

## A G E N D A

### CALL TO ORDER

### ROLL CALL / (LIAISON) SCHEDULE

MADDY () \_\_\_\_\_  
EGGENBERGER () \_\_\_\_\_  
GAULT () \_\_\_\_\_  
RIEDEL () \_\_\_\_\_  
HUSKINS () \_\_\_\_\_  
COUNCIL LIAISON SIAKEL (JAN-JUNE) \_\_\_\_\_  
COUNCIL LIAISON GORHAM (JULY-DEC) \_\_\_\_\_

#### 1. APPROVAL OF AGENDA

#### 2. APPROVAL OF MINUTES

- ♦ November 16, 2021

#### 3. MATTERS FROM THE FLOOR

(This portion of the meeting allows members of the public the opportunity to bring up items that are not on the agenda. Each speaker has a maximum of three minutes to present their topic. Multiple speakers may not bring up the same points. No decisions would be made on the topic at the meeting except that the item may be referred to staff for more information or the City Council.)

#### 4. PUBLIC HEARINGS

#### 5. NEW BUSINESS

- A) Variance to Setback to OHWL for Dock  
Applicant: Jennifer and David Labadie  
Location: 5510 Howards Point Road

- B) Urban Farm Animal City Code Amendments Discussion

- C) Work Program and Meeting Schedule for 2022

- D) Liaison Volunteers for February and March

#### 6. OLD BUSINESS – None

#### 7. REPORTS

- A) Council Meeting Report  
B) Draft Next Meeting Agenda

#### 8. ADJOURNMENT

**CITY OF SHOREWOOD  
PLANNING COMMISSION MEETING  
TUESDAY, NOVEMBER 16, 2021**

**COUNCIL CHAMBERS  
5755 COUNTRY CLUB ROAD  
7:00 P.M.**

**DRAFT MINUTES**

**CALL TO ORDER**

Chair Maddy called the meeting to order at 7:01 P.M.

**ROLL CALL**

Present: Chair Maddy; Commissioners Eggenberger, Huskins, Gault (arrived at 7:05 P.M.) and Riedel; Planning Director Darling; and, Council Liaison Johnson

Absent: Commissioners Huskins

**1. APPROVAL OF AGENDA**

Riedel moved, Eggenberger seconded, approving the agenda for November 16, 2021, as presented. Motion passed 3/0.

**2. APPROVAL OF MINUTES**

- October 5, 2020

Eggenberger moved, Riedel seconded, approving the Planning Commission Meeting Minutes of October 5, 2021, as presented. Motion passed 3/0.

**3. MATTERS FROM THE FLOOR - NONE**

**4. PUBLIC HEARINGS – NONE**

**5. NEW BUSINESS**

**A. Subdivision Variance**

**Applicant: Zehnder Homes, Inc.**

**Location: 24835 Yellowstone Trail**

Planning Director Darling explained the request to subdivide the property into two lots and for a variance to allow the easterly lot to be 99.65 feet wide when 100 feet is required. She noted that this property was originally two lots that were then combined into one larger lot. She stated that the lot width regulations and how they are measured have changed since the original lots were created in the 1950s. She stated that other than the lot width requirement, the subdivision is routine. Staff recommends approval of the requests, subject to the conditions as included in the staff report. There has been one letter received noting concerns with the subdivision causing a decline in their property values.

Commissioner Gault arrived at the meeting.

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Commissioner Riedel noted that one of the conditions includes removal of an accessory shed and asked if it was because if this subdivision is allowed that would leave an accessory structure on a lot that has no main dwelling.

Planning Director Darling confirmed that this was the reason for this condition and noted that it was also not compliant in terms of setbacks.

Commissioner Eggenberger asked about the well and the condition to identify the location of the well on future Lot 4.

Planning Director Darling explained that the City wants to ensure that each lot has its own functioning potable water source.

Commissioner Eggenberger confirmed that this meant that there was not City water connected to this property and if someone were to build on Lot 3 they would have to dig their own well. He asked what would happen if it was found that the well was located on Lot 3.

Planning Director Darling stated that they would have to dig a new well for Lot 4.

Commissioner Riedel asked about the right-of-way to access Lot 3.

Planning Director Darling stated that when they install a new service connection for sewer they will need a right-of-way permit in order to do so.

Eric Zehnder, Zehnder Homes, 10300 10<sup>th</sup> Avenue N, Plymouth, noted that he has been able to determine that the well for Lot 4 is located on Lot 4 and is shown on the survey.

Commissioner Riedel asked if the property owner had any objection to removal of the shed.

Mr. Zehnder stated that they do not have any objection to that condition. He noted that the current renter for Lot 4 is planning to purchase the home.

Chair Maddy asked if there was anyone present who would like to comment on this application.

Dale Schrode, 24755 Yellowstone Trail, stated that he thought his neighborhood was a mature and established area. He stated that he has liked all the settings for the home and never imagined that there would be room to squeeze another home in. He stated that this request seems to be out of place and stated that the proposed home will obstruct his view to the west and feels the limited visibility will increase the danger of entering the road. He stated that he also has concerns with changes in the landscape and the environmental impact because that small piece of woods offers a huge sanctuary for an array of wildlife, such as owls, pileated woodpeckers, wild turkeys, and deer. There is also a whole ecosystem there with tree frogs and other insects. He stated that it would be a shame to lose the existing habitat and collapse the ecosystem. He read aloud a quote from the Shorewood website about it being a 'little bit city and little bit country'. He stated that he understands that there is a plan to replant trees but that means that the habitat won't return until 50-100 years from now. He stated that he does not see this project as improving or adding benefit to the community or neighborhood and will have an awkward, misfit appearance. He asked that the City adhere to its minimum lot standards and not approve the variance for subdivision. He stated that the neighborhood has been long established and believes it should stay that way for the next generation to enjoy.

George Greenfield, 24715 Yellowstone Trail, asked if the Commission was aware of the nature of the wooded ravine on the west boundary of the property. He stated that about 3 or 4 years ago, the conservation district, in conjunction with the new development on the golf course, redid the drainage system that goes through the ravine from the Country Club to Lake Minnewashta. He stated that the stated size is misleading because that area cannot be disturbed without wrecking the new drainage system. He stated that it appears that the existing driveway will remain and asked if the driveway for the new home would run parallel to Yellowstone or perpendicular. He stated that, as Mr. Schrode pointed out, that will disrupt the conformity and symmetry of the neighborhood. He stated that a variance of 4 inches sounds minor, however one of the things that he believes perturbs many residents is that the City rarely acts on principle and everything is done ad hoc. He stated that 4 inches is a violation of the City Code. He gave the example of the request that was denied to divide a parcel into smaller lots along Seamans and noted that he sees a constant inconsistency in how the City acts. He stated that if the City does approve this request, he believes they should let everyone in the Deerfield Addition know that their property will be susceptible to subdivision into two lots.

Mr. Zehnder stated that he can address a few of the concerns that have been raised. He noted that if you look at an aerial photo, the house setbacks on the homes in that area are widely varied. He stated that regarding the concern about an obstructed view, there are currently a lot of trees there and they plan to leave many of them in place and the home will be built approximately 60 feet off the street. He stated that they could move the lot line 4 inches to have a conforming lot, but they felt it was a lot of work for 4 inches and felt it was easier to leave it where the original lot line division was located.

Commissioner Gault confirmed that the reason for asking for this variance was that Mr. Zehnder was using an existing property description for Parcel A.

Mr. Zehnder confirmed that was correct and this was a previously platted lot that had been combined at some point and this is just to return it to that original split.

Commissioner Gault stated that it appears as though Mr. Zehnder is asking for the variance to avoid the expense of creating new property descriptions and new surveys.

Mr. Zehnder stated that he would not say it is the expense, but just extra work, because everything has already been done.

Commissioner Gault stated that the only reason this is here is because of 4 inches.

Mr. Zehnder noted that when he purchased the property, they were under the impression that Parcel A was 100 feet wide because that is what is shown on the Hennepin County site. He stated that it was a pretty big surprise when the survey came back and it was 99.65 feet and was told by Planning Director Darling that it would require a variance.

Commissioner Riedel stated that in the addition to the cost of surveying, there is also the argument to be made that having parallel lot lines in consistency is desirable.

Chair Maddy closed the public input at 7:23 p.m. He gave an overview on how the City regulates housing and lot splits. He explained that the Commission's hands are kind of tied for saying that they do not want more homes in this neighborhood, because Mr. Zehnder has enough area for two homes per the zoning.



Commissioner Eggenberger stated that he does not see 4 inches as being enough to recommend denial of the variance request.

**Eggenberger moved, Gault seconded, recommending approval of the Minor Subdivision and Variance to Lot Width at 24835 Yellowstone Trail, subject to the conditions included in the staff report. Motion passed 4/0.**

Planning Director Darling that she will discuss the drainage concern that was raised by one of the residents with the City Engineer prior to bringing this to the City Council.

**B. Variances for Second Driveway and to Front Yard Setback**

**Applicant: Zehnder Homes, Inc.**

**Location: 4990 Shady Island Point**

Planning Director Darling gave an overview of the request for a variance to allow a new home to be built at 25 feet from the front property line rather than 35 feet and a variance to allow a second driveway where the regulations allow one. She stated that this property is unique in that it has a very narrow roadway that serves as the public street. She stated that the road is about 10 feet wide which is grounds for supporting the second driveway connection. She noted that the homeowner had submitted a letter earlier today that stated that moving the home back would require removal of a large, mature, catalpa tree that they would prefer to save and changing the location would place the home in an area with suspect soils. Staff followed up with the applicant who attested that the ground water is high on the property and is about 5 feet below the surface where they are proposing the new home. She noted that the City's requirement is that the home has to be a minimum of 4 feet above ground water. Staff found that some of the criteria were met to allow the variance for front yard setback and all criteria were met to allow the second driveway. Staff received two letters of support for the requests from nearby neighbors to the property.

Commissioner Eggenberger stated that the proposal is for the home to be further back than the existing home.

Planning Director Darling explained that the proposal is for the home to be substantially further back than the existing home.

Commissioner Eggenberger confirmed that information plays no part in this issue because they would still need a variance.

Planning Director Darling stated that if they had plans to keep the existing footprint of the home then they would not need a variance. She explained that when you tear down an old home and build a new home, it is very hard to keep to the existing footprint.

Chair Maddy stated that he thinks the Commission can recognize that their proposal would lessen the non-conformity.

Eric Zehnder, Zehnder Homes, 10300 10<sup>th</sup> Avenue N, Plymouth, explained that when he first wrote the variance application, he focused more on the fact that they are making the current situation better which he felt was a strong and compelling argument. He noted that he had lost sight of the fact that they want to save the large catalpa tree. He stated that as they move closer to the lake there is also a concern that it would be even closer to the ground water and noted that they are unsure about those soils because they tested where they would like to put the home, but did not test back further than that. He stated that only about half of the proposed new home would be past the setback and noted that it will be at 25 feet where the existing home is only

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setback 5 feet and feels that their proposal is making the situation much better. He stated that many times people try to get closer to the lake, but they are trying to get further away from the lake which he feels is unique. He stated that another thing to consider is that if the home is pushed back, they will need to add hard cover to the driveway area. He stated that the property owners have spoken to four neighbors who are in support, two of which have submitted letters to the City.

Commissioner Riedel asked where the catalpa tree was located.

Mr. Zehnder pointed the tree out on a map and noted that the property owner had already spent money to fortify the roots so it can be saved and their plans will be to fence it off to keep construction activity away from it. He stated that if the home is pushed back that tree along with a few others would definitely be lost.

Chair Maddy opened this item up for public input at 7:40 p.m., however there was no one present to give input.

Commissioner Gault stated that he understands the regulations, but the fact that the new proposal reduces the infringement by 20 feet he feels is a point he sees in favor of granting the variance.

Commissioner Eggenberger stated that he agreed that reducing the non-conformity is a favorable factor for him to vote in support of it.

Commissioner Riedel stated that he disagreed. He stated that this is not an easy case and does not think the legal non-conforming or the grandfathering concept applies here if you are removing a house because then it becomes like a new construction project. He stated that there is plenty of room on this lot for a fully conforming residence. He stated that the only reason he is hesitating is because of the potential ground water issue which could sway him. He stated that he would like more information on the ground water issue.

Commissioner Gault stated that he is curious about the other homes on this road and where they fit into the lots.

Planning Director Darling stated that she did look to see if the homes were generally meeting the setback from the public street and found the other homes in the area do, with one garage located fairly close to the street.

Commissioner Gault asked if those homes were built under the new regulations and were newer homes.

Planning Director Darling stated that she did not check the construction dates of those homes. She explained that the rules changed in the mid-1980s to the setback from the water level of the lake. She stated that now the setback is based on an elevation point for the lake so it stays consistent.

Chair Maddy stated that he has been on the Planning Commission for 9 years and has never seen anyone try to get farther from the lake. He stated that this is definitely a unique situation in the City.

Commissioner Gault asked about the rationale of the home being at an angle and noted that if the home was rotated and moved back slightly, it would probably meet the requirements.

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Mr. Zehnder stated that he thinks there would still be the issue of getting closer to the lake, the catalpa tree would be in danger, and the view was why they were proposing that particular angle. He stated that it is his fault that they did not focus on the ground water issue and the catalpa tree as part of their variance application. He stated that he simply focused on the fact that they would be getting the front yard setback so much better than it currently is and further from the lake. He stated that he does not want his lack of diligence in that manner to harm the homeowners chance for the variance. He stated that it was not just a fabricated reason because of Planning Director Darling's recommendation because the ground water issue and the catalpa tree are legitimate concerns.

Commissioner Gault stated that he likes the fact that they are increasing the setback by 20 feet, but feels that Commissioner Riedel has raised a valid point about them taking down the home and being considered as new construction.

Commissioner Riedel noted that he still may be inclined to vote against this request, but feels an argument could be made for it being such a unique road that has many structures that are quite close to the small road and the neighborhood does not have consistent setbacks.

Commissioner Gault asked about the existing shed that is located in the right-of-way.

Planning Director Darling explained that that shed has been there since before the shoreland ordinance prohibited sheds by the lake and the City is not asking them to remove the existing shed.

**Eggenberger moved, Gault seconded, recommending approval of the variance requests for front setback and a second driveway, subject to the conditions included in the staff report.**

Commissioner Gault noted that the address of the property was not mentioned in the motion.

**Motion amended by Eggenberger, second amended by Gault, to recommend approval of the variance requests for front setback and a second driveway, for property located at 4990 Shady Island Point, subject to the conditions listed in the staff report. Motion passed 3/1 (Riedel opposed).**

**C. Variance to Minimum Home Width**  
**Applicant: Ben and Meghan Becker**  
**Location: 6180 Cathcart Drive**

Planning Director Darling explained that the property owners are proposing to remove all the existing structures from the site and build a new home with a variance request to build a home 20 feet wide where 22 feet is required. She stated that the new home would have two detached garages that they would use to store their personal vehicles and equipment. The structures would have cedar-stained lap siding with metal roofs. Staff recommends approval, subject to the conditions included in the staff report. She noted that although the applicant does not meet all the variance criteria, the applicant has indicated that they have designed the home to maximize solar and energy efficiency which is encouraged by the City's ordinances.

Ben Becker, 6180 Cathcart Drive, explained the thought process behind the home width is related to solar, energy efficiency and passive heating which are important to them. He stated that their architect believes that 20 feet wide is optimal to allow for passive heating as well as allow natural

light to enter the home. He read aloud a portion of a biography written about their architect David Salmela.

Commissioner Eggenberger asked why they would not just change the design and increase it by 2 more feet.

Mr. Becker stated that it is possible, but they are respecting the architects design who feel this was the optimal size to allow light to flood it and allow for passive heating.

Chair Maddy asked if this was approved how soon they planned to break ground.

Mr. Becker stated that they would like to break ground as soon as possible.

Chair Maddy opened this item for public input at 8:02 p.m.

George Gleason, 6130 Cathcart Drive, stated that his only concern is for the water table and run-off because he has always had problems in his basement with sump pumps constantly running. He stated that when the change overs happened across the street and the new water tower went it, it made a big difference at his place, but he still gets flooded in the spring. He stated that if Mr. Becker is putting a full basement, his concern is how high it will have to be and would require extra landfill which then would cause run-off to come to his property.

There being no additional public input, Chair Maddy closed this portion of the meeting at 8:03 p.m.

Chair Maddy asked about the current amount of impervious surface versus what is being proposed.

Commissioner Riedel stated that it is 7% versus 4%.

Chair Maddy stated that is almost cutting the home in half.

Commissioner Gault stated that when he looks at A 100, it appears as though someone is planning to divide this lot which will impact the impervious surface.

A woman spoke from the audience (inaudible).

Planning Director Darling stated that the current amount of impervious surface on the property is 7.6% and they are proposing to reduce the amount of impervious surface coverage. She stated that her recollection is that this home is not proposing a basement because of the high water table in the area.

Mr. Becker stated that was correct and they were not proposing a basement even though there is currently a basement.

Commissioner Eggenberger asked how the City came up with the width requirement of 22 feet.

Planning Director Darling stated that there were several changes to State statute in the mid-1970s-to mid1980s regarding manufactured housing and mobile homes. She stated that most cities put the minimum house sizes into their ordinances at that time just to make sure that the housing stock remained on permanent foundations and was large enough to maintain stable

property values. She noted that the City's minimum house size is 22 x 30 which is about 660 square feet.

Chair Maddy stated that he does not like the minimum requirement and would like to find a practical difficulty to support the request. He stated that he feels this is a really interesting design for aesthetics and energy efficiency which he would like to encourage.

Commissioner Riedel stated that he would echo that sentiment. He stated that he disagrees with a restriction on somebody building an energy efficient, innovative home. He stated that he feels that if somebody wants to have a small home, they should be allowed to have a small home and should not be forced by the City to have a larger home. He noted that he is also struggling to find a rationale for granting the variance because this is all new construction.

Chair Maddy stated that he feels the ordinance was written to prevent depreciating housing stock which typically things like mobile homes do. He stated that this home is the opposite of that situation. He stated that the Commission could recommend denial based on a strict interpretation of the ordinance and hope that the Council reverses it, or they can say that the practical difficulty is that they are trying to do something innovative and smart.

Commissioner Gault stated that he and his wife love the low winter sun that streams through their home and love it in the summertime when it is high enough that it doesn't stream into the house and over heat it. He stated that their home is 26 feet wide, but they are not using it for passive heating. He stated that he doesn't really buy into the fact that 2 feet makes that much of a difference in the passive heating capability, particularly with the windows proposed in the design. He stated that he understands both sides of the argument, but questions where this will stop and noted his concern for consistency in rulings and recommendations on these requests. He stated that he is not adamantly opposed to the request but is also not gung ho on it.

Commissioner Riedel asked about the minimum width of 22 feet and whether any portion of the home could be more narrow than that measurement. He asked if a two-foot bump out would satisfy the requirement.

Planning Director Darling read aloud from the ordinance which states, "not less than 30 feet in length and not less than 22 feet in width over the entire minimum length. Measurements shall not take into account of overhang or other projections beyond the principle walls."

Mr. Becker stated that efficiency of resources such as the solar and passive heating is one thing but there is also efficiency of materials that should be considered. He stated that increasing it by two feet is another 200 square feet of materials and that is unnecessary for them and their needs.

Chair Maddy stated that he will vote to recommend approval of this request and would like to add discussion of the minimum requirement to the City's work plan. He stated that if people want to have a small home, he feels they should be allowed to as long as it doesn't depreciate property values.

Commissioner Riedel noted that perhaps it could just explicitly prohibit mobile homes because he thinks was the whole rationale for this language.

Chair Maddy stated that there are now some very high end manufactured homes, so he feels it is worth a conversation in the future to discuss this issue and potential improve the Code.

Commissioner Eggenberger stated that he would not want to vote to recommend denial with the hope that the City Council would overturn that recommendation.

**Eggenberger moved, Gault seconded, recommending approval of the variance request to minimum home width for property located at 6180 Cathcart Drive, subject to the conditions as included in the staff report. Motion passed 4/0.**

**6. OTHER BUSINESS**

**7. REPORTS**

- **Council Meeting Report**

Council Liaison Johnson reported on matters considered and actions taken during Council's recent meeting.

- **Draft Next Meeting Agenda**

Planning Director Darling stated there is a Special Home Occupation permit and a Commercial site plan slated for the December 7, 2021, Planning Commission meeting.

Commissioner Gault commented that the information regarding North Oaks included was very interesting reading and asked why it was provided to the Commission.

Planning Director Darling explained that when she first started at the City she had gotten feedback that Commissioners would benefit from having some educational materials and have her share news articles that were pertinent to Planning Commissions. She stated that this particular article was included in their packet materials because she thought there were some interesting points in the article after their land use training session provided a few weeks ago by the League of Minnesota Cities.

Commissioner Gault stated that it shows that elections have consequences with the change in their council. He stated that the prior council had approved it and the new council shot it down. He stated that he suspects that there will be a lawsuit over this issue.

Planning Director Darling noted that the article indicates that they are being sued.

**8. ADJOURNMENT**

**Riedel moved, Gault seconded, adjourning the Planning Commission Meeting of November 16, 2021, at 8:29 P.M. Motion passed 4/0.**



CITY OF  
**SHOREWOOD**

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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Kendra Lindahl, Consulting City Planner

**MEETING DATE:** February 15, 2022

**REQUEST:** Variance for Dock

**APPLICANT:** Jennifer and David Labadie

**LOCATION:** 5510 Howards Point Road

**REVIEW DEADLINE:** March 23, 2022

**LAND USE CLASSIFICATION:** Minimum Density Residential

**ZONING:** R-1A

**FILE NUMBER:** 21.35



### REQUEST:

The applicant requests two variances:

1. A variance to allow a dock greater than four feet in width and
2. A variance to the dock setback from the Ordinary High Water Level (OHWL).

Notice of the variance application was mailed to all property owners within 500 feet of the property at least 10 days prior to the meeting.

### BACKGROUND

The application is in response to a code enforcement issue.

On October 20, 2021 the property owner was notified that the existing dock is in violation of City Code Section 1201.03, subd.14c, which declares that “the number of docks per lot or parcel of land in the R Districts shall be limited to one, and the same shall be operated, used and maintained solely for the use of the members of the family or families residing at the property upon which the dock is located. The dock shall connect to the shoreline at only one location, no wider than four feet, and shall extend into the lake at least eight feet beyond the ordinary high water mark before branching out to form slips. The width of the



dock shall not exceed four feet at any point, except that at one location the dock may be no wider than eight feet for a length of eight feet.”

The Zoning regulations define a dock as “Any wharf, pier or other structure or combination of wharves, piers, or other structures constructed or maintained in or over a waterbody, whether permanent or temporary, including all "Ls", "Ts" or posts which may be a part thereof.”

The applicant was given until October 30, 2021 to bring the property into compliance or request an extension. The applicant indicated that they would be applying for a variance and requested additional time to prepare the submittal. Staff granted the extension and a complete variance application was received by the City on November 23, 2021.

## ANALYSIS

The current ordinance was adopted on November 27, 2006 (Ordinance No. 431) to bring the City regulations into compliance with the MN Department of Natural Resources (MNDNR) and Lake Minnetonka Conservation District (LMCD) standards.

