

**CITY OF SHOREWOOD
CITY COUNCIL REGULAR MEETING
MONDAY, FEBRUARY 28, 2022**

**MEETING HELD VIRTUALLY
7:00 P.M.**

For those wishing to listen live to the meeting, please go to ci.shorewood.mn.us/current_meeting for the meeting link. Contact the city at 952.960.7900 during regular business hours with questions.

AGENDA

1. CONVENE CITY COUNCIL MEETING

A. Roll Call

Mayor Labadie____
Siakel____
Johnson____
Callies____
Gorham____

B. Review and Adopt Agenda

Attachments

2. CONSENT AGENDA The Consent Agenda is a series of actions which are being considered for adoption this evening under a single motion. These items have been reviewed by city council and city staff and there shall be no further discussion by the council tonight on the Consent Agenda items. Any council member or member of city staff may request that an item be removed from the Consent Agenda for separate consideration or discussion. If there are any brief concerns or questions by council, we can answer those now.

Motion to approve items on the Consent Agenda & Adopt Resolutions Therein:

- | | |
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| A. City Council Work Session Minutes of February 14, 2022 | Minutes |
| B. City Council Regular Meeting Minutes of February 14, 2022 | Minutes |
| C. Approval of the Verified Claims List | Claims List |
| D. Approve 2022 Concession Operation Agreement | Park & Rec Director Memo |
| E. Approve T-Mobile Lease Amendment East Tower | City Administrator Memo
Resolution 22-020 |
| F. Approve Hiring for Planning Technician Position | City Clerk/HR Director Memo |

3. MATTERS FROM THE FLOOR This is an opportunity for members of the public to bring an item, which is not on tonight's agenda, to the attention of the mayor and council. When you are recognized, please use the raise your hand feature. Please identify yourself by your first and last name and your address for the record. After this introduction, please limit your comments to three minutes. No action will be taken by the council on this matter, but the mayor or council could request that staff place this matter on a future agenda. (No Council Action will be taken)

4. PUBLIC HEARING

5. REPORTS AND PRESENTATION

6. PARKS

- A. Report by Commissioner Gallivan on 02-08-22 Park Commission Meeting Draft Minutes

7. PLANNING

- A. Report by Commissioner Maddy on 02-15-22 Planning Commission Meeting Draft Minutes
- B. Request for Time Extension to Correct Code Violations Location: 5885 Hillendale Road Planning Director Memo Resolution 22-014
- C. Variances for Dock Applicant: Jennifer and David Labadie Location: 5510 Howards Point Road Consulting Planner Memo Resolution 22-021

8. ENGINEERING/PUBLIC WORKS

- A. Strawberry Lane: Final Design Direction, City Project 19-05 City Engineer Memo Resolution 22-022
- B. Birch Bluff Road: Draft Scoping Document and Communication Plan, City Project 21-01 City Engineer Memo
- C. Approve Plans for Lift Stations 7, 9 and 10 and Authorize Advertisement for Bids, City Projects 20-12 and 21-08 City Engineer Memo Resolution 22-023

9. GENERAL/NEW BUSINESS

- A. Accept Quote for Integrated Pest Management Plan City Administrator Memo
- B. COVID Testing Policy City Administrator Memo
- C. Review Status of Meetings City Administrator Memo Resolution 22-024

10. STAFF AND COUNCIL REPORTS

- A. Staff
- B. Mayor and City Council

11. ADJOURN

CITY OF SHOREWOOD
CITY COUNCIL WORK SESSION MEETING
MONDAY, FEBRUARY 14, 2022

5755 COUNTRY CLUB ROAD
COUNCIL CHAMBERS
6:00 P.M.

MINUTES

1. **CONVENE CITY COUNCIL WORK SESSION MEETING (Held via interactive technology/videoconferencing)**

Mayor Labadie called the meeting to order at 6:01 P.M.

A. Roll Call

Present: Mayor Labadie; Councilmembers Johnson, Siakel, Gorham, and Callies; City Attorney Shepherd; City Administrator Lerud; Planning Director Darling; and Director of Public Works Brown;

Absent: None

B. Review Agenda

Siakel moved, Gorham seconded, approving the agenda as presented.

Roll Call Vote: Johnson, Callies, Siakel, Gorham and Labadie voted Aye. **Motion passed 5/0.**

2. **SIGN ORDINANCE**

Planning Director Darling stated that staff was directed to provide a review of any necessary changes to the Zoning Ordinance related to election signage at the January 24, 2022 meeting. She noted that included in the packet was language from the State statute as well as the Shorewood City Code. She explained that what staff is hoping to accomplish is to strip down the proposal just to the most important issues to minimize any impact that changes to the signage may cause. She stated that staff would like to move the ordinance towards content neutrality and have a clear time period for enforcement of election signage and add a substitution clause to allow more opportunity for non-commercial speech signs outside of the election time period. She reviewed the improvements that staff are proposing as outlined in the staff report. She noted that a new public hearing would need to be held by the Planning Commission before any changes could be adopted. She stated that in order for this to be in place prior to the election, the ordinance would need to be approved and published prior to May 1, 2022.

Councilmember Callies stated that she had already spoken with Planning Director Darling regarding some of her questions. She stated that overall, she agrees with what is being proposed and thinks it is helpful to have this meeting prior to the public hearing so the Council can try to winnow down what is being considered by the Planning Commission. She noted that in her opinion, a distance of ten feet from the street surface is too much for many neighborhoods in the City. She stated that she would like to see the City stick with the five foot distance that is located elsewhere in the ordinance for non-commercial speech signs. She stated that she understands why the City wants to have consistency for all types of elections, however, she thinks it is too drastic of a change from the current language. She reviewed the time period between the primary and general election for the school board and noted that 46 days for the other type of public

elections is not really keeping it the same for the type of elections because the time period between the primary and general election for some, is longer than that time period. She stated that she would like to keep it at one-hundred days as it is in the current ordinance. She asked where signs like 'Happy Birthday' or 'Black Lives Matter' would fit into the ordinance and why the City was doing a substitution clause.

