



CITY OF FISHERS AGENDA

BOARD/COMMISSION: Board of Zoning Appeals - Fall Creek

DATE: 8/22/2024 at 6:00 PM

**DIRECTIONS: Fishers Municipal Center, Nickel Plate Conference Room, 3rd Floor,
1 Municipal Drive, Fishers, IN 46038**

In accordance with the Americans with Disabilities Act (ADA), the City of Fishers will, upon request, provide appropriate aid (i.e. interpreters) and/or assistance leading to effective participation for people with disabilities. Anyone who requires such assistance should [email Kelly Lewark](#), Office Manager, no later than 48 hours before the scheduled event or call at (317) 595-3487.

1. Call to order / Pledge of Allegiance

2. Roll Call

3. Elections

a. Election of Officers, Appointments, and Designations

1. Election of Chairperson
2. Election of Vice-Chairperson
3. Appointment of Secretaries (Ross Hilleary, Kevin Martin, Christy Cashin, Gabrielle Herin, Grace Wiley)
4. Appointment of Recording Secretary (Kay Prange, Kelly Lewark)
5. Designation of BZA Legal Counsel (Krieg DeVault)
6. Designation of Commission Legal Publications (The Current in Fishers and the Current in Lawrence/Geist.)

4. Approval of Previous Minutes

- a. 8-10-23

5. Public Hearings

- a. **12201 Florida Rd Pole Barn Variance**

Parcels: 13-12-31-00-00-006.000, 13-12-31-00-00-006.002

Address: 12201 Florida Rd

Case: VA-24-17

Request: Consideration of a Development Standards Variance from Section 6.2.2.A of the City's Unified Development Ordinance (UDO) to allow an increase in the maximum floor area of all accessory structures from 4,000 square feet to 5,300 square feet to add a pole barn for an agriculture related use.

Petitioner: Connie Marten (connie@martenrealtygroup.com)

Planner: Gabrielle Herin (hering@fishers.in.us)

6. New Business

7. Old Business

8. Staff Communication

- a. FCBZA Rules and Procedures

9. Board Signatures – Findings of Fact

10. Adjournment

**CITY OF FISHERS
BOARD OF ZONING APPEALS - FALL CREEK DIVISION
Fishers Pavilion
MINUTES
August 10, 2023**

The Fall Creek Board of Zoning Appeals convened at 6:00 p.m.

A roll call was taken. Members present: Steve Richards, Chris Huck, Rich Bassett, Joel Fenske. Others present: Rodney Retzner, Megan Vukusich, Ross Hilleary, Andrew Wert, Keerthi Srinivasan, Venkatesh Hemamalini, Ramesh Krishna, Mani Subramaniam, Sandhya Chevalz (sp?).

Mr. Richards confirmed quorum and called the meeting to order.

Minutes from the May 25, 2023 meeting were approved, 4-0. Mr. Richards made a Motion to approve, seconded by Mr. Bassett.

Public Hearings:

a. Jai Hanuman Temple Special Exception Continued from May 25, 2023

Parcel: 13-12-31-00-00-024.001

Address: 12323 Cyntheanne Rd.

Case: Special Exception 103574

Request: Consideration of a Special Exception to allow for a place of worship use on a property zoned R2.

Petitioner: Andrew Wert (awert@cchalaw.com) for Keerthi Srinivasan

Andrew Wert with CCHA, representing the Jai Hanuman Temple organization, presented the Special Exception on behalf of Keerthi Srinivasan for an unoccupied home, Zoned R2, to be used as a place of worship for the community. Considerable progress has been made and a new site plan vision developed. Phase 1 is for detention and parking in back. Phase 2 is for the home to be demolished and a new facility and additional parking to be added, plus a stub street to the west to link to future commercial development. Megan Vukusich presented the Staff Report. A house of worship is permitted in an R2 with special conditions. The main concern is the proposed ROW. The home sits on the existing ROW. Drawings were reviewed of Phase 1 and Phase 2 site plan and parking lots. Staff recommends denial. The house is still sitting on the ROW line. The property is next to the Fall Creek Marketplace PUD development. Corby Thompson has asked for the proximity requirements for a future liquor store to be waived. Petitioner is agreeable to this.

Mr. Richards opened the Public Hearing.

Seeing no one from the Public to speak on this topic, he closed the Public Hearing.

After Committee discussion about the 12/31/2027 EOY timeframe for completion of Phase 2, it is agreed that there are lots of variables and unknowns. Mr. Richards is leaning toward approval, although it is his opinion that this is not the best location. Mr. Bassett is concerned with single-directional parking. Mr. Fenske confirmed that impervious surface % for commercial space is OK?

Mr. Richards made a Motion to approve, seconded by Mr. Huck. The conditions are as follows and were reviewed verbally:

1. The Special Exception approval is for the current owner of the property and runs with the current property owner. The approval terminates upon transfer of the ownership to any, other individual or entity other than the original entity that will be operating the currently-proposed Place of Worship.
2. The Petitioner shall have the Special Exception approval letter recorded and shall provide staff with a copy of the recorded document.
3. A Hold Harmless Agreement shall be executed between the City of Fishers and the property owner, and recorded, for a structure that encroaches into the future right-of-way of Cyntheanne Road.
4. Phase 1 construction activities, specifically parking and detention pond, shall be completed prior to the facility being used as a religious facility/place of worship.
5. The Property shall be annexed into the City, the application for which shall be filed prior to the issuance of any Improvement Location Permit.
6. Approval for use of the existing structure as a religious facility/place of worship is for a maximum of four (4) years. This Special Exception approval shall expire on 12/31/2027 unless (1) the existing structure is demolished by that date, or (2) an extension is granted by the Board after proper request and approval prior to 12/31/2027.
7. All other requirements for new development activities shall apply, including but not limited to those in the UDO (including platting), other local jurisdictional regulations and local and state construction permits.
8. The Approval is subject to the plans and material presented to the Board and further subject to any conditions and/or stipulations hereinafter stated in the official meeting minutes of the Board meeting, which are incorporated herein by reference and made a part hereof.

The Motion was approved, 4-0.

As there was no other business, the meeting was adjourned at 6:40 p.m.

Respectfully Submitted by:

Kay Prange, Recording Secretary



Fall Creek Board of Zoning Appeals Staff Report

Meeting Date: August 22, 2024

DEPARTMENT CONTACT:
Gabrielle Herin, Senior Planner
hering@fishers.in.us

CASE NUMBER:
VA-24-17

PETITIONER:
Connie Marten,
connie@martenrealtygroup.com

PROPERTY ADDRESS/LOCATION:
12201 Florida Rd, Fishers, IN 46037

REQUEST: Consideration of a Development Standards Variance from Section 6.2.2.A of the City's Unified Development Ordinance (UDO) to allow an increase in the maximum floor area of all accessory structures from 4,000 square feet to 5,300 square feet to add a pole barn for an agriculture related use.

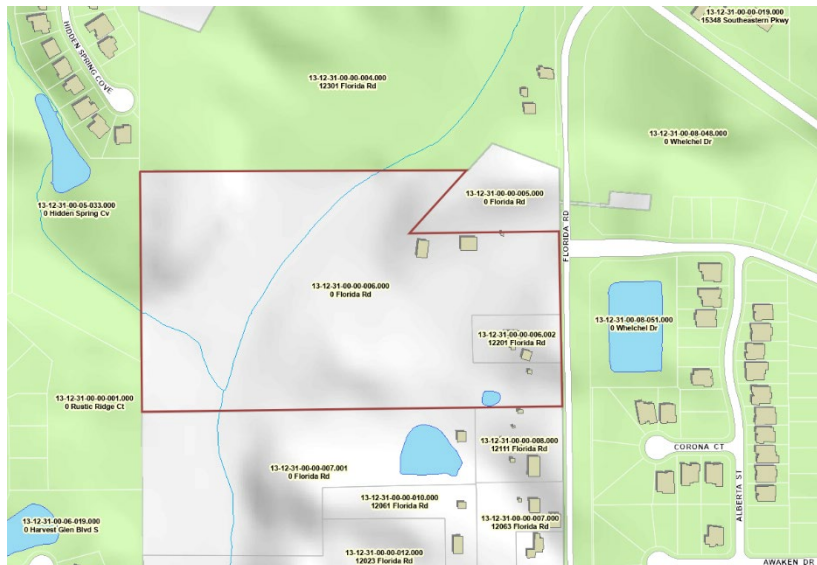
APPLICABLE REGULATIONS:
Unified Development
Ordinance (UDO)

EXISTING ZONING:
Unified Development
Ordinance (UDO)

FISHERS 2040:
Estate Residential, Open Space

LOT SIZE: 20 acres

LOCATION MAP



STAFF RECOMMENDATION

☒ Approve ☐ Continue ☐ Deny ☐ No Recommendation

ZONING HISTORY:

The subject properties are zoned R-2 under the Unified Development Ordinance (UDO).

SURROUNDING LAND USE & ZONING:

North: R2 (Cemetery, Traditional Single Family)

South: R2 (Agriculture Use, Traditional Single Family)

East: PUD-R (Traditional Single Family)

West: PUD-R (Traditional Single Family)

Zoning Map



SUMMARY OF PUBLIC COMMENTS:

There have been no public comments at the time of writing this staff report.

PETITION OVERVIEW:

Summary of Request

Connie Marten, the property owner, is requesting a Development Standards Variance to allow an increase in the combined maximum floor area of all accessory structures from 4,000 square feet to 5,300 square feet for a 1,500 square feet proposed pole barn. The new building will be used to store farming equipment.



Figure 1. Site Plan

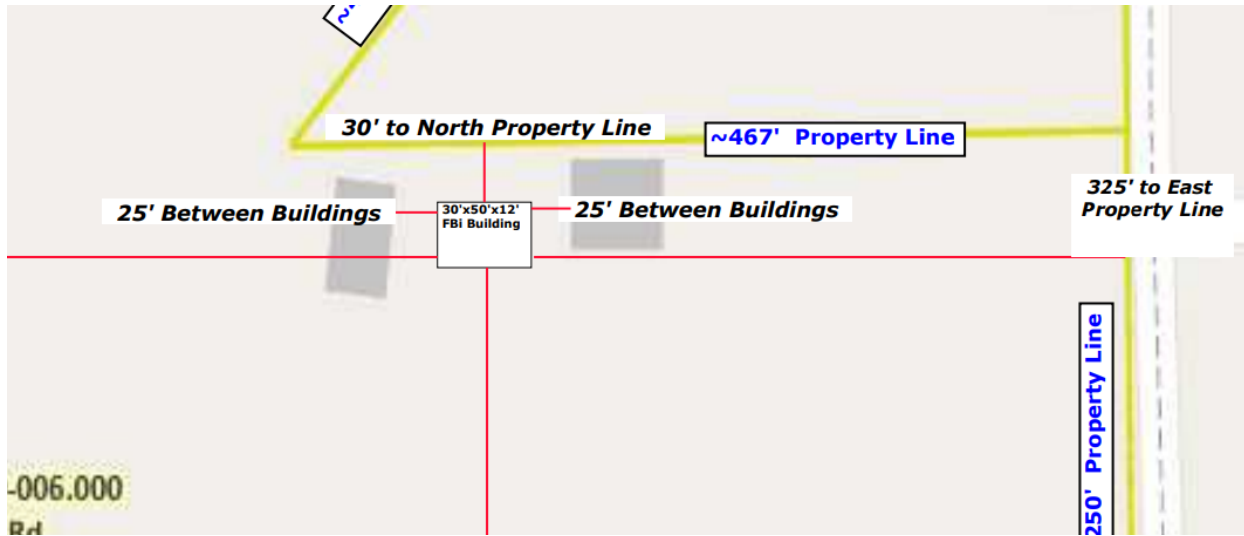
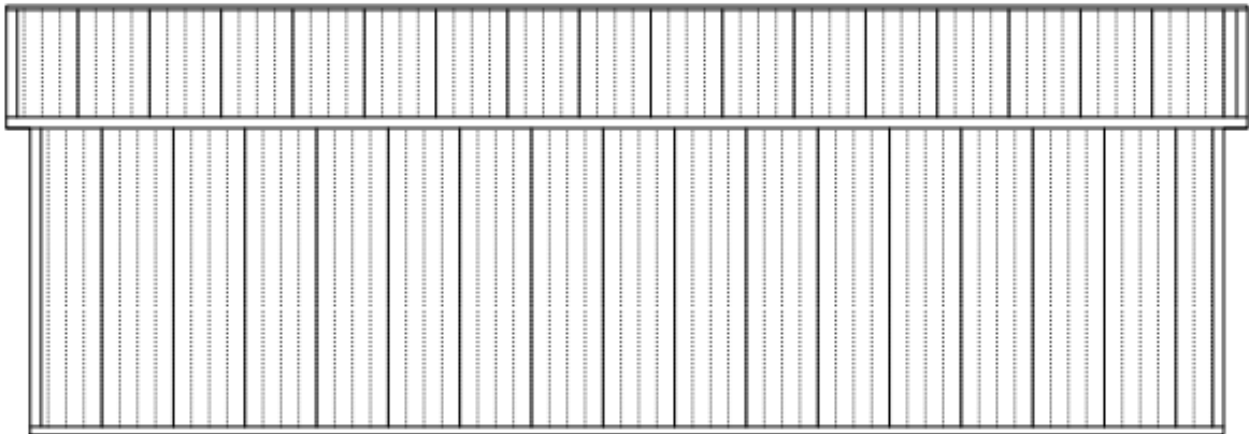
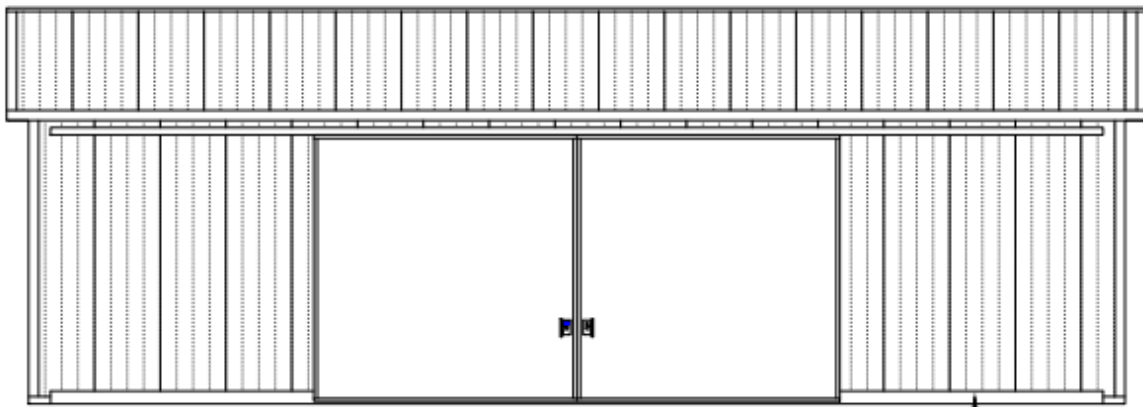


Figure 2. Zoomed in View showing location of proposed pole barn.