The ordinance allows the dock to connect at the shoreline in one location and the width of the dock cannot exceed four feet, except that at one location the dock may be no wider than eight feet for a length of eight feet. The applicant’s dock is 3.5 feet wide at the shoreline, but then extends 48 feet as a seven foot wide dock within one foot of the OHW mark.

The applicant has provided dimensions of the existing dock section (figure 1) and is requesting a variance to allow the dock to remain as it currently exists.

According to the applicant, the dock was installed on or before April 1985 and has remained in place since that time. The dock is not removed from the lake in the winter. The applicant has provided aerial photos showing the dock in this same location over time.

The existing home was constructed in 2000 and the applicants purchased the property in 2010. The applicant has provided statements from Jeff Fox from Waterfront Specialties and Paul Jeurissen of Serv-a-Dock, Inc. indicating that neither of them installed the dock originally, but certifying that the dock remains in place over the winter and that both believe it has not moved since installation. Both Mr. Fox and Mr. Jeurissen note in their statements that lagoon bottom is very soft and that extending the dock sections further into the lake would create an unstable dock.

In 1989, the homeowners in this lagoon (not the applicant) hired a company to dredge the lagoon to provide navigable access to upper Lake Minnetonka. The MNDNR issued a permit for this work. Mr. Fox and Mr. Jeurissen both indicate in their statements that shifting the existing dock out to meet the eight-foot setback from the OHW, would likely require the dock to be installed in this deeper dredged channel, which would create an unstable and unsafe dock. They

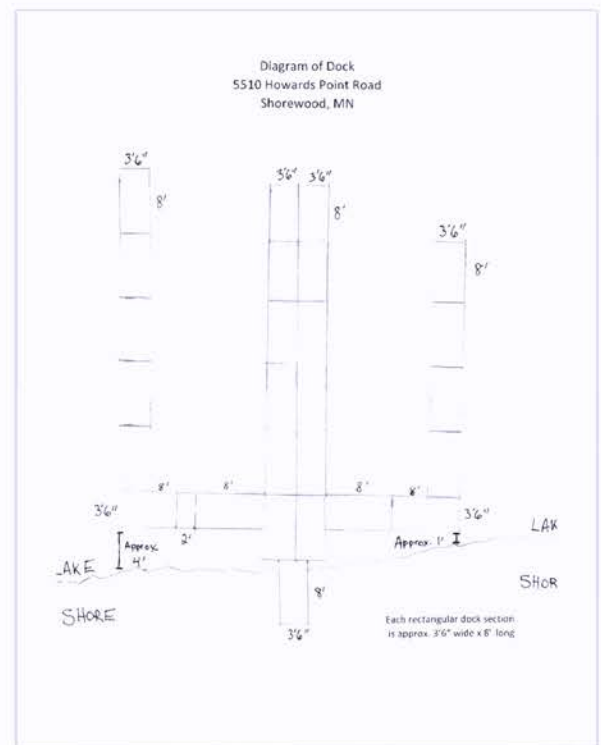


Figure 1 - Existing Dock



indicate that it is a soft bottom where the dock is currently located and shifting it further out into the lagoon will require new taller vertical dock pipes to be placed on these soft unstable soils. These experts believe this will create an unstable dock.

### Variance Criteria

Section 1201.05 Subd. 3. a. of the Zoning Regulations sets forth criteria for the consideration of variance requests. The burden of proof is on the applicant to show all of the variance criteria are met. Staff reviewed the request according to these criteria, as follows:

1. *The variance, and its resulting construction and use, is consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of this chapter.*

The applicants would continue to use the property for residential purposes. The existing home is an allowed use and the dock is an allowed accessory use to the home. These uses are consistent with the uses anticipated by the Comprehensive Plan and allowed by the Zoning Ordinance. The applicant has provided evidence that the dock has been in place for more than 36 years. The dock is a permanent structure and is not removed in the winter.

2. *The applicant has established that there are practical difficulties in complying with this chapter.*

*Practical difficulties mean:*

- a. *The property owner proposes to use the property in a reasonable manner not permitted by this chapter;*
- b. *The plight of the landowner is due to circumstances unique to the property not created by the landowner; and*
- c. *The variance, if approved, would not alter the essential character of the locality.*

Staff finds that the continued use of the dock, which has been in place for more than 36 years, is reasonable.

The plight of the landowner is due to circumstances unique to the property and not created by this landowner. The dock was originally installed more than 36 years ago by a previous landowner and remains in the lagoon year-round. The application materials include signed statements from two local dock installation professionals who provided their professional opinion that the soils in this lagoon create a unique circumstance that would not allow the dock to be safely extended further out into the lagoon.

The continuation of the existing dock configuration in the location where it has been for more than three decades would not alter the essential character of the locality.

3. *The variance would not be based exclusively on economic considerations.*

The variance is not based exclusively on economic considerations. The applicants have provided written statements from two local dock installation professionals who performed work for the applicants in 2012. At that time, the dock was repaired where it had been sinking on the end furthest from the shoreline and both professionals express concern that moving the dock away from the shoreline and further into the lagoon would create an unstable dock due to the soft soils in that area.

4. *The variance shall not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in the public street, or increase the danger of fire or endanger the public safety.*

The variance to allow the dock to remain in place would not impair the supply of light and air to adjacent property, increase congestion on the public street or endanger public safety.

5. *The variance, and its resulting construction or project, would not be detrimental to the public welfare, nor would it be injurious to other land or improvements in the neighborhood.*

The variances to allow the dock to remain in the existing location would not be detrimental to the public welfare nor would it be injurious to other land or improvements in the area. The dock has remained in this location for more than 36 years.

6. *The variance is the minimum variance necessary to address or alleviate the practical difficulties.*

The variance to allow the existing dock to remain would be the minimum action necessary to address the practical difficulties. Any change to move the dock further into the lagoon would place it nearer to the dredged channel in soft soils, which could create an unstable and unsafe dock.

## **RECOMMENDATION**

Staff recommends:

1. Approval of the variance to allow a seven-foot wide dock where a four-foot wide dock is permitted and
2. Approval of the variance to allow the dock to branch out within eight feet of the shoreline, based on the findings outlined in the staff report.

Staff acknowledges that the variance criteria are open to interpretation. Consequently, the Planning Commission could reasonably find otherwise or recommend conditions to mitigate the impact of the variance.

## **ATTACHMENTS**

Location map

Applicants' narrative and plans

Aerial History Exhibit dated February 8, 2022



Location Map - 5510 Howards Point Road





# **Request for Dismissal of Notice of City Code Violation and/or Variance Request**

## **Introduction**

On October 26, 2021, the undersigned Applicants received a "Notice of City Code Violation" for their property located at 5510 Howards Point Road. This letter alleged two different violations of Shorewood City Code 1201.03, subd. 14c, both relating to the Applicants' dock. Specifically, the Notice stated:

1. That Applicants' dock did not extend out eight feet beyond the Ordinary High Water Level before branching out.
2. That the width of the dock was greater than four feet, except for one area of eight feet by eight feet.

The Applicants agree that their dock does not extend out eight feet beyond the Ordinary High Water Level before branching out and that a portion of their dock has a width greater than four feet; the Applicants do not dispute these facts.

The Applicants assert that their dock is a legal nonconforming use and/or structure because when it was installed, it did not violate the Shorewood City Code. If it is determined that the Applicants' dock is a legal nonconforming use and/or structure, then the Applicants' use of said dock may continue, as is, indefinitely. Additionally, if the Applicants' dock is a legal nonconforming use and/or structure, City Code 1201.03, subd. 14c does not apply to the Applicants' dock and no city code violation exists. For these reasons, the Notice of Violation and the claims therein should be dismissed in their entirety and with prejudice.

In the alternative, if it is determined that Applicants' dock is not a legal nonconforming use and/or structure and that City Code 1201.03, subd. 14c does apply to the Applicants' circumstances, the Applicants respectfully submit this Variance Request pursuant to Section 1201.05 of the Shorewood Zoning Regulations which sets forth the criteria for the consideration of Variance Request. If it is determined that the Applicants meet the Variance Request criteria, the Applicants' Variance Request should be granted and approved.

## **Timeline**

A timeline relating to this dock will be helpful when analyzing this Request for Dismissal of Notice of City Code Violation and/or Variance Request.

**April 1985:** An aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. This document is part of the City of Shorewood's permanent file relating to the Applicant's property. **(Exhibit A)**

**1989:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit B)**

**August 1989:** A Permit Application was submitted by Marine Environmental Services to the Minnesota Department of Natural Resources (MN DNR) to dredge the area adjacent to the Applicants dock. **(Exhibit O)**

**2000:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit C)**

**2000:** The current house at 5510 Howards Point Road is built. **(Exhibit K)**

**2002:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit D)**

**2004:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit E)**

**2006:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit F)**

**2006:** City of Shorewood Ordinance No. 431 "An Ordinance Amending the Shorewood Zoning Code as it Pertains to the Regulation of Docks in Residential Zoning Districts" is passed. This amends City Code Section 1201.03 Subd. 14c. **(Exhibit L)**

**2009:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit G)**

**2010:** Applicants purchase the property at 5510 Howards Point Road.

**2012:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. **(Exhibit H)**

**2012:** Serve-a-Dock, a professional dock installation company, perform repairs work to the lagoon-end portion of the original dock because the original vertical pipes located furthest from the lagoon shoreline have sunk significantly into the soft, compromised bottom substrate of the lagoon; Serv-a-Dock does not remove the front pairs of vertical pips of the dock which run parallel to the shoreline.



**2015:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. (Exhibit I)

**2018:** A Hennepin County aerial image was taken and recorded; it shows the Applicants' dock in the same location where it is currently located. (Exhibit J)

**October 26, 2021:** The Applicants receive a Notice of City Code Violation

**October 2021:** The Applicants apply for a 30 day extension.

**November 8, 2021:** The Shorewood City Council grants the Applicants' 30 day extension request.

### **ANALYSIS:**

**ISSUE 1: Applicants' dock is a legal nonconforming use and/or structure which may continue indefinitely; therefore, Shorewood City Code 1201.03, subd 14c does not apply to the matter at hand and there is no city code violation.**

To help explain why Shorewood City Code 1201.03, subd 14c does not apply to applicants' dock, some background relating to the original installation of the Applicants' dock is necessary.

A. The dock was installed in the current location over 35 years ago.

The Applicants are not certain of the exact installation date of their dock or which professional dock company installed the dock. To help determine the date that the Applicants' dock was originally installed, one only needs to examine the official Hennepin County records and aerial image maps of applicants' property. This examination reveals that the Applicants' dock has existed in its current location since at least April 1985. (Exhibit A). It may have been installed even earlier than 1985, but this is the first aerial image map found within the official Hennepin County records.

Closer examination of three and one-half decades worth of Hennepin County records and aerial image maps reveal that since 1985 the Applicant's dock has not moved from the location where it was documented through the aerial image dated 1985. (Exhibits B, C, D, E, F, G, H, I, and J). It should be noted that the Applicants' dock is not removed from the lake in the winter. (Please refer to Page 7, Factor #1).

The Applicants' home was built in 2000. (Exhibit K). The dock existed in the current location prior to the construction of the home. (Exhibits A, B, and C).

In 2010, when the Applicants purchased their home at 5510 Howards Point Road, the same subject dock was already installed exactly where the same subject dock is currently located. (Exhibits A, B, C, D, E, F, G, and R). Since the Applicants purchased their home in 2010, they have not altered the docks' location. The Applicants have never removed the subject dock from the lake.

B. Ordinance No. 431 (which later becomes Shorewood City Code 12.01.03, subd 14c) was adopted in 2006.

On November 27, 2006, the Shorewood City Council passed Ordinance No. 431, "An Ordinance Amending the Shorewood Zoning Code as It Pertains to the Regulation of Docks in Residential Zoning Districts." (Exhibit L). Ordinance No. 431, signed by Shorewood Mayor Woody Love, is when the following language, relevant to this variance application, was adopted:

..... (the dock) "shall extend into the lake at least eight feet beyond the ordinary high-water mark before branching out to form slips. The width of the dock shall not exceed four feet at any point, except that at one location the dock may be no wider than eight feet for a length of eight feet" (Exhibit L).

The language of Ordinance No. 431, adopted in 2006, was incorporated into and is now referred to as City Code 1201.03, subd 14c.

C. The Applicants' dock is a legal nonconforming use and/or structure which may continue indefinitely pursuant to Minn. Stat. Sect. 462.357.

The Shorewood City code defines a Nonconforming Structure as "any structure which, on the effective date of this chapter, does not, even though lawfully established, conform to the applicable conditions if the structure were to be erected under the guidance of this chapter." (Shorewood City Code 1201.02)

The Shorewood City code defines a Nonconforming Use as "any use which, on the effective date of this chapter, does not, even though lawfully established, conform to the applicable conditions if the use were to be established under the guidance of this chapter." (Shorewood City Code 1201.02)

A legally nonconformity means that a use or structure was originally allowed, but due to a code change or other legal process, the use and/or structure no longer conforms to



the current city code. In other words, although once deemed perfectly legal, the use and/or structure now conflicts with an amended city code.

Minnesota law provides that a legal nonconformity has a right to continue. (Minn. Stat. Sect. 462.357). The rights of legal nonconformities attach to and benefit the land. They are not limited to a particular landowner. If the benefitted property is sold, the new owner will have continuance rights.

The Applicants did not install this dock; it already existed when the Applicants purchased their home. (Exhibits A, B, C, D, E, F, G and R). The Applicants' dock was installed in 1985 (by the former property owners, not the Applicants), or even earlier, and it has never been moved or removed from the lake since its' original installation; the dock does not even come out of the water in the winter. (Exhibits A, B, C, D, E, F, G and R).

Applicants' dock met the city code requirements when it was installed.

The city codes which in were in existence in 1985, the earliest proof of this dock in its' current location, should be applied to the Applicants' dock. The 1985 city code contains no requirement that the dock must be "eight feet beyond the ordinary high-water mark before branching out to form slips." The 1985 city code also does not have the requirement that "the width of the dock shall not exceed four feet at any point, except that at one location the dock may be no wider than eight feet for a length of eight feet."

Applicants' dock met the city code requirements when it was installed.

Shorewood City Code 1201.03, subd. 14c, did not exist until 2006. (Exhibit L). It would be unreasonable to retroactively apply the 2006 Shorewood City Code, 12.01.03, subd 14c, to the Applicants' dock which was installed in 1985 (or even earlier). This is exactly the type of situation that Minnesota law addresses through the statutory language defining legal nonconforming uses and/or nonconforming structures. (Minn. Stat. Sect. 462.357, subd. 1e.).

Upon Shorewood's adoption of Shorewood City Code 1201.03, subd. 14c, the Applicants dock became a legal non-conforming use and/or structure in 2006 because even though the dock was lawfully established, it no longer conformed to the amended, 2006, city code. A legal nonconforming use and/or structure, such as the Applicants' dock, has a right to continue indefinitely. (Minn. Stat. Sect. 462.357, subd. 1e.).

The Applicants did not violate Shorewood City Code 1201.03, subd. 14c because the Applicants' dock met the requirements of the city codes when the dock was installed (by the former property owners, not the Applicants) and because is now deemed a legal nonconforming use and/or structure. Therefore, no city code violation exists.



For these reasons, the Notice of Violation and the claims therein should be dismissed in their entirety and with prejudice.

**ISSUE 2: If City Code 1201.03, subd. 14c does apply to the case at hand, the Applicants' dock can and should remain in the current location because a variance is appropriate on numerous grounds.**

Put basically, a variance is a request by a property owner for flexibility. A variance allows an applicant to apply for a deviation from the Code of Ordinance for nonconformities.

To be granted a variance, an applicant(s) must indicate the proposed use and how the proposed use conforms with numerous variance standards that are set forth in Section 1201.05 of the Shorewood Zoning Regulations.

**Variance Criteria:**

Section 1201.05 of the Shorewood Zoning Regulations sets forth criteria for the consideration of variance requests. A variance application may be approved upon finding that all of the following criteria, as applicable, are met:

1. Is the variance, and its resulting construction and use, consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of the zoning regulations?
2. Are there practical difficulties in complying with the Code?
  - A. Is the property owner proposing to use the property in a reasonable manner, but in a manner that is not permitted by the Code?
  - B. Is the plight of the landowner due to circumstances unique to the property & not created by the landowner?
  - C. Will the variance, if approved, alter the essential character of the locality?
3. Is this variance based exclusively on economic considerations?
4. Will this variance impair an adequate supply of light and air to the adjacent properties, or unreasonably increase the congestion in the public street or increase the danger of fire or endanger public safety?

5. This variance will not be detrimental to the public welfare, nor would it be injurious to other lands or improvements in the neighborhood?
6. Is the variance is the minimum variance necessary to alleviate the practical difficulties?

## **BACKGROUND**

To help explain why a variance is appropriate in this situation, if City Code 1201.03, subd. 14c does apply to the case at hand, some background relating to the original placement of the Applicants' dock is necessary.

Two experts in the local Lake Minnetonka dock installation industry, Jeff Fox (Fox), owner of Waterfront Specialties, and Paul Jeurissen (Jeurissen), owner of Serv-a-Dock, have intimate knowledge of the Applicants' lagoon. (Exhibits M and N). Fox, has over 55 years of professional experience in the dock installation and removal industry. (Exhibit M). Jeurissen, owner of Serv-a-Dock, has over 33 years of professional experience in the dock installation and removal industry. (Exhibit N).

According to both Fox and Jeurissen, the Applicants' dock was intentionally installed close to the shoreline decades ago due to the unique location of the lagoon and the due to practical difficulties caused by the soft, substandard, compromised bottom substrate of the lagoon. (Exhibits M and N). Both Fox and Jeurissen recommend leaving the Applicants' dock in its' current location, closer to the shallower, more secure shoreline due to four factors. (Exhibits M & N).

### **Factor #1: The lagoon is uniquely located.**

The uniquely located lagoon where the original dock was installed over 3 decades ago, does not have water movement or water current like the rest of Lake Minnetonka. The water in the lagoon is rather motionless and stagnant. This lagoon and the lack of water current or water movement protects the docks located within the lagoon from winter ice crush caused by the pressure of the frozen lake and from spring ice damage caused by ice shifts that occur during the spring melt.

Both the winter ice crush and the spring ice shifts can destroy a dock that has not been removed from the open lake prior to the winter freeze. Due to the lagoon's unique location combined with the lack of water movement or water current and the fact that winter ice crush and spring ice shifts do not impact this lagoon, the applicants and the other owners of docks in this lagoon never remove their docks from this lagoon. In fact,



the Applicants' dock has not moved since it was professionally installed in 1985, or earlier.

This unique location is one of the contributing factors which allows the Applicants' dock to remain in the lake year-round. Both Fox and Jeurissen recommend leaving the dock in its' current location. (Exhibits M & N).

**Factor #2: The Minnesota DNR granted a Dredging Permit for the lagoon due to the substandard bottom substrate and moving the dock could potentially place it into the deeper dredged channel that is located adjacent to the dock.**

In 1989, the former homeowners who lived around the lagoon (this does not include the Applicants) hired Marine Environmental Services (MES) to dredge some of the soft muddy substrate from the bottom of mouth of the lagoon and to dredge "the area(s) adjacent to homeowner(s) dock(s) to provide navigable access to Upper Lake." (Exhibit O, page 2).

MES filed a Permit Application with the Minnesota Department of Natural Resources (MN DNR) and was granted approval for this dredging project. An aerial map showing applicants' dock (in the same location as the docks current location) was included as part of MES's Application to dredge the area adjacent to the Applicants dock. (Exhibit O, pg. 7). A drawing included with the MN DNR Application shows that "Dredging Channel B" was dug immediately adjacent to the Applicants' dock. (Exhibit O, pg. 9).

If the Applicants' variance is not granted, the Applicants will be required to move their dock further from the shoreline and further out into the lagoon. Fox and Jeurissen reviewed the DNR Application and in both of their professional opinions, extending the Applicants' dock further into the water could possibly place the footers of the dock into the deeper channel that was dredged with MN DNR approval. (Exhibits M and N).

Fox stated that if the vertical pipes of the dock are placed into the deeper dredged channel, this would create the need for even longer vertical dock pipes which would make the dock more unstable than if the dock were simply left in the current location. (Exhibit M). Fox also stated that it would be hard to guarantee the long-term stability of the dock if it were placed in a dredged channel. (Exhibit M). An unstable dock is an unsafe dock.

Both Fox and Jeurissen recommend leaving the dock in its current location where it was originally installed over three decades ago because there is a risk that moving the dock further from the lagoon shoreline and further out into the middle of the lagoon could result in the placement of the vertical pipes into the deeper dredged channel. (Exhibits M and N). If the vertical pipes of the dock are placed into the deeper dredged channel, even longer vertical pipes (than those currently in use) would be required. (Exhibit M).

In Fox's professional opinion, moving the dock deeper into the lagoon, away from the lagoon shoreline, and installing longer vertical pipes would potentially make the dock more unstable than if the dock were simply left in its current location. (Exhibit M). Fox also stated that it would be hard to guarantee the long-term stability of the dock if it were placed in a dredged channel. (Exhibit M). The opinions of two dock installation professionals support the applicant's assertion that a variance is appropriate due to many practical difficulties that were not created by the applicants. (Exhibits M and N).

**Factor #3: The lagoon's compromised and substandard bottom causes practical a difficulty relating to the location of the dock.**

The bottom substrate of the lagoon is a mucky, murky, soft substrate of slimy mud. (Exhibits M and N). The lagoon does not have a hard packed bottom. (Exhibits M and N).

Due to the compromised bottom substrate of the lagoon, the dock is built upon deeply drilled vertical pipes that are placed on top of an aluminum stability plate. (Exhibits M and N). In the dock industry, aluminum stability plates, like those used with the Applicants' dock, are referred to as a "mud plates" or a "mud feet." (Exhibits M and N).

A mud plate provides a dock with support and helps keep a dock level when a dock is installed on a soft, compromised, substandard surface, like the surface found in the Applicants' lagoon. (Exhibits L and M). Without these mud plates, Applicants' dock would progressively sink into the soft, compromised bottom of the lagoon. (Exhibits M and N).

Both Fox and Jeurissen state that the bottom substrate of the lagoon becomes progressively softer and even more compromised the further one proceeds from the lagoon's shoreline. (Exhibits M and N). They both agree, in their professional opinions, that if the Applicants' dock is moved from its well established location near the lagoon's shoreline, and relocated further out into the middle of the lagoon, that the dock will inevitably be relocated to softer and a progressively less supportive and even more compromised bottom. (Exhibits M and N).

Placing the dock on an even softer lake bottom could result in a less stable dock. A less stable dock is a potentially unsafe dock. The opinions of Fox and Jeurissen, two dock installation professionals, support the Applicant's assertion that a variance is appropriate. (Exhibits M and N).

For these reasons, and additional reasons that will also be discussed in this Variance Application, both Fox and Jeurissen recommend leaving the dock in its' current location. (Exhibits M and N).