Planning Director Darling stated that regarding the setback being too large, the City has the ability to alter that particular setback. She stated that she thinks five feet may be too close in some situations and gave the example of situation where there are improved shoulders adjacent to the paved roadway, unless they alter the setback to be from the improved roadway which takes into account shoulders. She stated that regarding the time period for signage being one-hundred days, as long as it is clearly written and can be enforced so it does not allow one-hundred days before every primary and every election, she thinks that would be acceptable. She explained the substitution clause which allows any sign that is allowed in any district to be substituted, so you can substitute out the non-commercial speech message for whatever the allowed message is on the permitted or listed sign. She gave the example of address signage as one that is allowed at two square feet, so most of the 'Black Lives Matter' or "Blue Lives Matter" signs would fit into that square footage allowance, so they would be allowed to have that on the property as a substitute for the address sign.

City Attorney Shepherd gave a brief explanation of the substitution clause and noted that it is a mechanism that helps the City address some of the issues that arise in the sign ordinance especially in light of recent case law. He referenced the most recent Supreme Court case of Reed v. Gilbert and noted that what needs to be considered is that there can be no content based regulation but the City can have reasonable time, place, and manner restrictions, such as setback from the road. He stated that there are things in the Code that still need to be worked on to ensure that the City is complying with the content neutrality issue.

Councilmember Callies stated that she finds the substitution clause a bit confusing, not because of the way Planning Director Darling has written it, but because it is a confusing principle. She noted that the City could be put at risk if it did not have the ability to substitute this type of sign and understands that it is a good thing to have and feels it is of benefit to citizens.

Councilmember Gorham stated that he was also confused by the substitution clause because from reading it, it appeared that you could substitute a campaign sign for a 'Black Lives Matter' sign which means it would then be restricted by the timeframe. He stated that it looks like it refers to a different subdivision so you have to do that bit of digging to understand it. He stated that he would like to see the distance be closer, such as five feet. He asked about Section 3, Subd. C.(3) where it states, 'No portion of any sign shall be located within five feet of any property line, except as permitted in b.(1)(d) of this subdivision.' He stated that this says five feet, but the subdivision it references says ten feet and noted that he felt this was a strange way to word it.

Councilmember Siakel stated that she agreed that there are a lot of situations in the City where ten feet does not make sense. She asked if there could be a distinction between a County roadway versus a side street. She stated that for the most part, five feet, in Shorewood, seems to make sense and would like to see if there would be a way to differentiate between the type of street for five feet versus ten feet. She gave the example of a sign in her yard being back ten feet and explained that it would never be seen. She stated that she agreed with the comment made by Councilmember Callies regarding school board election signs going from one-hundred to forty-six days and understands why the City would want to align that number.

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Mayor Labadie stated that she agrees that there are portions of the City where ten feet would make signs not visible. She asked if Public Works Director Brown had any concerns from a Public Works standpoint with a five foot setback versus a ten foot setback. Public Works Director Brown stated that the City could specify a setback from a corner because that is typically where you get into most site distance issues. He suggested that there be something similar to the landscaping ordinances where there is a site triangle requirement at the intersections.

Mayor Labadie stated that she does not want to get to the point where the City is out actively policing signs and has become an enforcer. Councilmember Siakel stated that the City has not done this in the past and noted that she was not sure why this issue has become such a big deal. She stated that she understands updating the ordinance because of some of the things such as the Supreme Court decision, but does not think this should be punitive. She stated that if someone wants to be able to put up a sign in their yard, she feels they should be able to do that.

Councilmember Callies asked about the statement made earlier by Planning Director Darling when she talked about distance from the improved roadway versus the street surface. She stated that, to her, that sounds like the same thing. She stated that she believes that there have been complaints in every election so she understands the City has to have something in the Code, but in her opinion, the less said, the better.

Mayor Labadie stated that this came about because of complaints during the last election. She explained that she would like this ordinance to get to the point where anyone can understand it clearly. She stated that she feels the current language was not easily understood, which is where Councilmember Callies explanation that 'less is more' would be beneficial.

Councilmember Siakel asked what the specific complaints were and suggested that perhaps the discussion needed to focus on those specific areas. She stated that if the goal is to simplify it and make it easily understood, she would say that saying something has to be five feet from an 'improved road surface' is probably confusing for most people.

Public Works Director Brown stated that they did check on some signs based on complaints that were received and explained that all the complaints they received were based on setback concerns. He stated that he thinks road surface is adequate language and is easy for anyone to check.

Planning Director Darling stated that during the last election, the City had complaints in two different areas of the City where signs were placed so close to the road and in such number that the callers were frustrated by having an overwhelming amount of signs right up to the street. She explained that in previous years the complaints were, in general, about too much signage and noted that what the City can enforce, is setbacks.

Councilmember Johnson stated that he did not see any regulations for overall non-commercial speech signs size. Planning Director Darling explained that during the election period, the City is not allowed to regulate the size of signs or the number of signs. Mayor Labadie suggested that the Council take a look at defining the edge of the road and determine how far back they would like to go.

Councilmember Callies stated that based on the discussion, she feels the Council has consensus to have signs be allowed five feet from the edge of pavement. Public Works Director Brown noted

that the City has three gravel roadways so there may need to be some provision made for those. He stated that if the roadway is unimproved then it would be from the edge of the aggregate surface. Councilmember Callies stated that she believes the Council also had consensus on allowing one-hundred days for other types of elections, such as school board.

Councilmember Siakel noted that she sees Mr. Yelsey's hand raised and stated that this may be a good time to allow public input. Alan Yelsey, 26335 Peach Circle, stated that he agrees with most of the statements made by Councilmember Callies. He stated that he feels the five foot setback and allowing one-hundred days for elections other than the State mandated ones makes sense, although he would prefer a three foot setback. He stated that he does not like the substitution clause and does not feel it is stated clearly. He stated that the Council has not yet addressed the concern that caused many citizens to be unhappy which was what happens to signs outside of the election period. He stated that there is no language that clearly says you can put up any kind of signs that you want, in your lawn, with minimal or no restrictions. He stated that he feels this is free speech and would suggest that there be language that says for non-commercial signs, outside of the election period, here is what you are able to do. He stated that he believes it is illegal for the City to call out holiday signs or illumination of holiday signs and would ask that they be treated as any other non-commercial signage and not to restrict it in any significant way because that is also free speech. He reiterated that the substitution clause as it is, is unfathomable and would encourage the City to create simple language. He stated that he has raised the issue of right-of-way several times and it is still there because the City actually prohibits signs in the right-of-way. He stated that the City allows mailboxes and plantings, but does not allow signs and suggested that language also be corrected and make it clear that people can put up signs in the right-of-way with a setback. He stated that theft has also been an issue with signs and explained that he would love to see a clause that addresses that issue and makes it a misdemeanor in the City. He stated that the City may also want to limit hate speech.