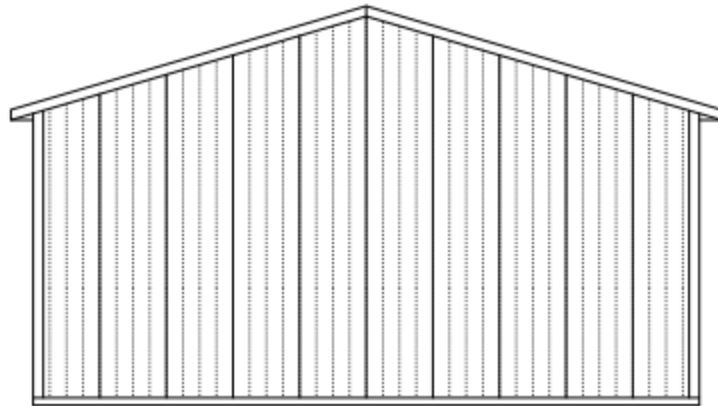


NORTH ELEVATION
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

Figure 3. North and south elevations of proposed pole barn.



WEST ELEVATION
SCALE: 1/8" = 1'-0"



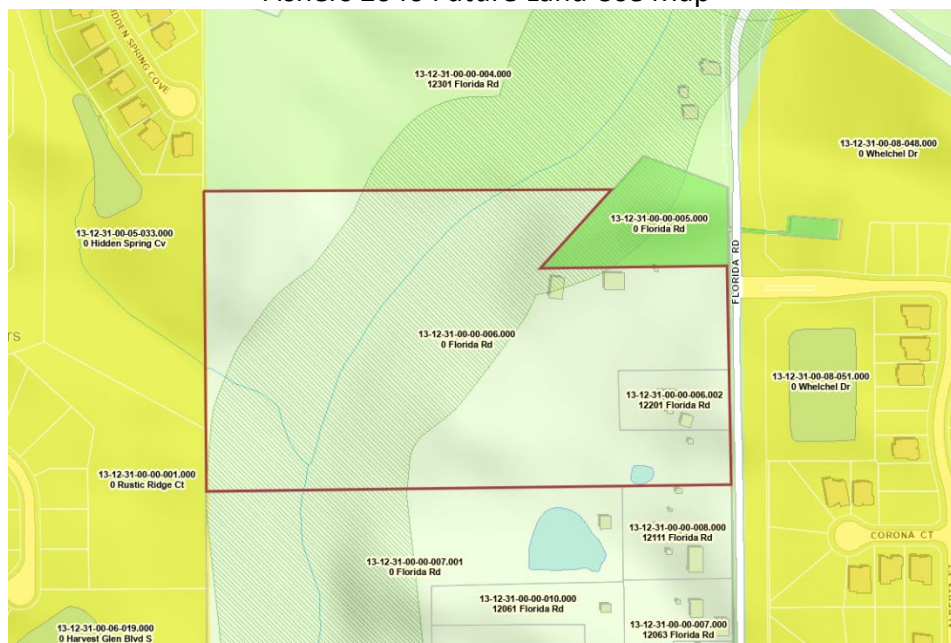
EAST ELEVATION
SCALE: 1/8" = 1'-0"

Figure 3. West and East elevations of proposed pole barn.

Fishers 2040

Fishers 2040 identifies the future land use of this lot to be estate residential and open space.

Fishers 2040 Future Land Use Map



STAFF RECOMMENDATION:

Staff recommends approval for this request. The building will be used to store agricultural equipment only. Additionally, the aggregate floor area of all accessory structures does not exceed 2% of the total lot area.

If the Board approves this Variance Staff requests the following conditions, and any others sought by the Board:

1. The Approval Letter and relative documentation be recorded on the property with the Hamilton County Recorder's Office.
2. Property is annexed into the City of Fishers.

STAFF RECOMMENDATION

☒ Approve ☐ Continue ☐ Deny ☐ No Recommendation



X:	Purchaser Approval	Date
X:	Seller Approval	Date
	Drawing #	

Tom & Connie Marten 12201 Florida Rd Fortville, IN 46040	Construction Zone
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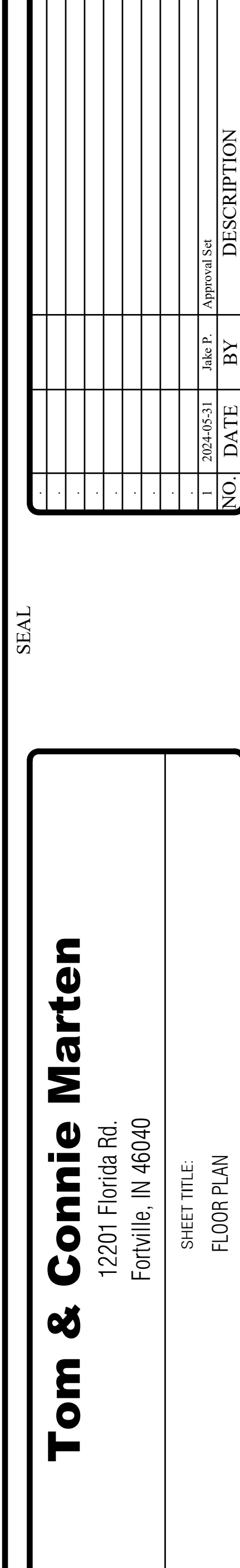
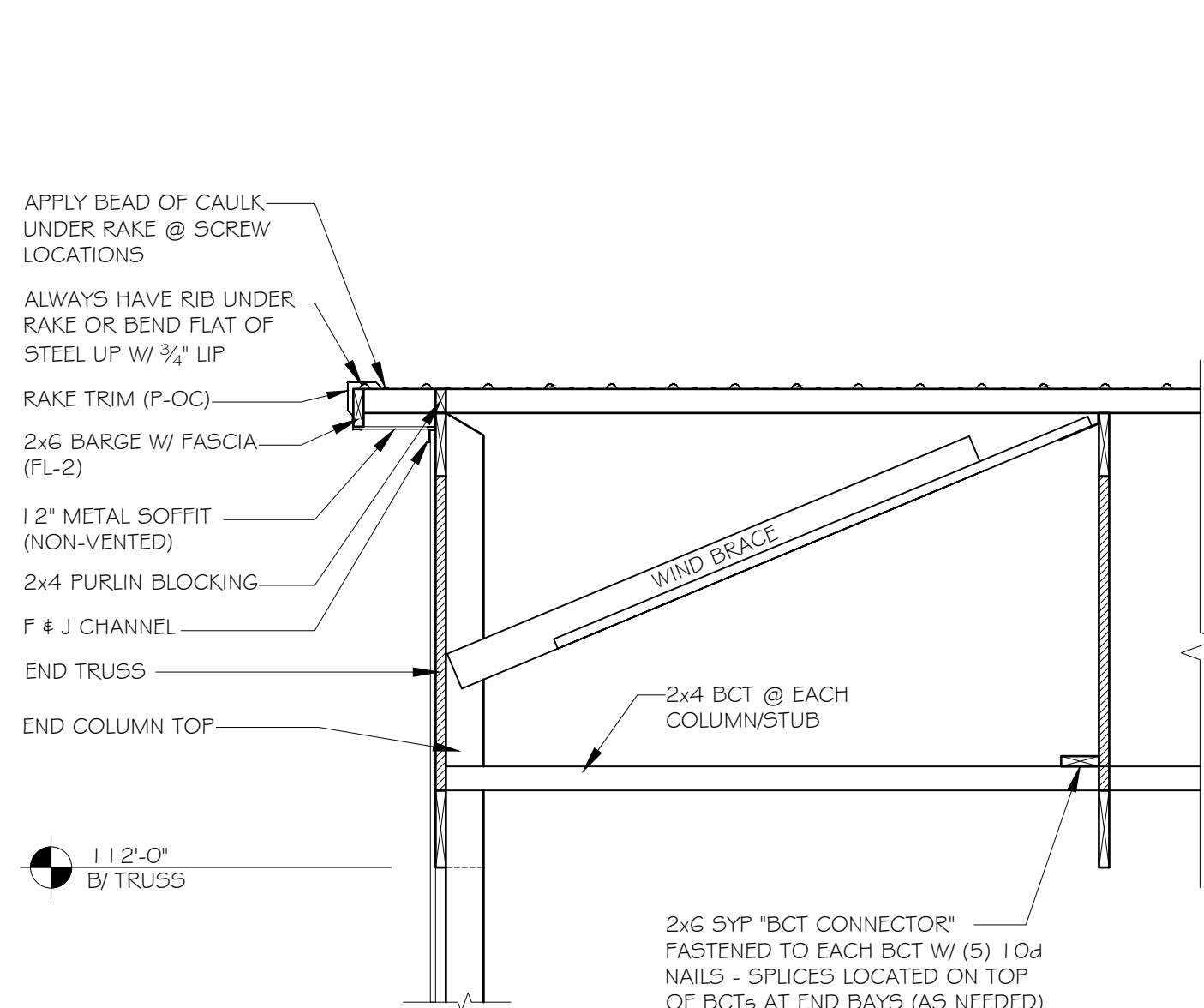


FBI

FBI Buildings, Inc.
3823 W 1800 S
Remington, IN 47977
219-261-2157
www.fbibuildings.com

Date : 06/01/24
Name: SAC
Rev 0

PRELIMINARY
THESE DRAWINGS
ARE FOR
REVIEW
ONLY
These drawings are
not complete and
are not to be used
for construction.



Fastener Specs:

- Nails shall be called out on drawings by penny weight. The following fasteners & specs have been used in design & shall be used in construction:

- 10d x 1 1/2"	- 14d ⁸ x 1 1/2"
- 10d	- 12d ⁸ x 2 3/4" threaded pneumatic
- 16d	- 16d ² x 3 1/2" common
- 16d R.S.	- 14d ⁸ x 3 1/2" threaded hardened-steel
- Substitution of fasteners shall not be permitted without the written consent of the design engineer *except* as follows:
 - 10d nails may be used to replace 16d or 16d R.S. nails where specified at a 2:1 ratio.
 - 16d or 16d R.S. nails may be used to replace 10d nails where specified at a 2:3 ratio.
- Unless noted otherwise all nails shall be evenly distributed over the connection area, placed in an orderly straight pattern, and shall be driven into the center of the narrow face of 2x members when applicable. Nail spacing, nail sizes and spacing for nails shall be sufficient to prevent splitting of the wood. Nails that do not make a solid connection shall be compensated for by adding extra nails that meet the required specs.
- Fasteners in pressure treated lumber must be hot-dipped galvanized, stainless steel or tested for that purpose.
- All self-gauge metal connectors shall be fastened per manufacturer's specs.
- Fasteners called out on the drawings shall be as follows:

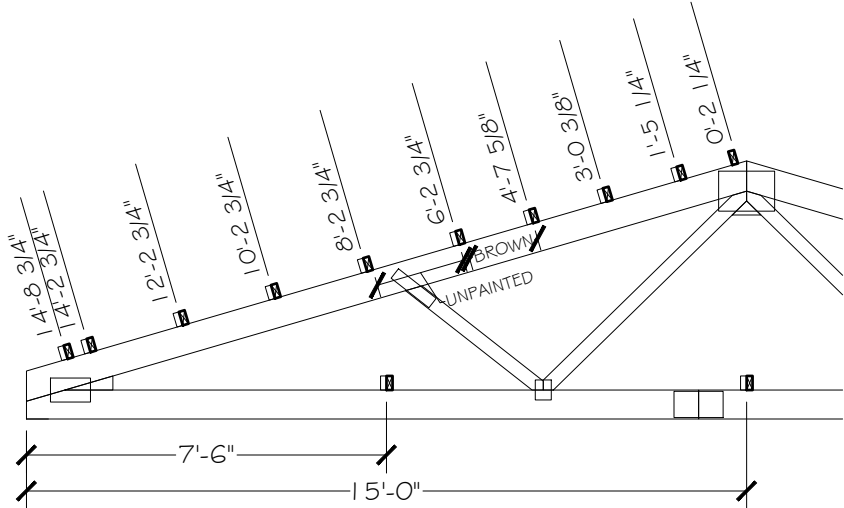
- STRUCTURAL-XS	- 1/4" x 1 1/2" GRK RSS or equal
- STRUCTURAL-S	- 3/8" x 2 1/2" GRK RSS or equal
- STRUCTURAL-M	- 3/8" x 4" GRK RSS or equal
- STRUCTURAL-L	- 3/8" x 5 1/2" CONCRETE structural wood screw or equal
- PURLIN SCREW	- 3/8" x 3" FASTENMASTER HEADLOK or equal
- I-BEAM SCREW	- 1/4"-20 x 2 3/4" IMPAX WOOD TO METAL SELF-DRILLER or equal
- CONCRETE SCREW	- 1/4" x 2 3/4" TAPCON or equal

LENGTH (-1/16")	COLOR
16'-8"	RED
15'-0"	GREEN
13'-0 1/4"	YELLOW

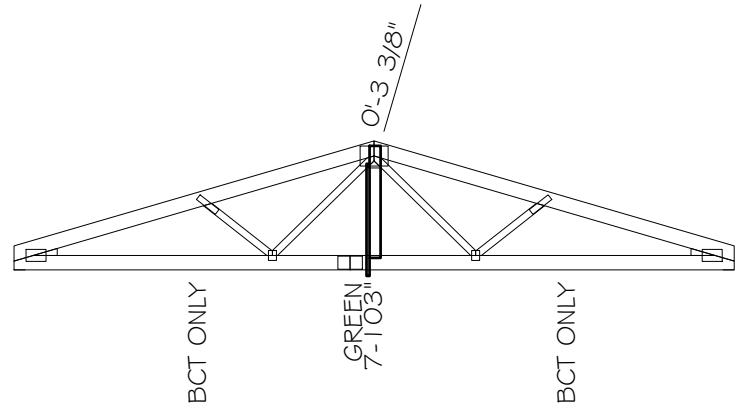
MISCELLANEOUS PRE-CUT SCHEDULE		
LENGTH	COLOR	COMMENTS
+	RED	+
+	GREEN	+
+	YELLOW	+
+	ORANGE	+