**Factor #4: The substandard lagoon bottom caused the need, in 2012, for dock repairs to the lagoon-end of the dock located farthest from the lagoon shoreline.**

In Fox's opinion, the dock company that installed the dock installed the vertical pipes of the dock closer than usual to the lagoon shoreline because the bottom of the lagoon becomes continuously softer as the bottom gets deeper and progressively drops off as you move farther from the lagoon shoreline. (Exhibit M).

In 2012, the applicants hired Fox and Jeurissen to perform a repair to the dock. (Exhibits M and N). The repair work was sought because the lagoon-end sections of the dock that are located the farthest from the lagoon shoreline had begun to sink into the soft, substandard bottom of the lagoon. Fox and Jeurissen lifted up the last three pairs of vertical pipes at both lagoon-end of the dock and mud plates were installed onto these vertical pipes to provide the dock with more support and to level the dock out evenly. (Exhibits M and N).

The three pairs of vertical pipes were pulled up from the bottom of the lagoon, one at a time, and the base plates were installed onto the vertical pipes. The vertical pipes were then placed back into their original locations. The vertical pipes were never removed from the dock bracket that they are attached to or from the dock itself; in other words, the vertical pipes stayed attached to the dock throughout these repairs.

The vertical pipes of the applicants' dock that are located closest to the lagoon shoreline and the next four sets of vertical pipes that extend out from the lagoon shoreline and into the lagoon were never altered, moved or removed from their original locations. (Exhibits M and N).

The portion of the dock that had begun to sink was approximately 16 feet in length on both lagoon-end sides of the dock. (Exhibit M). In other words, the 16 feet of the dock that were located the furthest from the shoreline had sunk into the soft, substandard bottom of the lagoon. The bottom of the lagoon becomes increasingly compromised as the dock extends further from the lagoon shoreline; the soft, substandard bottom caused the rear 16 feet of the dock to sink. (Exhibits M and N).

Both Fox and Jeurissen recommend leaving the Applicants' dock in its current location, closer to the shallower, more secure lagoon shoreline rather than relocating the dock further back and into the lagoon because the lagoon bottom becomes progressively more compromised the further one proceeds away from lagoon shoreline. (Exhibits M and N).

### **Conclusions of Two Industry Professionals:**

Applicants' dock is located in a lagoon with a soft, compromised substandard bottom. In Fox's and Jeurissen's professional opinions, extracting Applicants' dock from its established location and moving it back further into the lagoon presents extreme practical difficulties for the applicants. (Exhibits M and N). To remove the dock, the attached boat house and the boat lift from the deeply established vertical pipes and mud plates, a crane and a barge will almost certainly be required. (Exhibits M and N).

Additionally, in Fox and Jeurissen's professional opinions, the further out into the lagoon this dock is extended, there is an increasingly greater likelihood that the Applicants' dock will sink into the soft, substandard lagoon bottom. (Exhibits M and N). This anticipated sinking would cause the need for even longer vertical pipes which would make the dock more unstable than if the dock were simply left in the current location, close to the lagoon shorewline, with the existing vertical pipes. (Exhibits M and N).

Moving the dock further into and deeper into the lagoon and further from the lagoon shoreline will create many practical difficulties for the applicants. Both Fox and Jeurissen, in their professional opinions, recommend leaving the dock in its' current location, closer to the shallower, more secure lagoon shoreline. (Exhibits M and N). For these reasons, a variance is appropriate and should be granted.

### **Variance Standards (6)**

It is necessary to apply all of the evidence presented, including, but not limited to:

- \*the facts,
- \*the historical data,
- \*the decades of Hennepin County aerial images,
- \*the exhibits,
- \*and especially the conclusions of the cited two industry professionals,

and combine this information with simple common sense to the six variance standards listed below. Here is a brief summary analysis of why (if it is determined that City Code 1201.03, subd. 14c does apply to the Applicants' circumstances) granting a variance in this matter is the most appropriate and the best course of action.

To be granted a variance, the Applicants must indicate the proposed use and how it conforms with the following variance standards:

1. Is the variance, and its resulting construction and use, consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of the zoning regulations?



**ANSWER:** Yes, the Applicant's dock is for residential and recreational purposes. The dock will be used in the same way that it has been used for several decades. The Applicants do not propose a use on this site that would be inconsistent with either the intent of the residential land use classification or the district's allowed uses. There is no conflict with the general purpose and intent of the zoning regulations.

2. Are there practical difficulties in complying with the Code?

**ANSWER:** Yes. The previous eleven pages detail in great length that applicants face many practical difficulties in complying with the Code, including but not limited to the fact that moving the dock out further into the lagoon could result in a more unstable and therefore, a less safe dock.

A. Is the property owner proposing to use the property in a reasonable manner, but in a manner that is not permitted by the Code?

**ANSWER:** The Applicants (property owners) propose to simply use the dock in a reasonable manner for residential and recreational purposes, in the same manner that the dock has been used for several decades. This reasonable manner is permitted by the Code.

However, please refer to the analysis in the previous eleven pages relating to the issue of whether the Applicants' dock is a legal nonconforming use and/or structure. If so, City Code 1201.03, subd. 14c does not apply to the Applicants' dock and no city code violation exists.

For these reasons, the Notice of Violation and the claims therein should be dismissed in their entirety and with prejudice.

B. Is the plight of the landowner due to circumstances unique to the property & not created by the landowner?

**ANSWER:** The previous eleven pages detail in great length that applicants' plight is due to circumstances unique to this property and not created by the landowner.

Applicants face many practical difficulties in complying with the Code, including but not limited to the fact that moving the dock out further into the lagoon to comply with the Code could result in an unstable, less safe dock. Two dock professionals performed repairs to the dock because the

portion of the dock located furthest from the lagoon shoreline was sinking in to the soft, substandard bottom. These professionals recommend leaving the dock in its' current location rather than attempting to move the dock further from the lagoon shoreline.

This home was constructed in 2000. (Exhibit K). The Applicants purchased this home in 2010, over 11 years ago. The Applicants did not install this dock; it already existed when the Applicants purchased this home. Since the homeowners purchased their home in 2010, they have not moved or changed the location of their dock. Therefore, the Applicants did not cause or create a violation of the Shorewood City Code.

A variance is appropriate because the plight of the Applicants is due to circumstances unique to this property and because the Applicants did not create this circumstance.

- C. Will the variance, if approved, alter the essential character of the locality?

**ANSWER: No.**

However, if this variance is denied, the Applicants will be required to move the dock further out into the lagoon and away from the lagoon shoreline which will definitely alter the essential character of the locality. All of the neighboring boats that are also docked in the small lagoon will need to alter their routes of travel to navigate around the Applicant's dock if it is moved intrusively further into the lagoon and further from the lagoon shoreline.

Several neighbors have provided written support in favor of this Variance Application. (See Exhibits P, Q, and R).

3. Is this variance based exclusively on economic considerations?

**ANSWER: No.**

4. Will this variance impair an adequate supply of light and air to the adjacent properties, or unreasonably increase the congestion in the public street or increase the danger of fire or endanger public safety?

**ANSWER: No,**

5. This variance will not be detrimental to the public welfare, nor would it be injurious to other lands or improvements in the neighborhood?



**ANSWER:** That is correct. This variance, if granted, will not be detrimental to the public welfare. It would also not be injurious to other lands or improvements in the neighborhood.

6. Is the variance is the minimum variance necessary to alleviate the practical difficulties?

**ANSWER:** Yes. Simply leaving the dock in the location where is has continuously and historically been located for over 35 years is the minimum variance necessary to alleviate the practical difficulties

### **CONCLUSION:**

Shorewood City Code 1201.03, subd. 14c does not apply to the matter at hand because Applicants' dock is a legal nonconforming use and/or structure that may be continued indefinitely under the parameters in state statutes and the city code.

Wherefore, the Notice of City Code Violation should be dismissed in its' entirety and with prejudice.

However, if it is determined that City Code 1201.03, subd. 14c does apply to the matter at hand, the Applicants have met all of the criteria required for a variance. An extremely important factor in this variance request is that the Applicants' alleged lack of compliance with City Code 1201.03, subd. 14c is due to many circumstances that are unique to the property and these circumstances were not created by the Applicants.

If Shorewood City Code 1201.03, subd. 14c does apply to this matter, it is imperative to note that the Applicants did not cause a lack of compliance. The Applicants did not install this dock; it already existed when the Applicants purchased this home. The Applicants have never moved or removed their dock since they purchased their home in 2010; the dock does not even come out of the water in the winter.

The professional opinions of two dock installation professionals have painted a clear picture which illustrates that moving the dock out an additional eight feet into the water presents many practical difficulties for the Applicants.

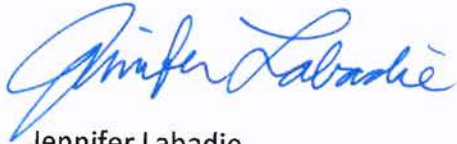
Further, the Applicants have shown that denying the variance and requiring Applicants to move the dock further into the lagoon will have a negative impact on the essential character of the neighborhood. On the other hand, granting the Applicants' variance and allowing the Applicants to simply leave the dock in its current location, will have a positive impact on the essential character of the neighborhood.

For the reasons stated herein, if it is determined that City Code 1201.03, subd. 14c does apply to the matter at hand, a variance is appropriate in this matter and the Applicants' respectfully request that their Variance Application be approved by the City of Shorewood.

Respectfully Submitted,



David Labadie  
5510 Howards Point Road  
Shorewood, MN 55331



Jennifer Labadie  
5510 Howards Point Road  
Shorewood, MN 55331

## **EXHIBIT LIST**

- EXHIBIT A:** Aerial photo taken in **April 1985** showing Applicants dock in the same location where it is currently located. This document is part of the City of Shorewood's permanent file relating to Applicant's property.
- EXHIBIT B:** Hennepin County aerial image taken in **1989** showing Applicants dock in the same location where it is currently located.
- EXHIBIT C:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2000**.
- EXHIBIT D:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2002**.
- EXHIBIT E:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2004**.
- EXHIBIT F:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2006**.
- EXHIBIT G:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2009**.
- EXHIBIT H:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2012**.
- EXHIBIT I:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2015**.
- EXHIBIT J:** Hennepin County aerial image showing Applicants dock in the same location where it is currently located, **dated 2018**.
- EXHIBIT K:** Survey for 5510 Howards Point Road, **dated 2001**.
- EXHIBIT L:** City of Shorewood Ordinance No. 431. An ordinance amending the Shorewood Zoning Code as it pertains to the regulation of docks in residential zoning districts, signed by Mayor Woody Love on **November 27, 2006**.
- EXHIBIT M:** Statement by Jeff Fox, current owner of Waterfront Restorations.
- EXHIBIT N:** Statement by Paul Jeurissen, current owner of Serv-a-Dock.

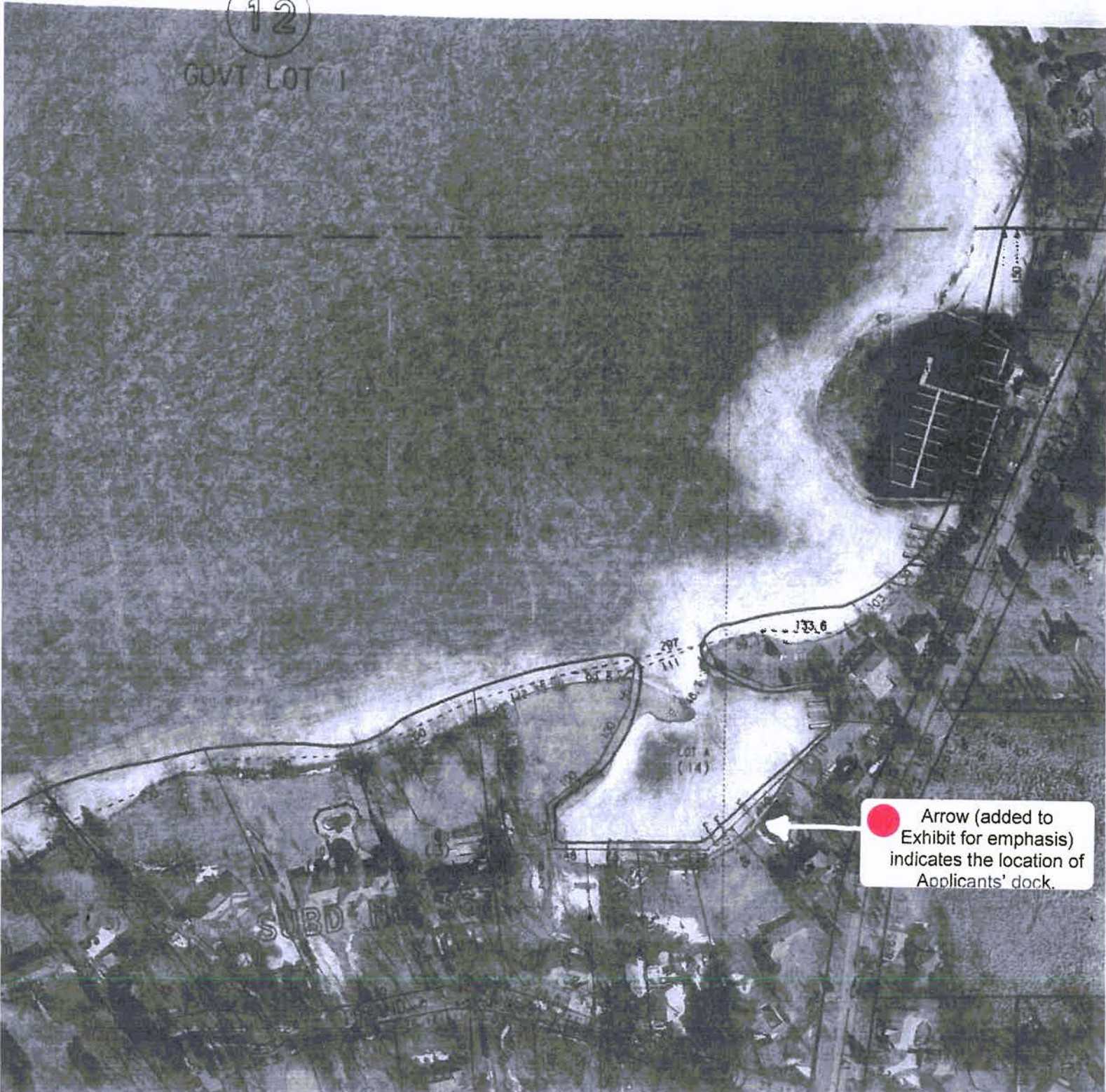
- EXHIBIT O:** Permit Application submitted by Marine Environmental Services to the Minnesota Department of Natural Resources to dredge the area adjacent to the Applicants dock, **dated August 1989.**
- EXHIBIT P:** E-mail in support of Applicants' Variance Request from Donald Check.
- EXHIBIT Q:** E-mail in support of Applicants' Variance Request from Jack Sundry.
- EXHIBIT R:** E-mail in support of Applicants Variance Request from Kaye McNeill.



117 N. 23

## Exhibit A

12  
GOVT LOT 1



Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.



## Imagery Viewer



## Layer List

## Layers

County Boundary

Municipal Boundaries

Historic Aerial Photography - 1940

Historic Aerial Photography - 1953


Historic Aerial Photography - 1957

Historic Aerial Photography - 1964

Historic Aerial Photography - 1969

Historic Aerial Photography - 1988 (MP)

Historic Aerial Photography - 1989

 Aerial\_1989 Boundary

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

32e094f95a5aa4075254b6cad

Exhibit B



address or a property ID (PID) Search help



## Exhibit C

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

Tools	Legend	Print	Share	Help
Measure				
Draw				

### Map layers

#### Basemaps

Road Hybrid ?

#### Imagery

Select a year 2000

Hybrid Basemap 2000 Imagery

#### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties

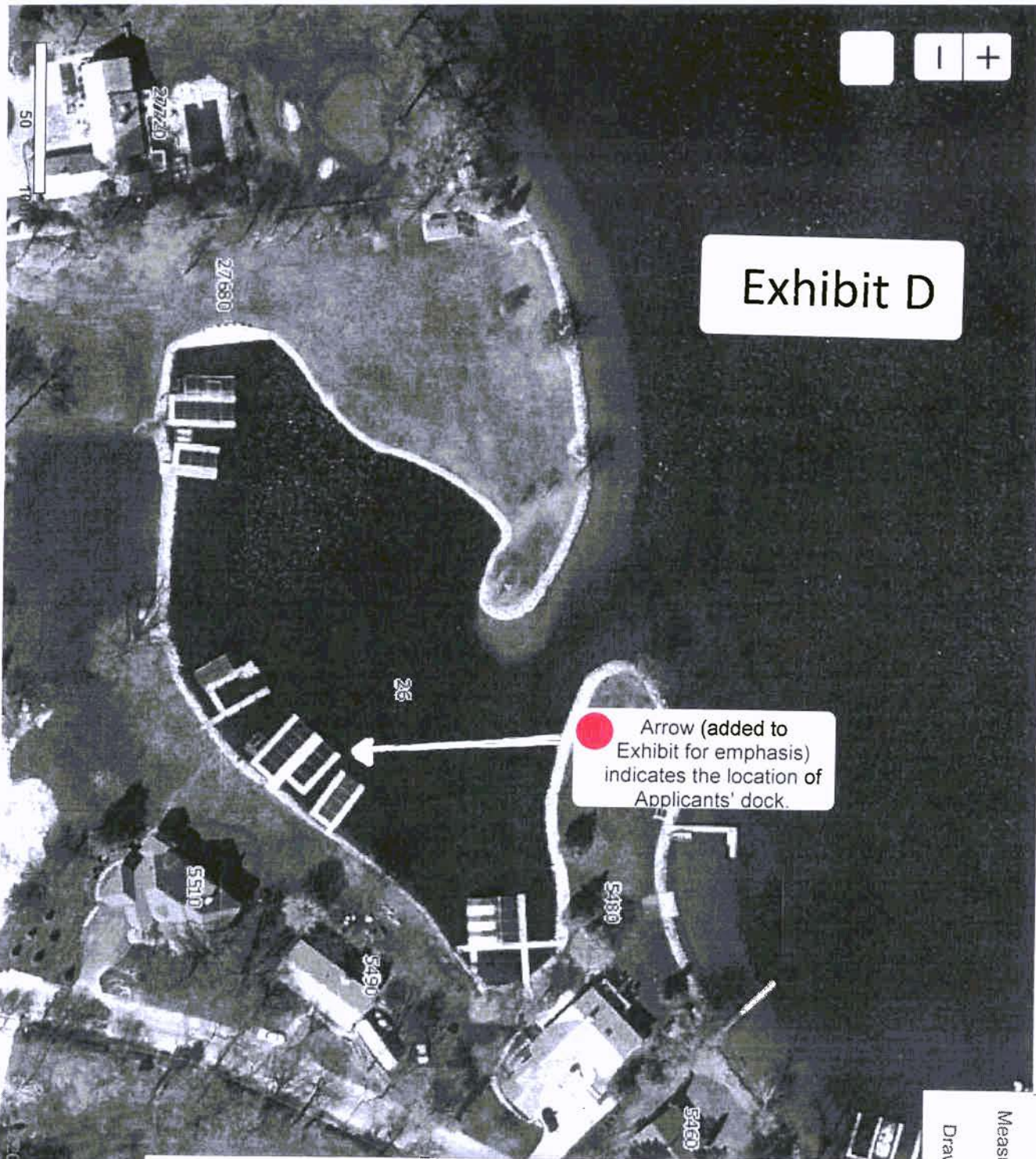


Address or a property ID (PID) Search help



## Exhibit D

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.



Tools

Legend

Print

Share

Help

Measure

Draw

### Map layers

#### Basemaps

Road Hybrid ?

#### Imagery

Select a year 2002

Hybrid Basemap 2002 Imagery

#### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties



address or a property ID (PID) Search help



## Exhibit E

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

26

5480

5490

5510

27680

0 50 100ft

Tools

Legend

Print

Share

Help

Measure

Draw

5400

### Map layers

#### Basemaps

Road Hybrid ?

#### Imagery

Select a year 2004

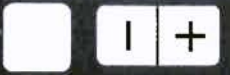
Hybrid Basemap 2004 Imagery

#### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties



address or a property ID (PID) Search help



## Exhibit F

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

26

5480

5460

26

5510

5490

27680

27720

50

100ft

Tools	Legend	Print	Share	Help
Measure	5400			
Draw				

### Map layers

#### Basemaps

Road Hybrid ?

#### Imagery

Select a year 2006

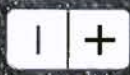
Hybrid 2006 Imagery Basemap

#### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstrac/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties

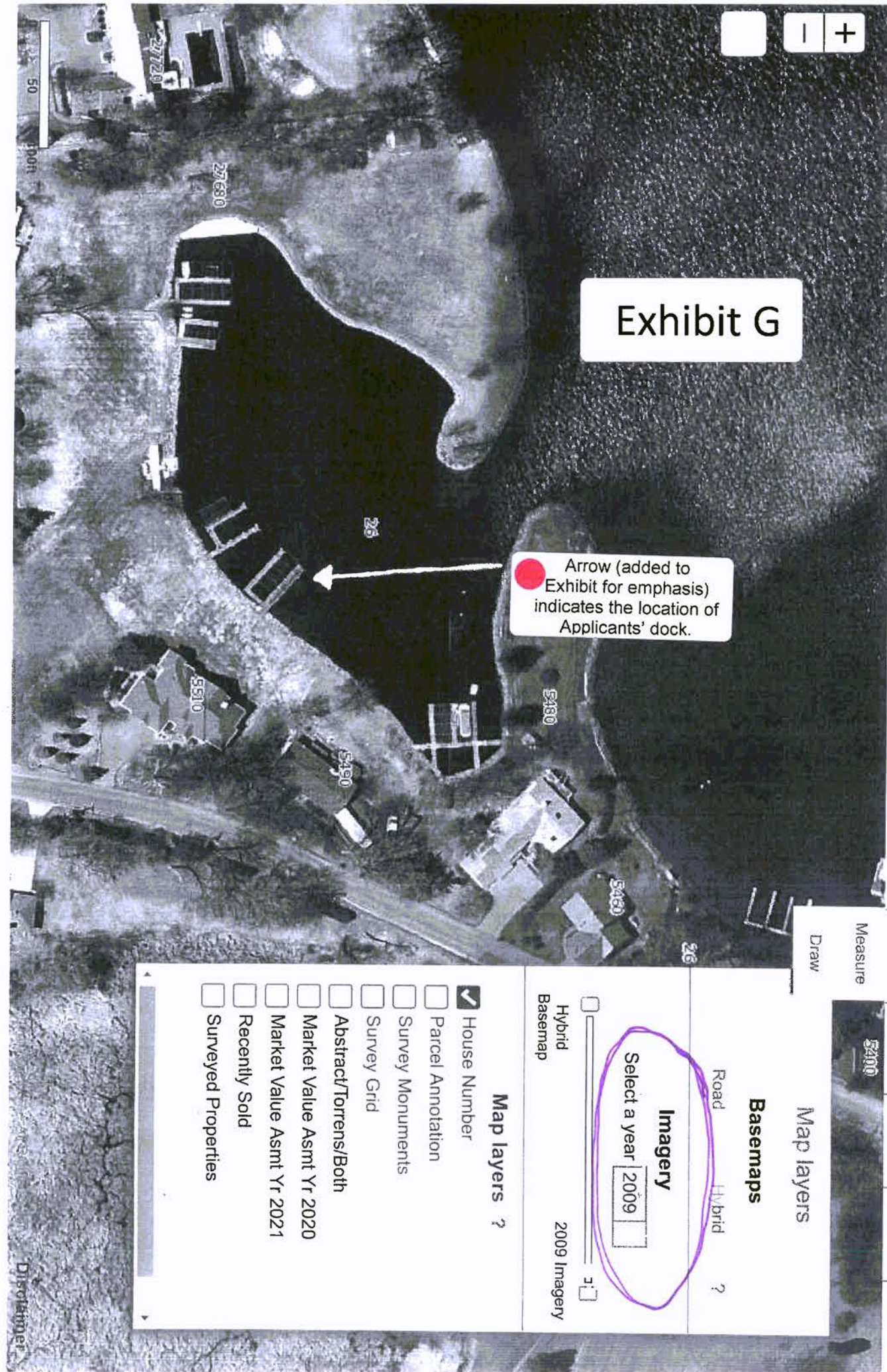


address or a property ID (PID) Search help



# Exhibit G

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.