Mayor Labadie asked City Attorney Shepherd or Planning Director Darling to address Mr. Yelsey's comments on right-of-way, hate speech, theft, holiday signs, and the three foot setback.

Planning Director Darling explained that, in general, staff would want to preserve the right-of-way for the purpose it was created for, which would be things like drainage projects and allow no private improvements. She noted that mailboxes have to be allowed in order to allow for mail delivery. She stated that improvements in the right-of-way require permits but signs are generally not something the City would issue permits for.

Councilmember Callies stated that it appears as though non-commercial speech signs are allowed in the right-of-way as permitted, which seems to address Mr. Yelsey's concern. Planning Director Darling explained that staff wrote this section to allow them during the election period, but not at any other time. City Attorney Shepherd stated that Council may want to make a distinction between non-commercial speech signs during the election period versus others.

Mr. Yelsey stated there is encroachment and right-of-way language included in the Code that says you cannot do what Councilmember Callies just stated can be done. He stated that the language conflicts and is confusing because it says nothing can be put into a right-of-way other than a mailbox and landscaping. He stated that most people do not know how large the right-of-way is on their property from the roadway.

City Attorney Shepherd stated that staff can look at other language that is purported to be conflicting with the right-of-way provision in the sign ordinance because the City does not want

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people to be confused about the restrictions or lack thereof. He stated that to address Mr. Yelsey's comment related to hate speech, that would be considered a content based restriction. He stated that tonight's discussion certainly addresses the election related provisions of the sign ordinance but as he noted earlier, there are other provisions of the sign ordinance that need amendment. He stated that the substitution clause is sort of a preservation clause that is recommended by the League of Minnesota Cities and preserves the ability of the residents to have non-commercial signs when there is otherwise conflicting regulations in the Code. He explained that he thinks it is important to have in the Code, but noted that staff could take a look at 'wordsmithing' it a bit to make it a bit more clear.

Mayor Labadie asked about the issue related to theft of signs. City Attorney Shepherd stated that he thinks theft of signs can be prosecuted as any other theft under State law. He stated that theft is not called out in the Code, but does not think it needs to be in order for it to be prosecuted. Public Works Director Brown noted that the City has had incidents of theft that the SLMPD has been involved in and noted that he believes that they were prosecuted as a misdemeanor.

Mr. Yelsey explained that he has had many signs stolen and noted that the owner of the sign is often the political party and sometimes it is the property owner. He stated that it would be nice to have a clause in the Code that clearly states it is a misdemeanor just to help preclude people from doing that. Councilmember Siakel noted that most people who are stealing signs are most likely not reading City Code. She stated that it will go back to going to the police department and filing a complaint.

Mr. Yelsey explained that many times it is kids doing the stealing and feels their parents need to know that this is a serious crime and not just fun and games like taking a pumpkin at Halloween.

Guy Sanschagrín, 27725 Island View Road, stated that he would like to touch on theft and vandalism of signs. He explained that he had many signs stolen and vandalized during the last election. He stated that he feels it is not just the 'law' but also what is done to communicate, enforce, and encourage people to follow the law. He stated that he is challenged by complaint based enforcement. He also gave the example of the Birch Bluff area and noted that he did not think any of those properties would be able to have signs on them because the hedges are right along the roadway even with a five foot rule. He stated that he feels Shorewood can do better than it did during the last election. He stated that it should not just be about enforcement and the law but should be about everyone coming together as a community to have a fair and just election.

Councilmember Siakel stated that anybody who has run for office has had some situation where a sign has disappeared and does not think that is unique to one candidate or one election. She stated that she would encourage people that want things to change, to start with themselves.

Mayor Labadie asked Councilmember Siakel to comment on the comment made regarding hedges in the Birch Bluff area. Councilmember Siakel stated that she feels the comment made by Mr. Sanschagrín is probably accurate, which is one of the reasons that she suggested five feet from the roadway. She explained that ten feet would make it very difficult for anybody on Birch Bluff and many other streets within the City. She noted that Mr. Yelsey brought up some points that probably should be discussed and suggested that the Council divide this topic and just focus on campaign signs tonight and cover the other points at a later time.

Councilmember Callies stated that she agreed that there should be two discussions and that tonight can focus on the campaign signs in order for that to be completed prior to the election.

She stated that the Council can then deal with the other items that need to be updated at a later date.

Councilmember Gorham stated that the misdemeanor language does not feel to him like it belongs in City Code because it is not within their control of how it is enforced. He suggested that perhaps it is something that is noted in the Shore Report or the newsletter that theft activity is discouraged. Mayor Labadie stated that she also felt a letter in the Sun Sailor and/or on the Shore Report would be a good idea to remind people that vandalism and theft of signs is a punishable offense. She stated that she feels this may be a more appropriate route than modifying the actual Code language. She asked about the timeline for making these changes.

Planning Director Darling stated that she feels that there will be enough time to make these changes prior to the election season, if the public hearing is held in April.

3. ADJOURN

Siakel moved, Johnson seconded, Adjourning the City Council Work Session Meeting of February 14, 2022, at 6:58 P.M.

Roll Call Vote: Siakel, Callies, Johnson, Gorham, and Labadie voted aye. **Motion passed 5/0.**

ATTEST:

Jennifer Labadie, Mayor

Sandie Thone, City Clerk

CITY OF SHOREWOOD
CITY COUNCIL REGULAR MEETING
MONDAY, FEBRUARY 14, 2022

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

MINUTES

1. CONVENE CITY COUNCIL REGULAR MEETING (Held via interactive technology/videoconferencing)

Mayor Labadie called the meeting to order at 7:01 P.M.

A. Roll Call

Present: Mayor Labadie; Councilmembers Johnson (arrived at 7:05 P.M.), Siakel, Gorham and Callies; City Attorney Shepherd; City Administrator Lerud; City Clerk/HR Director Thone; Finance Director Rigdon; Planning Director Darling; Director of Public Works Brown; and, City Engineer Budde

Absent: None

B. Review Agenda

Callies moved, Gorham seconded, approving the agenda as presented.