20-2027-00 Tom and Connie Marten T1	Ply: 1 Qty: 7 Wgt: 205.8 lbs	SEQN: 19400 / T1 / COMN FROM: 385	DRW: / ... 05/24/2024
Loading Criteria (psf) TCLL: 15.00 TCDL: 4.00 BCDL: 4.00 Des LE: 23.00 NCRCLL: 0.00 Soffit: 2.00 Load Duration: 1.15 Spacing: 19.00" Wind Criteria Wind Std: ASCE 7-16 Speed: 115 mph Enclosure: Closed Risk Category: II Exp. C Mean Height: 15.00 ft TCCL: 2.0 psf BCCL: 0.6 psf MWERS Parallel Dist: 0 to h/2 C&C Dist a: 3.00 ft GCpt: 0.18 Wind Duration: 1.60 Snow Criteria (Pg. 97 in PSF) Pg. 20.0 C: 1.2 CAT: II PE 15.1 Cc: 0.9 Loc: 16.0 Cs: 1.00 Snow Duration: 1.15 Code / Misc Criteria Bldg Code: IBC 2018 TPR Std: 2014 Rep Factors Used: No Ft/RT: 1000/500(400) Plate Type(s): WAVE, 18SS Defl/CSI Criteria PP Deflection in: loc L/delt L/R VERT(LL): 0.222 H 999 240 VERT(TLL): 0.343 H 999 240 HORIZ(LL): 0.060 E - - HORIZ(TL): 0.092 E - - Creep Factor: 2.0 Max TC CSI: 0.437 Max BC CSI: 0.993 Max Web CSI: 0.475 Mfg Specified Camber: VIEW Var: 23.01.02.0731.18 Maximum Reactions (lbs) Gravity Loc R+ /R- /Rb /Rw /L /RL I 2920 /- /- /070 /1386 /176 J 2920 /- /- /070 /1386 /- Wind reactions based on MWERS I Brg Wtd = 5.5 Min Req = 2.4 (Truss) J Brg Wtd = 5.5 Min Req = 2.4 (Truss) Bearings I & J are a rigid surface. Maximum Top Chord Forces Per Ply (lbs) Chords Tens. Comp. Chords Tens. Comp. A-B 4598 -6654 C-D 4160 -5741 B-C 4167 -5742 D-E 4605 -6653 Maximum Bot Chord Forces Per Ply (lbs) Chords Tens. Comp. Chords Tens. Comp. A-H 6198 -4275 G-F 4574 -3074 H-G 4574 -3074 F-E 6197 -4199 Maximum Web Forces Per Ply (lbs) Webs Tens. Comp. Webs Tens. Comp. B-H 1030 -1324 C-F 1491 -805 H-C 1492 -806 F-D 1030 -1324			
<bs>Lumbers</bs> <gap>Top chord: 2x8 SP 2400F-2.0E; Bot chord: 2x8 SP 2400F-2.0E; Webs: 2x4 SP #1; L1 Wedge: 2x4 SP #1; R1 Wedge: 2x4 SP #1; <bs>Purlins</bs> <gap>In lieu of structural panels or rigid ceiling use purlins to laterally brace chords as follows: Chord Spacing (in oc) Start(ft) End(ft) TC 24 0.00 15.00 TC 24 15.00 30.00 BC 108 0.15 20.85 Apply purlins to any chords above or below fillers at 24" OC unless shown otherwise above. <bs>Loadings</bs> <gap>Truss designed for unbalanced snow loads. <bs>Wind</bs> <gap>Wind loads based on MWERS with additional C&C member design. <gap>Wind loading based on both gable and hip roof types.			
WARNING READ AND FOLLOW ALL NOTES ON THIS DRAWING! **IMPORTANT** FURNISH THIS DRAWING TO ALL CONTRACTORS INCLUDING THE INSTALLERS Trusses require extreme care in fabricating, handling, shipping, installing and bracing. Refer to and follow the latest edition of BCS1 (Building Component Safety Information by TPI and SBCA) for safety practices prior to performing these functions. Installers shall provide temporary bracing per BCS1. Unless noted otherwise, top chord shall have properly attached structural sheathing and bottom chord shall have a properly attached rigid cycling. Locations shown for permanent lateral restraint of webs shall have bracing installed per BCS1 sections B3, B7, or B10, as applicable. CYD plates to each face of truss and purlins as shown above and on the Joint Details, unless noted otherwise. Refer to drawings 1904-0000 summary plate positions. ITW Building Components Group Inc. shall not be responsible for any deviation from this drawing, any failure to build the truss in conformance with ANSI/TPI 1, or for handling, shipping, installation and bracing of trusses. A seal on this drawing or cover page listing this drawing, indicates acceptance of professional engineering responsibility solely for the content shown. The suitability and use of this drawing for any structure is the responsibility of the Building Designer per ANSI/TPI Sec. 2.2. For more information see this file's general notes page and these web sites: ITWBCU, www.fbiacg.com; BCSA, www.bcsindustry.com; BCI, www.bcsinc.org JOSHUA STRAIN REGISTERED No. 12400239 STATE OF INDIANA PROFESSIONAL ENGINEER Joshua Strain			

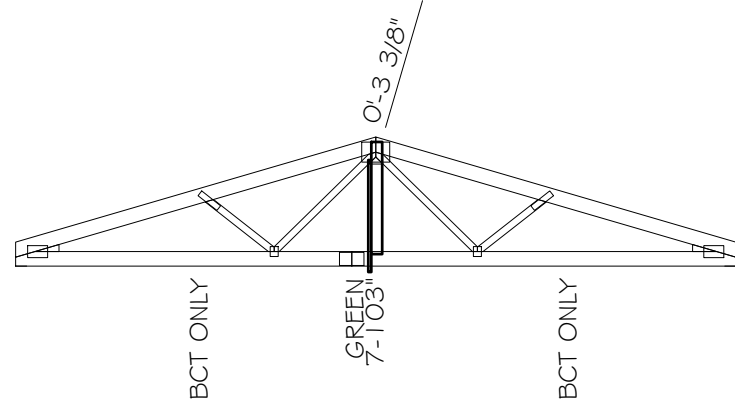
PURLIN & BCT LAYOUT
 SCALE: 1/4" = 1'-0"



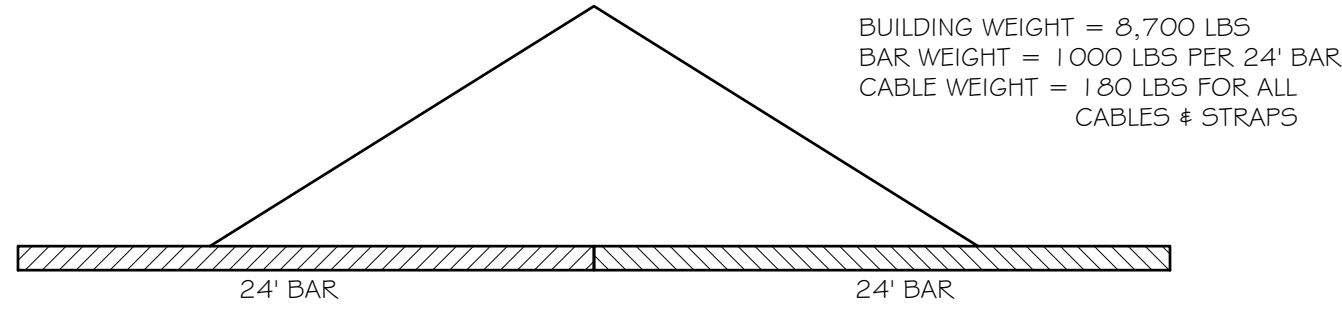
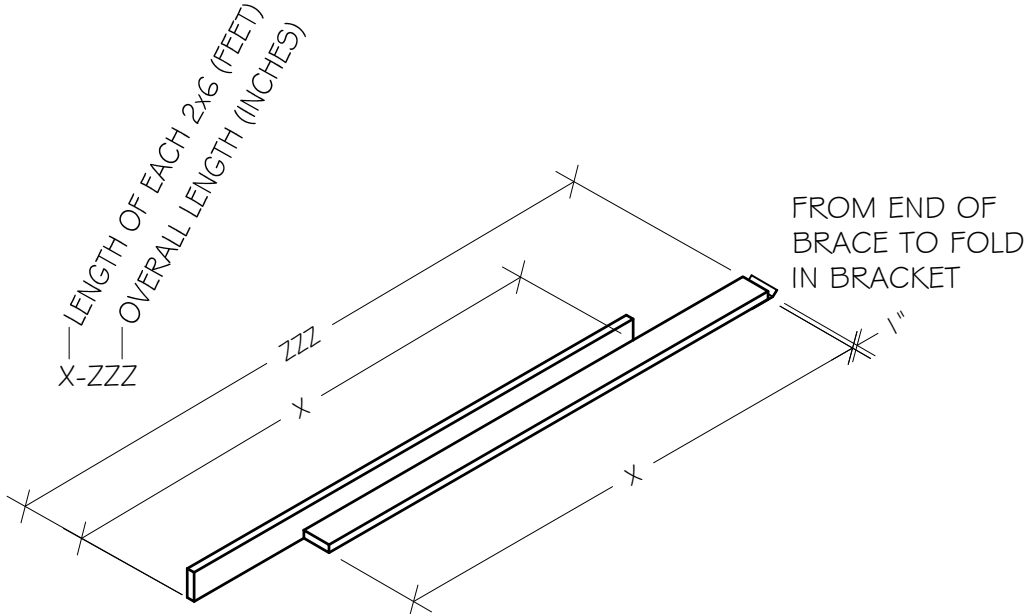
WEST END WIND BRACE LOCATION
 SCALE: 1/8" = 1'-0"



EAST END WIND BRACE LOCATION
 SCALE: 1/8" = 1'-0"

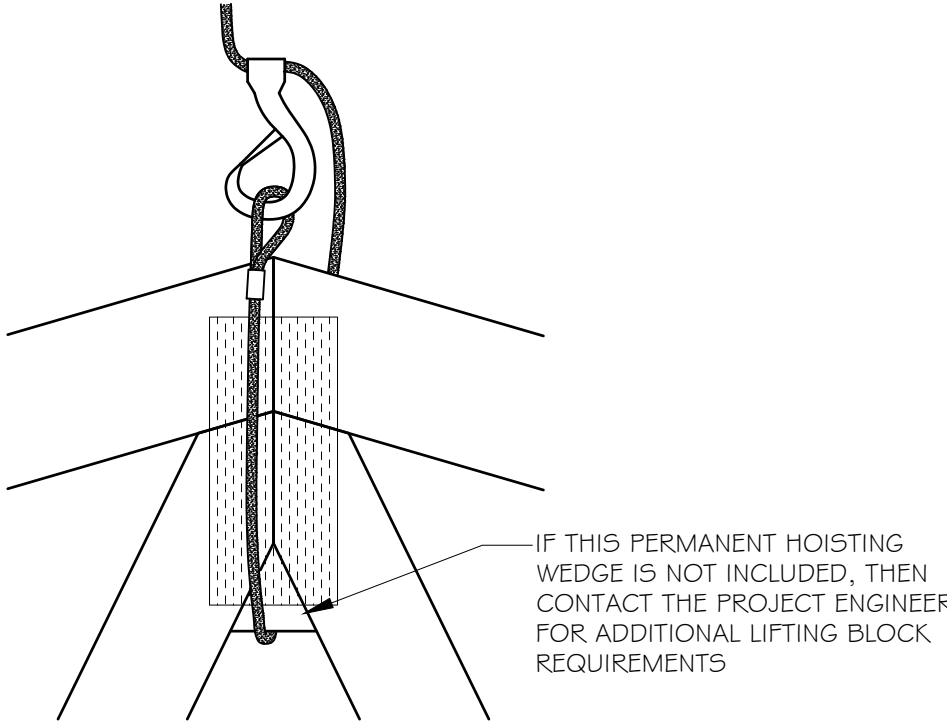


WIND BRACE ASSEMBLY
 SEE ALSO DETAIL ON SHEET 651



Q-BAR FRAME PLAN

- Q-BAR ERECTION NOTES:
- BRACE BUILDING ACCORDING TO BRACING MANUAL AFTER LIFTING OR SEE BRACING PLAN (IF APPLICABLE)
 - INSTALL BCT'S BEFORE LIFTING
 - RIDGE CAP SHALL BE INSTALLED AFTER BUILDING IS HOISTED



NO.	DATE	BY	DESCRIPTION
1	2024-05-31	John P.	Approval Set

Tom & Connie Marten 12201 Florida Rd. Fortville, IN 46040	SHEET TITLE: FRAME/BRACING PLAN
--	------------------------------------

fbi Buildings fbibuildings.com • (800) 552-2981

DRAWN BY:	John P.
MTO BY:	XX
ENG. BY:	Josh S.
PSC:	Scott C.
SHEET:	300
FBI PROJECT #:	20-2027-00



TREATED 2x10
POSI-TRACK BOARD

[illegible]