Tools

Measure

Draw

Legend Print Share Help

## Map layers

### Basemaps

Road Hybrid ?

### Imagery

Select a year 2009

Hybrid Basemap 2009 Imagery

### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties



address or a property ID (PID) Search help



## Exhibit H

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.



Tools	Legend	Print	Share	Help
Measure				
Draw				

**Map layers**

**Basemaps**

Road Hybrid ?

**Imagery**

Select a year

☐ Hybrid ☒ 2012 Imagery

**Map layers ?**

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties



address or a property ID (PID) [Search help](#)

## Exhibit I

Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

Tools

Measure

Draw

Legend

Print

Share

Help

### Map layers

#### Basemaps

Road Hybrid ?

#### Imagery

Select a year 2015

Hybrid Basemap 2015 Imagery

#### Map layers ?

- ☒ House Number
- ☐ Parcel Annotation
- ☐ Survey Monuments
- ☐ Survey Grid
- ☐ Abstract/Torrens/Both
- ☐ Market Value Asmt Yr 2020
- ☐ Market Value Asmt Yr 2021
- ☐ Recently Sold
- ☐ Surveyed Properties






Address or a property ID (PID) Search help



## Exhibit J

 Arrow (added to Exhibit for emphasis) indicates the location of Applicants' dock.

Tools

Measure

Draw

Legend

Print

Share

Help

Map layers

Basemaps

Road Hybrid ?

Imagery

Select a year 2018

Hybrid Basemap 2018 Imagery

Map layers ?

☒ House Number

☐ Parcel Annotation

☐ Survey Monuments

☐ Survey Grid

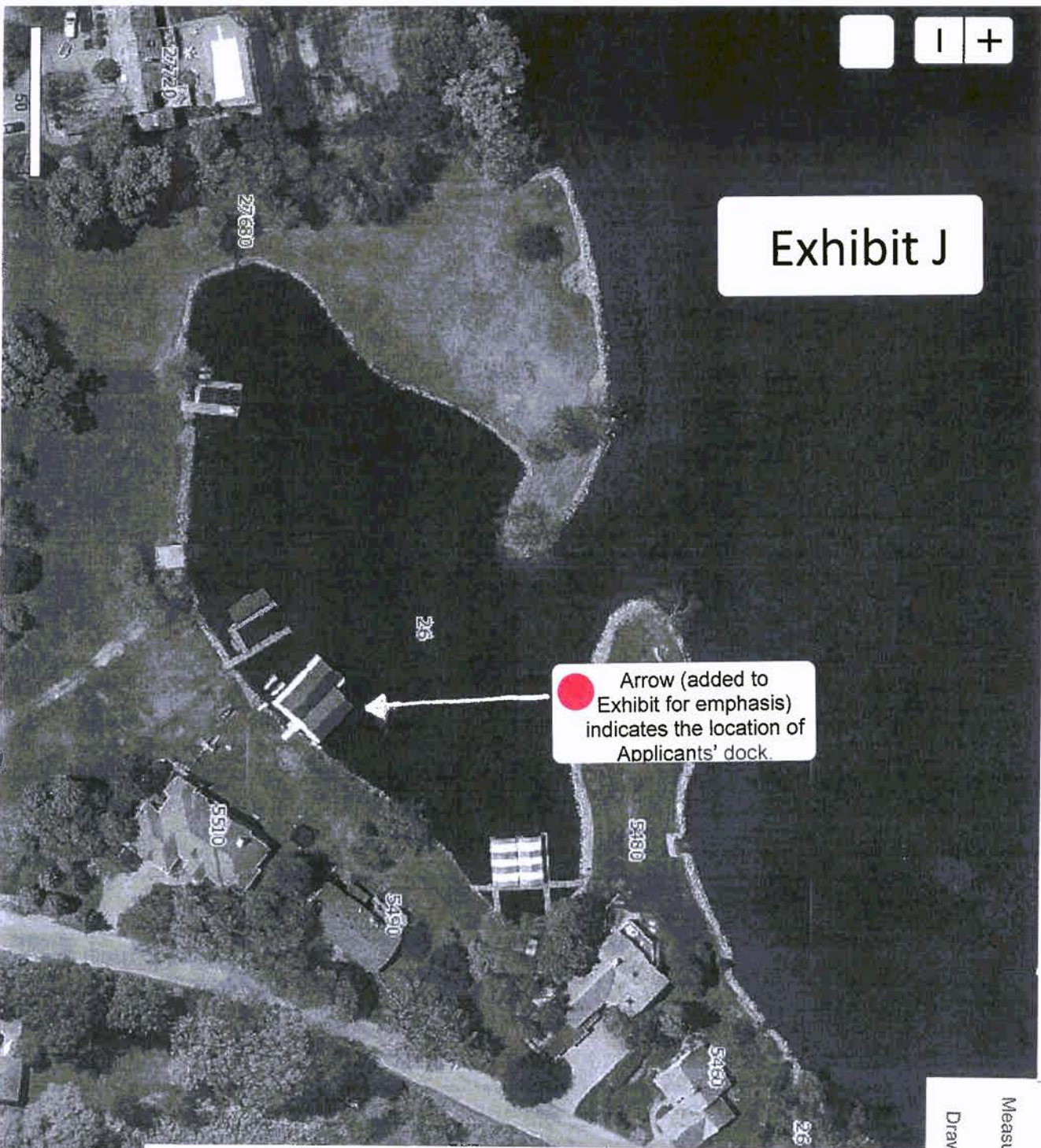
☐ Abstrac/Torrens/Both

☐ Market Value Asmt Yr 2020

☐ Market Value Asmt Yr 2021

☐ Recently Sold

☐ Surveyed Properties





LAKE .  
MINNETONKA



- TOTAL PROPOSED HARDCOVER = 4725 ÷ 19,100 SQ. FT. LOT AREA = 24.74%

Bearings shown are based upon an assumed datum.

### PROPOSED ELEVATIONS

- 1) GARAGE - 742.9
- 2) TOP OF FOUNDATION - 742.3
- 3) BASEMENT - 733.5

01-036 (SEE ALSO 00-273)

## Exhibit K



CITY OF SHOREWOOD  
ORDINANCE NO. 431

AN ORDINANCE AMENDING THE SHOREWOOD ZONING CODE AS IT PERTAINS  
TO THE REGULATION OF DOCKS IN RESIDENTIAL ZONING DISTRICTS

Section 1. City Code Section 1201.02, definition of "Dock" is hereby amended to read:

**"DOCK.** Any wharf, pier or other structure or combination of wharves, piers, or other structures constructed or maintained in or over a lake, whether floating or not, including all "Ls", "Ts" or posts which may be a part thereof, whether affixed or adjacent to the principal structure, and which connects to the shoreline at only one location, no wider than four feet."

Section 2. City Code Section 1201.03 Subd. 14.c. is hereby amended to read:

- "c. The number of docks per lot or parcel of land in the R Districts shall be limited to one, and the same shall be operated, used and maintained solely for the use of the members of the family or families occupying the property upon which the dock is located. The dock shall connect to the shoreline at only one location, no wider than four feet, and shall extend into the lake at least eight feet beyond the ordinary high-water mark before branching out to form slips. The width of the dock shall not exceed four feet at any point, except that at one location the dock may be no wider than eight feet for a length of eight feet.

The number of restricted watercraft, as defined by the Lake Minnetonka Conservation District (LMCD) that may be docked or moored on a single property is limited to four. The dock owner may exceed four restricted watercraft only by obtaining an annual multiple dock/mooring license from the LMCD and a conditional use permit from the City of Shorewood, which permit shall be subject to the following conditions:

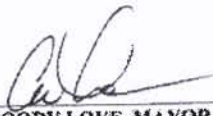
- (1) As part of the annual LMCD license review, the owner of the dock must demonstrate to the City that all boats stored at the dock are owned, registered and operated by the residents of the property on which the dock is located.
- (2) As part of the annual LMCD license review, the owner of the dock must demonstrate to the City that the dock is the minimum size necessary to store the boats owned, registered and operated by the residents of the subject property.
- (3) Boat canopies shall be limited to the size and number that is required to cover no more than four of the restricted watercraft."
- (4) The provisions of Section 1201.04, subdivision 1.d.(1) of this Chapter are considered and satisfactory met.

Section 3. City Code Section 1201.03 Subd. 14.g. is hereby amended to read:

- "g. Unless specified otherwise in the City of Shorewood Zoning Code, all docks on all lakes shall comply with the Lake Minnetonka Conservation District Code of Ordinances."

Section 4. That this Ordinance shall be in full force and effect upon publishing in the Official Newspaper of the City of Shorewood.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD this 27<sup>th</sup> day of November, 2006.

  
WOODY LOVE, MAYOR

ATTEST:


  
CRAIG W. DAWSON, CITY ADMINISTRATOR/CLERK

Exhibit L

---

# WATERFRONT SPECIALTIES INC

November 22<sup>nd</sup>, 2021

Jennifer Labadie,

I, Jeff Fox, am the founder of Waterfront Specialties. I have over 55 years of professional experience in the dock installation and removal industry; I have been involved with installations of docks on Lake Minnetonka over the entire 55 years. I have extensive knowledge of applicants' lagoon and their dock.

I did not perform the original installation of applicants' dock, but to the best of my knowledge, it was installed decades ago. Due to the unique location of this lagoon, this dock does not come out of the water, even in the wintertime. To the best of my knowledge, this dock has not moved since its' original installation, since I notice the dock every day when going from my home on Howards Pt. to my business in Victoria.

In my opinion, the applicants' dock was intentionally installed closer to the lagoon shoreline decades ago due to the extremely soft bottom of the lagoon. The lagoon does not have a hard bottom. The bottom of the lagoon becomes progressively softer the further one proceeds from the lagoon shoreline. If the applicants' dock is moved from its' well-established location near the lagoon shoreline, and relocated further out into the middle of the lagoon, the dock will inevitably be relocated to an even softer and more compromised lake bottom. Placing the dock on a softer lake bottom could result in a less stable dock. A less stable dock is a potentially unsafe dock situation.

Due to the extremely soft bottom of the lagoon, the dock is built upon excessively long vertical pipes that have an aluminum base plate located close to the bottom of the vertical pipe, to supply greater support. In the dock industry, an aluminum base plate, like those used with applicants' dock, is referred to as a "mud plate," or a "base plate."



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Arboretum Blvd  
Victoria, MN  
55386

PHONE 952-443-2821  
EMAIL [Jeff.fox@galvadock.com](mailto:Jeff.fox@galvadock.com)  
WEBSITE [www.galvadock.com](http://www.galvadock.com)



---

A mud plate provides a dock with support and helps keep a dock level when a dock is installed on a soft, compromised, or substandard surface, like the surface found in the applicants' dock situation in the lagoon. Without these mud plates, applicants' dock would progressively sink into the soft lagoon bottom.

I am aware that in 1989, the homeowners who lived around the lagoon (this does not include the applicants) hired Marine Environmental Services (MES) to dredge some of the soft muddy substrate from the bottom of the mouth of the lagoon and to dredge "the area(s) adjacent to homeowner(s) dock(s) to provide navigable access to Upper Lake." I have reviewed the Dredging Application and in my professional opinion, extending the applicants' dock further into the water could possibly place the vertical pipes and the mud plates of the dock into the deeper dredged channel.

If the vertical pipes or the mud plates are placed into the deeper dredged channel, this would create the need for even longer vertical pipes. The longer vertical pipes will make the dock more unstable than if the dock were simply left in the current location. It would be hard to guarantee the long-term stability of the dock if it were placed in the dredged channel. I recommend leaving the dock in its' current location where it was originally installed over three decades ago.

In 2012, the applicants hired myself and Paul Jeurissen to perform the repair to their dock, with the 16 feet of the dock that is located the furthest from the lagoon shoreline had sunk into the extremely soft bottom of the lagoon close to the water surface.

We lifted up the last three pairs of vertical pipes at both lagoon-ends of the dock and mud plates were installed onto these vertical pipes to provide the dock with more support and to level the dock out evenly. The three pairs of vertical pipes were pulled up from the bottom of the lagoon, one at a time, and the base plates were installed onto the vertical pipes and the vertical pipes were placed back into their original positions. The vertical pipes were never removed from the dock bracket that they are attached to or from the dock itself.

When we performed this repair work, we also installed a boat lift inside the original dock slip and we installed additional dock sections onto the north-side of the original dock and installed a second boathouse canopy.



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Victoria, MN  
55386

PHONE 952-443-2821  
EMAIL [Jeff.fox@galvadock.com](mailto:Jeff.fox@galvadock.com)  
WEBSITE [www.galvadock.com](http://www.galvadock.com)

---

The vertical pipes of the applicants' dock that are located closest to the shoreline and the next four sets of vertical pipes that extend out into the lagoon from the shoreline were never altered, moved or removed from their original location.

In my professional opinion, extracting this dock from its' established location and moving it back further into the lagoon presents extreme practical difficulties for the applicants. To remove the dock, the attached boat house and the boat lift from the deep established base support, a crane and a barge will almost certainly be required.

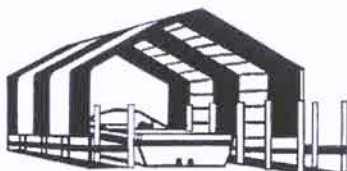
Also, in my professional opinion, the further out into the lagoon this dock is extended, there is an increasingly greater likelihood that the dock will sink into the soft lagoon bottom. If the dock sinks, we would need to install even longer vertical pipes. Longer vertical pipes could make the dock more unstable than if the dock were simply left in the current location.

In my professional opinion, I recommend leaving the dock in its current location, closer to the shallower, more secure lagoon shoreline.

I hope this is helpful in resolving the current dock situation.

Regards,

Jeffrey A. Fox  
President of Waterfront Specialties Inc.



2115  
Arboretum Blvd  
Victoria, MN  
55386

PHONE 952-443-2821  
EMAIL Jeff.fox@galvadock.com  
WEBSITE www.galvadock.com





*Specializing in Waterfront Products  
Docks, Lifts, & Accessories*

**Serv-a-Dock Inc.**

170 Industrial Blvd.  
Norwood Young America, MN 55397

Statement of Paul Jeurissen.

My name is Paul Jeurissen. I am the owner of Serv-a-Dock. I've been in the dock installation and removal industry for over 33 years. I have worked on the applicants' dock and I am familiar with their soft-bottomed lagoon. This dock does not come out of the water and to the best of my knowledge, the dock has not moved since its' original installation. I did not perform the original installation of applicants' dock, but to the best of my knowledge, it was installed decades ago.

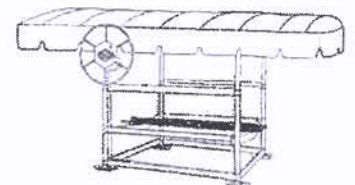
The lagoon does not have a hard packed bottom. As you move further from the lagoon shoreline, the bottom of the lagoon becomes progressively softer. I believe that the applicants' dock was intentionally installed closer to the lagoon shoreline decades ago due to the extremely soft and muddy bottom of the lagoon.

Due to the extremely soft bottom of the lagoon, the dock is built upon deeply drilled vertical pipes that are placed on top of an aluminum stability plate. In the dock industry, an aluminum stability plate, like those used with appellants' dock, is referred to as a "mud plate," a "mud foot," or a "base plate." A mud plate provides a dock with support and helps keep a dock stable when a dock is installed on a soft, compromised, or substandard surface, like the surface found in the applicants' lagoon. Without these mud plates, applicants' dock would progressively sink into the soft lagoon bottom.

I am aware that in 1989, the homeowners who lived around the lagoon (this does not include the applicants) hired Marine Environmental Services (MES) to dredge some of the soft

**Exhibit N**

**servadock.com • 952.443.2811**



muddy substrate from the bottom of the mouth of the lagoon and to dredge "the area(s) adjacent to homeowner(s) dock(s) to provide navigable access to Upper Lake." I have reviewed the Dredging Application and in my professional opinion, extending the applicants' dock further into the water could possibly place the vertical pipes and the mud plates of the dock into the deeper dredged channel.

If the vertical pipes or the mud plates are placed into the deeper dredged channel, this would create the need for even longer vertical pipes. The longer vertical pipes could make the dock more unstable than if the dock were simply left in the current location. It would be hard to guarantee the long-term stability of the dock if it were placed in a dredged channel

In 2012, the applicants hired myself and Jeff Fox to perform a repair to their dock because the 16 feet of the dock that is located the furthest from the lagoon shoreline had sunk into the extremely soft bottom of the lagoon.

Fox & I lifted up the last three sets of vertical pipes at both lagoon-ends of the dock and mud plates were installed onto these vertical pipes to provide the dock with more support and to level the dock out evenly. The three sets of vertical pipes were pulled up from the bottom of the lagoon, one at a time, and the base plates were installed onto the vertical pipes and the vertical pipes were placed back into their original positions. The vertical pipes were removed being replaced with longer pipes and mud plates were added from the dock bracket that they are attached to or from the dock itself.

When Fox & I performed this repair work, we also installed a boat lift inside the original dock and we installed additional dock sections onto the north-side of the original dock and installed a second boathouse canopy.



The vertical pipes of the applicants' dock that are located closest to the shoreline and the next four sets of vertical pipes that extend out into the lagoon from the shoreline were never altered, moved or removed from their original location.

In my professional opinion, the further out into the lagoon this dock is extended, there is an increasingly greater likelihood that the dock will sink into the soft lagoon bottom. If the dock sinks, we would need to install even longer vertical pipes. Longer vertical pipes could make the dock more unstable than if the dock were simply left in the current location.

Also, extending the applicants' dock further into the lagoon will negatively impact all of the other dock owners in the lagoon. The other boats will need to carefully navigate around the applicants' dock every time they wish to leave or return to their own shoreline.

In my professional opinion, I recommend leaving the dock in its' current location, where it was originally installed over three decades ago. This location is close to the shallower, more secure lagoon shoreline. There is a smaller chance that the decades old, well established, dock will sink into the soft lagoon bottom than a newly relocated dock that is placed even further out into the lagoon.

Leaving the dock in its' current location makes much more common sense than forcing the applicants' to pull it up and extend it intrusively further into the shared lagoon.

A handwritten signature in dark ink, appearing to read "Paul Jeurissen". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Paul Jeurissen  
Owner of Serv-a-Dock



STATE OF  
MINNESOTA

DEPARTMENT OF NATURAL RESOURCES

SCANNED

SEP 1989  
FILE COPY

PHONE NO.

METRO REGION WATERS - 1200 WARNER ROAD, ST. PAUL, MN 55106  
296-7523

SCANNED

DNR PROTECTED WATERS PERMIT APPLICATION NUMBER  
REQUEST FOR REVIEW AND COMMENTS

90-6065

DATE: 8/31/89

TO: USCOE - J. Yanta  
Henn CD - L. Zeug  
MCWSD - R. Quarbeck  
City of Shorewood

AFM - B. Gilmertson  
Awm - J. Parker  
LMCD

FROM: CEIL STRAUSS, AREA HYDROLOGIST

WATERS AFFECTED: Lake Minnetonka (27-133) S. Upper Lake (45)

PROJECT SPONSOR: Ken Hall

NATURE OF WORK: Dredging to 924.6' for docks  
and to 923.6' for channels.

COMMENTS DUE BY: 30 days from receipt

Exhibit O

AN EQUAL OPPORTUNITY EMPLOYER



# PERMIT APPLICATION

TO WORK IN PROTECTED WATERS OR WETLANDS  
(INCLUDING DAM SAFETY)



OFFICE USE ONLY.	
P.A. NO.	
<input type="checkbox"/> SWCD <input type="checkbox"/> C/C <input type="checkbox"/> W.D. <input type="checkbox"/> USCOE	

▶▶ Please read instructions before attempting to complete this application.

I. Applicant's Name (Last, First, M.I.) <b>Ken L. Hall</b>		Authorized Agent (if applicable) <b>MARINE ENVIRONMENTAL SERVICES</b>		Telephone Number & area code <b>(612) 474-5878</b>	
Address (Street, RFD, Box Number, City, State, Zip Code) <b>5510 Howards Point Road Shorewood, MN 55331</b>					
II. LOCATION OF PROPOSED PROJECT (BE SURE TO INCLUDE SKETCH SHOWING HOW TO GET TO THE SITE)					
Government Lot(s)	Quarter Section(s)	Section(s) No.	Township(s) No.	Range(s) No.	Lot, Block, Subdivision
	<b>NE 1/4 NE 1/4</b>	<b>31</b>	<b>117</b>	<b>23</b>	
Fire No., Box No. or Project Address <b>5510 Howards Point Road</b>			County <b>Henn.</b>	Project will affect <input type="checkbox"/> Lake, <input type="checkbox"/> Wetland or <input type="checkbox"/> Watercourse. (name & number, if known) <b>Upper Lake Lake Wika.</b>	
III. TYPE OF WORK PROPOSED (CHECK ONE)			IV. TYPE OF PROJECT (CHECK ONE)		
<input checked="" type="checkbox"/> excavate <input type="checkbox"/> repair <input type="checkbox"/> fill <input type="checkbox"/> remove <input type="checkbox"/> drain <input type="checkbox"/> abandon <input type="checkbox"/> construct <input type="checkbox"/> other (specify) <input type="checkbox"/> install			<input checked="" type="checkbox"/> shoreline <input type="checkbox"/> shore-protection <input type="checkbox"/> obstruction <input type="checkbox"/> dam <input type="checkbox"/> channel <input type="checkbox"/> harbor <input type="checkbox"/> bridge <input type="checkbox"/> other <input type="checkbox"/> sand blanket <input type="checkbox"/> permanent dock <input type="checkbox"/> culvert    (specify) <input type="checkbox"/> riprap <input type="checkbox"/> wharf		
V. ESTIMATED PROJECT COST \$ <b>2,000</b>			VI. LENGTH OF SHORELINE AFFECTED (IN FEET): <b>1200</b>		
VII. VOLUME OF MATERIAL FILLED OR EXCAVATED (IN CUBIC YARDS): <b>2,000 CUBIC YARDS</b>					
VIII. BRIEF EXPLANATION OF PROJECT: (EXPLAIN WHAT PROJECT CONSISTS OF AND HOW WORK WILL BE DONE) <b>Project consists of approximately 2,000 cubic yards of removal from area(s) adjacent homeowner(s) dock(s) to provide navigable access to Upper Lake. Bottom level will be dredged down to 924.6' for dock(s) and 923.6' for remaining proposed dredging area(s). Mud will be removed by mechanical means and hauled away by truck.</b>					
IX. PURPOSE OF PROJECT: (Explain why this project is needed) <b>Homeowner(s) currently do not have navigable access to the lake.</b>					
X. ENVIRONMENTAL IMPACT (Anticipated changes to the water and related land resources, including unavoidable but detrimental effects) <b>Anticipate no changes to the area. Low turbidity due to dredging actions.</b>					
XI. ALTERNATIVES (Other alternatives to the action proposed) <b>None foreseen.</b>					
XII. I hereby make application pursuant to Minnesota Statutes Chapter 105.42 and all supporting rules for a permit to work in or affect the above named protected water(s) in accordance with all supporting maps, plans, and other information submitted with this application. The information submitted and statements made concerning this application are true and correct to the best of my knowledge.					