Roll Call Vote: Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

2. CONSENT AGENDA

Mayor Labadie reviewed the items on the Consent Agenda.

Councilmember Gorham explained that he and Councilmember Callies serve on the Personnel Committee for item F. He expressed his appreciation to the candidates who were interested in the open positions. He noted that the City was fortunate to have such great candidates who expressed interest. Councilmember Callies stated that she agreed that there were great candidates for the positions which created difficult choices for the Personnel Committee.

Siakel moved, Johnson seconded, Approving the Motions Contained on the Consent Agenda and Adopting the Resolutions Therein.

- A. City Council Work Session Minutes of January 24, 2022**
- B. City Council Regular Meeting Minutes of January 24, 2022**
- C. Approval of the Verified Claims List**
- D. Accept Donation from Lucky's Station, LLC for 2022 Arctic Fever Event, Adopting RESOLUTION NO. 22-011, "A Resolution Accepting Donations to the City of Shorewood 2022 Arctic Fever Event."**

- E. Appointment of Public Works Operator and Authorization to Advertise for Light Equipment Operator
- F. Commission Appointments, Adopting RESOLUTION NO. 22-012, "A Resolution Making Appointments to Shorewood Commissions."
- G. Accept Improvements and Authorize Final Payment for Enchanted and Shady Islands Reclaim Project, City Project 18-11, Adopting RESOLUTION NO. 22-013, "A Resolution Accepting Improvements and Authorizing Final Payment for the Enchanted Island and Shady Island Street Reclamation Project."

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

3. MATTERS FROM THE FLOOR

Alan Yelsey, 26335 Peach Circle stated that the Council had just held a work session to discuss non-commercial signs. He stated that he wanted to inform the public that when one considers non-commercial sign, because they are not using the term 'political' signs, any change in language by the City Council would need to apply to any non-commercial signage and not just political signs. He stated that he does not feel it is necessary to call out holiday signs and people should be allowed to have those displayed however they like. He stated that he also believed that right-of-way should not restrict the placement of signs.

4. PUBLIC HEARING

5. REPORTS AND PRESENTATIONS

6. PARKS

7. PLANNING

A. Request for Time Extension to Correct Code Violations Location: 5885 Hillendale Road

Planning Director Darling explained that the property owner has requested additional time in order to clear up a number of nuisance items and remove the unlicensed vehicles. She stated that staff had originally recommended denial of the request and that enforcement should begin, however, she received a phone call this afternoon that explained why the applicant had not made any progress. She stated that both she and the person that had been hired to help have been severely ill and were not able to do the work, nor was she aware that she had been called to find out why there had been no progress. She stated that staff is recommending that this be brought back to the next Council meeting

Mayor Labadie stated that this seemed reasonable and the Council would basically be granting a small extension.

Councilmember Gorham asked about whether the property owner had committed to resolving the issue during the recent phone call. Planning Director Darling stated that the applicant has committed to doing as much of the clean up that is allowed by law. She stated that there is a

tenant in the home as well that has some items that she may not be able to get rid of, but the removal of the majority of the items will be substantial progress on this particular property.

There was consensus to bring this item back to the next Council meeting and allow for this extension of time in order to allow for time for a new Resolution of approval with the additional days left in the 30 day period.

**B. Request for Time Extension to Correct Code Violations
Location: 5765 Echo Road**

Planning Director Darling explained that the applicant has a number of accessory buildings and fences that were put in without a permit. She stated that due to the season and the health constraints of the property owners, she is asking for more time than is typically allowed because they will need to get contractors to help them with the improvements. She stated that they have asked that the building and zoning permits be to City Hall by May 31, 2022 and the necessary work be completed by June 30, 2022.

Mayor Labadie stated that she feels this approach seems reasonable.

Councilmember Gorham stated that there is a labor shortage and is concerned about the property owners being able to get quotes and a permit by May 31, 2022. He stated that it may be more realistic that it be changed to having a permit by June 30, 2022 rather than May. Planning Director Darling explained that they are interviewing contractors this week.

Councilmember Gorham asked if the Council needed to adopt a resolution and vote on the previous agenda item. City Attorney Shepherd stated that after the Council acts on the resolution in front of them, it would make sense to go back to agenda item 7.A. and take a vote so it is very clear the Council has made the extension until the next meeting. Councilmember Siakel stated that she did not think this should be pushed further down the road and would like to get some resolution with relation to showing progress and compliance.

Johnson moved, Siakel seconded, Adopting RESOLUTION NO. 22-015, "A Resolution Approving a Request for Extension to Correct a Code Violation for Property Located at 5765 Echo Road."

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

**7.A. – continued: Request for Time Extension to Correct Code Violations
Location: 5885 Hillendale Road**

Gorham moved, Johnson seconded, granting an extension of 28 days, to the March 14, 2022 City Council meeting, for the Code Violations at 5885 Hillendale Road, to allow the property owner to remedy the situation.

Councilmember Callies noted that she was not sure this would be enough time to take care of the problem, considering the health problems of the homeowners. Planning Director Darling clarified that she was proposing that the item be continued to the next Council meeting when staff would put a resolution in front of the Council to extend the term out for whatever the remaining days would be for the 30 day period.

Gorham withdrew his motion, Johnson withdrew his second, based on the information shared by Planning Director Darling.

Gorham moved, Johnson seconded, to continue this item to the February 28, 2022 meeting in order to allow for staff to bring a resolution to the Council for extension of 30 days for the Code Violations for property located at 5885 Hillendale Road.