SEAL

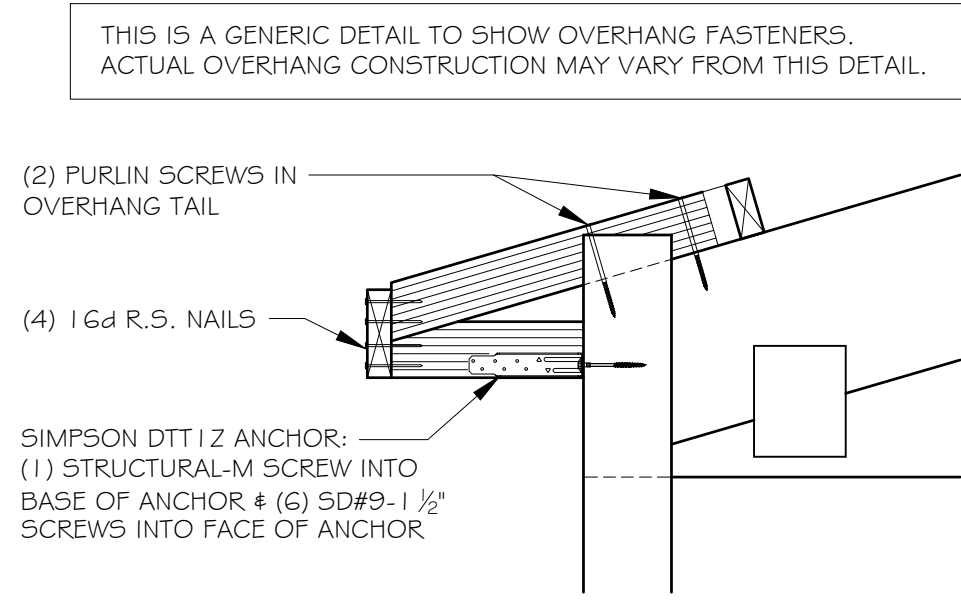
Tom & Connie Marten

12201 Florida Rd.
Fortville, IN 46040

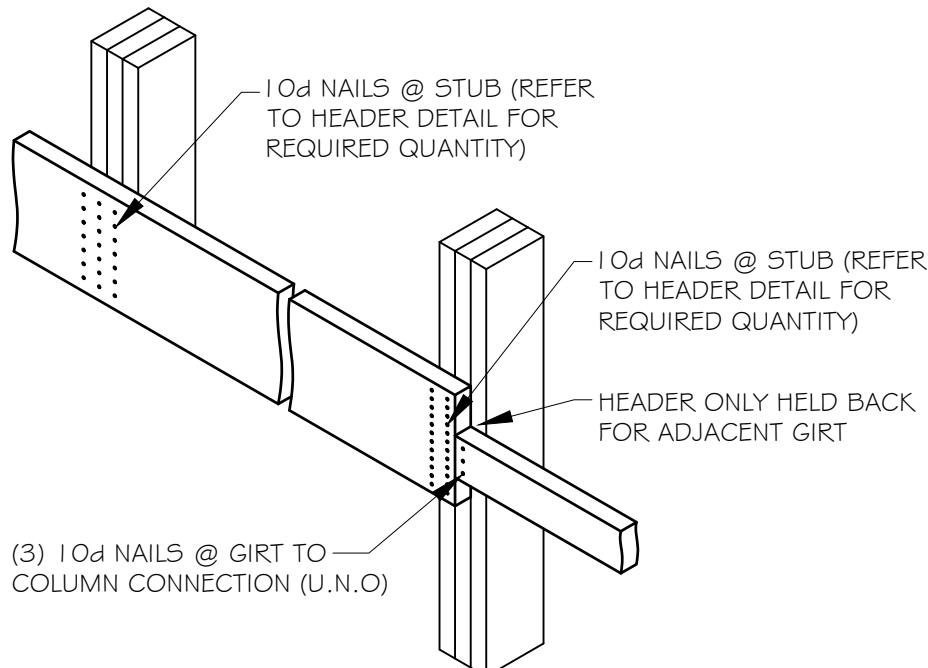
SHEET TITLE:
BUILDING ELEVATIONS

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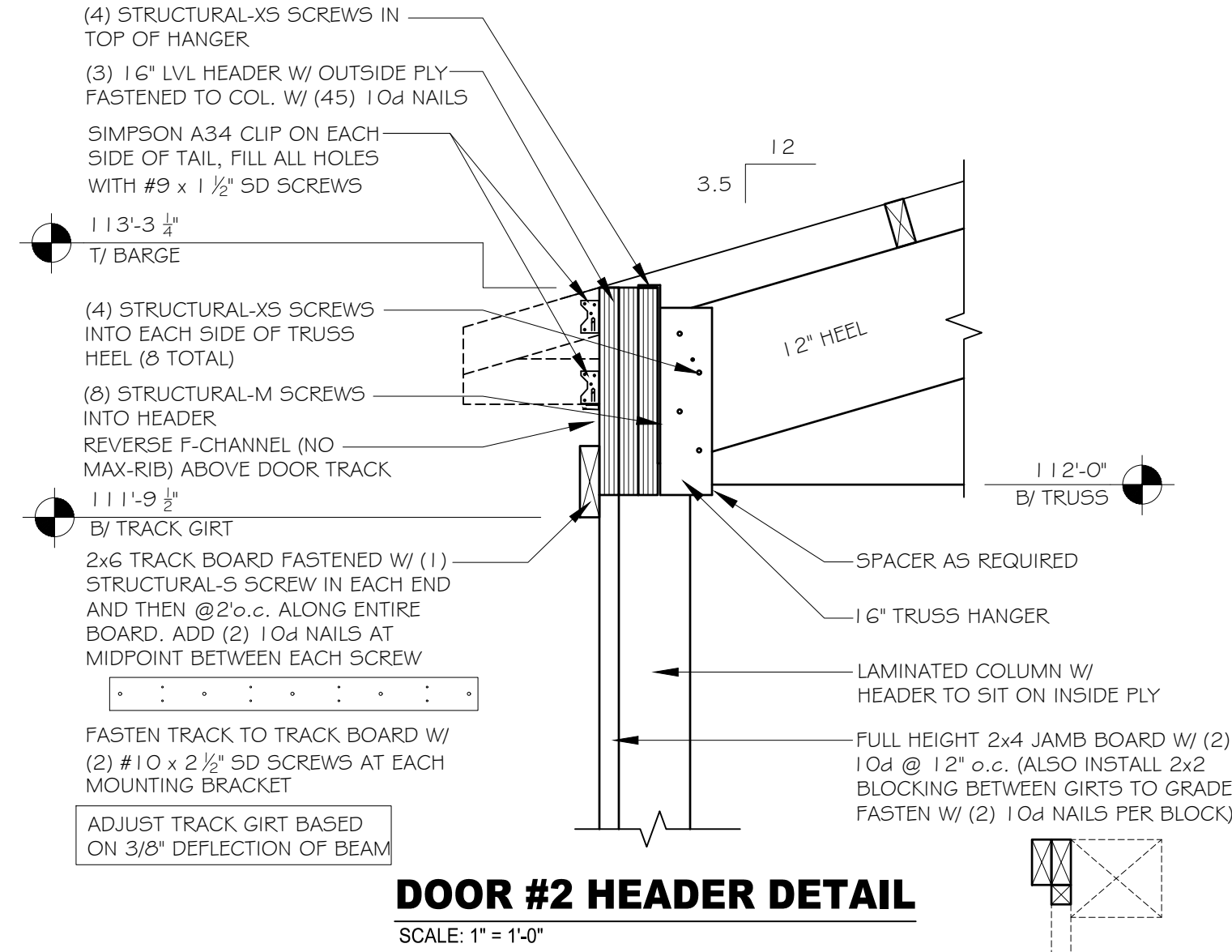
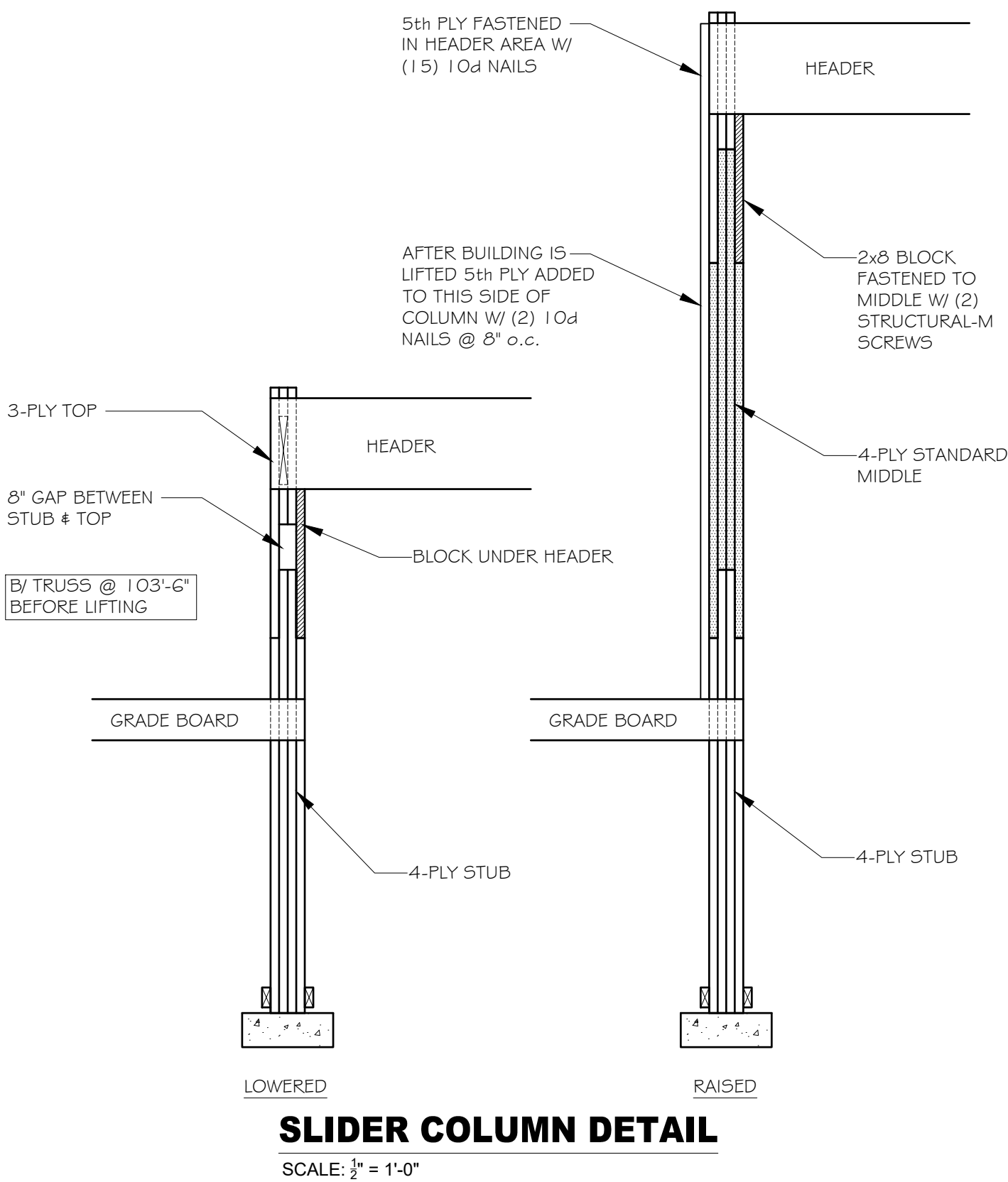