STATE OF Minnesota

COUNTY OF Scott

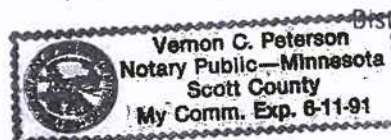
Subscribed and sworn to before me this

11 day of April 19 89

My commission expires 6-11-91

Signature of Notary Vernon C. Peterson

Signature of Owner or Authorized Agent <u>Ken L. Hall</u>	Date <u>4-11-89</u>
Signature of Leasee <u>[Signature]</u>	Date <u>4-11-89</u>



Distribution:

White: DNR  
Blue: SWCD  
Green: Watershed District  
Goldenrod: City or County  
Pink: Army Corps of Engineers  
Canary: Applicant



AUG 29 1989

## LOCAL UNIT OF GOVERNMENT COMMENTS

PART B

Section I (To be completed by applicant) **REGION VI**

Name of Applicant Ken Hall		Address (Street, RFD, Box No., City, State, Zip Code) 5510 Howards Point Road Shorewood, MN 55331			
PROJECT LOCATION	Quarter Section(s) NE 1/4 NE 1/4	Section(s) 31	Township(s) 117	Range(s) 23	County(ies) Henn.
	Project will affect: (name and number of lake, wetland, or watercourse) Upper Lake Lake Minnetonka				

I hereby submit this application for permit to:  
(mark proper box)☒ appropriate water ☐ work in protected waters

Signature of Applicant

X

Date

8-22-89

## Section II (To be completed by local unit of government)

The following local unit of government comments and/or recommendations are submitted for consideration by the Department of Natural Resources in the disposition of the referenced permit application. (YOUR RESPONSE MUST BE SUBMITTED TO THE DNR WITHIN 30 DAYS.) Water Appropriation Permit Applications and Protected Waters Permit Applications are to be sent to the DNR Regional Office. SEE REVERSE SIDE FOR CORRECT MAILING ADDRESSES.)

Was the proposed project field inspected by this local unit of government? ☐ NO ☐ YES (if Yes, give viewer's name)

Viewer's Name	Title
---------------	-------

Authorized Signature	Title	Date	Telephone No. (Area Code) ( ) -
----------------------	-------	------	------------------------------------

Name of responding Soil and Water Conservation District, Watershed District, City or County

Address (of the above named local unit of government)

(DNR — Division of Waters addresses on back)



40-6065  
MARINE ENVIRONMENTAL SERVICES

1919 DUPONT AVENUE, #2B  
MINNEAPOLIS, MN 55403  
612-874-6386  
612-471-2628

RECEIVED  
AUG 29 1989  
REGION VI

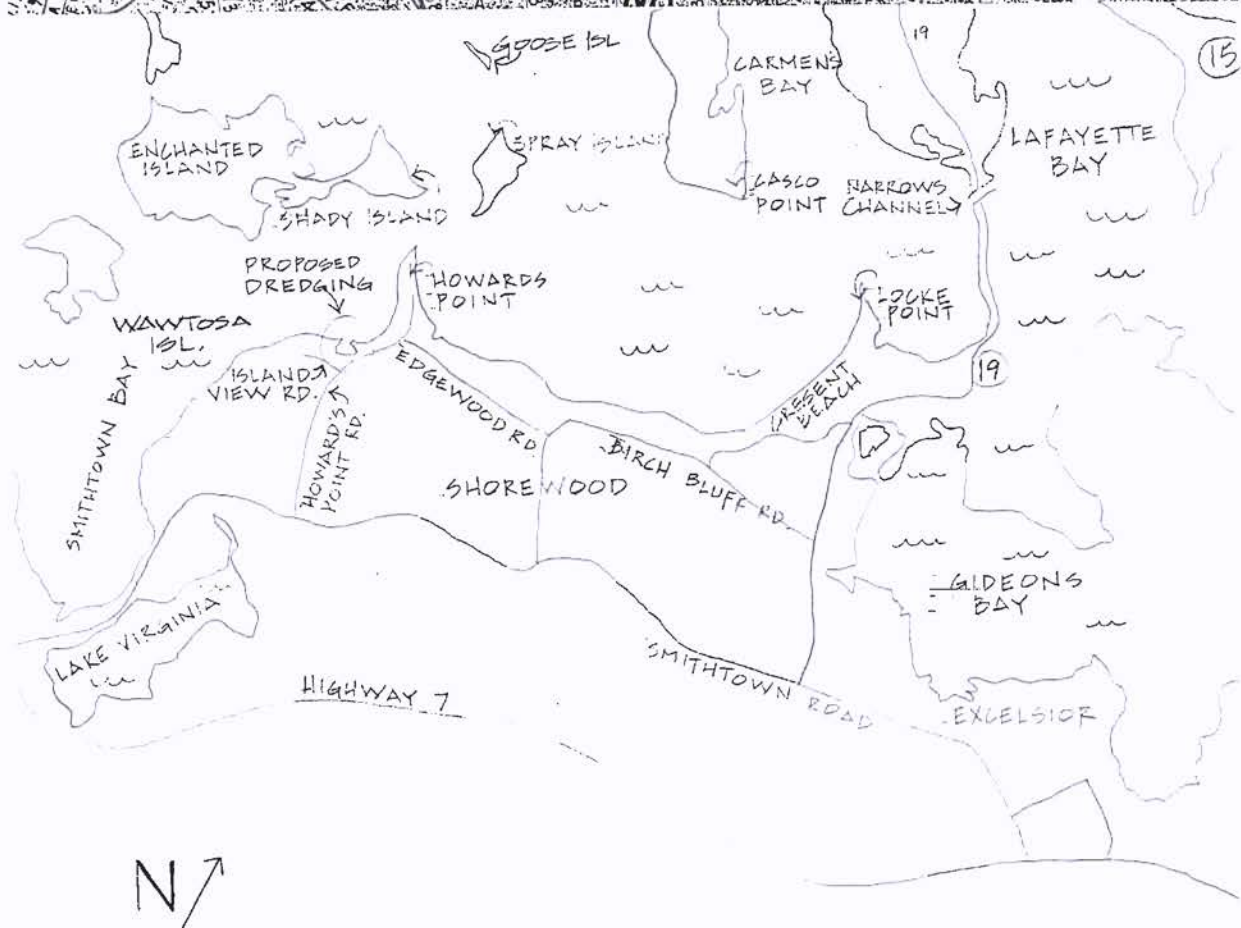
The proposed work on this Lake Minnetonka property will be performed by MARINE ENVIRONMENTAL SERVICES. Operations Manager is Tom Mosher and permit application was completed by JoLynn Mosher. If you have any questions regarding this permit, please call Tom or JoLynn at 874-6386 (answering machine) or 471-2628 (North Shore Drive Marina).

The bottom mud will be removed with a backhoe mounted on a 8' x 20' steel barge. The mud will be immediately hauled away by dump trucks to a disposal site.

The following pages should contain all of the information needed to explain and support the project. Page one is the job site location map. Page two is the job site platt map. Page three is the job site aerial photo taken in April of 1985. Page four is the job site photos. Page five is the job site top view of lagoon. Page six and seven is the cross-section details of lagoon. Page eight is the channel top view. Page nine is the channel cross-section details. Page ten is the silt curtain detail. Page eleven is the volume computations for mud removal. Page twelve is the photos of the backhoe mounted on the barge with the pump behind the backhoe which pumps the mud through the pipeline into the trucks.

As of this time, we can not identify the particualar disposal site that will be used for this project, we will provide the location and plan for disposal site before project begins.

After the property owner association meeting, we will supply names and agreements to Minnehaha Creek Watershed District.



DATE 1



2667380

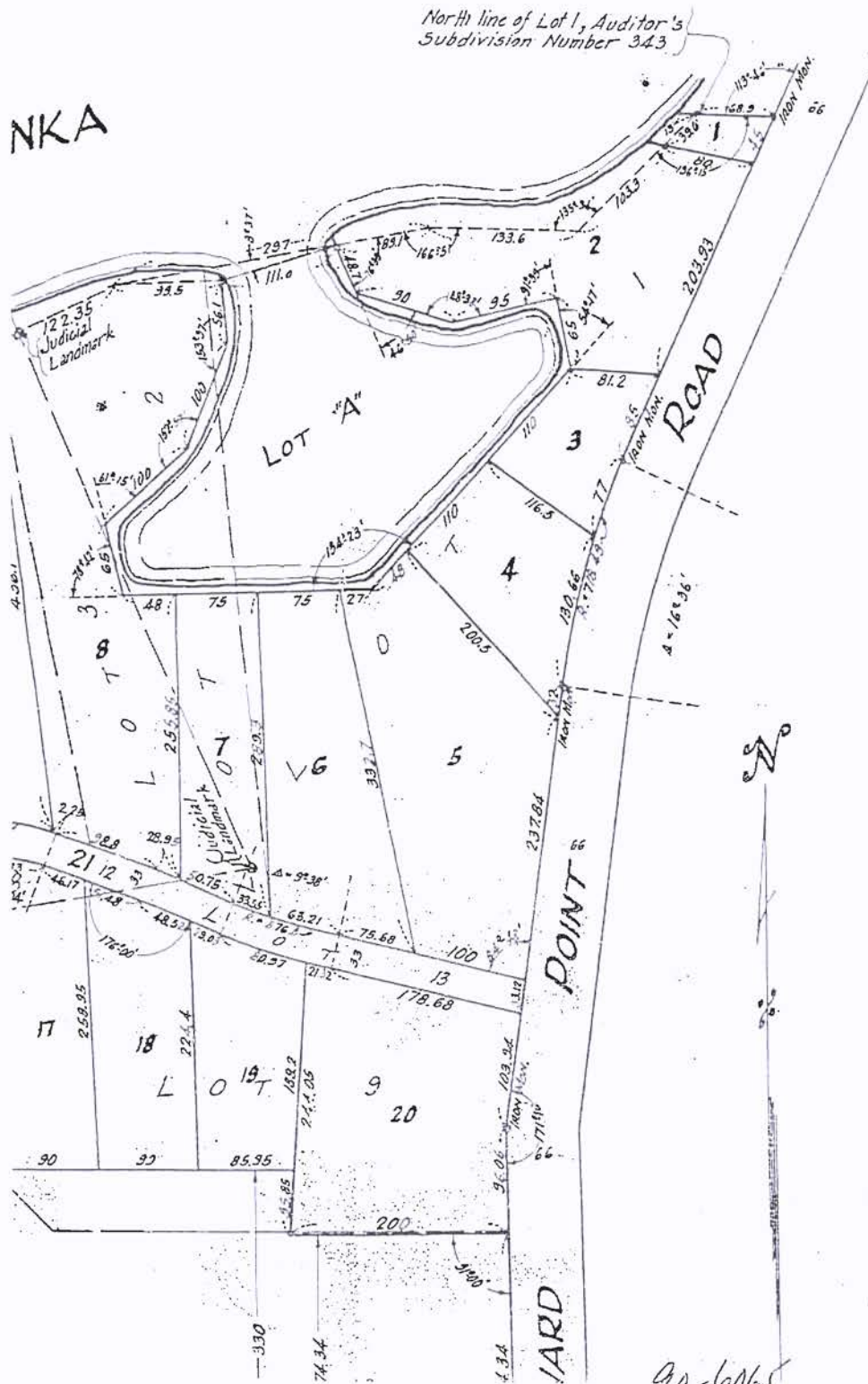
Registered Vol. 406, Pgs. 1248429-124843  
478 1146500  
388 119299

# SUBDIVISION NUMBER 367

## NEPIN COUNTY, MINNESOTA

EGAN, FIELD & NOWAK  
Engineers & Surveyors

December, 1949



I hereby certify  
and by order of the  
veyed and platte.  
All of Auditor  
according to the  
Registrar of Title  
Hennepin County,  
as Auditor's Sub  
plat is a correct  
rectly shown on  
guidance of future  
outside boundary

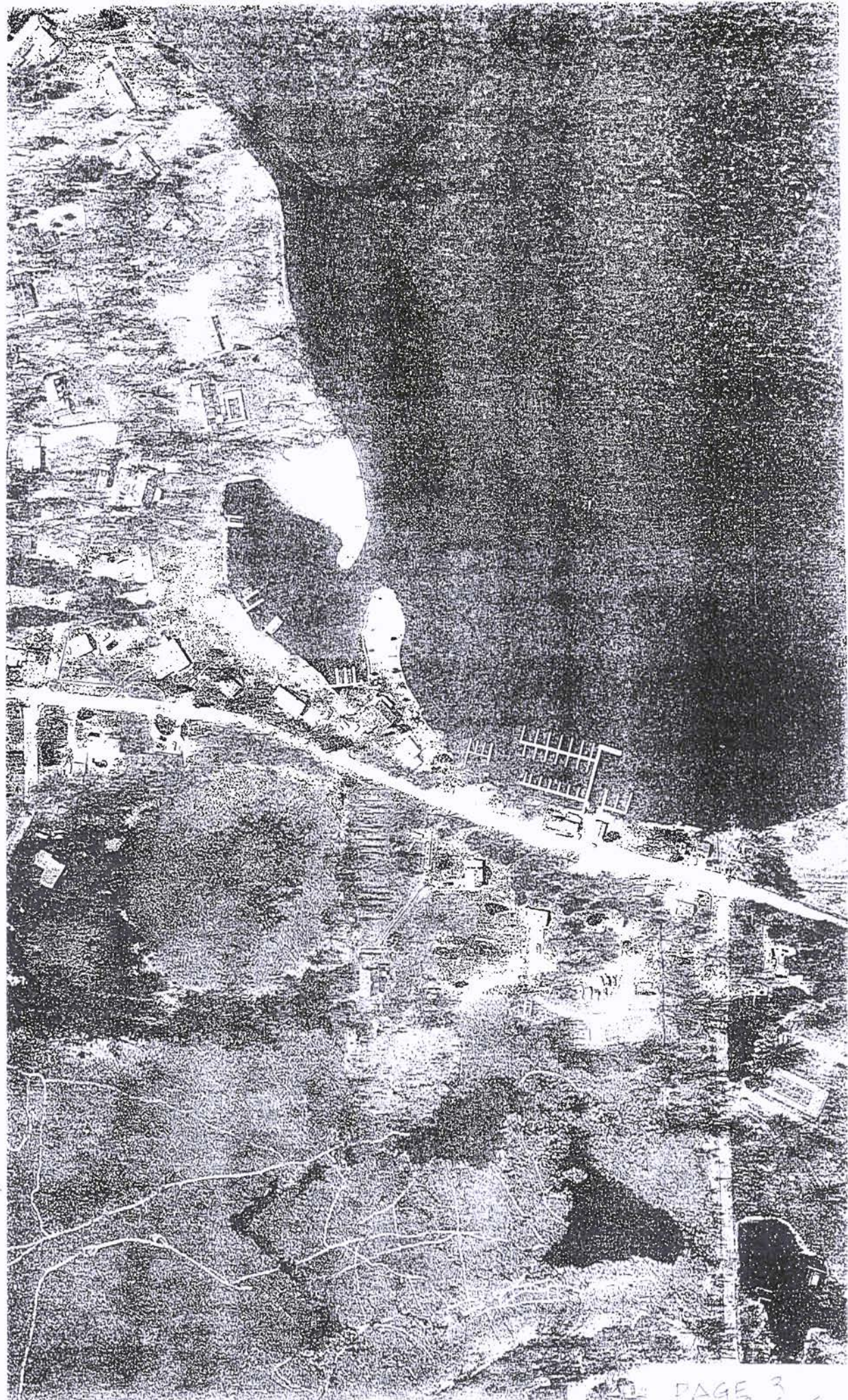
Above certified  
*January*

I, Robert F. Fitz  
hereby certify the  
certificate of the  
reasonable time  
of said land hav  
caused the sam  
and same to be  
County, Minnaso

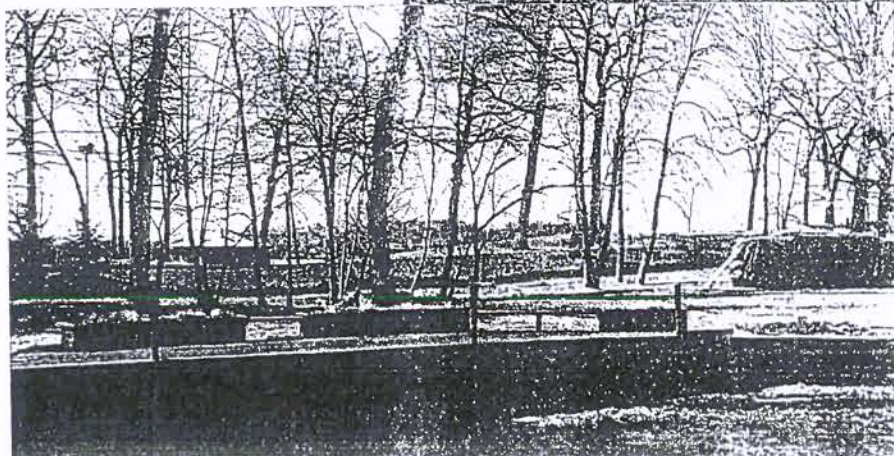
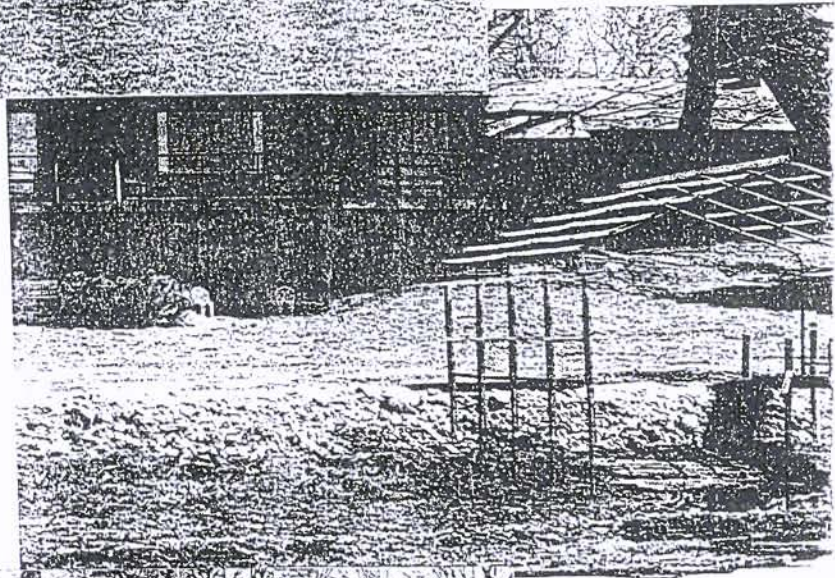
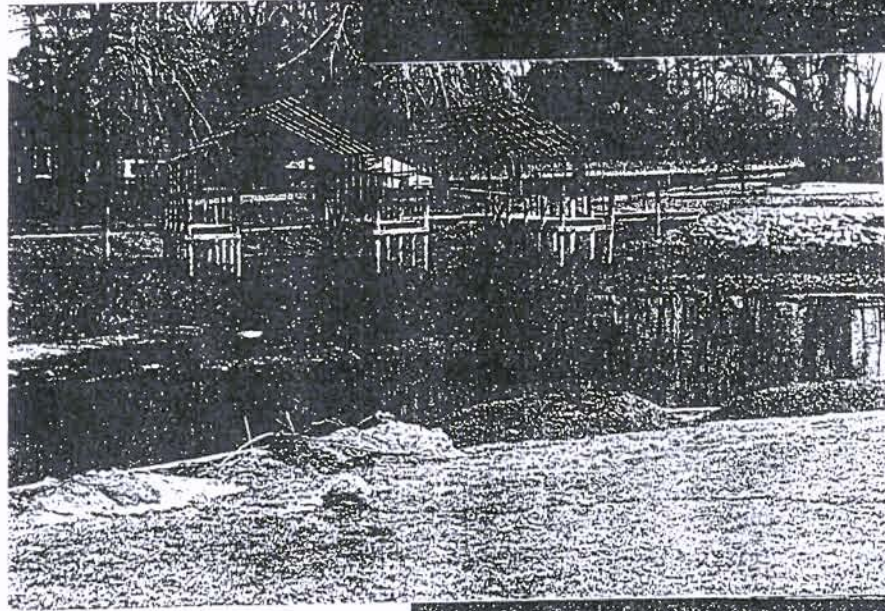
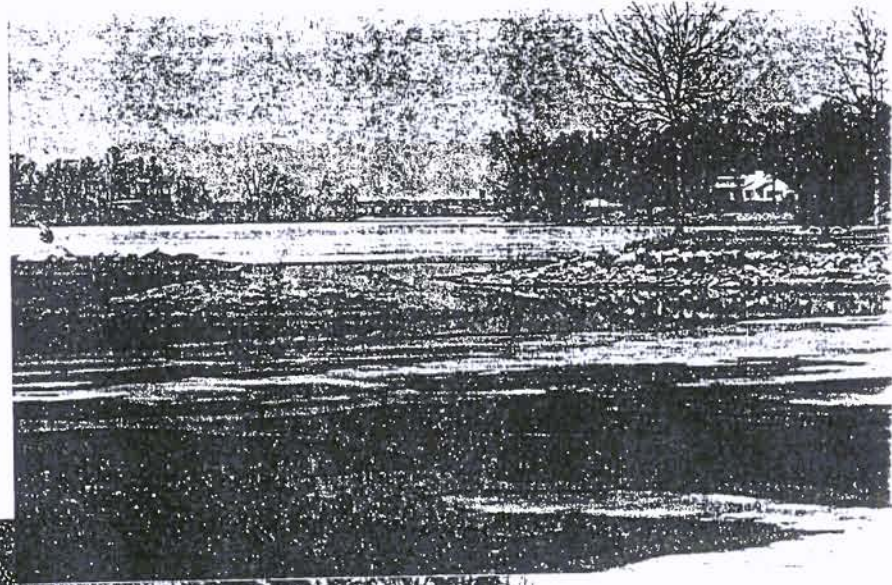
Dated *January*