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion carried 5/0.**

8. ENGINEERING/PUBLIC WORKS

A. Strawberry Lane: Final Design Direction, City Project 19-05

City Engineer Budde explained that on April 28, 2021, the Council approved the Scoping Study for the Strawberry Lane Reconstruction and Trail Project. He noted that following that meeting the City heard a fair amount of feedback from residents that the eight foot trail and five foot boulevard was excessive so Council gave direction for staff to look at alternative options. He stated that on June 22, 2021 staff held a virtual neighborhood meeting to present the information on the sidewalk options. He stated that the City received a fair amount of feedback following this meeting as well and the Council directed staff to consider a few more options. He explained that on November 10, 2021, the City hosted an Open House to discuss these items where the general themes were: the need of justification for a sidewalk; minimizing impacts to yards/trees by reducing the proposed street width; and, shifting the alignment on the south end towards the west. He stated that staff is looking for direction from the Council on how to move forward on those three design items. He noted that if this moves forward, the general timeline for the project would possibly be for tree removals and utility relocations in the fall of 2022 with construction in the summer of 2023, with the goal of completion by the first day of school. He reviewed the sidewalk/trail options and noted that there is consensus in favor of a six foot sidewalk at the back of the curb. He reviewed the discussion surround the width of the street and noted that, in general, residents along the corridor are in favor of a narrower roadway footprint to twenty-four feet or less. He explained that staff is still recommending a twenty-six foot wide street and noted that it would allow for on-street parking and meets State Fire Code width minimum. He stated that the other item that was discussed was the alignment of Strawberry Lane on the south end of the project. He stated that staff received a fair amount of feedback that many residents favor the western alignment which means the proposed roadway would generally stay in the same location as the western edge of the existing roadway. He noted that at the last meeting, that he had recommended shifting the roadway alignment to the east, but the feedback from residents was that they preferred it be shifted by six feet west, which is what he is now recommending. He stated that this would require the acquisition of additional easements from four property owners in order to accommodate this layout. He stated that would like to pursue drainage and utility easements from these property owners because it will not change the setback line for the homeowners. He summarized that staff is recommending Alternate 2 of the proposed alternatives and noted that it will cost a bit more than the others because of the unknown costs of property acquisition.

Mayor Labadie explained that there have been four public hearings that have been held on this item, so no public comments would be taken this evening, but they did give residents the opportunity to submit comments in writing. She noted that some of these comments had been included in the meeting packet. She noted that there were questions from residents regarding

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this street compared to the Glenn/Amlee/Manitou project, especially the differences in the recommended width of the roads.

City Engineer Budde explained that he sees Strawberry Lane acting more like a collector roadway for the City where it provides side roads connecting to it and those roads lead out to Smithtown Way and Highway 7. He stated that the Glenn/Amlee/Manitou project from last year was a residential neighborhood with fifty homes that had no other way out as a 'dead end' neighborhood and not more of a through street like Strawberry Lane.

Councilmember Gorham thanked City Engineer Budde for thoroughly investigating this project. He stated that he does not think the project got off on the right foot, but feels the City has tried as hard as it can to make up for the miscommunication that it began with. He stated that the fire code argument is not super strong for him because he knows that there are fire hydrants elsewhere, but he does accept the argument that this is a connector street and noted that he personally travels it to get his kids to Minnewashta. He stated that he would like to see on-street parking remain and explained that he feels it will help to slow traffic down. He stated that he thinks the proposed plans are a good compromise to make the location of the street more equitable through the western alignment.

Councilmember Johnson stated that he agreed with Councilmember Gorham's comments and would just add the point that he does not see how it would be feasible to adequately enforce no on street parking.

Councilmember Callies stated that she agreed with most of the recommendations from the City Engineer. She stated that this design is looking towards the future. She stated that she does have some concern about the acquisition of the additional easements because the City already has right-of-way on the other side of the roadway. She stated that she is in favor of not moving the alignment to the west and keeping it on the east side and noted that she did not see it as unfair, because it is already public right-of-way.

Councilmember Siakel stated that she agreed that this is implying that the people on the west side would give the City the easements. She asked if the City has reached out to those property owners and had any indication that it would be given, if the City asks for it.

City Engineer Budde stated that he met with property owners last summer and did not get a strong consensus one way or the other from the residents. He noted that at the time he was telling them the City would want roadway easement and he is now recommending pursuing drainage and utility easement, which is different.

Councilmember Siakel noted that the City does not know, for a fact, that those property owners would give the City the necessary easements. She stated that she tends to agree with Councilmember Callies comments and stated that the City has made accommodations and tried to work with residents. She stated that she feels the twenty six foot wide road and sidewalk is appropriate, but reiterated her concern about assuming that the City has easements that they do not have.

City Engineer Budde stated that if the City pursued the western alignment, the intent is that the City would go acquire the easements. He stated that there is time in the project schedule, if it came down to condemnation to still deliver the project in 2023.

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Councilmember Siakel asked why the City would condemn, when they already own the other side. She stated that she does not think she has ever voted to condemn anything. Councilmember Gorham stated that his understanding is that once it moves to condemnation it would be operating outside of the schedule.

City Engineer Budde explained that condemnation has a very defined scheduled time frame and noted that they have accounted for that possibility within their schedule.

The Council discussed the easement acquisition process.

Mayor Labadie stated that she agreed with Councilmember Siakel's earlier statement that she does not think she, in her time serving the City, had ever voted for a condemnation. She stated that she wished that the City already had a go ahead message from those property owners that they supported this option. She stated that she does feel shifting the roadway to the west is more equitable for both sides of the street, but it involves an unknown factor acquisition from four parcels.

Councilmember Johnson noted that he had a discussion with one of the property owners on the western side who was in favor of a drainage and utility easement possibility and was upset about the potential shift to the east, however, this was resident has moved. He stated that he is in favor of exploring the easements before they eliminate the possibility of the western shift.

Councilmember Siakel stated that would be fine, but she is not in favor of eminent domain or condemnation, and would not vote in favor of that option. City Engineer Budde stated that negotiations typically take about two months and they would know by that time if they would agree or not. He stated that if they were not going to come to some agreement, the option could be to continue eminent domain with those properties, or change the alignment back to the east.

Councilmember Gorham asked if staff had done any appraisals on those easements yet. City Engineer Budde stated that they had not done any appraisals. Councilmember Gorham asked if there were existing easements on the opposite side. City Engineer Budde explained that anywhere that has been platted already has a ten foot drainage and utility easement outside of the right-of-way. He noted that on the corridor it is a bit hit or miss on which areas have been platted and which have not.

Councilmember Callies asked if there were still some easements that had to be acquired that have nothing to do with the southern alignment. City Engineer Budde noted that there were about nine properties that the City would still have to get some form of easement from. He noted that these would typically be a drainage and utility easement and explained that any one of these could also go to condemnation as well.

Mayor Labadie asked if these negotiations would also take about two months. City Engineer Budde stated that two months is about what it takes to get a really good feel on the negotiations with residents and allow them time to think about their options. He stated that the ones north of the trail will be needed regardless, but they will take a further look to try to reduce the roadway easements to drainage and utility easements if possible.

