nonconforming use (two dwelling units) to be maintained as a legal non-conforming use to accommodate new (main) residence near the shore.

PUBLIC HEARING DATE: February 5, 2024

PUBLIC REACTION:

Barbara Bennett at N60 W35130 Lake Dr. submitted a letter alleging that the property owner is operating a seasonal marina and is renting out several boat slips. The rental of boat slips creates, noise, traffic and is a general disturbance to the neighbors. Additionally, the cottage has been rented out to various tenants over the years, and not an immediate family member as proposed.

Michael Thompson at W351 N6018 Bauers Lane lives directly to the west and is in favor of the request and believes that the use is a nice buffer.

TOWN PLAN COMMISSION ACTION:

On February 19, 2024, the Town of Oconomowoc Plan Commission unanimously recommended approval of the request to the Waukesha County Park and Planning Commission, subject to several conditions incorporated below.

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC CDP:

The WCDP designates the property as Low Density Residential (20,000 sq. ft. to 1.4 acres of lot area per dwelling unit). The current land use is two dwelling units (single-family cottages) on 1.34 acres which is consistent with the CDP and Town Land Use Plan (LUP) density parameters.

SECTION 4(g)(15) (Legal Non-conforming Uses) CONDITIONAL USE STANDARDS & REQUIREMENTS:

Conditional use status may be granted to existing Legal Nonconforming Uses upon petition of the owner where such use is determined to not be adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of the Ordinance or would not be otherwise detrimental to the community and particularly the surrounding neighborhood.

STAFF ANALYSIS:

The subject property is located on Lake Drive with frontage on Okauchee Lake. The property is zoned R-3 Residential and is served by a private sewage system and private well. The lot, which is approximately 1.34 acres in size is relatively large compared to the surrounding lots and is unique in that the lot extends further out into Okauchee Lake, creating a small peninsula, which has over 400' of lake frontage. The lot contains two (2) single family cottages, two (2) detached garages, a shed and boathouse. The lot is relatively flat, with the most grade change occurring near the main residence near the shore. The main residence, located near the shore, is approximately 1,700 square feet in size and has a full exposure. The second residence (cottage) is located near the road and is approximately 1,100 square feet in size. The two homes are over 250 feet apart from one another and are connected by a long driveway. Adequate off-street parking exists to accommodate both residences. A survey showing the existing structures is attached as Exhibit A.

The existing residences were constructed in the 1940s. Because the use predates the current zoning requirements that only allow for one dwelling unit on the parcel, the property has legal nonconforming use status. The property maintains legal nonconforming use status so long as the use has not discontinued for 12 consecutive months. Legal nonconforming structures are allowed to make improvements up to 50% of their equalized assessed value (EAV) over the lifetime of the structure but cannot be expanded or enlarged. The petitioner is seeking a Legal Nonconforming Use Conditional Use to protect the use (two dwelling units) in perpetuity and to allow for improvements beyond 50% of the EAV in order to construct a new residence near the lake. The cottage near the road will be used for temporary occupancy by the owners during construction and will then be occupied by the owner's parents.

The existing residence near the shore is nonconforming to the required shore setback. If the home is torn down and a new home constructed, it would be constructed in a conforming location, further from the shore than currently exists. While no building plans have been submitted showing the proposed home, a sizeable home with a footprint of approximately 7,300 square feet could be constructed, given the existing structures and large lot size. The property owner has volunteered to remove the nonconforming detached garage near the shore, as part of the proposal. The new residence near that shore would be occupied by the property owner and his family, and the cottage near the road would be utilized by the owner's parents.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends <u>approval</u> of this request in accordance with the Town of Oconomowoc's recommendations as modified below (modifications or additions to the Town's conditions are in **bold** and deletions are identified in a strikethrough format):

- 1. The subject use is restricted to two (2) single-family residences and **four (4)** three (3) accessory structures on approximately 1.3**04** acres of land. No new structures or uses are allowed unless approved by the Town of Oconomowoc Plan Commission and Waukesha County Park and Planning Commission.
- 2. The nonconforming detached garage near the shore shall be removed prior to the owner obtaining an Occupancy Permit for the new residence.
- 3. No such use (including all structures) shall be expanded or enlarged (horizontally or vertically) without authorization by the Town Plan Commission and Waukesha County Park and Planning Commission. This authorization shall not require a public hearing unless necessitated by the Town or County Staff.
- 4. The Conditional Use Status shall automatically terminate upon evidence that the above use is discontinued for a period of twelve (12) consecutive months as described in Section 3(O)(5)(B) of the Waukesha County Shoreland Ordinance.
- 5. Absolutely, no rental of boat slips/moorings shall occur on the property.
- 6. All other uses on the property shall conform to the use regulations of the applicable Zoning District.

At present, the petitioner has the right to maintain the existing structures and make cosmetic improvements. The proposal to tear down and build a new residence near the shore will exceed 50% of the structure's equalized assessed value and will likely result in a larger structure. The approval of this request, with the recommended conditions, will allow the petitioner to substantially improve the lakeside residence while preserving a long existing cottage. The approval of this request, with the recommended conditions, is in conformance with the purpose and intent of the Waukesha County Shoreland Protection Ordinance and Comprehensive Development Plan for Waukesha County.