DNLF 7









PHOTOS  
TAKEN  
4.89

90-6065

DRIC A





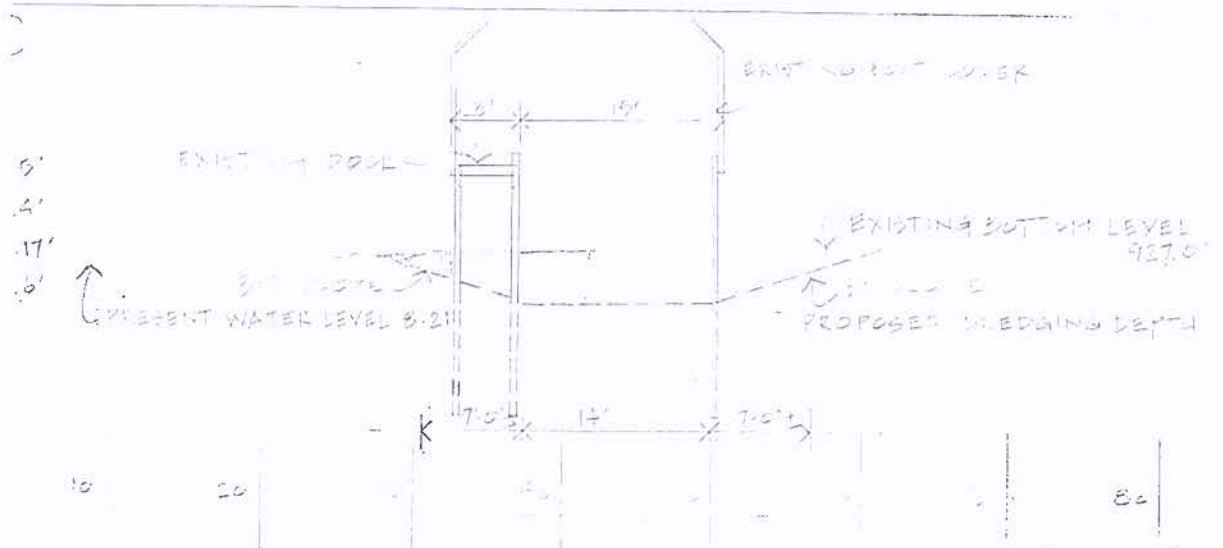
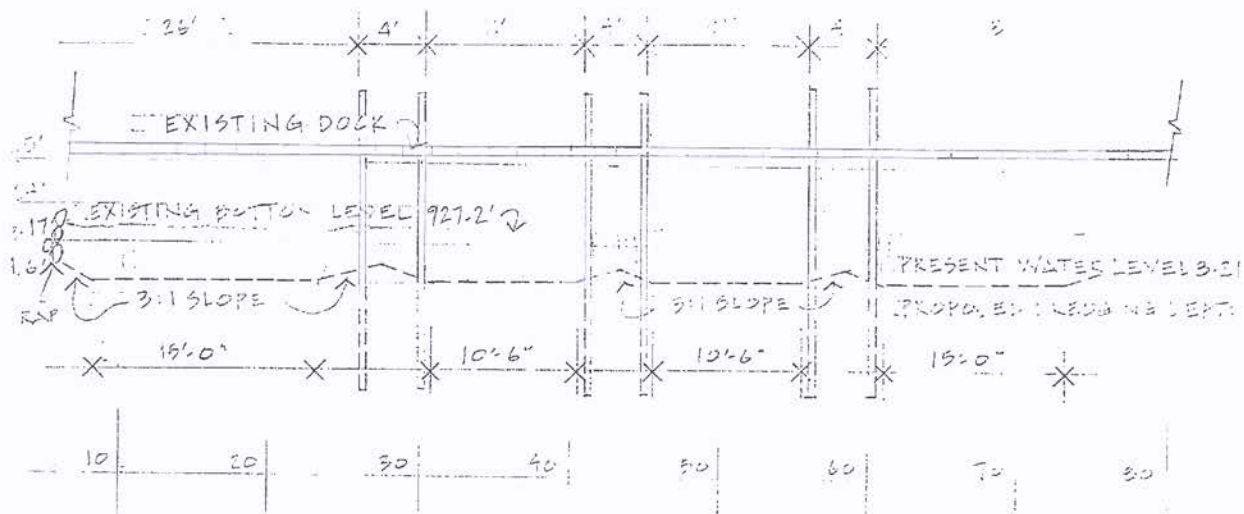
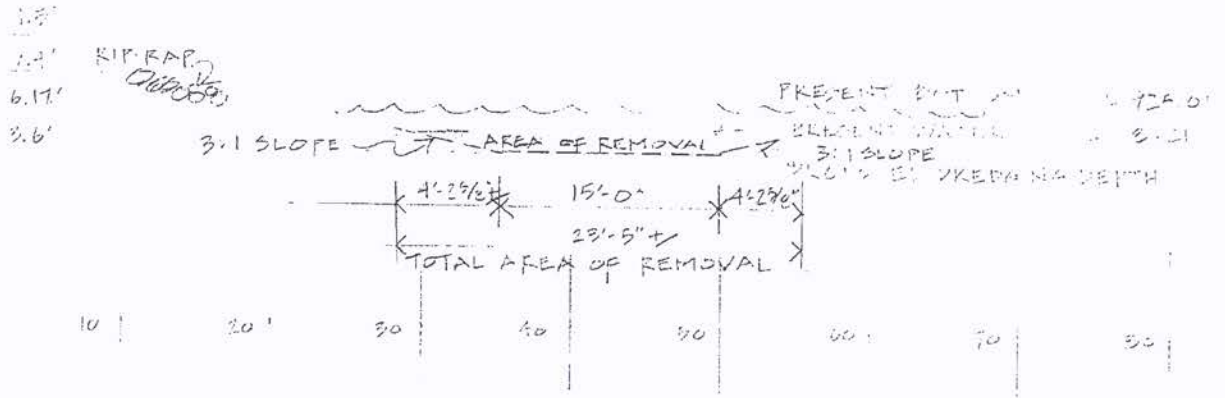


# KEN HALL-DREDGING

CROSS

DETAIL

SCALE: 1" = 10'-0"

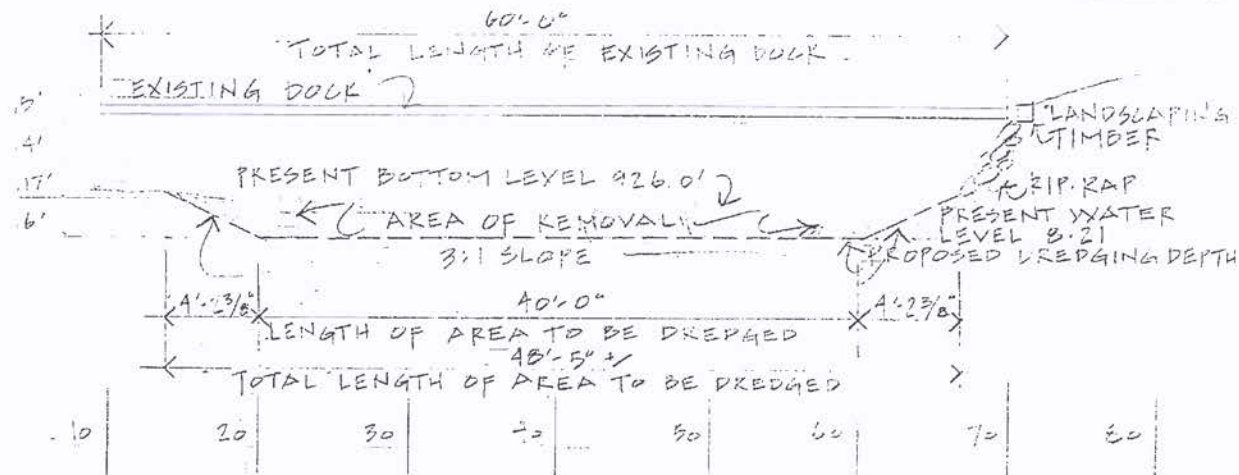
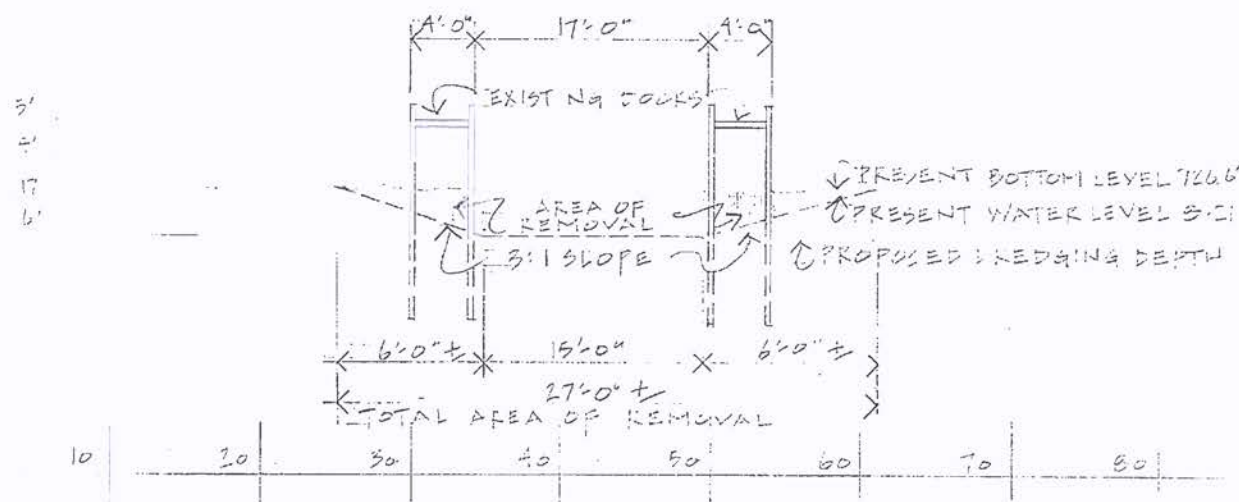
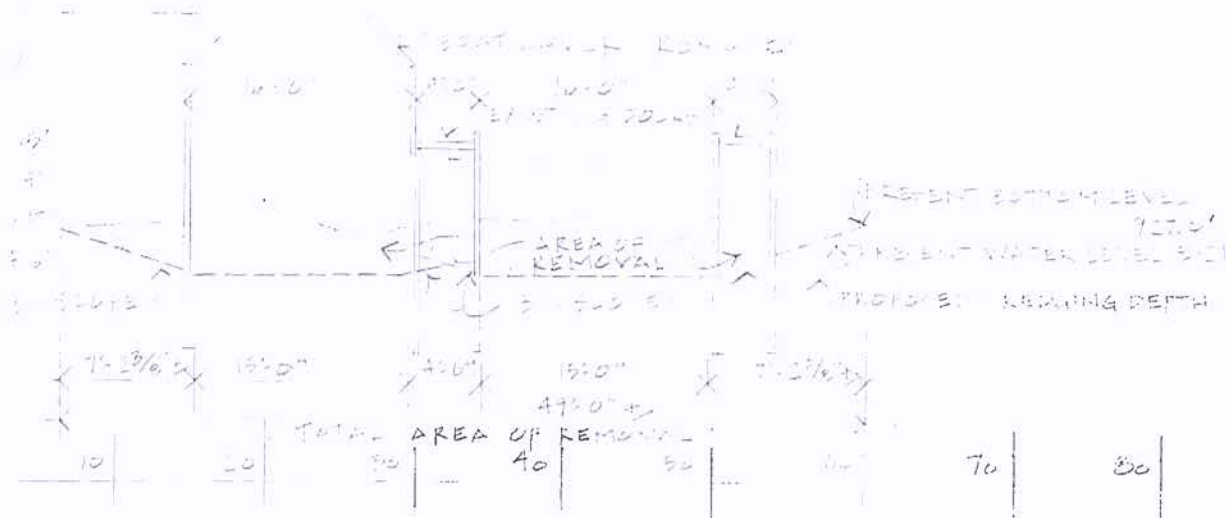


90-6065

# KEN HALL - DREDGING

## CROSS SECTION DETAILS

SCALE 1" = 20'-0"



90-6065



# KEN HALL - DREDGING

## CHANNEL TOP VIEW

SCALE: 1" = 50'



LEGEND	
NORMAL DRAINAGE HIGH	—
WATER LEVEL	—
EXISTENT WATER LEVEL	—
PROPOSED DRAINAGE AREA	—
DRAINAGE DETAIL	—
CUT TREE	—
LANDSCAPING TIMBERS	—
POOLS	—

90-6065

# KEN HALL-DREDGING

## CROSS-SECTION DETAILS

SCALE: 1" = 10' 0"

G

ACCESS FOR ULTRA-LIGHT

921.5'

929.4'

926.17' PRESENT BOTTOM LEVEL 925.6'

924.6'

3:1 SLOPE

AREA OF REMOVAL

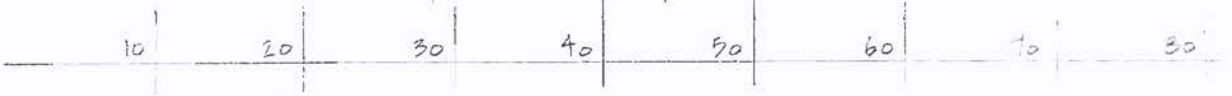
PRESENT WATER LEVEL &

PROPOSED DREDGING DEPTH

3' 0" ± 15' 0" 3' 0" ±

21' 0" ±

TOTAL AREA OF REMOVAL



H

921.5'

929.4'

926.17' PRESENT BOTTOM DEPTH 924.6'

923.6'

3:1 SLOPE

AREA OF REMOVAL

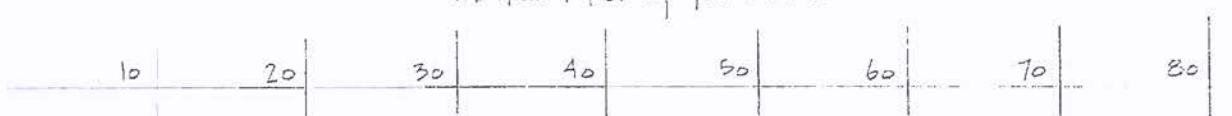
PRESENT WATER LEVEL

PROPOSED DREDGING DEPTH

3' 0" ± 15' 0" 3' 0" ±

21' 0" ±

TOTAL AREA OF REMOVAL



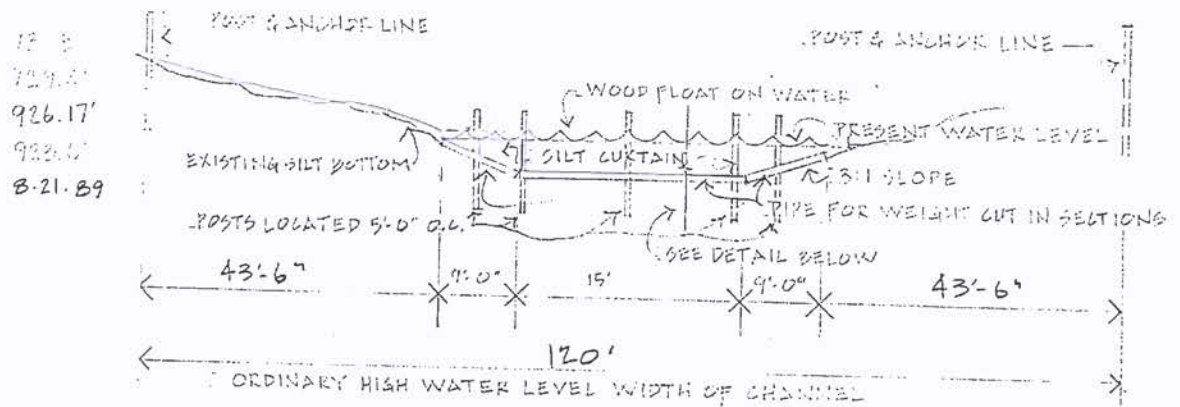
90-6065



# KEN HALL - DREDGING

## SILT CURTAIN DETAIL

SCALE: NOT TO SCALE



## SILT CURTAIN CROSS-SECTION

SCALE: 1" = 1'-0"

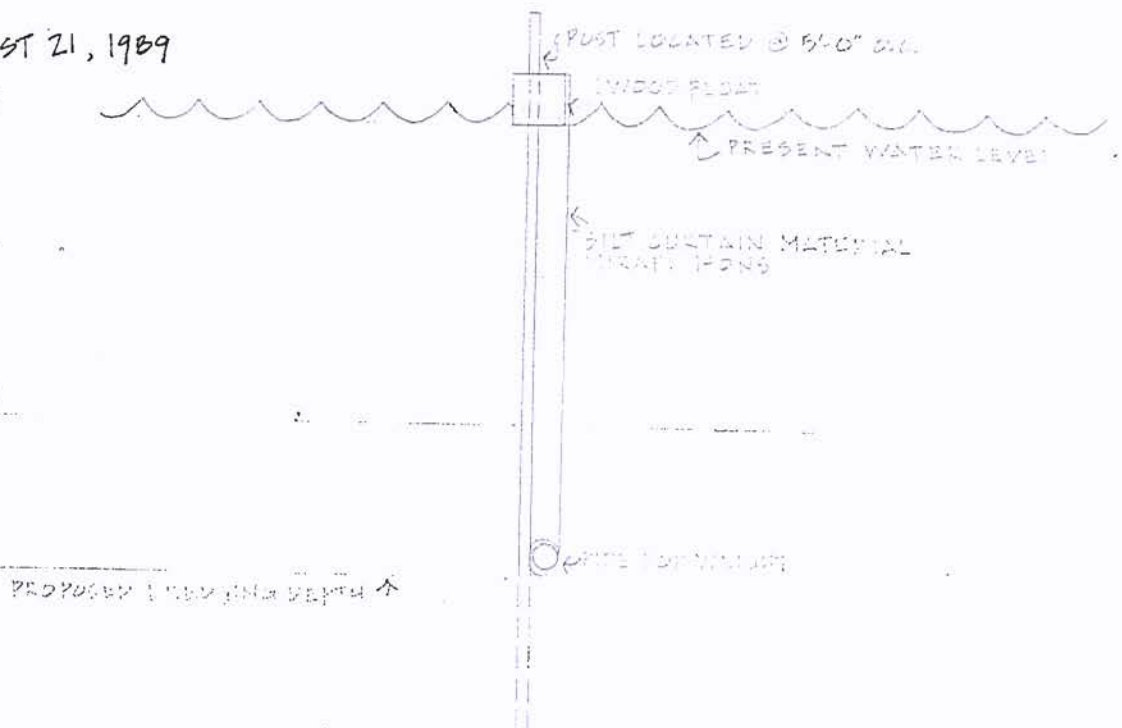
AUGUST 21, 1989

926.17'

925.6'

924.5'

923.8'



90-6065

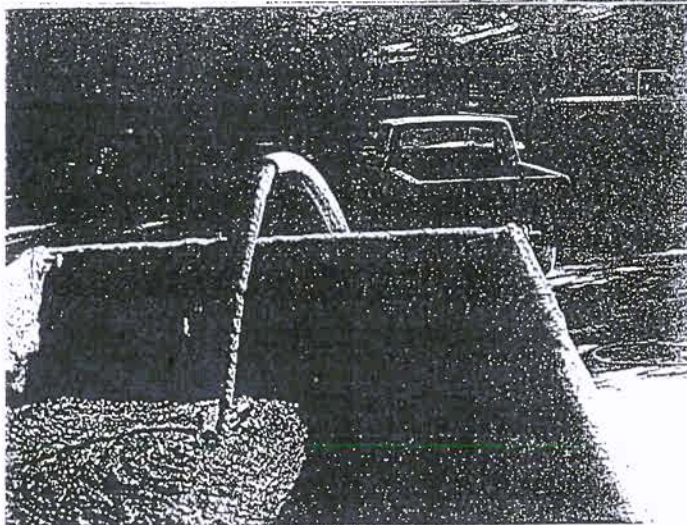
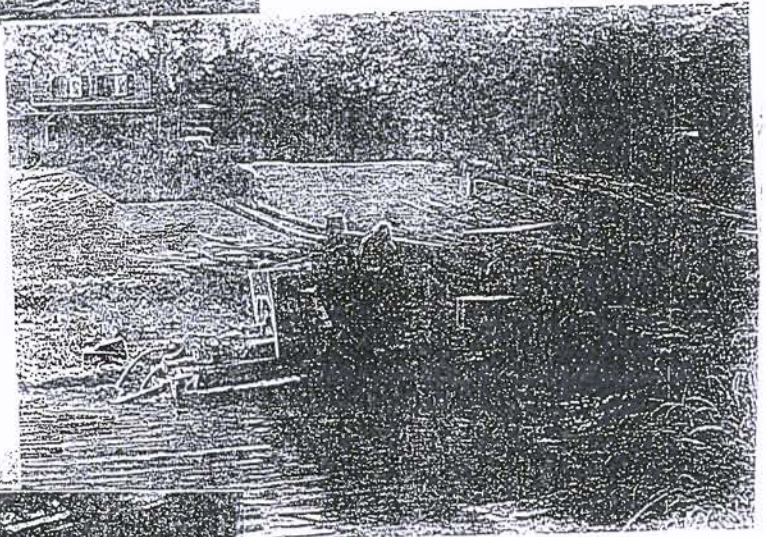
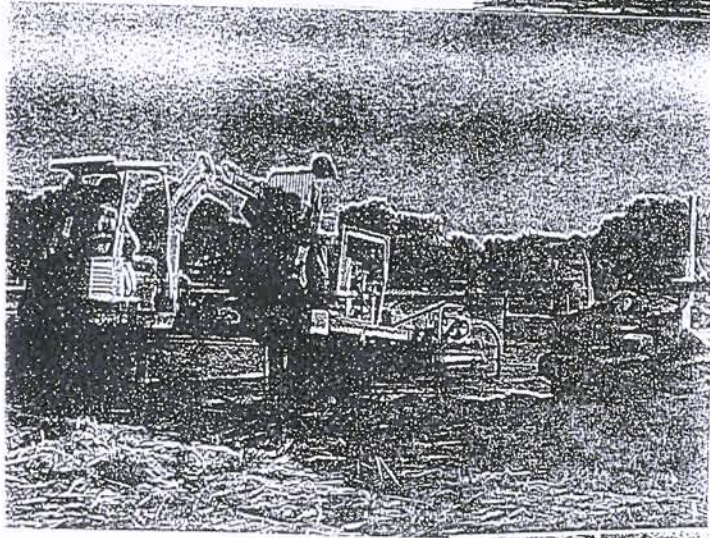
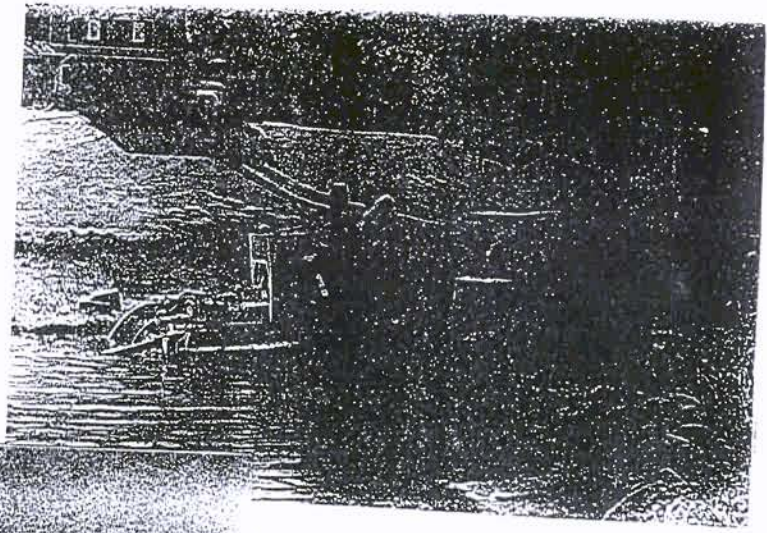
# KEN L. HALL

## VOLUME COMPUTATIONS

SECTION	sq. in.	sq. ft./sq. in.	sq. ft.	WIDTH SECTION	CUBIC FEET	CUBIC YARDS	FLUFF	EXCAVATED VOLUME	COMMENTS
A	1.5	300	450	15	6750	250.0		312.5	300' DIMENSION IS FROM WHILE ONE ENDING INTERSECT OUT INTO CHANNEL
B	1.75	500	875	15	13,125	486.11		607.6	
C	1.75	150	262.5	15	3937.5	145.83		182.3	
D	1.75	200	350	15	5250.0	194.44		243.05	
E	1.75	150	262.5	15	3937.5	145.83		182.35	
F	1.75	240	400	15	6,000	222.22		277.78	
G	1.75	130	227.5	15	3,412.5	126.38		157.98	
								1963.51	SAY: 2,000

90-6065





90-6065





STATE OF  
**MINNESOTA**  
DEPARTMENT OF NATURAL RESOURCES

JUN 22 1988

PHONE NO.  
612/296-7523

1200 Warner Road., St. Paul, MN. 55106

FILE NO.