Councilmember Callies stated that the City is going to be in the eminent domain/condemnation process for the properties north of the trail if an agreement is not reached. She stated that the

CITY OF SHOREWOOD REGULAR COUNCIL MEETING MINUTES
FEBRUARY 14, 2022
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Council will either need to vote in favor of the negotiated price or for proceeding with condemnation, if they want to move forward with the Strawberry Lane project.

Councilmember Siakel asked if something could be incorporated in the motion that the Council approves what has been recommended and put a date in that if the easements are not received, that the plan reverts to the other options of keeping the roadway towards the east in the existing right-of-way.

City Attorney Shepherd stated that he believes it is really a function of timing for the roadway design, but in terms of whether that can be done, the answer is yes. City Engineer Budde stated that he believes that there is time in the schedule to try to acquire the property on the west side and if that did not come to fruition, there would still be time in the schedule to make some tweaks to the plans that essentially shifts the roadway six feet east.

Councilmember Siakel asked how long it would take City Engineer Budde to pull together offers to these residents. City Engineer Budde stated that he thinks he could get potential offers out to the four residents within two weeks, but would need to give them time to review and respond. He stated that he thinks within about a month they would have a pretty good feeling as to whether those residents will entertain the offer or not. He reiterated that there is room in the project schedule to account for this activity.

Mayor Labadie likes this proposal and noted that the reason the Council deviated from the existing right-of-way is the concept of equity, however the concept of condemnation is very difficult for her to swallow when there is existing right-of-way across the street. She stated that she is in favor of pursuing the acquisition of the four parcels for a drainage and utility easement.

City Attorney Shepherd suggestion that this item be continued to the next meeting in order to bring back a resolution with a few more parts to it in terms of the ins and outs of the exploration of the easements, but also approving some pieces of the project such as six foot wide sidewalks and the twenty-six foot wide street, with some timelines built in so it is clear to both the Council and the community.

City Engineer Budde stated that he felt that approach could work. City Administrator Lerud stated that he was not sure that continuing this for two weeks will be enough time and suggested it may be better to extend it a month in order to give adequate time.

Councilmember Callies stated that in two weeks her understanding is that staff will bring back a resolution that has more specifics such as the Council accepts the six foot sidewalk, twenty-six foot wide street, that the City will begin negotiating with the parties, even though that portion will not be completed in that timeframe. Councilmember Siakel stated that she agreed with Councilmember Callies and noted that the City may have an idea of where the conversation is headed with the acquisition.

Councilmember Gorham suggested that the Council just move forward and approve the resolution that is being presented tonight and amend it, if it looks like it is heading towards condemnation to follow the eastern alignment. Mayor Labadie stated that she would agree with that approach along with directing City Engineer Budde to pursue acquiring the easements from the four parcels on the western side.

Councilmember Siakel stated that she disagreed because it is saying that the Council is agreeing with what has been put before them and she is saying that she does not want to do that until there is something more firm around those properties on the western side. She stated that she is not agreeing to the western alignment until the City has those answers. She reiterated that she agreed with Councilmember Callies and City Attorney Shepherd's suggestion to bring this back in two weeks with the details like they agree on the six foot sidewalks and the twenty-six foot wide street width.

City Attorney Shepherd stated that the Council could make a motion to adopt this resolution and edit it to just agree to the six foot sidewalk and the twenty-six foot width and leave out the western alignment. He cautioned that sometimes when edits to resolutions are made on the fly, things are missed and he would suggest that it be brought back so there is a more clear resolution.

Siakel moved, Callies seconded, to Deny RESOLUTION NO. 22-016, "A Resolution to Provide Final Design Direction for Strawberry Lane, City Project 19-05", and direct staff to bring back a new resolution at the February 28, 2022 meeting which specifies the twenty-six foot wide roadway, six foot wide sidewalk, and a timeline and steps for alignment to the west side of Strawberry lane.

Roll Call Vote: Siakel, Callies, Gorham, and Labadie voted Aye. Johnson voted Nay. **Motion passed 4/1.**

B. Grant Street Drainage: Accept Bids and Award Contract, City Project 18-04

City Engineer Budde stated that on January 10, 2022 the Council gave authorization to advertise and open bids for the Grant Street drainage project. He explained that twelve bids were opened on February 8, 2022 with the low bid submitted by Schneider Excavating & Grading. He noted that the bid is about thirty-three percent below the engineer's estimate and explained that the City has successfully worked with Schneider in the past on the Freeman Park drainage project in 2021. He noted that they expect substantial completion by July 31, 2022 with final completion by the end of August of 2022. He stated that also included in this is the agreement with Our Savior's Lutheran Church for the drainage and utility easement on their parcel in exchange for the City completing the long term maintenance over their pond.

Gorham moved, Johnson seconded, Adopting RESOLUTION NO. 22-017, "A Resolution Awarding Contract for the Grant Street Drainage Project, City Project 18-04.", AND, Adopting RESOLUTION NO. 22-018, "A Resolution Approving Drainage and Utility Agreement with Our Savior Lutheran Church, City Project 18-04."

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

9. GENERAL/NEW BUSINESS

A. Flexible Work Arrangement Policy

City Clerk/HR Director Thone explained that this policy was presented to the Council in June of 2021 and was tabled until a later date. She stated that it was brought back for discussion at the Council/Staff retreat in November of 2021, where it was decided to be brought back for review

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and further discussion at tonight's meeting. She clarified that flexible work arrangements are not new and currently exist in the City's personnel policy. She stated that this proposed policy just provides more parameters for the flexible work arrangements that employees and supervisors can use as guidance to manage them. She stated that it also replaces some outdated remote access policy and telecommuting language that is contained in the current personnel policy.

Councilmember Callies asked if the flexible work arrangement has been working well for staff. City Clerk/HR Director Thone stated that it has been very popular and is used by almost all City Hall employees. She stated that there are several employees that work a compressed work week schedule and a few that have a remote work day. She stated that the remainder of the City Hall employees do some sort of flexible schedules where they start or end at different times.

Councilmember Callies noted that she had not received any complaints about lack of accessibility of staff. She stated that she understands it is popular and her question would be whether it is effective for completing City business, but reiterated that she has not heard of any issues in that regard.