Respectfully submitted,

Jacob Heermans

Senior Land Use Specialist

Jart a Heem

Attachments: Exhibit A

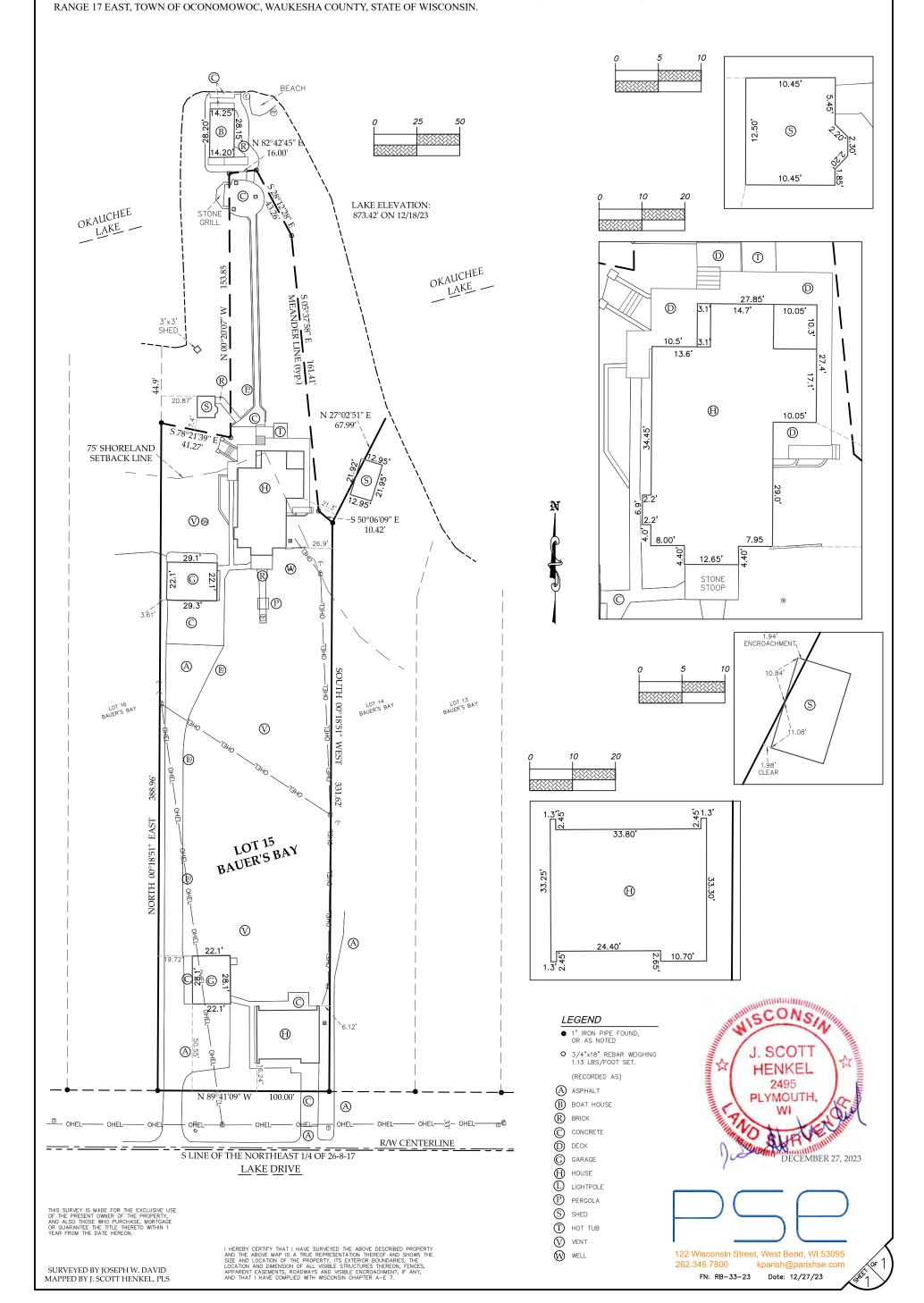
Exhibit A

PLAT OF SURVEY

OWNER: EVAN McCARTHY N60 W35144 LAKE DRIVE OCONOMOWOC, WI 53066

LEGAL DESCRIPTION

LOT 15, BAUER'S BAY, BEING A SUBDIVISION IN THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 8 NORTH,



WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE STAFF REPORT AND RECOMMENDATION CONDITIONAL USE

DATE: March 14, 2024

FILE NO.: CU107 and SP228

OWNER: Brian and Sandy Flood

N56 W39312 Wisconsin Avenue

Oconomowoc, WI, 53066

APPLICANT: Rob Miller Homes, LLC

706 Main Street

Delafield, WI, 53018

TAX KEY NO.: OCOT 0552.014

LOCATION:

The subject property is described as part of Lot 1, Lac La Belle Park, part of the SE ¼ of Section 30, T8N, R17E, Town of Oconomowoc. More specifically, the property is located at the Wisconsin Avenue address cited above, containing approximately .94 acres.

ZONING CLASSIFICATION(S):

R-3 Residential District.

EXISTING USE(S):

Residential.

REOUEST:

Allow an addition to the existing residence for an in-law unit.

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN (CDP) FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC CDP:

The subject property is designated as Medium Density Residential (6,000-19,000 sf/dwelling unit) on the Waukesha County Comprehensive Development plan (CDP) and the Town of Oconomowoc Land Use Plan. The proposal complies with the density requirements of the Town and County Plans.

PUBLIC HEARING DATE: February 5, 2024

PUBLIC REACTION:

Gregory and Karen Mrachek at N56W39322 Wisconsin Ave submitted written comments prior to the hearing. Mr. and Mrs. Mrachek have concerns with the construction traffic and vehicles parking along Wisconsin Ave., which creates a safety hazard and also blocks their mailbox. They suggest no parking signs along Wisconsin Ave. from N56W39300 to N56W39334. Additionally, they are requesting that the existing landscaping along the common lot line (mature arborvitae) be maintained in perpetuity.