DNR PROTECTED WATERS PERMIT APPLICATION NUMBER 88-6357  
REQUEST FOR REVIEW AND COMMENTS

*prop. files*

*5510 Howard  
pt Rd.*

DATE: *JUNE 20, 1988*

TO: *USCOE* *DNR-FISHERIES*  
*HENNEPIN COUNTY SWCD*  
*MINNEHAHA CREEK WSD*  
*CITY OF SHOREWOOD*

FROM: JUDY BOUDREAU, AREA HYDROLOGIST  
METRO REGION DIVISION OF WATERS

WATERS AFFECTED: *LAKE MINNETONKA (Z7-133P)*  
*SOUTH UPPER LAKE*

PROJECT SPONSOR:  
*KEN HALL*

NATURE OF WORK:  
*DREDGE LAKE SOIL SEDIMENTS FROM DOCKING  
AREA FOR IMPROVED NAVIGATIONAL ACCESS*

COMMENTS DUE BY: *30 DAYS FROM RECEIPT*





**CITY OF SHIFFWOOD**  
**PERMIT APPLICATION**  
**TO WORK IN PROTECTED WATERS OR WETLANDS**  
(INCLUDING DAM SAFETY)

OFFICE USE ONLY.	
P.A. NO.	
- - - - -	
<input type="checkbox"/> SWCD	<input type="checkbox"/> C/C
<input type="checkbox"/> W.D.	<input type="checkbox"/> USCOE

▶▶ Please read instructions before attempting to complete this application.

I. Applicant's Name (Last, First, M.I.) <b>HALL, KEN</b>		Authorized Agent (if applicable) <b>MINNETONKA METAL WORKS</b>		Telephone Number & area code <b>(612) 474-7454</b>	
Address (Street, RFD, Box Number, City, State, Zip Code) <b>5510 HOWARDS POINT ROAD EXCELSIOR, MN 55331</b>					
II. LOCATION OF PROPOSED PROJECT (BE SURE TO INCLUDE SKETCH SHOWING HOW TO GET TO THE SITE)					
Government Lot(s)	Quarter Section(s)	Section(s) No.	Township(s) No.	Range(s) No.	Lot, Block, Subdivision
	<b>NW 1/4</b>	<b>31</b>	<b>111</b>	<b>23</b>	<b>SUBD 367 LOT 4</b>
Fire No., Box No. or Project Address <b>5510 HOWARDS POINT ROAD</b>		County <b>HENNEPIN</b>		Project will affect <input checked="" type="checkbox"/> Lake, <input type="checkbox"/> Wetland or <input type="checkbox"/> Watercourse (name & number if known) <b>07-133P LE NITE+</b>	
III. TYPE OF WORK PROPOSED (CHECK ONE)			IV. TYPE OF PROJECT (CHECK ONE)		
<input checked="" type="checkbox"/> excavate <input type="checkbox"/> fill <input type="checkbox"/> drain <input type="checkbox"/> construct <input type="checkbox"/> install <input type="checkbox"/> repair <input type="checkbox"/> remove <input type="checkbox"/> abandon <input type="checkbox"/> other (specify)			<input checked="" type="checkbox"/> shoreline <input type="checkbox"/> channel <input type="checkbox"/> sand blanket <input type="checkbox"/> riprap <input type="checkbox"/> shore-protection <input type="checkbox"/> harbor <input type="checkbox"/> permanent dock <input type="checkbox"/> wharf <input type="checkbox"/> obstruction <input type="checkbox"/> bridge <input type="checkbox"/> culvert <input type="checkbox"/> dam <input type="checkbox"/> other (specify)		
V. ESTIMATED PROJECT COST \$			VI. LENGTH OF SHORELINE AFFECTED (IN FEET): <b>50</b>		
VII. VOLUME OF MATERIAL FILLED OR EXCAVATED (IN CUBIC YARDS): <b>90</b>					
VIII. BRIEF EXPLANATION OF PROJECT: (EXPLAIN WHAT PROJECT CONSISTS OF AND HOW WORK WILL BE DONE) <b>DREDGING TO REMOVE 90 CUBIC YARDS OF SILT TO A BOTTOM DEPTH OF 7254. SPOIL TO BE REMOVED FROM SITE BY BARGE.</b>					
IX. PURPOSE OF PROJECT: (Explain why this project is needed) <b>IMPROVE NAVIGATIONAL ACCESS AND PROVIDE ADEQUATE SPACE FOR TURNING &amp; TRANSIENT MOORING.</b>					
X. ENVIRONMENTAL IMPACT (Anticipated changes to the water and related land resources, including unavoidable but detrimental effects) <b>SHORT TERM TURBIDITY CAUSED BY THE DREDGING ACTIVITY.</b>					
XI. ALTERNATIVES (Other alternatives to the action proposed) <b>LONG TERM TURBIDITY CAUSED BY PRAIRIE WASH.</b>					
XII. I hereby make application pursuant to Minnesota Statutes Chapter 105.42 and all supporting rules for a permit to work in or affect the above named protected water(s) in accordance with all supporting maps, plans, and other information submitted with this application. The information submitted and statements made concerning this application are true and correct to the best of my knowledge.					

STATE OF Minnesota

COUNTY OF Hennepin

Subscribed and sworn to before me this

6 day of June 1988

My commission expires 3-31-91

Signature of Owner or Authorized Agent

Signature of Lessee

Date

Date

Signature of Notary

Distribution:

White: DNR  
Blue: SWCD  
Green: Watershed District  
Goldenrod: City or County  
Pink: Army Corps of Engineers  
Canary: Applicant



Sent from my iPhone

Begin forwarded message:

**From:** Donald Check <checkdonald@me.com>  
**Date:** November 20, 2021 at 4:25:29 AM CST  
**To:** Marie Darling <mdarling@ci.shorewood.mn.us>  
**Cc:** davidlabadie@hotmail.com  
**Subject:** Jennifer Labadie's dock variance

Dear Marie

I am writing this letter to support Jennifer's variance request on her dock. I am a neighbor immediately to the north of Jennifer and I find her dock location is very acceptable as it is and it fits very well into the lagoon that we share. I understand and support the need for regulations and rules but feel in this case a variance to them is very appropriate.

Sincerely

Donald Check  
5490 Howards Point Road  
Shorewood, Minn 55331

PS I tried to send this message about a week ago but somehow it didn't work.

Exhibit P



**From:** Jack Sundry <jack.sundry@cambriausa.com>

**Date:** November 19, 2021 at 4:33:17 PM CST

**To:** mdarling@ci.shorewood.mn.us

**Cc:** davidlabadie@hotmail.com

**Subject:** Labadie Variance Request

Hi Marie,

I live two doors down to Jennifer Labadie,

I share the lagoon with her and her husband and the other property owners. I have no objection to the variance. If the variance is denied & I must move my dock further into the lagoon, this would negatively impact my dock and make it harder and less safe to navigate around the lagoon.

I have no objection to her variance request.

Thank you for your time.

Call with any questions.

Jack Sundry

Exhibit Q

**From:** Kaye McNeill <kayemc@mchsi.com>  
**Date:** November 16, 2021 at 6:12:56 PM CST  
**To:** mdarling@ci.shorewood.mn.us  
**Subject:** Channel 9 News

Ms. Darling

A recent piece on channel 9 news caught my attention.

As a long time resident of Shorewood and neighbor of Mayor Labadie I watched in disbelief the story regarding her dock.

I've never taken the time to write a complaint but enough is enough.  
For your record I also emailed the neighbor that I suspect had something to do with piece.  
We were able to have a cordial exchange and agreed to disagree.

It's only fair that you too hear my thoughts.

\*In my opinion the complaint is a waste of time and money and based solely on the disappointment of not being able to put a dock on the deeded access this neighbor purchased. The access was on our deed as well as others and it was clear to all of us that a dock wasn't permitted.

\*In my opinion it's beyond odd that docks that have been on the lake for years are now under investigation.

An important fact for the Mayors dock is that it's been there since the early 2000's. I can say that with fact in that I personally worked for the previous owners, David & Rosemary Gardner. How can a dock that wasn't installed by the Labodie family, there when they moved in, now be a problem? The Gardeners were clients of mine for a decade and the dock hasn't changed.

\*The division this nonsense has caused in our neighborhood is sad.

\* There are far more neighbors on our street that share in the gratitude of having a smart, highly motivated woman leading a council and doing great things for Shorewood.

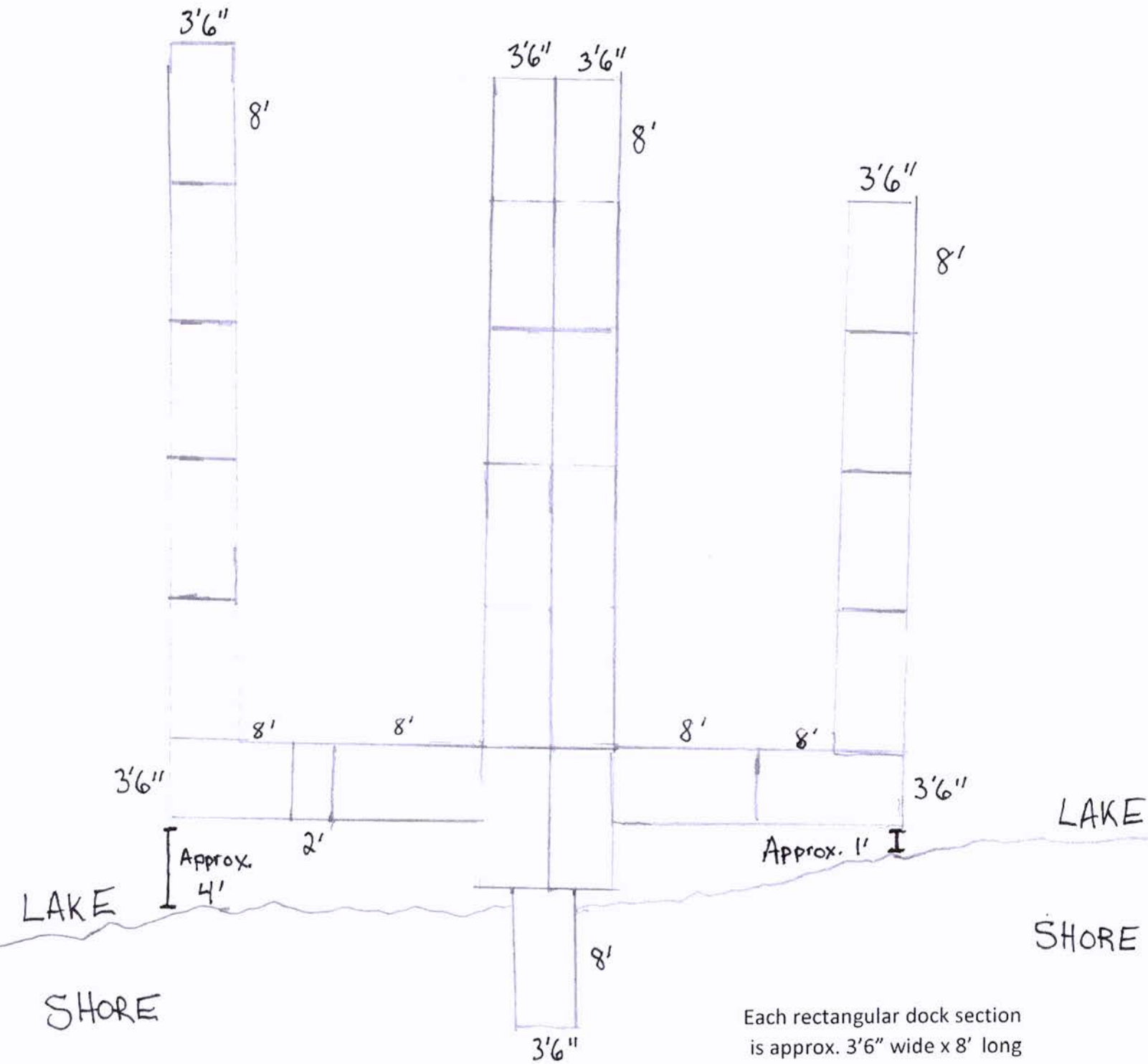
Channel 9 should be ashamed.

Thank you for your time and service,  
Kaye McNeill  
952 292 4266  
5620 Howard's Pt Rd  
Sent from my iPhone


Exhibit R



Diagram of Dock  
5510 Howards Point Road  
Shorewood, MN

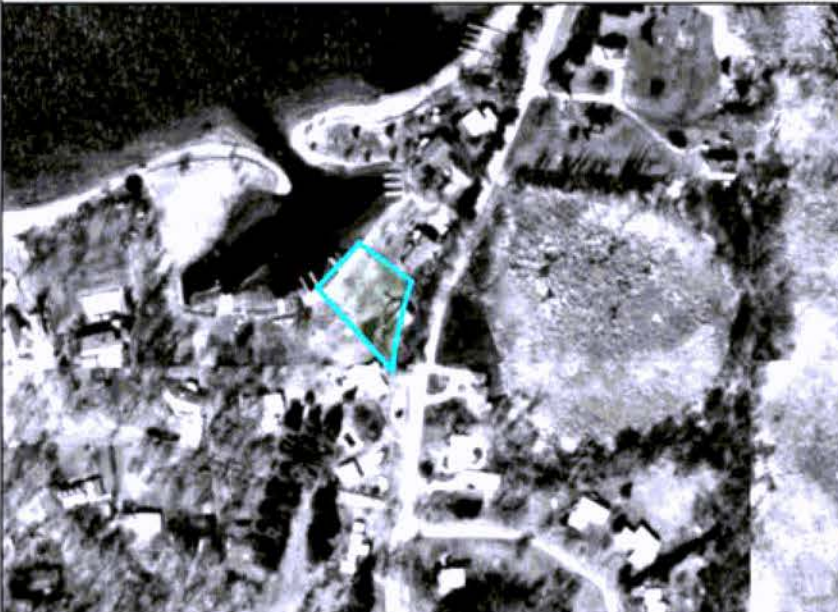







# Hennepin County Natural Resources Map

Date: 1/17/2022



<p> <b>PID:</b> 3111723110006  <b>Address:</b> 5510 Howards Point Rd,          Shorewood 55331  <b>Owner:</b> G Labadie &amp; J Labadie  <b>Acres:</b> 0.44       </p>	<p> <b>Comments:</b>          1989       </p>	<p> <b>1 inch = 200 feet</b> </p> <div style="text-align: right;">  </div> <p style="font-size: small; margin-top: 5px;">         This data is a furnished AS-IS, with no representation or warranty of any kind, and is not to be used for any purpose other than as intended.       </p>
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**Hennepin County Natural Resources Map**


Date: 1/17/2022

PID: 311172319008  
 Address: 5510 Howards Point Rd.  
 Shorewood 55331  
 Owner: D Labadie & J Labadie  
 Acres: 0.44

**Comments:**  
 2000


1 inch = 100 feet


This data is furnished "AS IS" with no representation or warranty of any kind, and is not suitable for legal purposes.



# Hennepin County Natural Resources Map

Date: 1/17/2022



<p> <b>PH:</b> 3111723110008  <b>Address:</b> 5510 Howards Point Rd.  <b>Shorewood 55331</b>  <b>Owner:</b> D Labadie &amp; J Labadie  <b>Acres:</b> 0.44         </p>	<p> <b>Comments:</b>            3000         </p>	<p> <b>1 inch = 100 feet</b> </p> <div style="text-align: center;">  </div> <p style="font-size: small;">             This data is a furnished "AS IS" with no representation as to completeness or accuracy. It is furnished with no warranty of any kind and can be outdated for legal purposes.           </p>
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**Hennepin County Natural Resources Map**  
Date: 1/17/2022

**Comments:**  
2004

**Scale:**  
1 inch = 100 feet

**Disclaimer:**  
This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished without warranty of any kind, and is not to be used for legal purposes.

**Hennepin County Natural Resources Map**


Date: 1/17/2022

PID: 311172310008  
 Address: 5510 Howards Point Rd.  
 Shorewood 55331  
 Owner: D Labadie S J Labadie  
 Acres: 0.44

Comments:  
 2012 aerial


1 inch = 100 feet


This data is furnished "AS IS" with no representation or warranty. It is furnished for informational purposes only and is not to be used for any other purpose.



# Hennepin County Natural Resources Map

Date: 1/17/2022



<p>PID: 3111723110006          Address: 55110 Howards Point Rd.          Shorewood 55331          Owner: O Labadie &amp; J Labadie          Acres: 0.44</p>	<p><b>Comments:</b>          2020 aerial</p>	<p>1 inch = 100 feet</p> <div style="text-align: center;">  </div> <p><small>This data is furnished AS IS with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and is not suitable for use in any legal proceeding.</small></p>
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Draft ORDINANCE

CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA

AN ORDINANCE APPROVING AN AMENDMENT TO SHOREWOOD CITY CODE  
CHAPTER 705 (FARM AND OTHER ANIMALS)

---

**Section 1:** City Code Chapter 705.09 (Farm Animals) Subd. 2 is hereby amended as follows: Language underlined is proposed for insertion and ~~language stricken is proposed for deletion~~

**705.01 PURPOSE.**

The purpose of this chapter is to establish regulations and controls regarding the keeping of animals other than domestic pets, such as dogs and cats, within the city limits.

**705.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AUTHORIZED CITY PERSONNEL.** The Chief of Police, the health authority, their designees, and other personnel assisting in the enforcement of this chapter.

**ENCLOSURE/RUN.** An enclosed area where animals can roam unsupervised which may or may not be attached to the shelter, coop or hutch.

**MALTREATED ANIMAL.** An animal that has not been given adequate food, water or proper shelter from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment, or that has been subjected to the conduct prohibited by M.S. § 343.21.

**NUISANCE ANIMAL.** An animal, conditions caused by an animal, or the improper care and maintenance of an animal that result in running at large, offensive odor, excessive noise or damage to property, so as to disturb the rights of or threaten the safety of a member of the general public, or interfere with the ordinary use and enjoyment of their property.

**OWNER.** A person owning, keeping, harboring or acting as custodian of an animal. All adult occupants of the property where the animal resides or is kept are considered an **OWNER** or **OWNERS**.

**PERSON.** An individual, firm, partnership or corporation.

**PREMISES.** A building, structure, shelter or land where an animal is kept or confined.

**RURAL FARM ANIMAL.** Cattle, mules, sheep, goats, swine, llamas, ostriches, emus, and including, but not limited to, other animals typically maintained in a farm setting, but not in an urban setting.

**UNDER RESTRAINT.** An animal being within a private motor vehicle of a person owning, harboring or keeping the animal; or controlled by a leash not exceeding six feet in length.

**URBAN FARM ANIMAL.** Ducks, geese, turkeys, chickens, guinea hens, bees and rabbits.

**URBAN FARM BIRDS.** Ducks, geese, turkeys, chickens or guinea hens.

**VETERINARY HOSPITAL.** A place for the treatment, hospitalization, surgery, care and boarding of animals and birds, under the direction of one or more licensed veterinarians.

**WILD ANIMAL.** Any of the following:

- a. Front-fanged venomous snakes, including the Viperidae and Elapidae families of snakes, such as rattlesnakes and cobras;
- b. Snakes over eight feet in length;
- c. Reptiles that have the physical ability as adults to cause substantial bodily injury, as defined in M.S. § 609.02, Subd. 7a, to humans and/or domestic animals, such as python snakes and crocodilians;
- d. Animals that can transmit rabies and cannot be vaccinated against rabies;
- e. Mammals that, as a breed, are considered wild by nature because of breeding, history, character, habit or disposition; and
- f. Mammals that have at least 25% of their heritage from mammals specified in paragraph e. above.
- g. Specifically, such animals as a wolf, fox, skunk, raccoon, mink, bobcat, deer and monkey, but not including a fish, bird, ferret, hamster or gerbil.

### **705.03 ENFORCEMENT.**

The Chief of Police or designees will enforce the provisions of this chapter, with the assistance of other personnel when appropriate.

### **705.04 RIGHT OF ENTRY.**

Authorized city personnel have the right to enter upon a premises at reasonable times for the purpose of discharging their duties imposed by this chapter, when there is reasonable belief that a violation of this chapter has been committed.

### **705.05 IMPOUNDING OF ANIMALS.**



Subd. 1. *Seizure and impoundment.* Authorized city personnel may seize and impound an animal found to be in violation of this chapter. These personnel may enter onto private property to seize and impound animals when:

- a. They have a reasonable and immediate concern for the animal's health, safety or welfare;
- b. They have a reasonable and immediate concern for the health and safety of human beings or other animals as a result of the animal's continued presence on the property; or
- c. They have reasonable cause to believe that a violation of this chapter has occurred or is occurring, and that seizure is necessary to prevent further violation, but only after a reasonable effort has been made to contact an occupant of the property.

Subd. 2. *Interference.* A person must not interfere with authorized city personnel impounding an animal, nor refuse to surrender an animal to these personnel.