City Clerk/HR Director Thone stated that currently they do not have a lot of staff that take advantage of the remote work days, other than the staggered schedules. She stated that the remote schedule in the current personnel policy is more generous than the remote schedule with the new proposed policy. She stated that staff does not feel this new policy will diminish their service levels at all. She stated that she feels that in some cases, the City has been able to retain employees because they love their schedule and appreciate that the City allows some flexibility for them to have alternate schedules. She stated that she sees this is a great tool for retention and possibly even a great recruiting tool for the City.

City Administrator Lerud stated that he would echo City Clerk/HR Director Thone's comments. He stated that it is important to know that for staff, maintaining coverage for all departments for the regular work day is critical, so anything they do will always point to that.

Councilmember Siakel noted that she understands that Public Works is a unionized work force, but they cannot have a flexible work schedule. She asked if there was any impact on the morale of City employees because it is not all for one and one for all. City Administrator Lerud noted that Public Works can have a compressed work schedule or staggered start times. He stated that she was correct that they do have to be present to do their jobs and cannot drive a dump truck remotely, but noted that there were some flexible options available to Public Works. Public Works Director Brown stated that City Administrator Lerud is correct and noted that most of their job is 'boots on the ground'.

Johnson moved, Labadie seconded, Approving the Flexible Work Arrangement Policy which includes the removal of the Telecommuting and Remote Access Policy, Section 4 of the current Personnel Policy.

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

B. American Rescue Plan Act (ARPA) of 2021 Funds

Finance Director Rigdon explained that this item is basically an affirmation of what Council has already directed, as far as the ARPA funds. He stated that fifty percent of the funds were received in the summer of 2021 and the second half should come in July of 2022. He stated that the

current projects utilizing the ARPA funds are the Covington Road Watermain Improvement Project and the Water Meter Repair and Replacement Project.

Gorham moved, Johnson seconded, Adopting RESOLUTION NO. 22-019, “A Resolution to Spend American Rescue Plan Act Funds.”

Roll Call Vote: Johnson, Siakel, Callies, Gorham, and Labadie voted Aye. **Motion passed.**

10. STAFF AND COUNCIL REPORTS

A. Administrator and Staff

Public Works Director Brown stated that a few weeks ago the Council received a draft report that related to the watermain breaks that have been experienced along Vine Ridge Road and Covington Road. He stated that they have done some research and have determined that one of the other breaks on the back side of the horseshoe was a failure of hardware or bolts due to either electrolysis or hot soils. He stated that this confirmed their suspicions that this entire looped watermain is probably deteriorating beyond repair due to electrolysis or hot soils. He stated that he has asked City Engineer Budde to put together a proposal for replacement of that watermain for Council consideration.

City Engineer Budde stated that tentatively for the next City Council meeting, they would be looking to present information on the Birch Bluff scoping document and hopefully proceed with more public engagement with residents along that corridor.

Planning Director Darling stated that the City received a grant award of \$10,000 toward equipment in Badger Park which include bleachers, tennis court equipment, practice wall, and some of the fencing. She stated that City staff is aware that there may be a development proposed on the east side of Lake Como between Radisson Road and Highway 7. She stated that the City received notification of a neighborhood meeting that a developer is holding by invitation tomorrow night at 7:00 p.m., but noted that the City has not yet received any applications.

City Administrator Lerud explained that they have closed the application period for the Planning Technician and have conducted first round interviews. He stated that he is hoping that they will be able to bring a recommendation to the Council at their February 28, 2022 meeting in order to fill the position.

B. Mayor and City Council

Councilmember Gorham expressed his appreciation to City Engineer Budde for his work on Strawberry Lane and his candor with the community. He stated that he thinks City Engineer Budde's overall temperament helps with this process. He explained that he wanted him to know that the City appreciated his work and his patience in dealing with the Council and the community.

Mayor Labadie stated that she attended the Regional Council of Mayors meeting and noted that there were about thirty-five mayors present. She stated that the main topics were overview of national and local economic conditions and the five factors shaping the current workforce. She stated that the Star Tribune, yesterday, featured the Highway 7 project and MnDOT study. She explained that last week she had testified in front of the House Transportation Finance and Policy Committee where she highlighted the Galpin Lake Road sidewalk request. She noted that this

was basically a fact finding work session for the committee that was centered around pedestrian safety. She stated that she also attended the League of Minnesota Cities seminar for Advanced City Leaders which was extremely interesting and noted that the agenda and presentation are available on the League's website

11. ADJOURN

Johnson moved, Callies seconded, Adjourning the City Council Regular Meeting of February 14, 2022, at 8:45 P.M.

Roll Call Vote: Johnson, Siakel, Callies, Gorham, Labadie voted Aye. **Motion passed.**

ATTEST:

Jennifer Labadie, Mayor

Sandie Thone, City Clerk

DRAFT



City of Shorewood Council Meeting Item

#2 C

MEETING TYPE
Regular Meeting

Title / Subject: Verified Claims

Meeting Date: February 28, 2022

Prepared by: Michelle Nguyen, Senior Accountant
Greg Lerud, City Administrator
Joe Rigdon, Finance Director

Attachments: Claims lists

Policy Consideration:

Should the attached claims against the City of Shorewood be paid?

Background:

Claims for council authorization.

67261 - 67276 & ACH	449,168.80
Total Claims	\$449,168.80

We have also included a payroll summary for the payroll period ending **February 13, 2022**

Financial or Budget Considerations:

These expenditures are reasonable and necessary to provide services to our residents and funds are budgeted and available for these purposes.

Options:

The City Council may accept the staff recommendation to pay these claims or may reject any expenditure it deems not in the best interest of the city.

Recommendation / Action Requested:

Staff recommends approval of the claims list as presented.

Next Steps and Timelines:

Checks will be distributed following approval.