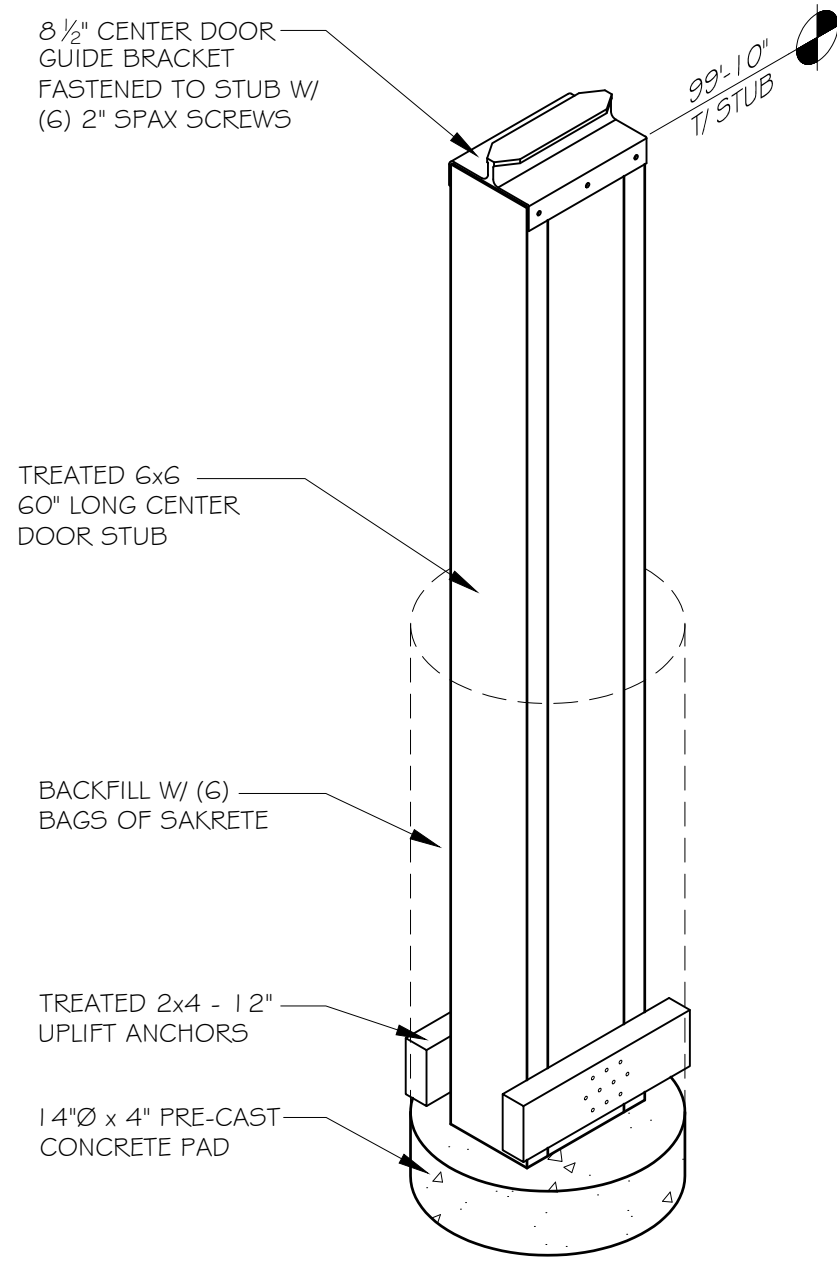
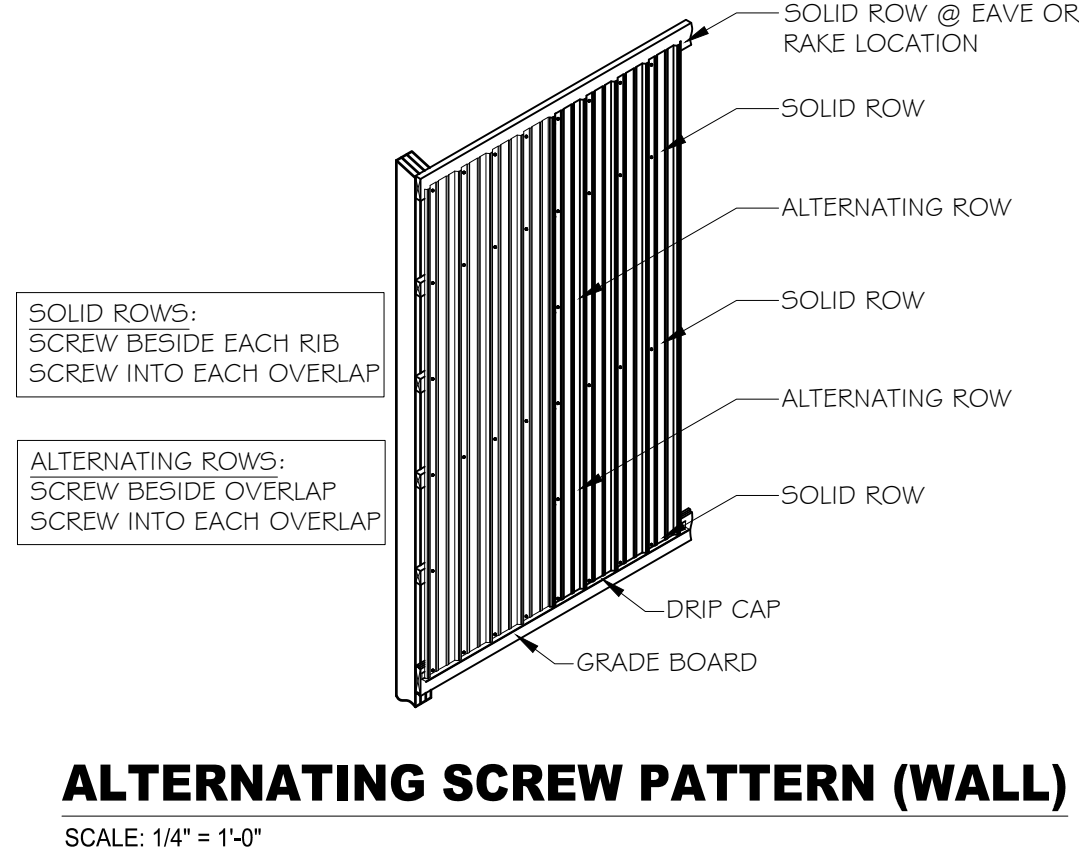
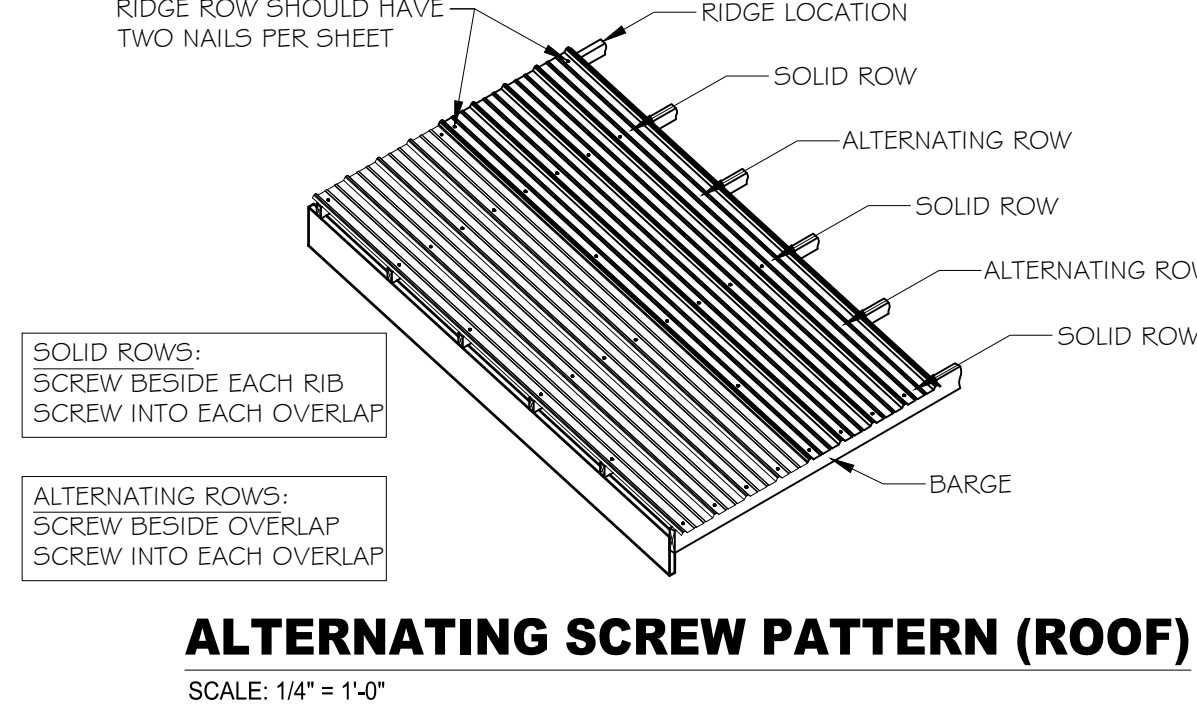
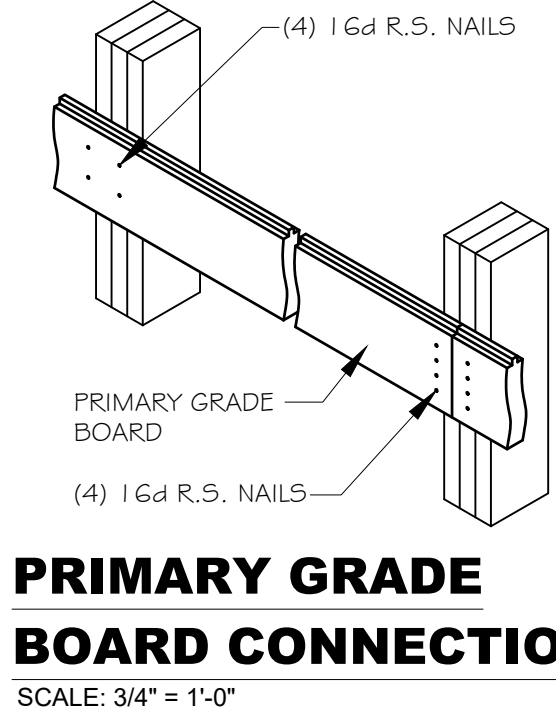
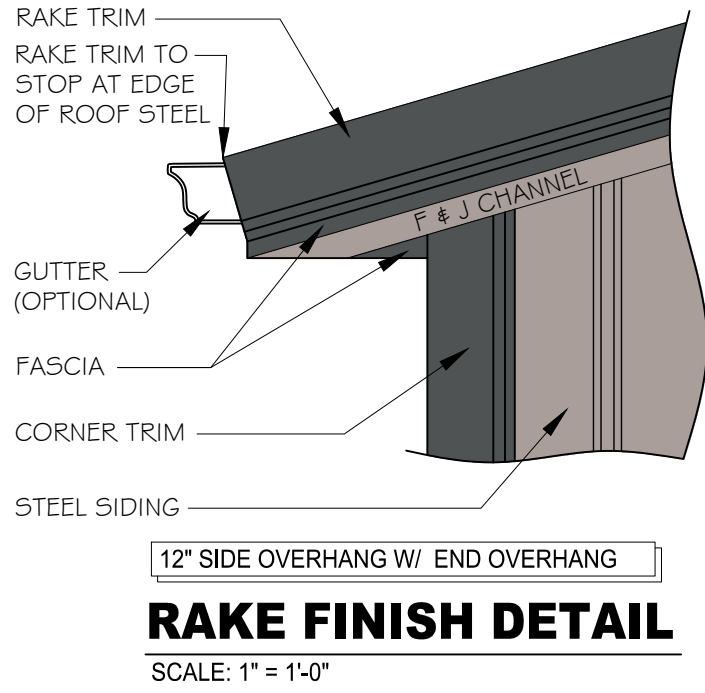
DRAWN BY :	Jake P.
MTD BY :	XX
ENG. BY :	Josh S.
PSC :	Scott C.
SHEET :	
400	
FBI PROJECT # :	20-2027-00