TOWN PLAN COMMISSION ACTION:

On February 19, 2024, the Town of Oconomowoc Plan Commission unanimously recommended approval of the request to the Waukesha County Park and Planning Commission, subject to several conditions incorporated below.

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STAFF ANALYSIS:

The lot which is approximately .94 acres in size contains a two-story single-family residence with an attached garage, deck, screen porch, swimming pool and detached garage. The home and detached garage were constructed in 1994. An expanded deck and pool were permitted in 2011 and the screen porch was permitted in 2018. In 2023 the owners applied for a Zoning Permit for an addition to the principal structure, adding living space on both the first and second floors and increasing the size of the attached garage. A new, larger, detached garage was also proposed to replace the existing detached garage. The addition included a first-floor workshop space on the southernmost part of the attached garage with a bedroom directly above. The approved building plans are attached as Exhibit A.

The petitioners are proposing to modify the previously approved permit to allow for an in-law unit. The proposed workshop on the 1st floor will be converted to a living room and kitchen, and the bedroom directly above will remain. A bathroom on the second floor will serve both the in-law unit and additional 2nd floor bedrooms. The proposed building plans are attached as Exhibit B.

The approved building plans for the addition permitted in 2023 show a window on the south side of the addition, facing Wisconsin Ave. with the exterior door to the in-law unit on the east side of the attached garage. There is a fire door from the attached garage to the in-law unit providing an interior door from the principal residence to the in-law unit, as well as a connection on the second floor. The new building plans for the in-law unit now show an exterior door on the south side of the addition, replacing the window, and the door in the east side of the attached garage removed. The interior fire door from the attached garage to the in-law unit on the first floor is also removed. The new configuration removes the interior connection from the principal residence and the in-law unit on the first floor and creates the appearance of a duplex, when viewed from the road. Staff relayed these concerns to the applicant, and recommended that revised plans be submitted, more in line with the original approval, removing the door facing Wisconsin Ave. The applicant has indicated that they are agreeable to that change.

STAFF RECOMMENDATION:

The Planning and Zoning Division staff recommends **approval** of this request in accordance with the Town of Oconomowoc's recommendations as modified below (modifications or additions to the Town's conditions are in **bold** and deletions are identified in a strikethrough format):

- 1. This Conditional Use Order authorizes an in-law unit to be located within the subject property, consisting of a room or suite of rooms used or occupied as a separate housekeeping entity within the single-family dwelling (adjacent to garage area) occupied by persons related by blood or marriage to the family or persons occupying the single-family dwelling, subject to all terms and conditions of this Conditional Use Order.
- 2. The use shall be conducted in compliance with the building plans, site plan and plan of operation that have been approved by the Town Plan Commission and Waukesha County and on file with Waukesha County. Any modification to the building plans, site plan, or plan of operation shall be submitted to the Town Planner and Waukesha County Staff for review and approval. No such modifications are permitted unless the Town Planner and Waukesha County Staff first approve them. Substantial changes may require a new permit and all procedures in place at the time must be followed. The exterior door on the south side of the proposed addition shall be removed in accordance with Condition No. 6 below.
- 3. The maximum living area in the in-law unit shall not exceed 800 square feet for a two-bedroom unit.

CU107/SP228 Flood Page 3

- 4. There shall be an additional parking space for the in-law unit.
- 5. There shall be no more than one (1) in-law unit per single-family lot.
- 6. Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with. A common entrance to the residence and in-law unit should be designed into the structure so that a separate front entrance off of the common entrance is available and the structure does not appear to be a duplex. Waukesha County shall ensure that this requirement is met.
- 7. The Town Planner and the Waukesha County Zoning Staff shall determine if it is appropriate to have an interior door between the in-law unit and the principal residence. *The proposed building plans show an interior door between the in-law unit and the principal residence.*
- 8. A Deed Restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Plan Commission and the County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.
- 9. Subject to the petitioner satisfying all terms, conditions and requirements of the Town of Oconomowoc Building Inspector, regarding the building and the property, to ensure compliance with all applicable laws, codes, statues, ordinances, rules and other lawful authorities, prior to occupancy of the building for the intended use. The petitioner shall allow the Town of Oconomowoc Building Inspector access to the property and building for the purpose of conducting such inspections.
- 10. Subject to the proposed use and any plans being reviewed and approved by the Western Lakes Fire District, prior to issuance of a permit. Any concerns or issues raised by Western Lakes Fire District shall be complied with. Any disputes with Western Lakes Fire District shall be forwarded to the Town Plan Commission for resolution of the dispute.
- 11. The Conditional Use Permit shall automatically expire and terminate on the sale of the property or its transfer to non-family member or non-occupant of the property.
- 12. The petitioner shall allow the premises to be available for inspection by the Town of Oconomowoc and Waukesha County officials at any reasonable time and upon reasonable notice.
- 13. All activities on the subject property herein may not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.
- 14. Subject to all laws, ordinances, regulations, and rules of the State, County, Town and USA.
- 15. Construction vehicles shall park on the subject property to the greatest extent practicable.

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16. Petitioner shall, on demand, reimburse the Town of Oconomowoc for all costs and expenses of any type that the Town incurs in connection with this Conditional Use Permit, including the cost of professional services incurred by the Town of Oconomowoc (including engineering, legal, planning and other consulting fees), for the review and preparation of the Conditional Use Permit or attendance at meetings or other related professional services for this application, as well as to any actions that the Town of Oconomowoc is required to take to enforce the conditions in this Conditional Use Permit due to a violation of these conditions. All fees due and owing at the time shall be paid prior to the issuance of the Conditional Use Permit, and such fees coming due following the issuance of the conditional use permit shall be paid within thirty (30) days of billing. *This condition is enforceable by the Town only*.