Subd. 3. *Cost of impoundment.* The animal owner is responsible for the costs of impounding and housing an impounded animal.

## **705.06 HEALTH AND MAINTENANCE STANDARDS.**

Subd. 1. *Health standards.* The owner of an animal kept in the city must comply with the following standards.

- a. An animal kept outdoors or in an unheated enclosure must be provided with adequate shelter and bedding to protect it from the sun, rain, snow and temperatures below 50°F.
- b. The shelter must include a moisture-proof and windproof structure of suitable size to allow the animal to stand in an upright position, and to lie down stretched out so that no part of its body need touch the sides of the structure. The structure must be made of durable material sufficient to allow retention of body heat, with a solid floor raised at least two inches from the ground, and an entrance covered by a flexible windproof material or self-closing swinging door. The structure must be provided with sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets or the equivalent to provide insulation and protection against cold and dampness, and to promote retention of body heat. The structure must be structurally sound and maintained in good repair.
- c. In lieu of the requirements of paragraphs a. and b., an animal may be provided with access to a barn with a sufficient quantity of loose hay or bedding, and protection against cold and dampness.
- d. If an animal is confined by a chain, the chain must be so attached that it cannot become entangled with the chains of other animals or other objects. A chain must be of a size adequate to restrain the animal involved, and must be attached to the animal by means of a well-fitted collar. The collar must be large enough to allow free breathing, but small enough to avoid being easily pulled over the animal's head. A chain must be at least three times the length of the animal, as measured from the tip of its nose to the base of its tail.



e. An animal must be provided with sufficient food and water to meet necessary nutritional requirements.

f. No person shall deposit or cause to be deposited upon any lot or in any street, alley, lake, river or other body of water, sewer or manhole, or bury or conceal in any way, a dead animal or part thereof. The owner or other person having charge of an animal at the time of its death shall remove or cause to be removed the dead body of such animal within 24 hours after death to a crematory, sanitary landfill, rendering factory or any other place approved by the Chief of Police or his or her designee.

Subd. 2. *Maintenance standards.* An owner of an animal kept in the city must comply with the standards below. An action to enforce the provisions of this chapter shall follow the procedures set forth in Chapter 104 of this code.

a. An owner must maintain an animal and the area where it is kept so that no odor that offends the senses of a reasonable person is detected, for more than one day, off the property where the animal is kept.

b. An owner must maintain the property where the animal is kept so that there is no erosion, and no drainage of water contaminated by the animal onto adjacent properties or into public waters or wetlands.

c. An owner must manage the feces and other bodily wastes from the animal in a timely and sanitary manner that prevents health risks and prevents odors that are prohibited under paragraph a. above.

d. All feed kept for animals shall be stored in animal-proof, galvanized containers.

Subd. 3. *Veterinary clinic with indoor overnight care and indoor kennels.* In addition to the standards established under Subd. 1. above, veterinary clinics with indoor care and indoor kennels, where allowed by zoning, must comply with Minn. Rules Chapter 9100, as may be amended.

## **705.07 WILD ANIMALS.**

Subd. 1. *Wild animals prohibited.* A person must not keep, own, harbor or otherwise possess a wild animal within the city, except as provided in Subd. 2. below.

Subd. 2. *Wild animals allowed.* Wild animals may be brought into the city for the purpose of entertainment, education or display only by the following:

a. A zoo operated by a governmental agency or a tax-exempt, non-profit corporation;

b. The Department of Natural Resources;

c. Another similar public educational or charitable organization;

d. A circus; or

e. A city-licensed pet shop.

An organization listed above may bring a wild animal or animals into the city under this subdivision only if the organization can and does comply with the standards contained in Subd. 3. below. No organization covered by this subdivision may have wild animals within the city on more than seven days in a consecutive 12-month period, except that an organization listed above that has a wild animal within the city on the effective date of this section may continue to keep that animal as long as it



lives, if the organization obtains a permit from the city and complies with the standards specified in Subd. 3. below.

Subd. 3. *Standards for keeping of wild animals.* An organization that has a wild animal must comply with the following standards at all times that it possesses a wild animal within the city.

a. A non-governmental organization must have liability insurance to cover potential personal injury or property damage caused by the animal(s), in an amount of at least \$300,000 per person per occurrence.

b. The animal(s) must be kept in a locked cage or other secure enclosure at all times when the public is allowed to be near it(them).

c. The cage or enclosure must be constructed of sufficient materials so that a person, including a child, cannot put a finger, hand or another portion of the body into the cage or enclosure so that the animal(s) could touch it. Alternatively, structural barriers may be used to keep the public away from the cage or enclosure.

d. Only personnel with adequate training or experience in handling wild animals may have contact with the animal(s) while in the city.

e. The animal(s) must be transported to the display location in the city in a secure enclosure sufficient to prohibit potential contact with humans or other animals, except for the personnel identified under paragraph d. above.

f. No sale of a wild animal(s) may occur, nor may orders for the sale of wild animals be taken.

g. The display location must be inspected by authorized city personnel before the wild animal(s) may be brought into the city.

h. Authorized city personnel must be allowed to periodically inspect the display location during reasonable hours while the animal(s) is(are) in the city.

i. If a wild animal bites a person, the animal must be forfeited immediately to authorized city personnel for rabies testing.

## **705.08 FORFEITURE OF ANIMAL OWNERSHIP RIGHTS.**

Subd. 1. *Forfeiture of rights.* The ownership rights of a person owning the following types of animals may be forfeited to the city pursuant to the procedure in this section:

- a. A public nuisance animal;
- b. A wild animal; and
- c. A maltreated animal.

In addition, the ownership rights with respect to other animals owned by the same owner may be forfeited if he or she has demonstrated an inability or unwillingness to properly care for or control such animals, in order to prevent any of them from becoming public nuisance or maltreated animals.

Subd. 2. *Notice.* Authorized city personnel must notify the owner or apparent owner of the animal sought to be forfeited that the city intends to forfeit his or her ownership rights. The notice must be served on the owner personally or by registered mail. The notice must be in writing and state the reasons why forfeiture is sought, including a summary of applicable incidents. The notice must state that the owner has a right, within ten days after receiving the notice, to request a hearing before a Hearing



Officer appointed under City Code Chapter 104. The request for a hearing must be in writing and must state the reason or reasons for the request. A failure to request the hearing will constitute an admission of the facts alleged in the notice, and the animal will be deemed forfeited to the city.

Subd. 3. *Findings of fact.* If the owner requests a hearing, the hearing will be held in accordance with City Code Chapter 104. The Hearing Officer must make written findings of fact and reach a conclusion whether the allegations are true and whether the animal will be forfeited to the city. The findings and conclusions must be made within ten working days after the hearing and must be served on the owner personally or by registered mail. The decision of the Hearing Officer is final, but may be appealed by a writ of certiorari to the District Court.

Subd. 4. *Animal confinement.* After receiving the forfeiture notice and during the forfeiture proceedings, the owner must keep the subject animal confined within his or her home or within a secure, covered enclosure. If the owner fails to do so, or if there is an immediate threat to public health or safety or to the animal's health or safety, authorized city personnel may immediately impound the animal and keep it at the impound facility, at the owner's expense, until a forfeiture determination has been made.

Subd. 5. *Forfeiture.* If the animal is deemed or ordered forfeited, the owner must immediately give the animal to authorized city personnel, and a failure or refusal to do so is a misdemeanor. Authorized city personnel may use reasonable force and go onto private property to take the animal into custody.

Subd. 6. *Disposition of forfeited animal.* Authorized city personnel will determine, on a case-by-case basis, whether forfeited animals are destroyed or given to new owners who will adequately care for and control them.

## **705.09 FARM ANIMALS.**

Subd. 1. *Rural farm animals.* Unless otherwise provided for, a person shall not keep, own, harbor or otherwise possess a rural farm animal within the city.

Subd. 2. *Urban farm animals.* A person may own, keep, harbor or otherwise possess urban farm animals within the city in accordance with the provisions of this section.

a. An urban farm animal may only be kept on properties zoned and used for single-family homes. The owner of the urban farm animals shall live in the dwelling on the property.

b. An urban farm animal, including any enclosure and shelter, may only be kept in the buildable area of the rear yard of the property, as defined by the Zoning Code. Urban farm bird enclosures/runs and shelters shall be fully enclosed or covered with nets and a minimum of 30 feet from side property lines.

c. An urban farm animal that is kept outside must be provided a shelter structure of appropriate size, that is accessible to the animal at all times as provided in § 705.06, Subd. 1. of this chapter. In addition to being located in the building-buildable area of the lot-rear yard as required by paragraph b above, the shelter and any enclosure/run for urban farm birds -must be situated closer to the animal's owner's home than to any dwelling on an adjacent property.



d. The urban farm animal, excluding bees, must be contained on the property by the use of a fence or other appropriate containment device or structure and all enclosures/runs, structures, or other containment devised must be kept in conformance with the regulations of Section 705.06 of this chapter.

e. Roosters are not allowed.

f. Culling urban farm animals for commercial purposes is prohibited.

g. The ground or floor of the area where an urban farm animal (except bees) is kept must be covered with vegetation, concrete or other surface approved by the Planning Department, so that it can be, and is, sufficiently maintained to adequately dissipate offensive odors, in compliance with § 704.06, Subd. 2.a. and c. of this chapter.

h. The combined number of chickens, ducks, geese, turkeys, guinea hens, or rabbits shall not exceed six on properties greater than 1 acre, four on parcels between ½ to 1 acre. Urban farm birds shall not be permitted on parcels smaller than ½ acre.

i. The number of bee hives shall not exceed four.

j. Any person having more than the allowable number of animals set forth in paragraphs h. and i. above, at the time of the adoption of this chapter, shall not replace animals in excess of those limitations.

~~k~~  
Subd. 3. *Permit issuance; fees; expiration; revocation.*

(1) Permit Required. No urban farm animal may be kept in the city until a permit to do so has been conditionally approved by the Zoning Administrator and issued by the office of the Building Official after the Building Official or staff representative has made an inspection of the property to ascertain that the premises comply with all requirements of this chapter. Detailed plans and specifications, accurate and drawn to scale, must be submitted with the application, including, but not limited to, the following:

(a) Site plan showing the location and setbacks of existing and proposed buildings, fences and structures on the subject property, with dimensions to the property lines.

(b) Architectural plans showing floor plans, building elevations and dimensions.

(2) *Fees.*

(a) The permit fee and other fees and charges set forth in this chapter shall be collected by the city before the issuance of any permits, and the Building Official, or other persons duly authorized to issue the permit for which the payment of a fee is required under the provisions of this chapter, may not issue a permit until the fees shall have been paid.

(b) The City Council shall, from time to time, establish a fee within the city's master fee schedule.

(3) *Expiration of Permits.*

(a) The permit shall expire one year from the date the permit is issued.

(b) A permit may be renewed according to the application process identified in subsection (1) above.



(4) Denial of Permits. A request for a permit or permit renewal may be denied under the following circumstances:

(a) The applicant fails to submit any of the materials required by this Chapter.

(b) The materials submitted indicate improvements in violation of this Chapter.

(c) The required inspection does not occur for three calendar months after the permit is issued.

(d) Violations are found at the inspection that are not corrected as directed.

(e) The property owner was informed of a violation on the property and the applicant failed to correct it as directed in Chapter 104.03 or multiple violations were noted on the property.

(fd) Failure to pay any application fee or penalty required by this section and the city's master fee schedule.

(eg) The applicant has failed to comply with any condition set forth in any other permits granted by the City of Shorewood.

(fh) The applicant, or one acting in their behalf, made oral or written misstatements or misrepresentations accompanying the application.

(gi) The activities of the property owner create or have created a danger to the public health, safety or welfare.

(5) Revocation of Permits. Any permit issued under this section may be revoked or suspended as a penalty for a violation of this Chapter or for violation of the following conditions. No suspension or revocation may take effect until the permittee has received notice of the revocation, either personally, by US mail or electronic mail.

(a) The permittee has proven unable to keep or shelter the animals or maintain the property as required by city code and/or the regulations in this chapter.

(db) As a result of the permitted activity, the property contains conditions that might injure or endanger the safety, health or welfare of neighboring property owners or any member of the public.

(ec) The property owner has violated any regulation or provision of the Code applicable to the activity to which the license has been granted or any regulation or law of the state so applicable.



#### **705.10 PENALTY.**

Violation of this chapter shall be grounds for ~~administrative~~ enforcement pursuant to § 104.03 of this code or revocation of permits as noted in Section 705.09 Subd. 3.

**NOW THEREFORE** the City Council of the City of Shorewood, Minnesota, ordains:

**Section 3.** That Ordinance 582 Amending Shorewood City Code, Chapter 705, Farm and Other Animals has been hereby approved and adopted.

**Section 4.** This Ordinance 582 adopting the Amendment to City Code, Chapter 705, Farm and Other Animals shall take effect upon publication in the City's official newspaper.



CITY OF  
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## MEMORANDUM

**TO:** Planning Commission

**FROM:** Marie Darling, Planning Director

**MEETING DATE:** February 15, 2022

**RE:** **Draft Text Amendments for Urban Farm Animals**

Last September, the City Council adopted standards for the keeping and care of urban farm animals, but asked staff to research additional standards to reduce the negative impacts, primarily keeping birds on the owner's property. In November, staff presented information to the City Council and they directed staff to put the requirements into code format and review through the normal processes.

Attached to this memo is the information sent to the City Council and proposed draft language. Please review the language and discuss concerns. Staff have set the public hearing for the March meeting, unless something in the meeting discussion impacts the review calendar.

### **Proposed Ordinance Amendments**

The proposed ordinance amendments:

1. Add a new definition of enclosure/run and urban farm birds.
2. Add a requirement that urban farm bird enclosures/run and shelters must be fully enclosed or covered with nets.
3. Add a greater setback for bird enclosures/runs and shelters to increase the distance from the enclosures to side property lines.
4. Amend regulations that don't need to apply to rabbits or bees.
5. Limit urban farm birds to parcels of ½ acre or larger and allow fewer farm animals on parcels less than 1 acre.
6. Add a means to revoke and deny permits.

Staff request the Commission discuss the amendments and provide initial comments. Staff has scheduled a public hearing for the March meeting to take public testimony.

### **ATTACHMENTS:**

City Council Memo from November 22, 2021  
Minutes from November 22, 2021 City Council meeting  
Draft Ordinance





## City of Shorewood Council Meeting Item

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**Title/Subject:** Urban Farm Animals Discussion

**Meeting Date:** November 22, 2021

**Prepared By:** Marie Darling, Planning Director

**Attachments:** Potential Ordinance Amendments for Urban Farm Animals

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**Background:** In September of this year, the City Council adopted some additional standards for urban farm animals, but listened to concerns from residents regarding nuisance issues like chickens flying out of enclosures and escaping during coop cleanings, etc.

Staff has researched means to contain chickens and other fowl. Below is a summary of the research and recommendations on how to proceed.

**Restrict lot size for fowl and increase setbacks** to property lines for enclosures and coops. Staff re-reviewed many of our neighboring cities' ordinances for examples on lot area and setbacks to see how other cities regulate them. Minnetonka requires one acre to have any farm animals, including fowl. Chanhassen regulates the number of chickens based on the size of the lot – four for properties under an acre, eight on properties of 1 to 2.5 acres, etc.

Setbacks vary by city, with suburban cities having greater setbacks than urban cities. See next page for a table summarizing the cities' setbacks.

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***Mission Statement:*** *The City of Shorewood is committed to providing residents quality public services, a healthy environment, a variety of attractive amenities, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.*

City	Side abutting a street (2 <sup>nd</sup> front)	Side	Rear	Adjacent Home	Water bodies
Bloomington	50, but not in front yards	30	30	50	
Chanhassen	Same as house	10	10	25	
Chaska	Not in front yard	10	10	50	15
Eden Prairie	Not in front yards	10	10	50	15, not in buffers
Minneapolis	Not in front yards	10	10	20	
Minnetonka	Not in front yards			Farther than from owner's home	
Plymouth	Not in front yard	20	20		Not in buffers
Shakopee	Not in front yard	Not in side yards	10	50	
Shorewood	Not in front yards	10 (in rear yard)	Same as house	Farther than from owner's home	
St. Paul		5	5		

*Staff recommendation:*

- An increase in the setbacks from the side property lines to at least 30 feet to provide greater distance from the enclosure to the property line to reduce the likelihood an escaped fowl would cross the property lines.
- A minimum lot size of one acre (43,570 square feet) to ½ acre (21,780 square feet) so that the lots are large enough to have space for the enclosures, coops and setbacks.

**Require chicken coops and enclosure areas to be fully enclosed** with nets or screens to prevent fowl from escaping. Bloomington, Chanhassen, Chaska, Plymouth and Shakopee require enclosures to be fully enclosed or to have nets over the top.

*Staff recommendation:*

- Add a definition for fowl enclosure/run that requires the confinement area to be fully enclosed with nets or screens on the top.



- Consider adding a minimum size for the enclosure/run based on the number of chickens.

**Require wing clipping.** None of the other cities that staff reviewed required wing clipping or even mentioned it. I reviewed two websites (Raising Happy Chickens and Backyard Poultry) and it seems very common. It involves trimming the first 10 feathers at the end of one wing so that the bird lacks the balance needed for flight. According to both websites, the practice does not harm or hurt them because the quills lack blood supply and nerves. Because the wing feathers molt and grow back each year, the wing clipping must be repeated annually on the new feathers. Some chicken owners are opposed to wing clipping for aesthetic or ethical reasons.

*Staff recommendation:*

- No amendments to require wing clipping. While the wing clipping may not harm or hurt the animal, if the City requires the practice staff has to enforce it. City staff does not have the appropriate training or the time necessary to catch each bird and verify wing trimming at each annual inspection. Annual inspections for chickens would be more efficient if the inspectors were able to concentrate on the coop/enclosures and nuisance issues and not check all the chickens.

**Additional recommendation:**

Add standards for rejecting permit application or revoking permits.  
Review standards for applicability to rabbits and bees.

**Financial or Budget Considerations:** Cost of publishing any additional ordinance amendments and noticing current permit holders.

**Next Steps:** Subject to Council direction, staff would begin drafting amendments to the ordinance. Some of the above amendments would require a public hearing through the Planning Commission (lot size/setbacks), but others could be approved solely by the City Council (enclosure requirements/wing clipping/permit denial-revocation).

#### **D. Urban Farm Animal Discussion**

Planning Director Darling explained that this item is a continuation of previous discussion regarding chickens and other fowl. She stated that the Council recently approved changes to the standards for urban farm animals, but were concerned after hearing from some residents that chickens are constantly noisy and frequently escape from their enclosures. The Council directed staff to come up with some means of containing the chickens and asked them to look specifically into enclosures and wing clipping. She noted that staff also looked at the possibility of requiring more land in order to be allowed to have chickens or other fowl. Following their research, they are not making any recommendations regarding wing clipping as inspecting and enforcing that practice would be time consuming and an inefficient use of the inspector's time. Staff is recommending that the lot size and setback be increased from the side property lines to be greater than what is currently in place. She stated that this recommendation would be in the hope that there is more space between the coop and the property lines. They are also recommending that the enclosures be fully enclosed which could include nets or screening over the top and noted that the Council may want to consider a minimum sized enclosure based on the number of chickens and adding standards for rejecting or revoking permits, and exempting rabbits and bees from many of the new standards.

Mayor Labadie asked if there was anyone present who would like to speak regarding urban farm animals, however, there was no one present for this issue.

Councilmember Johnson stated that his only concern is if the City has any current permit holders that have a lot that is less than the proposed half acre.

Planning Director Darling stated that they do and how this would be written up and structured is so that it would apply to new permit requests for a minimum sized lot. She stated that this would mean that all the people who currently have chickens can maintain the same number of chickens until they voluntarily decide to discontinue the practice.

Councilmember Gorham asked about the review of enclosures and whether there was generally a minimum size listed. He noted that if the Council were to recommend a size, he does not think he would know where to begin.

Planning Director Darling stated that there are several standards based on some of the websites she found. She noted that similar to minimum house sizes, it is a certain square footage per chicken or fowl and is based on maintaining minimum standards. She stated that property owners could go larger if they can accommodate that on their property.

Councilmember Gorham asked if they could go larger but would then be subject to accessory structures and building permit limitations.

Planning Director Darling stated that was correct.

Councilmember Gorham asked if she was looking for input from the Council on a minimum size.

Planning Director Darling noted that she plans to propose some options to the Council following her research, if the Council decides to move forward.



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Councilmember Callies stated that she thinks the proposed changes sound reasonable to her, particularly the fully enclosed enclosures.

Councilmember Gorham asked if most of the current permit holders have fully enclosed areas.

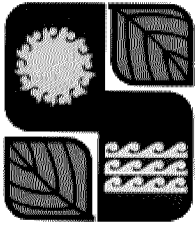
Planning Director Darling stated that most of the current chicken owners have enclosed coops, but there are a few that allow their chickens to free range and are just enclosing them with fencing. She stated that the City will define 'enclosure' and require that it either have a top, a screen, or a net on it.

Councilmember Gorham expressed his appreciation to Planning Director Darling for how much time she has spent researching this issue.

Councilmember Callies asked if her understanding was correct that this that would still apply to the existing permit holders so they would have to fully enclose their coops, but would not have to meet the minimum lot size.

Planning Director Darling confirmed that this was a correct understanding.

**There was consensus of the Council that these recommendations are reasonable and directed staff to proceed with drafting the amendments to the ordinance.**



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## MEMORANDUM

**TO:** Planning Commission, Mayor and City Council

**FROM:** Marie Darling, Planning Director

**DATE:** February 15, 2022

**RE:** Schedule of Meetings and Work Program

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Work Program:

The City Council has prioritized some of the needed code amendments. Some of those priority amendments affect the Planning Commission's work program for 2022.

### ***Tentative 2022 Work Program***

**Through March of 2022**

- Development Applications
- Additional Urban Farm Animal Amendments
- Election of Officers

**Spring of 2022 (April - June)**

- Development Applications
- Sign amendment related to elections
- Telecommunication Amendments to Zoning Regulations (Discussion/Public Hearing)

**Summer of 2022 (July - September – October)**

- Development Applications
- Review Amendments to impervious surface coverage/storm water regulations (Discussion/Public Hearing), grading issues, escrow language, certificate of occupancy in Zoning Regulations.

**Winter of 2022/23 (November -January)**

- Development Applications
- Review Amendments to tree preservation ordinance and policy changes
- Subdivision regulations refresh (Park Dedication, Premature Subdivision, Variance, etc.)



**Other future code amendments:**

Exterior storage  
PUD Amendment Procedures  
Fences  
Food Trucks  
Nonconforming uses, structures and lots  
Small housekeeping edits that accumulate  
Site Plan Process – New administrative rules and procedures  
Sign Amendments  
Home Occupation Permit/Licenses

## ***2022 Planning Commission Meeting Schedule***

<b>Planning Commission Public Meetings</b>
March 1, 2022
April 5, 2022
May 3, 2022
June 7, 2022
July 5, 2022
August 2, 2022
September 6, 2022
October 4, 2022
November 1, 2022
December 6, 2022
January 3, 2023
February 7, 2023