12" OVERHANG CONNECTION
SCALE: 1" = 1'-0"



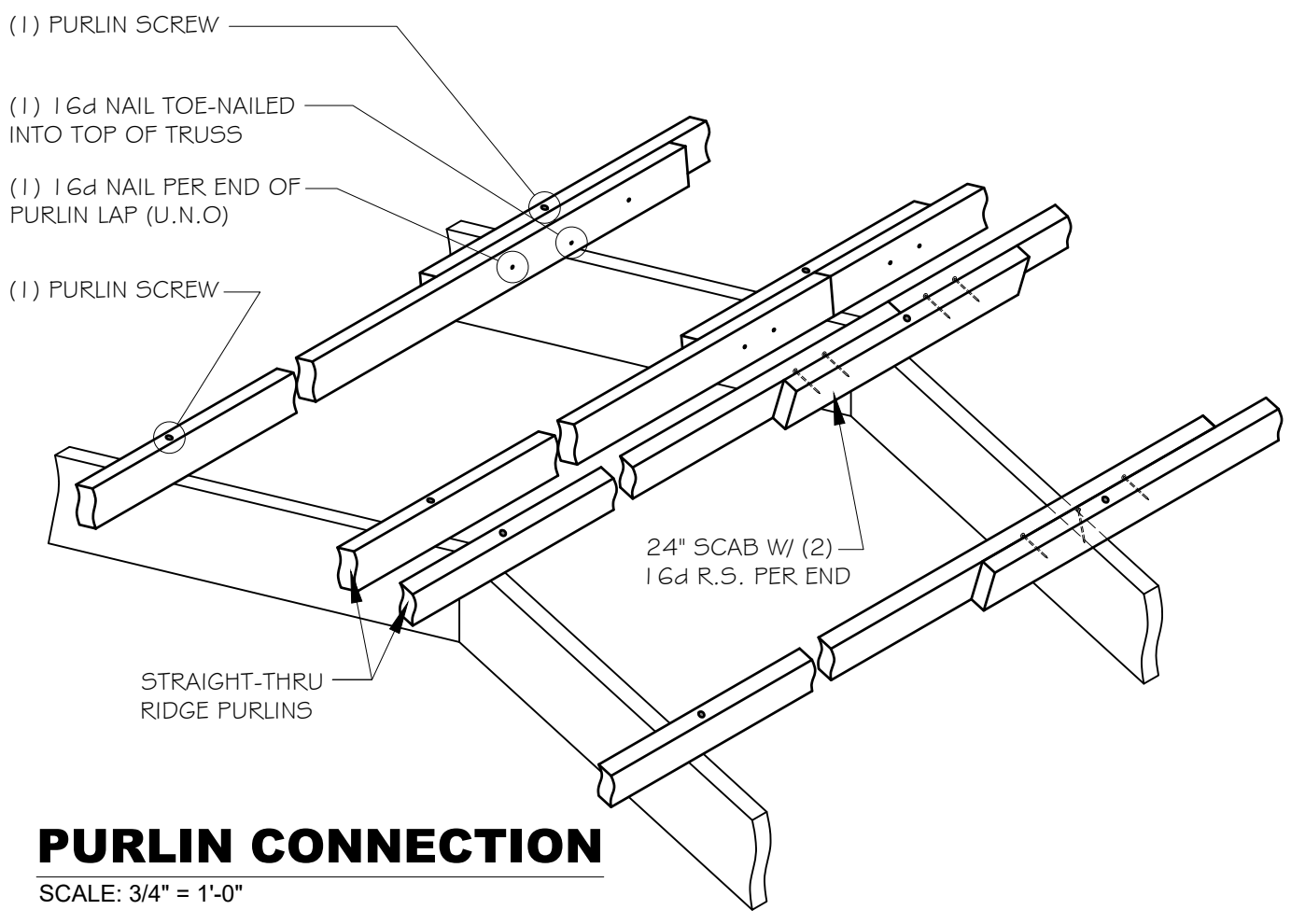
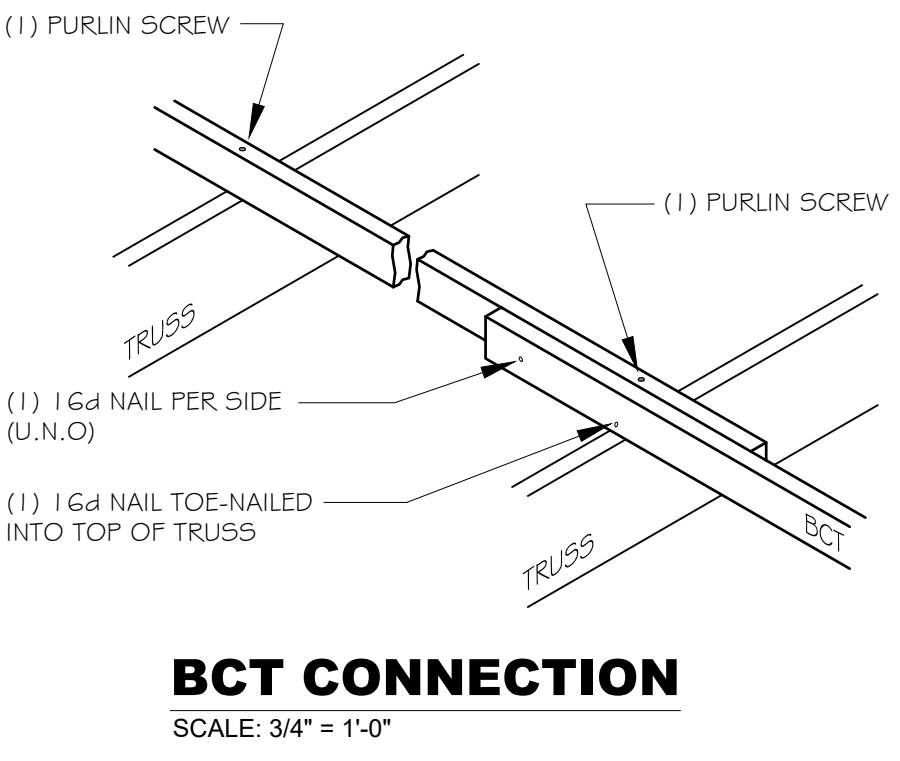
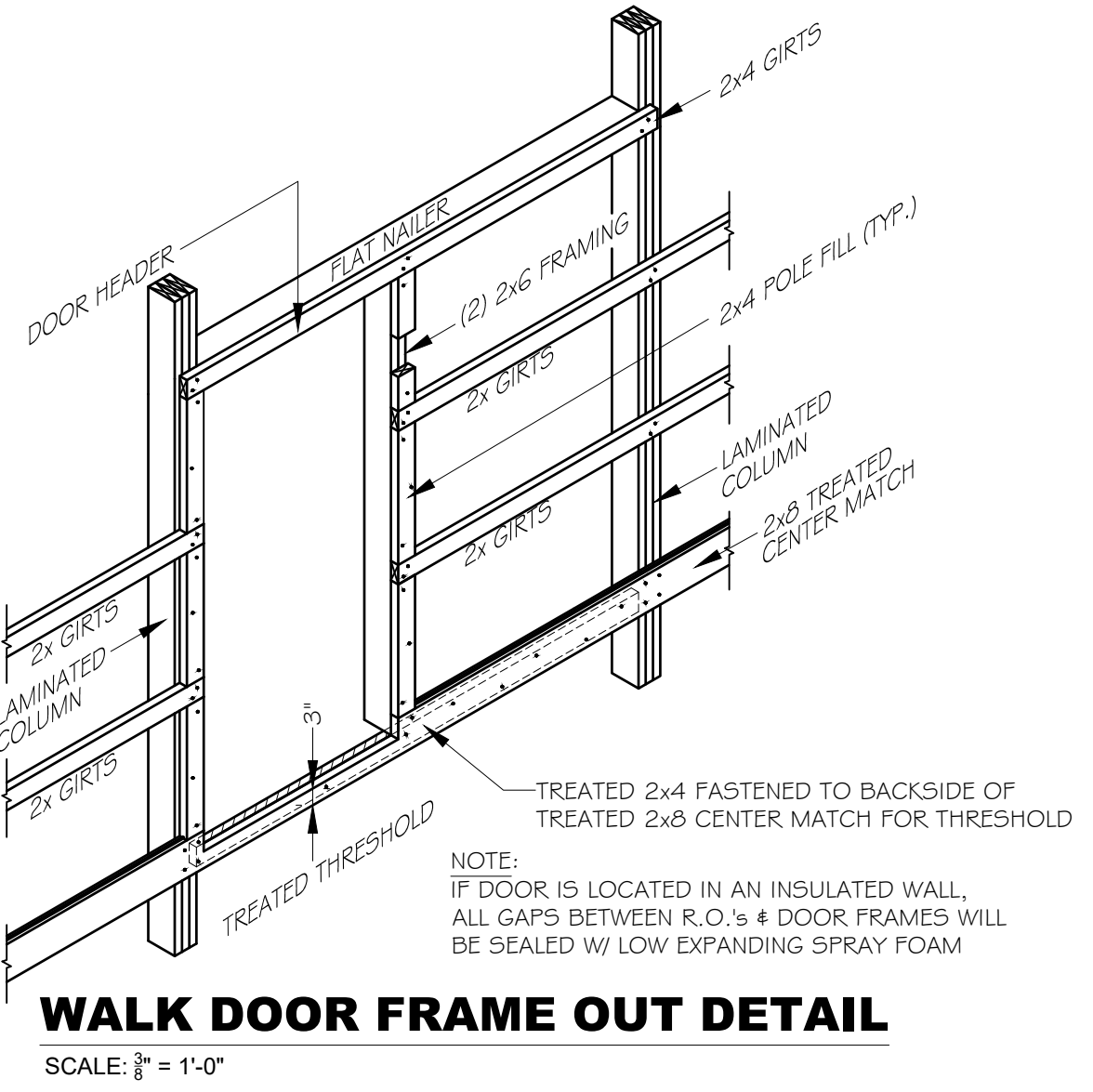
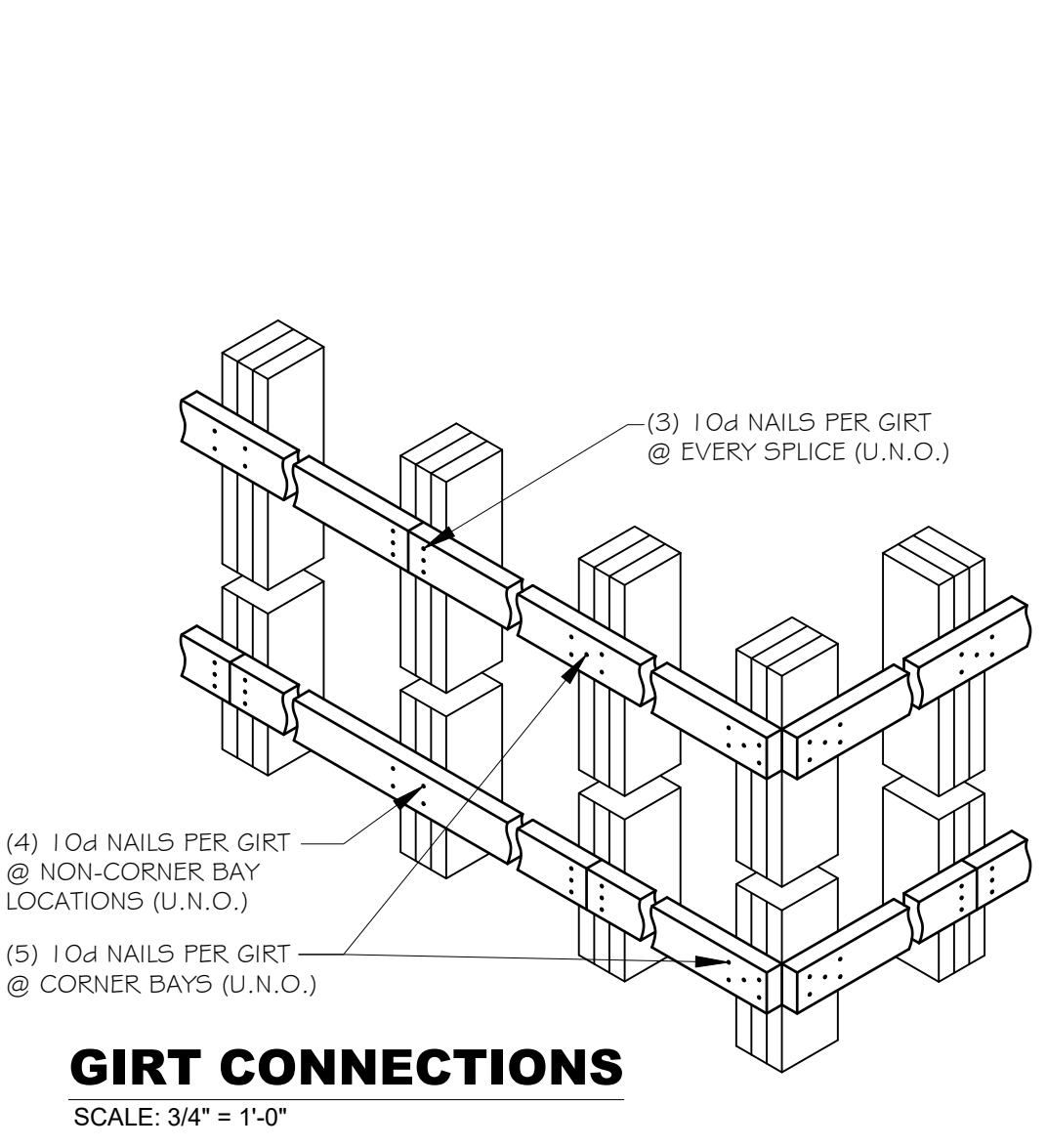
WOOD HEADER FASTENER PATTERN
SCALE: 3/4" = 1'-0"



REFERENCE CHART

ROOF PITCH	DISTANCE TO FIRST PURLIN
2/12	3"
2.5/12	2 3/4"
3/12	2 1/2"
3.25/12	2 1/2"
3.5/12	2 1/4"
4/12	2 1/4"
4.5/12	2"
5/12	1 3/4"
5.5/12	1 3/4"
6/12	1 1/2"
6.5/12	1 1/2"
7/12	1 1/4"
7.5/12	1"

SEE CHART
TRUSS
P-RC 13 RIDGE CAP
UNI-VENT II VENTED GASKET
2x4 PURLIN
RIDGE SCREW W/ BEAD OF CAULK
MAX-RIB STEEL ROOFING
PURLIN BLOCKS REQUIRED



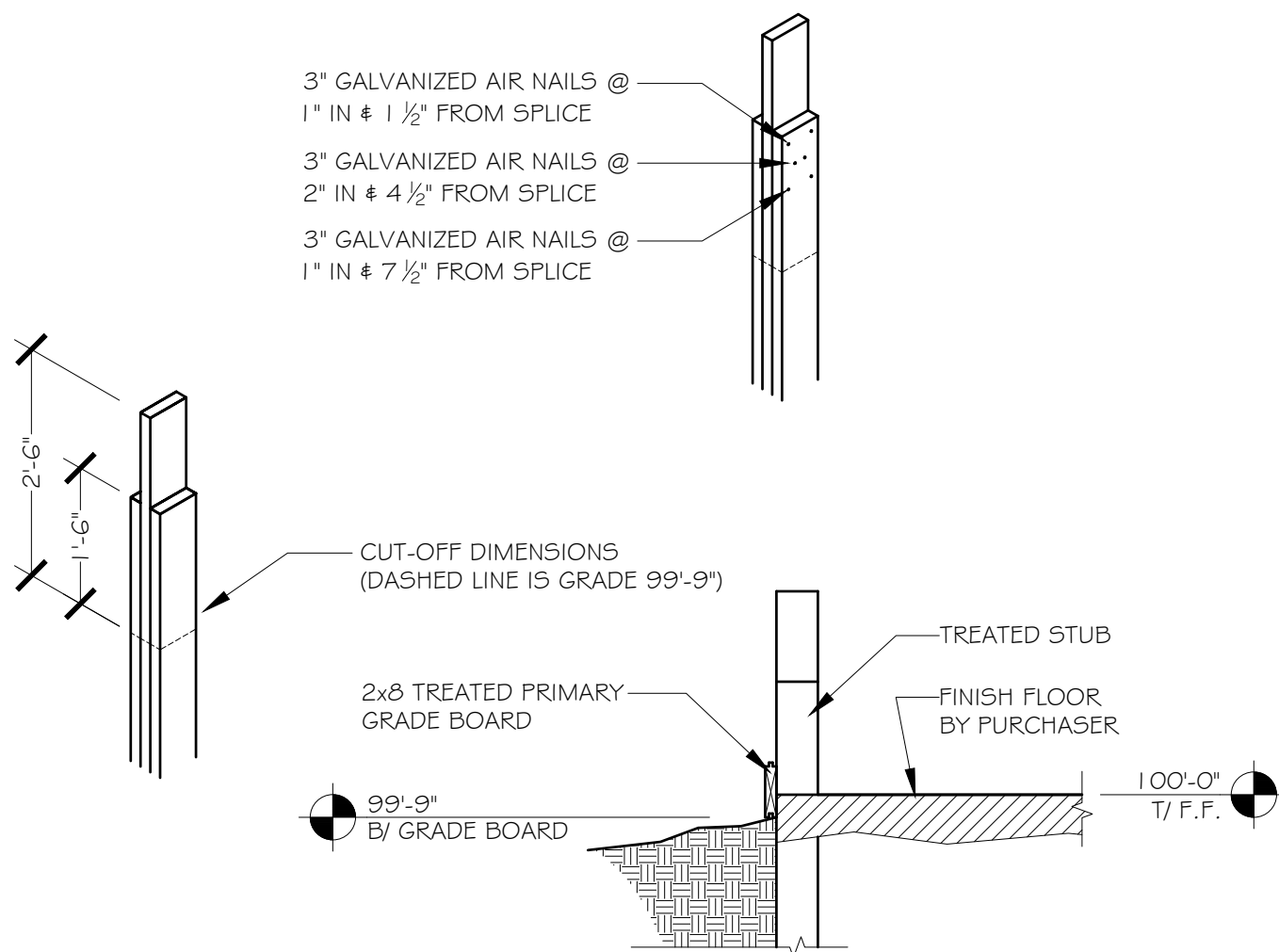
NO.	DATE	BY	DESCRIPTION
1	2024-05-31	Mike P.	Approval Set