17. Payment of Charges. Any unpaid bills owed to the Town by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees, or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval. *This condition is enforceable by the Town only*.

If approved as recommended, the petitioners will be allowed to continue the use of an in-law unit to provide family with an adequate living unit while not adversely affecting adjacent property owners or jeopardizing the integrity of the Waukesha County Shoreland Ordinance.

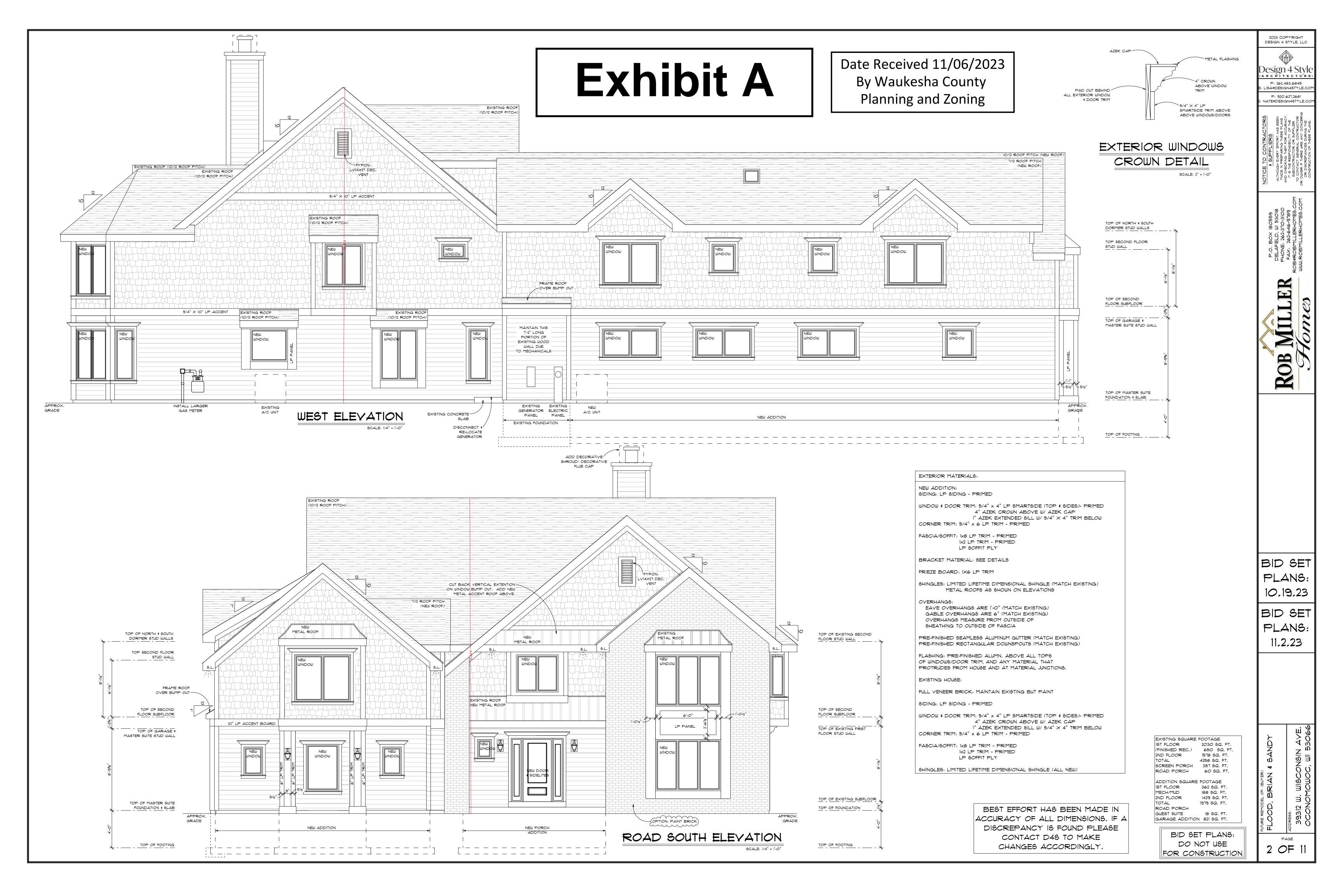
Respectfully submitted,

Jacob Heermans

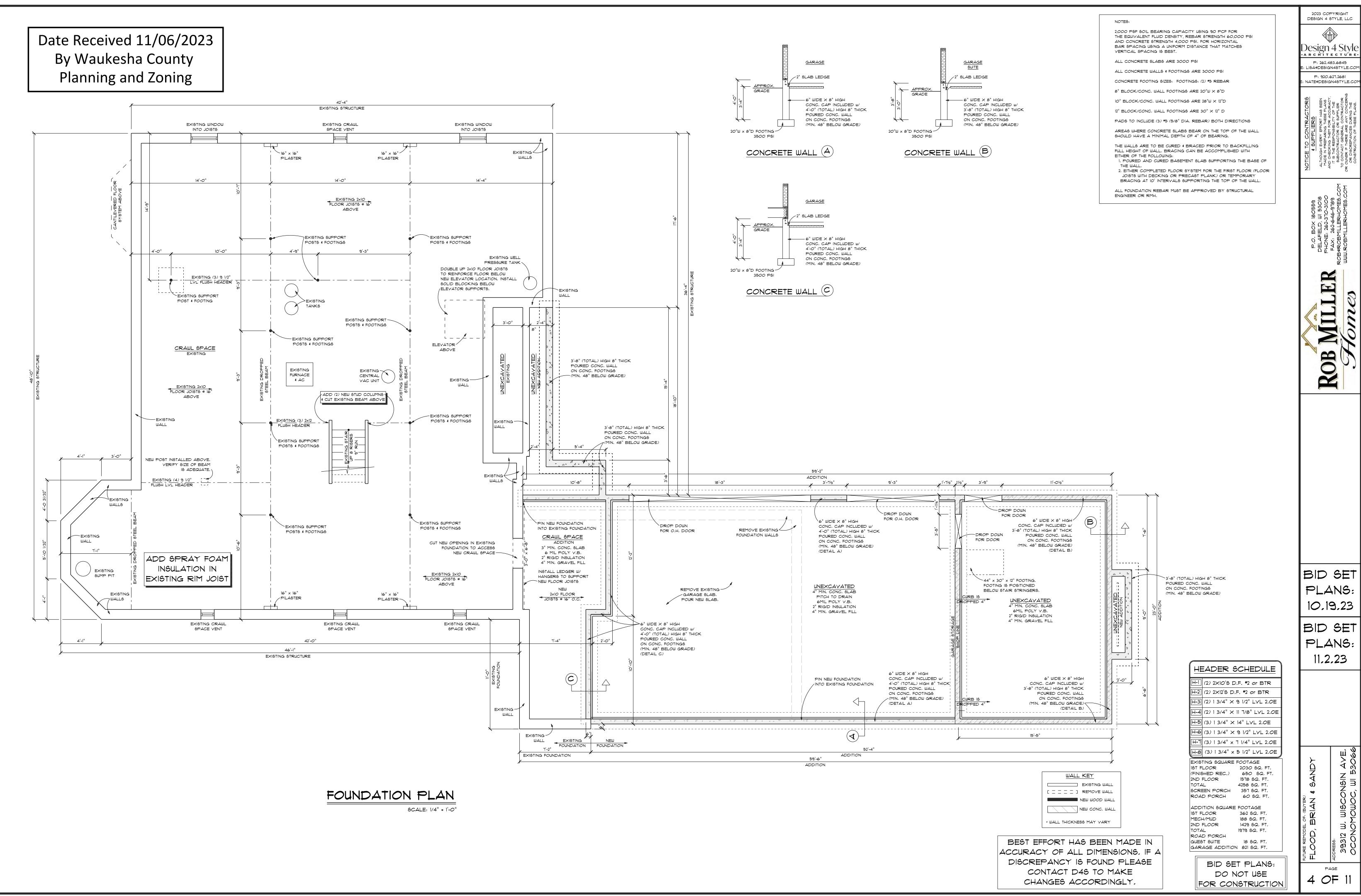
Senior Land Use Specialist

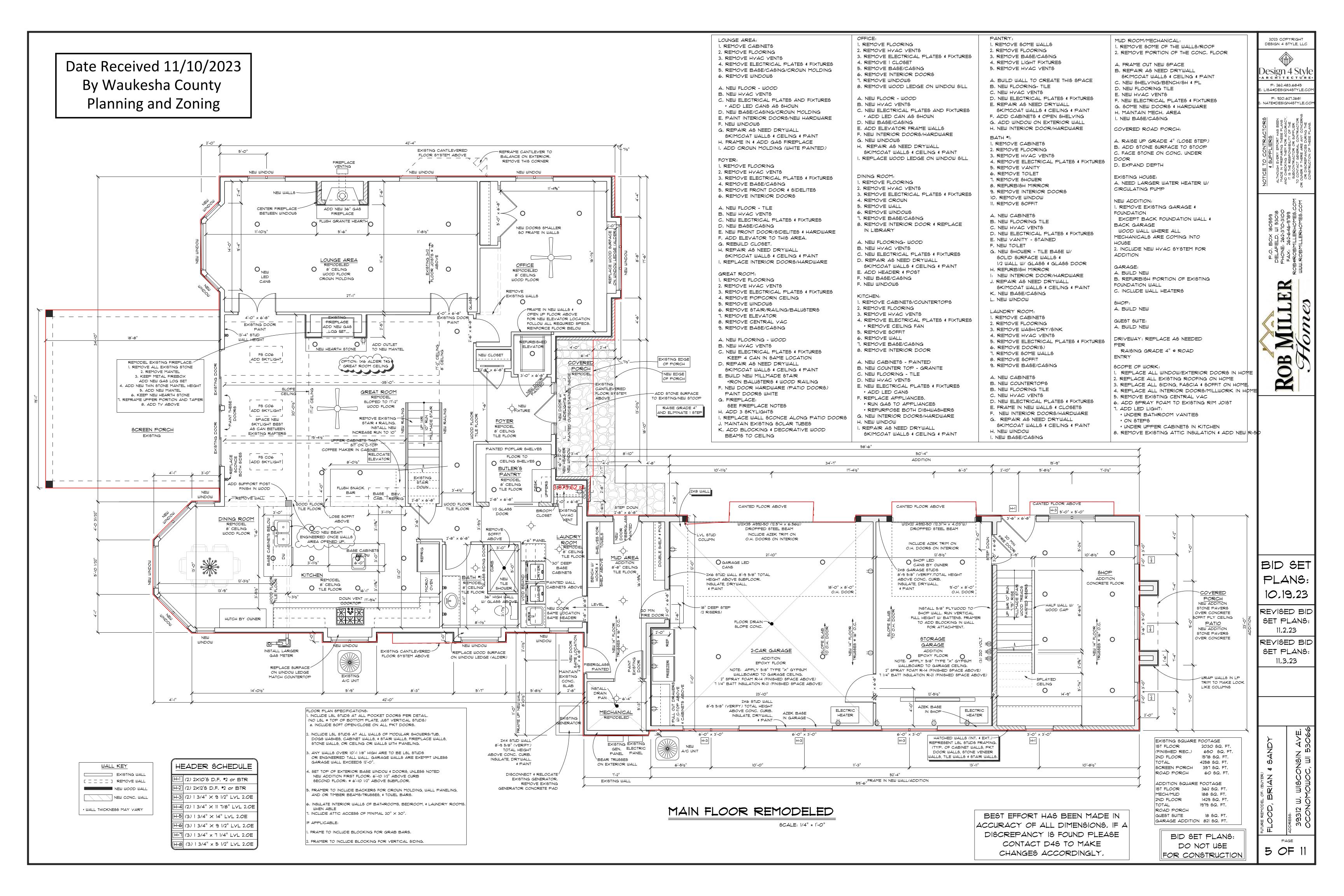
Attachments: Exhibits A-B

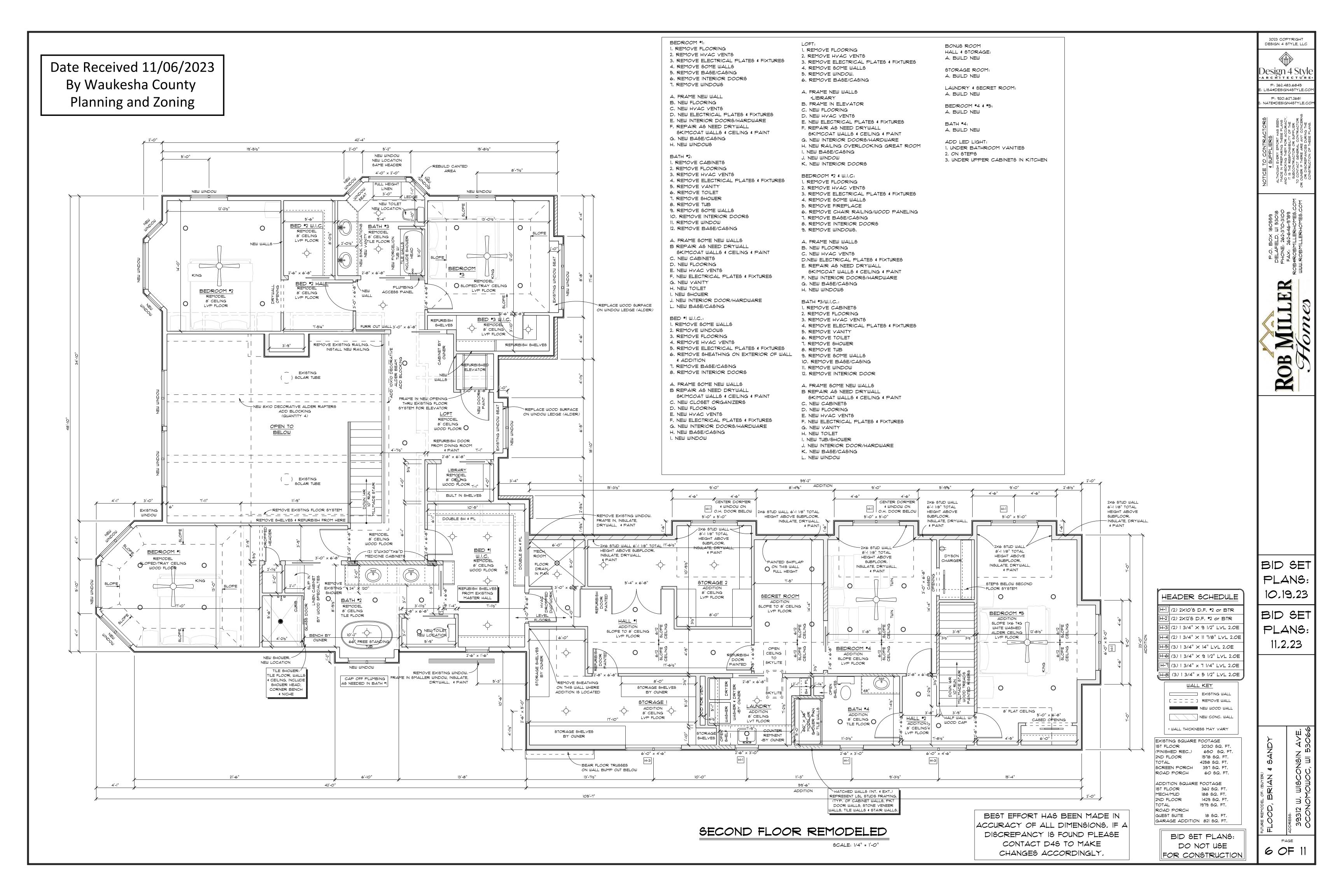
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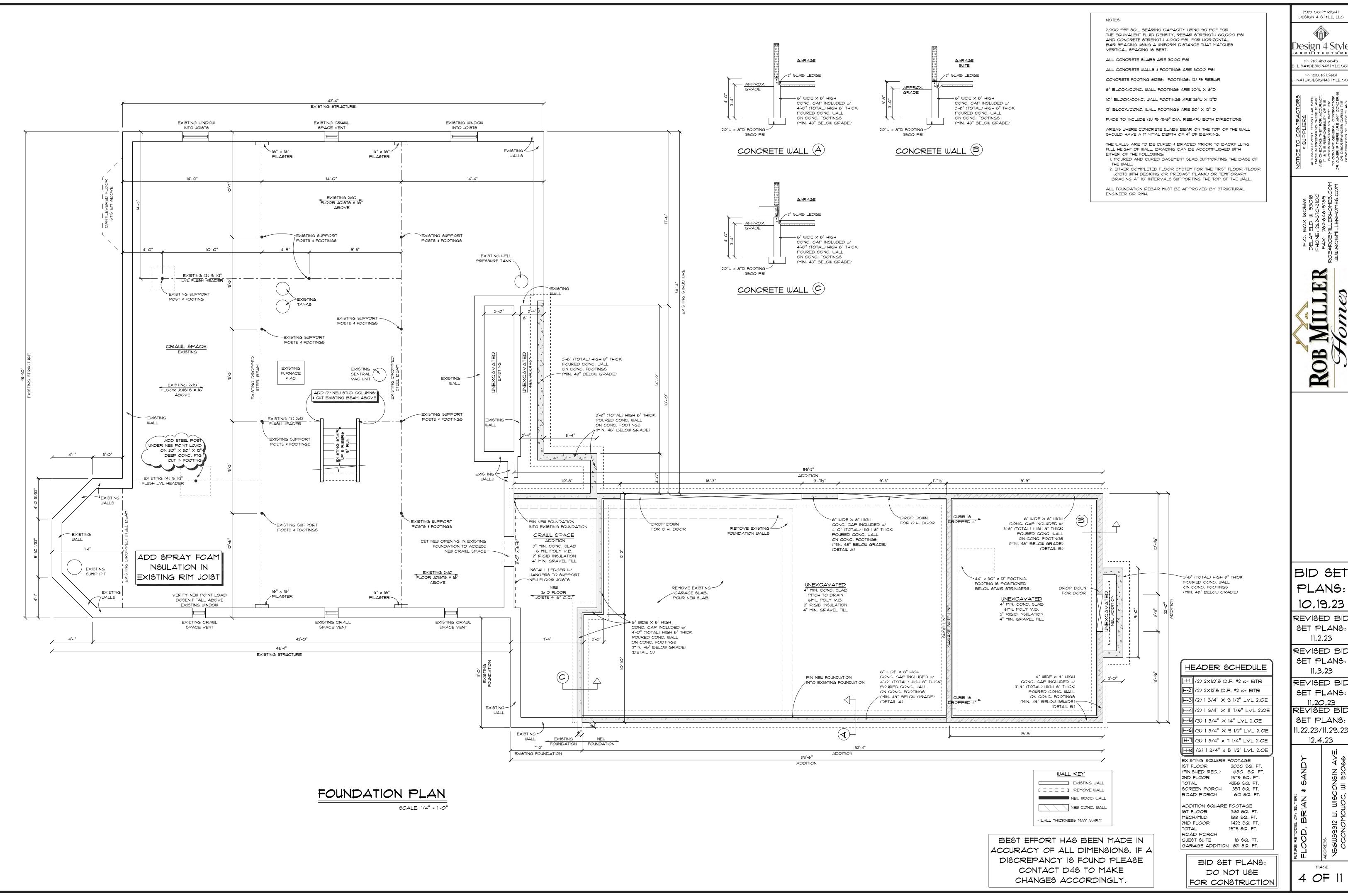