Tom & Connie Marten
12201 Florida Rd.
Fortville, IN 46040

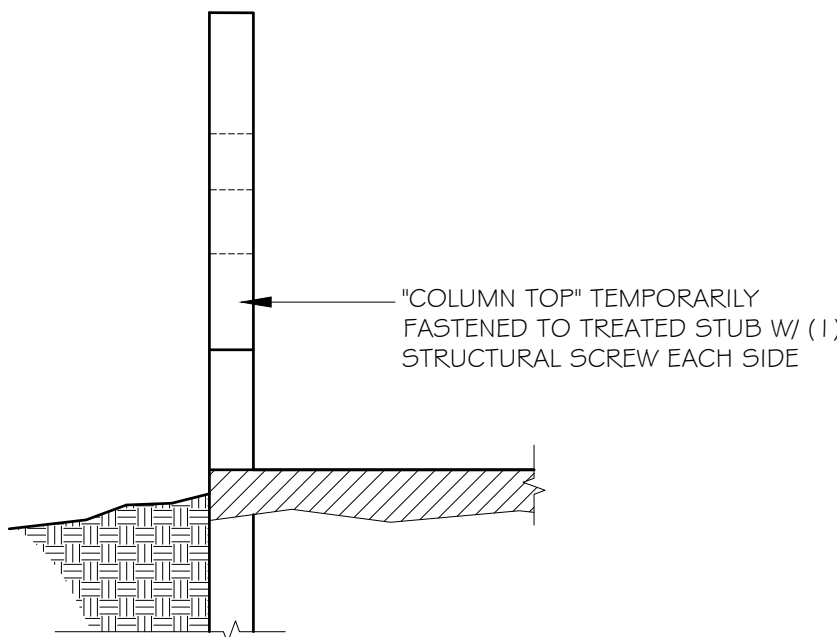
SHEET TITLE: MISC DETAIL

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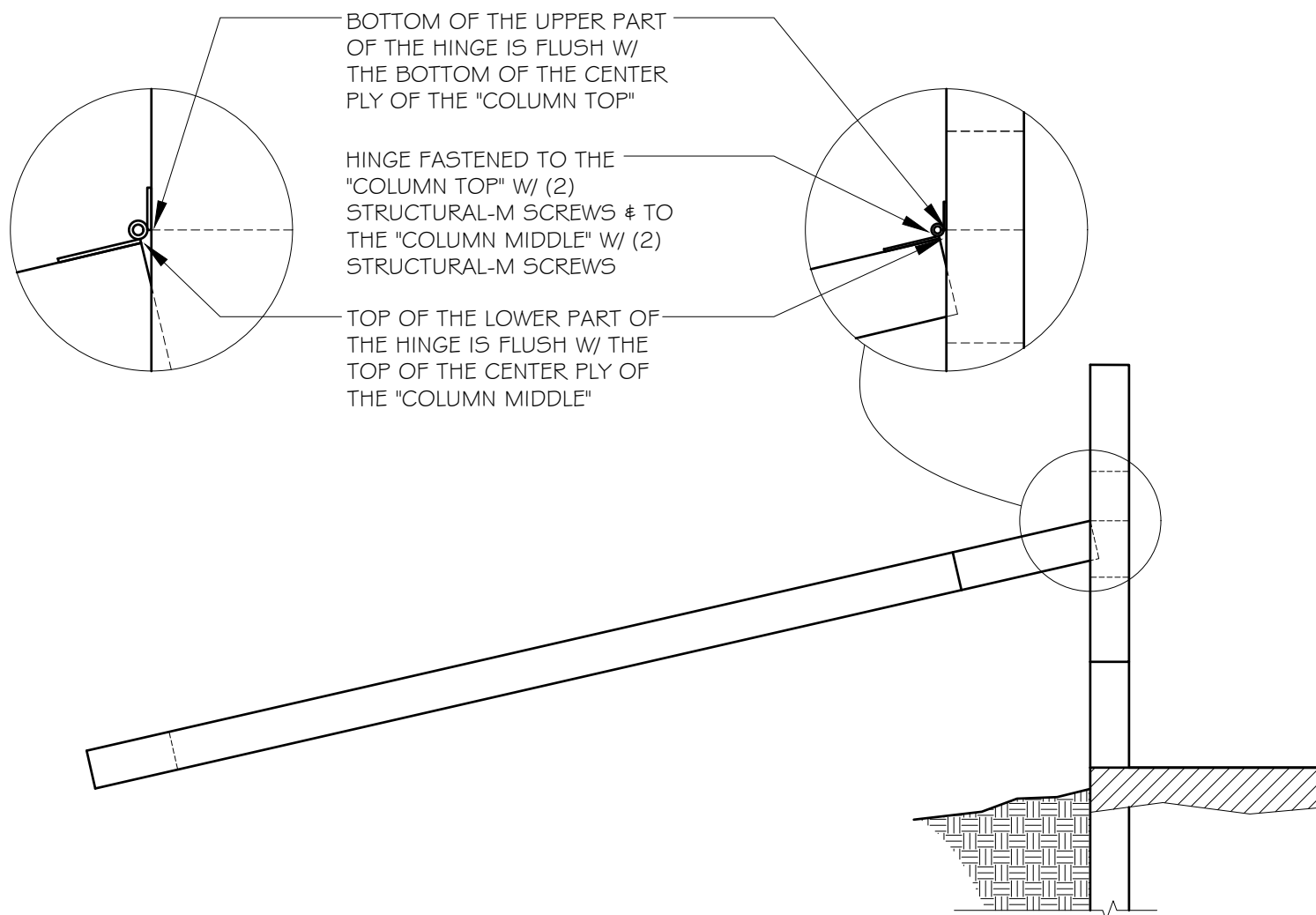
DRAWN BY: Mike P.
MTO BY: XX
ENG. BY: Josh S.
PSC: Scott C.
SHEET: 650
FBI PROJECT #: 20-2027-00



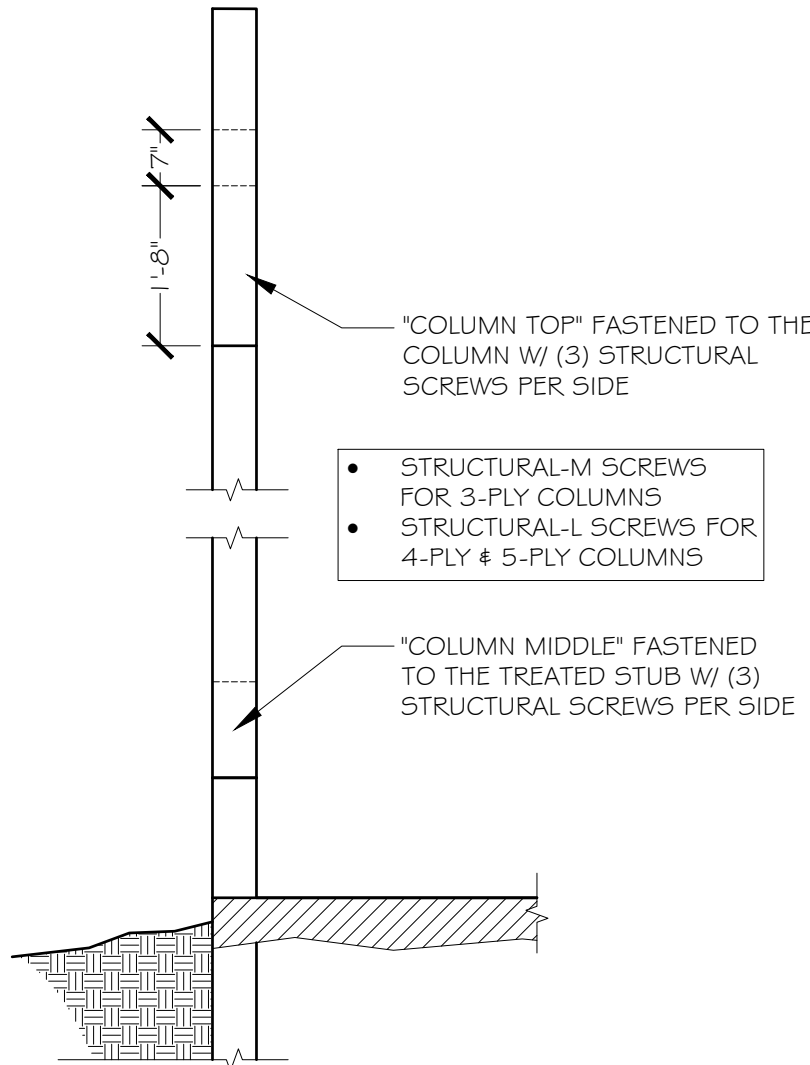
STUB CUT-OFF DETAIL
SCALE: 1/2" = 1'-0"



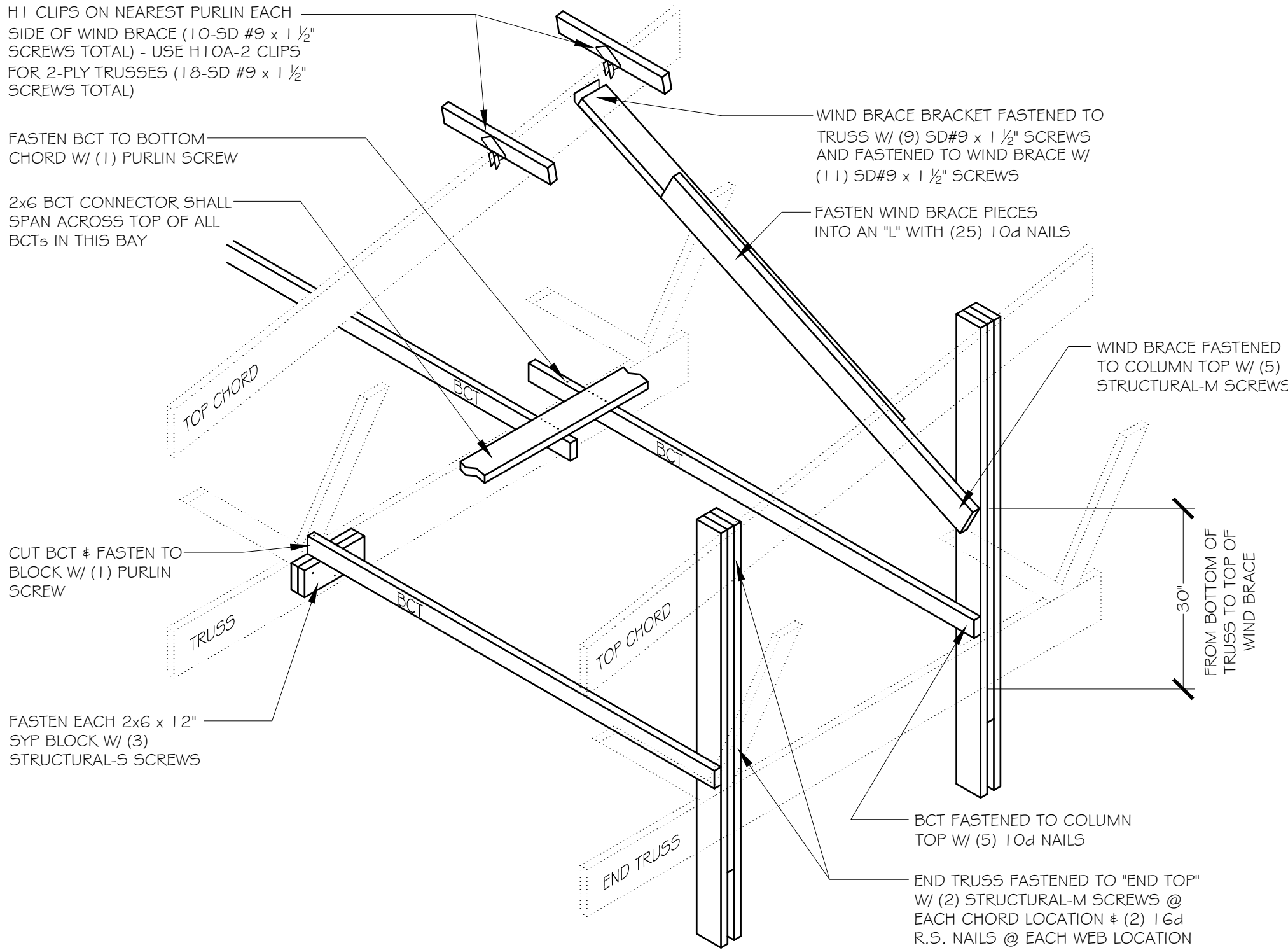
STUB-TO-TOP CONNECTION DETAIL
SCALE: 1/2" = 1'-0"



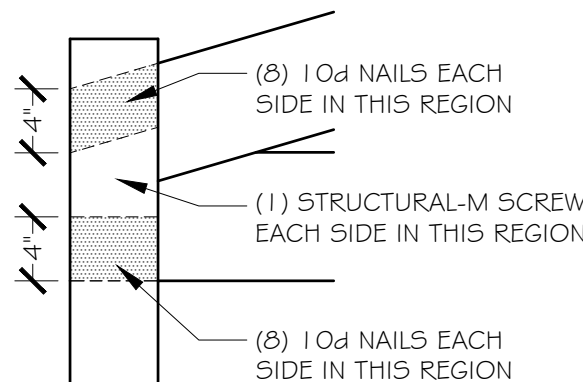
HINGE CONNECTION DETAILS
SCALE: 1/2" = 1'-0"



SPLICE CONNECTION DETAILS
SCALE: 1/2" = 1'-0"



END TOP/WIND BRACE CONNECTION
SCALE: 1/2" = 1'-0"



TRUSS-TO-HEEL CONNECTION
SCALE: 1" = 1'-0"

RULES AND PROCEDURES
OF THE
FISHERS BOARD OF ZONING APPEALS-
FALL CREEK TOWNSHIP DIVISION
August 22, 2024

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ARTICLE I

GENERAL GOVERNING RULES

1. The City of Fishers Board of Zoning Appeals – Fall Creek Township Division - (hereinafter referred to as the Board) shall be governed by Indiana's Planning and Zoning Statutes, Ind. Code §36-7-4 et seq., as amended, the Unified Development Ordinance of the City of Fishers, as amended, and the Rules of Procedures set forth herein, as adopted and amended by the Board.
2. Any member of the Board who has a conflict of interest in a matter before the Board shall not vote thereon as defined under Article III.
3. Nothing herein shall be construed to give or grant to the Board the power of authority to alter or change the UDO, including all official zoning maps; this authority is reserved to the Common Council of the City of Fishers.
4. The Fishers Board of Zoning Appeals Attorney shall be consulted in cases where the powers of the Board are not clearly defined.
5. The office of the Board shall be located in the office of the City of Fishers, Planning & Zoning Department, One Municipal Drive, Fishers, Indiana, 46038-1574.

ARTICLE II

OFFICERS, MEMBERS AND DUTIES

1. The Board shall elect a Chair and Vice Chair (who shall be acting in the absence of the Chair) annually at its first meeting of each year.
2. In the case of death or resignation of the Chair, the Vice Chair shall succeed to the Chair and a new Vice Chair shall be selected from the membership.
3. A temporary Chair shall be elected in case both Chair and Vice Chair are absent.
4. The Chair (or in his/her absence the Vice Chair) shall preside at all meetings and hearings of the Board and decide all points of order and procedure. The Board may provide for an oath to be administered to all witnesses in cases before the Board.
5. The Department of Planning and Zoning of the City of Fishers shall serve as the office of the Board. The Secretary of the Board shall be appointed at the beginning of each calendar year. The Secretary shall conduct all correspondence of the Board. A Recording Secretary shall also be appointed at the beginning of each calendar year. The Recording Secretary shall be responsible to keep minutes recording attendance, the vote of each member upon each question, or, if absent or failing to vote, indicating such fact; and records of examinations and hearing and other official actions; and shall carry other official duties as may be assigned by the Board. Records and minutes of all such procedures shall be filed in the office of the Board.
6. The Board shall consist of five (5) members, appointed in accordance with the statutes governing such appointments.
7. The jurisdiction of the Board shall be the territory within the corporate boundaries of the City of Fishers as from time to time extended by annexation. The Board shall also exercise jurisdiction two (2) miles outside of its corporate boundaries pursuant to IC 36- 7-4-205 or under an interlocal agreement with another municipality pursuant to IC 36-7- 4-1208. The City of Fishers Board of Zoning Appeals, Fall Creek Township Division, exercises sole jurisdiction in the unincorporated area of Fall Creek Township pursuant to IC 36-7-4-903(b).
8. Major responsibilities of the Board are:
 - a. To render a decision on variances of development standards.
 - b. To render a decision on a variances of use.
 - c. To render a decision on a special exceptions.