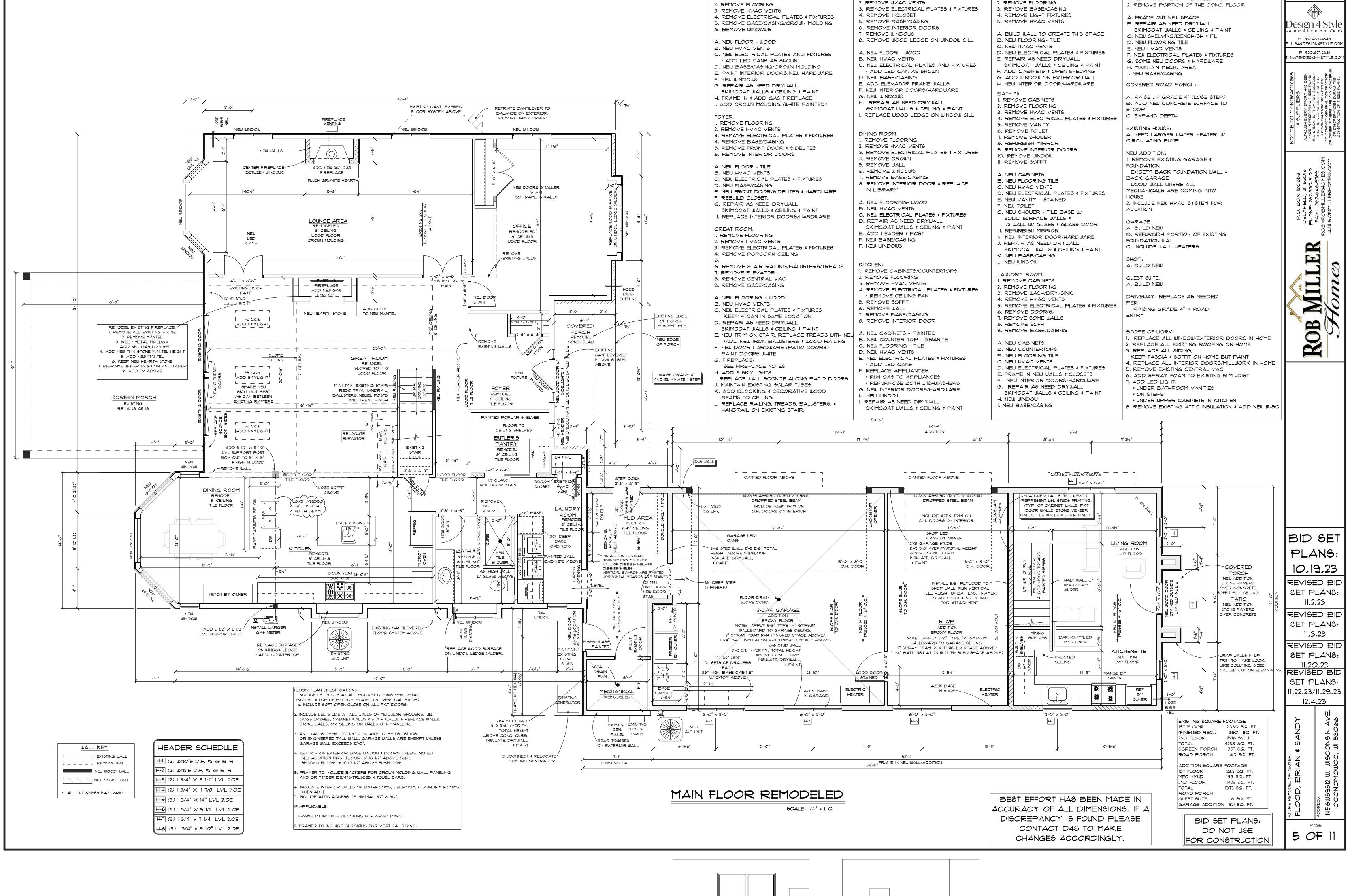






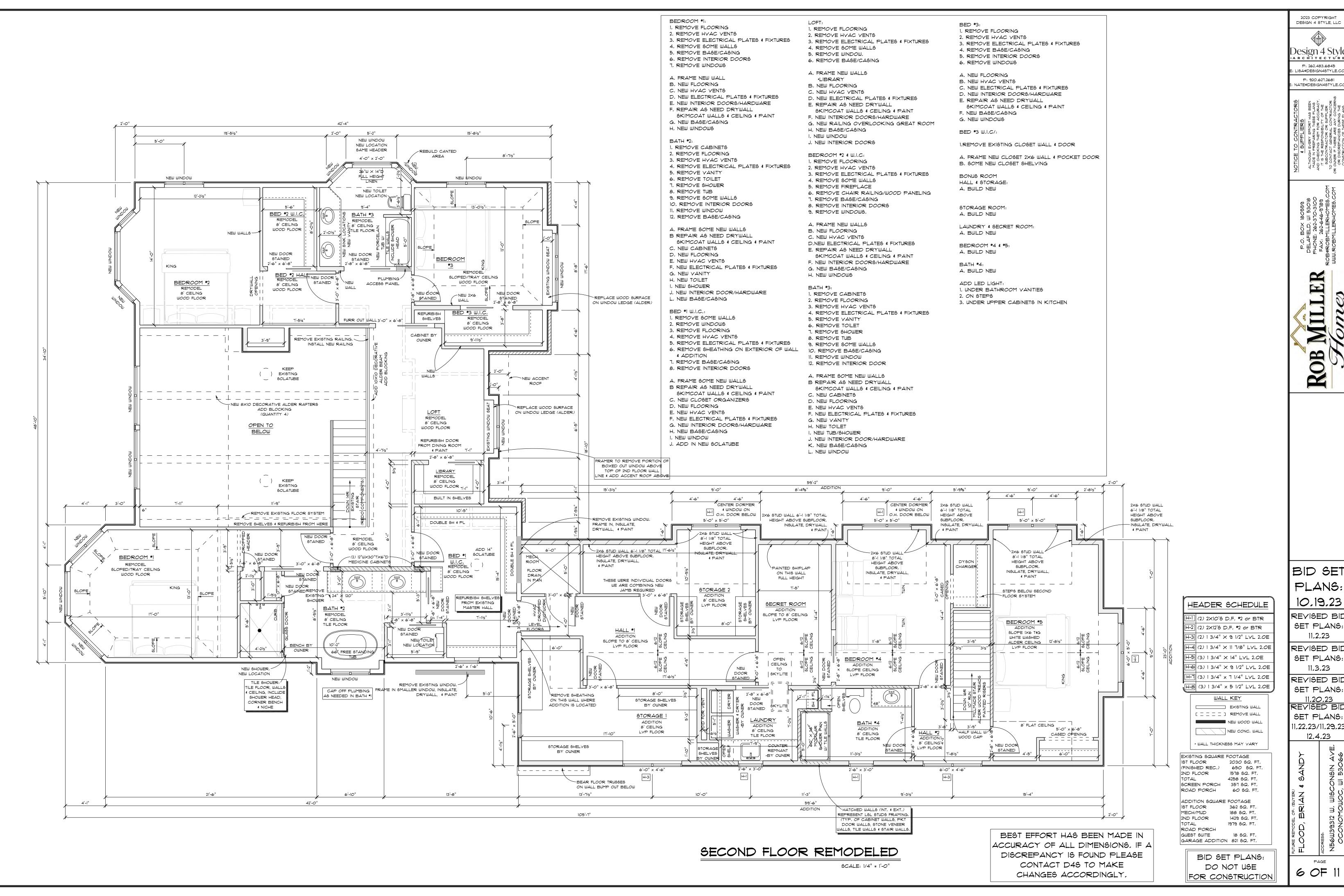
ARCHITECTURE

SET PLANS:



KELIOVE CADINELS

REFIGYE SOFIE OF THE WALLS/ROOF



: NATE@DESIGN4STYLE.Co

REVISED BIL SET PLANS:

11,20,23 REVISED BID SET PLANS: 11.22.23/11.29.23