- d. To render a decision on appeals of an Administrative Determination of the City of Fishers, Department of Planning & Zoning on matters arising from the exercise of Powers within its jurisdiction.

ARTICLE III

MEETINGS

1. The regular meeting of the Board shall be held monthly at a standard meeting date established at a regular meeting. The Board will designate the standard meeting dates and times from January to the following January. From time to time these regular meeting dates may be modified. Such modifications shall be determined with as much advanced notice as reasonably practical. Meetings will be held at 6:00 p.m., in the Fishers Municipal Center, or at such other place as will accommodate the public unless there is no cause for holding such meeting. If there is to be no regular meeting, the Secretary shall make every effort to inform the members of the Board at least 48 hours in advance.
2. Special meetings may be called by the Chair, by written request of two (2) members, or as determined at a regular meeting provided at least 48 hours' notice of such meeting is given to each member. Only matters included in the call for special meeting shall be considered except by unanimous approval of all members of the Board.
3. A quorum shall consist of a majority of the appointed members of the Board. No action shall be taken by less than a quorum of the Board. Such public hearings shall be continued until a quorum is present.
4. Each case to be publicly heard before the Board shall be filed in proper form by the required date set by the Planning & Zoning Department and shall be numbered serially and placed on the agenda of the Board by the Secretary. The case numbers shall begin anew on January 1 of each year. As soon as the case receives a number, it shall be placed on the agenda of the Board and a date set for a hearing by the Secretary. Cases shall come before the Board in the regular order of their consecutive numbers unless otherwise directed by the Board.
5. Conflict of Interest. No member of the Board shall be qualified to hear or vote upon a petition or appeal in which they are directly or indirectly interested in a personal or financial way. Further, no member of the Board shall hear or vote upon a petition or appeal in which they are biased or prejudiced or otherwise unable to be impartial. Board members are required to fully disclose any conflict of interest as defined herein on any matter appearing on the Board's agenda during its public meeting. The Secretary of the Board shall note in the minutes that a member has been disqualified for a conflict of interest. When a member is recused in a particular matter due to a conflict of interest, they may exit the room for that item of business.

6. Conduct of Meetings. All meetings shall be open to the public. The Chair or, in his/her absence, the Vice Chair may administer oaths or compel the attendance of witnesses. The order of business at meetings shall be as follows:
 - a. Call to order/Pledge of Allegiance
 - b. Swearing in of new member(s) (when appropriate)
 - c. Roll Call
 - d. Election of Officers (when appropriate)
 - e. Appointments (when appropriate)
 - f. Approval of Previous Minutes
 - g. Public Hearings
 - h. Old Business
 - i. New Business
 - j. Staff Communications
 - k. Board Signatures - Findings of Fact
 - l. Adjournment
7. Adjourned Meetings. The Board may adjourn a regular meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.
8. **Continuances** may be granted at the discretion of the Board in any case for good cause shown, as follows:
 - a. New cases appearing for the first time on the agenda--continuances may be granted upon request.
 - b. Continued cases. All cases which have previously appeared on the agenda of the Board constitute continued cases. A request for the further continuance of a case may be granted by the Board for any of the following reasons:
 - i. At the request of a Petitioner because they will be unable to proceed with their evidence at this hearing to allow time to answer questions or modify the petition.
 - ii. At request of staff to allow time for research or modification to the Petition.

9. **Failure of petitioner to appear:**

- a. The Chair may entertain a motion from the Board to dismiss the case for failure of the petitioner to appear. In the absence of a motion by the Board, the Petition shall be continued to the next regular meeting.
- b. In cases which are dismissed for failure of the Petitioner to appear, the Petitioner will be furnished written notice by the Secretary of the Board.
- c. The Petitioner shall have 30 days from the date of the notice of dismissal to apply for reinstatement of the case. In such cases, the Petitioner must file a written request with the Secretary for reinstatement. Reinstatement shall be at the discretion of the Chair for good cause shown, and upon payment of the appropriate fee by the Petitioner.
- d. In all cases reinstated in the above-described manner, the case will be docketed and readvertised in the usual manner prescribed for new cases.

10. No matter requiring a vote will be placed upon the regular meeting agenda unless received by the Secretary or designee by the deadline set by the Planning & Zoning Department. Items may be added to the agenda at any regular meeting if agreed to through a majority vote of the Board.

11. The Board shall continue any case(s) that are not called onto the floor by 10:30 pm.. Such cases shall be continued to either the next regular meeting or to a special meeting. The Board shall adjourn the meeting no later than 11:30 pm. This rule can be suspended by simple majority vote.

12. **Electronic Participation Policy:**

- a. The provisions of P.L. 88-2021 (HEA 1437) (the "Act"), including definitions, are hereby incorporated into this Policy, per IC 5-14-1.5-3.5.
- b. Subject to the following sections, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) allows the public to simultaneously attend and observe the meeting.
- c. A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.
- d. All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

- e. A member who participates by an electronic means of communication shall strive to notify the Secretary at least 48 hours in advance of the meeting, unless emergency circumstances dictate otherwise.
- f. Restrictions:
 - i. At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.
 - ii. A member may not attend more than a fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - 1. military service;
 - 2. illness or other medical condition;
 - 3. death of a relative; or
 - 4. an emergency involving actual or threatened injury to persons or property.
 - iii. A member may attend two (2) consecutive meetings (a "Set") by electronic communication. A member must attend in person at least one (1) meeting between a Set that the member attends by electronic communication, unless the member's absence is due to:
 - 1. military service;
 - 2. illness or other medical condition;
 - 3. death of a relative; or
 - 4. an emergency involving actual or threatened injury to persons or property.
- g. Minutes/Memoranda: The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:
 - i. Identify each member who:
 - 1. was physically present at the meeting;
 - 2. participated in the meeting by electronic means of communication; and
 - 3. was absent; and
 - ii. identify the electronic means of communication by which:
 - 1. members participated in the meeting; and

2. members of the public attended and observed the meeting.

h. Declaration of Emergency: If an emergency is declared by (i) the governor under Ind. Code§ 10-14-3-12; or (ii) the mayor under Ind. Code §10-14-3-29; members are not required to be physically present for a meeting until the emergency is terminated. Members may participate in a meeting by any means of communication provided that:

- i. At least a quorum of the members participate in the meeting by means of electronic communication or in person.
- ii. The public may simultaneously attend and observe the meeting.
- iii. The minutes or memoranda of the meeting must comply with the above section.
- iv. All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

ARTICLE IV

VACANCIES

The Chair shall inform the appropriate appointing official as promptly as possible when a member fails to attend three consecutive meetings or three of any seven meetings for the purpose of considering the replacement of said member so that the appointing official may appoint a replacement to fill out the unexpired term. Other vacancies occurring in office shall also be reported to the appropriate official for similar action.

ARTICLE V

NOTICE OF HEARINGS

A Public Hearing is required for all variances of development standards, variances of use, special exceptions, ordinance interpretations, and appeals of administrative determination by the Planning & Zoning Department.

1. Timing: When a Public Hearing is required, public notice though newspaper and/or mailed notices shall be given not less than ten (10) calendar days (not counting the day of the hearing) prior to said Public Hearing, or as otherwise specified by State law. The meeting agenda shall be published at least 48 hours before the meeting, or as otherwise required by State code.
2. Mailed Notice: Names and addresses of the adjacent property owners must be obtained by the Planning & Zoning Department from the Hamilton County Real Property Department and/or City of Fishers Geographic Information System (GIS) Department. This list should be obtained not more than ninety (90) days prior to the date of the hearing. The adjoiner list must be requested for the entire parcel if no deed has been recorded for smaller parcels. The Planning & Zoning Department must mail notice to every entity on the adjoiner list through certified mail or a certificate of mailing.
3. Newspaper Notice: Notice by publication shall be made by the Planning & Zoning Department in accordance with Ind. Code §5-3-1, as amended. **Newspapers recognized for publishing notice are The Current in Fishers, and The Current in Lawrence/Geist.**
4. Proof: Proof of newspaper publication and public notice mailing must be obtained by the Planning & Zoning Department at least two (2) business days before the scheduled hearing.
5. Re-notice: If, for any reason, the petition is not heard within seventy (70) days of the date of the published hearing date, a new or updated list of adjacent property owners from the Hamilton County Real Property Department and/or City of Fishers Geographic Information System (GIS) Department must be obtained, and a revised notice stating the new public hearing date shall be sent at least ten (10) calendar days (not counting the day of the hearing) before the hearing to any new or revised adjacent property owners.
6. All means of notice shall include:
 - a. The case number assigned;
 - b. The time, place, and date of the hearing;

- c. A description of the petition, and requested action;
 - d. A description of the subject property location or address;
 - e. A statement that the full legal description is on file with the Department of Planning and Zoning, City of Fishers, One Municipal Drive, Fishers, IN 46038, (317) 595-3155;
 - f. A brief description of the general procedure concerning submission of public comments; and,
 - g. The name of the Petitioner.
7. On-Site Notice: The Department of Planning and Zoning shall place a notice sign on the affected property, where applicable. Notices shall be large enough to be legible from the road and shall be placed in a conspicuous place on the property.
8. Exception. The notice requirements herein shall be applicable to all petitions except those initiated by the City. In this case, the City shall determine the notice requirements, if any.

ARTICLE VI

HEARING AND REHEARING

1. Variance Applications shall be heard within 60 days from the filing of the completed application with the Secretary unless it is withdrawn. If amended, it shall be heard within 60 days from filing of completed application. Cases will be heard in the order of their assigned case number; amended cases will have priority according to date of amendment.
2. At the public hearing, the Petitioner or any other party may appear on his/her own behalf or be represented by agent or by legal counsel. In the event that remonstrators retain counsel to represent them at a hearing before the Board, then such counsel shall state that they has so been retained and is present to object.
3. Order of the Hearing shall be:
 - a. The petitioner or their representative may make a statement outlining the nature of the request and introduce such evidence as they may wish.
 - b. The floor shall be open for public hearing. Persons wishing to address the Board shall state their name and address and make such remarks as they wish, pertinent to the subject matter of the application.
 - c. The Petitioner may reserve time for rebuttal at the conclusion of the public hearing as they carry the burden of proof.
 - d. The Chair shall formally close the public hearing and permit the members of the Board to direct questions to the Petitioner or any other persons.
 - e. The Chair shall ask for any staff comments, concerns or recommendations.
 - f. The Chair shall call for a motion and, upon motion duly made and seconded following discussion by members of the Board only, the matter shall be concluded by recorded vote on the motion.

Witnesses may be called and factual evidence and exhibits submitted by either Petitioner, remonstrator, or those in favor of the petition.

The Chair may establish appropriate time limits for arguments, but such time limits shall be equal for both sides. The Chair may request representatives of each side to speak for the entire group or portions of the group but shall not require such representation against the wishes of the group involved. General guidelines are as follows:

Presentation by Petitioner	15 minutes
Public Hearing	
Individuals	2 minutes
Spokesperson	5 minutes
Petitioner Rebuttal	5 minutes
Staff	As needed for complete response

The Board may, at the discretion of the Chair, extend any or all time limits.

4. The Board shall not be bound by strict rules of evidence and may exclude irrelevant, immaterial, incompetent, or repetitious testimony.
5. A Petitioner or remonstrator, or the agent or attorney of either, may submit a list of persons favoring or opposing the petition. Such list will be accepted as an exhibit if it contains nothing more than a brief statement of the position of the persons favoring or opposing the petition together with the signatures and addresses of the persons subscribing to such statement.
6. The Chair may rule on all questions relating to the admissibility of evidence, which may be overruled by the majority of the Board.
7. The Petitioners and remonstrators must present all evidence they possess concerning the case at the public hearing. No further oral testimony will be accepted after the public hearing is closed. Only a written response by Petitioners or remonstrators to the staff report, prepared solely for the case under consideration, will be accepted by the Secretary after the close of the public hearing. Statements will be accepted no later than the day on which the Board's decision is made on the specific case in question.
8. Roberts Rules of Order shall apply in the absence of specific procedures established herein.
9. Application for rehearing may be in the same manner as the original application. Application for rehearing may be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence, or conditions. However, any matter not previously reviewed may be heard again on motion adopted by unanimous vote of all members at a meeting at which a quorum is present.

ARTICLE VII

DECISIONS

1. The Board shall conduct its vote in public session.
2. All decisions of the Board shall be made at a public meeting by a motion made, seconded, and determined by a roll call vote by the Secretary. Exception: approval of minutes, adjournment, and other procedural items may be made by a voice vote.
3. The motion shall include explicitly, or by reference, any findings-of-fact of the Board. If conditions are imposed in the recommendation, such conditions shall be implicitly included in the motion.
4. Any motion deciding in favor of the Petitioner on any petition, shall require the concurring vote of the majority of the members on the Board. The motion shall include the reasons for the determination made, and if in favor of the Petitioner, shall set forth any conditions and/or safeguards required, and any time limitations prescribed.
5. When a vote of the Board does not result in an official action of the Board, the petition shall be automatically continued and heard at the next regularly scheduled meeting.

A case may not be withdrawn by the Petitioner after the vote has been ordered by the Chair. No case which has been withdrawn by the Petitioner shall again be placed on the agenda for consideration by the Board within a period of three months from the date of said withdrawal, except upon the motion of a member, and adopted by the majority vote of all members in attendance at a regular or special meeting.

ARTICLE VIII

RECORDS

1. A file of materials and decision relating to each case, including notation concerning the decision, shall be kept in the office of the Board.
2. All records of the Board are to be considered public documents.

ARTICLE IX

AMENDMENT OF RULES

- 1. Amendments to these rules of procedure may be made by the Board following the circulation of said amendment to the total membership prior to a regular meeting. The amendment may then be adopted upon an affirmative vote of a simple majority of the membership of the Board.
- 2. The proposed amendment must be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.
- 3. These rules may be suspended for due cause upon the affirmative vote of all members present.

ADOPTION OF RULES AND PROCEDURES

These rules of procedure were adopted by the City of Fishers Board of Zoning Appeals – Fall Creek Township - September 26, 2024.

Chairperson

Vice-Chairperson

Member

Member

Member

Secretary