Payroll

G/L Distribution Report

User: mnguyen

Batch: 00002.02.2022 - PR-02-14-2022

CITY OF SHOREWOOD



Account Number	Debit Amount	Credit Amount	Description
FUND 101	General Fund		
101-00-1010-0000	0.00	68,717.91	CASH AND INVESTMENTS
101-11-4103-0000	1,716.64	0.00	PART-TIME
101-11-4122-0000	131.31	0.00	FICA CONTRIB - CITY SHARE
101-13-4101-0000	13,726.40	0.00	FULL-TIME REGULAR
101-13-4103-0000	585.25	0.00	PART-TIME
101-13-4121-0000	1,073.35	0.00	PERA CONTRIB - CITY SHARE
101-13-4122-0000	1,060.31	0.00	FICA CONTRIB - CITY SHARE
101-13-4131-0000	2,176.29	0.00	EMPLOYEE INSURANCE - CITY
101-13-4151-0000	93.11	0.00	WORKERS COMPENSATION
101-15-4101-0000	5,617.92	0.00	FULL-TIME REGULAR
101-15-4121-0000	421.34	0.00	PERA CONTRIB - CITY SHARE
101-15-4122-0000	432.37	0.00	FICA CONTRIB - CITY SHARE
101-15-4131-0000	642.31	0.00	EMPLOYEE INSURANCE - CITY
101-15-4151-0000	34.01	0.00	WORKERS COMPENSATION
101-18-4101-0000	5,601.60	0.00	FULL-TIME REGULAR
101-18-4103-0000	376.61	0.00	PART-TIME
101-18-4121-0000	448.38	0.00	PERA CONTRIB - CITY SHARE
101-18-4122-0000	415.70	0.00	FICA CONTRIB - CITY SHARE
101-18-4131-0000	857.63	0.00	EMPLOYEE INSURANCE - CITY
101-18-4151-0000	49.50	0.00	WORKERS COMPENSATION
101-24-4101-0000	3,559.20	0.00	FULL-TIME REGULAR
101-24-4121-0000	266.94	0.00	PERA CONTRIB - CITY SHARE
101-24-4122-0000	273.51	0.00	FICA CONTRIB - CITY SHARE
101-24-4131-0000	668.30	0.00	EMPLOYEE INSURANCE - CITY
101-24-4151-0000	19.40	0.00	WORKERS COMPENSATION
101-32-4101-0000	13,150.41	0.00	FULL-TIME REGULAR
101-32-4102-0000	155.93	0.00	OVERTIME
101-32-4121-0000	997.98	0.00	PERA CONTRIB - CITY SHARE
101-32-4122-0000	988.34	0.00	FICA CONTRIB - CITY SHARE
101-32-4131-0000	2,634.18	0.00	EMPLOYEE INSURANCE - CITY
101-32-4151-0000	839.03	0.00	WORKERS COMPENSATION
101-33-4101-0000	1,538.31	0.00	FULL-TIME REGULAR
101-33-4102-0000	25.40	0.00	OVERTIME
101-33-4121-0000	117.27	0.00	PERA CONTRIB - CITY SHARE

Account Number	Debit Amount	Credit Amount	Description
101-33-4122-0000	104.93	0.00	FICA CONTRIB - CITY SHARE
101-33-4131-0000	262.09	0.00	EMPLOYEE INSURANCE - CITY
101-33-4151-0000	100.27	0.00	WORKERS COMPENSATION
101-52-4101-0000	4,040.22	0.00	FULL-TIME REGULAR
101-52-4121-0000	303.02	0.00	PERA CONTRIB - CITY SHARE
101-52-4122-0000	298.71	0.00	FICA CONTRIB - CITY SHARE
101-52-4131-0000	799.02	0.00	EMPLOYEE INSURANCE - CITY
101-52-4151-0000	245.18	0.00	WORKERS COMPENSATION
101-53-4101-0000	1,539.21	0.00	FULL-TIME REGULAR
101-53-4121-0000	115.45	0.00	PERA CONTRIB - CITY SHARE
101-53-4122-0000	119.16	0.00	FICA CONTRIB - CITY SHARE
101-53-4131-0000	18.38	0.00	EMPLOYEE INSURANCE - CITY
101-53-4151-0000	78.04	0.00	WORKERS COMPENSATION
FUND Total:	68,717.91	68,717.91	
FUND 201	Shorewood Comm. & Event Center		
201-00-1010-0000	0.00	2,475.54	CASH AND INVESTMENTS
201-00-4101-0000	1,586.94	0.00	FULL-TIME REGULAR
201-00-4103-0000	469.36	0.00	PART-TIME
201-00-4121-0000	138.45	0.00	PERA CONTRIB - CITY SHARE
201-00-4122-0000	159.44	0.00	FICA CONTRIB - CITY SHARE
201-00-4131-0000	27.58	0.00	EMPLOYEE INSURANCE - CITY
201-00-4151-0000	93.77	0.00	WORKERS COMPENSATION
FUND Total:	2,475.54	2,475.54	
FUND 601	Water Utility		
601-00-1010-0000	0.00	11,211.20	CASH AND INVESTMENTS
601-00-4101-0000	8,032.95	0.00	FULL-TIME REGULAR
601-00-4102-0000	236.15	0.00	OVERTIME
601-00-4105-0000	210.66	0.00	WATER PAGER PAY
601-00-4121-0000	635.99	0.00	PERA CONTRIB - CITY SHARE
601-00-4122-0000	609.68	0.00	FICA CONTRIB - CITY SHARE
601-00-4131-0000	1,224.67	0.00	EMPLOYEE INSURANCE - CITY
601-00-4151-0000	261.10	0.00	WORKERS COMPENSATION
FUND Total:	11,211.20	11,211.20	
FUND 611	Sanitary Sewer Utility		
611-00-1010-0000	0.00	8,607.75	CASH AND INVESTMENTS
611-00-4101-0000	5,906.21	0.00	FULL-TIME REGULAR
611-00-4102-0000	312.78	0.00	OVERTIME
611-00-4105-0000	210.66	0.00	SEWER PAGER PAY
611-00-4121-0000	482.24	0.00	PERA CONTRIB - CITY SHARE

Account Number	Debit Amount	Credit Amount	Description
611-00-4122-0000	468.77	0.00	FICA CONTRIB - CITY SHARE
611-00-4131-0000	1,029.16	0.00	EMPLOYEE INSURANCE - CITY
611-00-4151-0000	197.93	0.00	WORKERS COMPENSATION
FUND Total:	8,607.75	8,607.75	
FUND 621	Recycling Utility		
621-00-1010-0000	0.00	559.77	CASH AND INVESTMENTS
621-00-4101-0000	409.60	0.00	FULL-TIME REGULAR
621-00-4121-0000	30.72	0.00	PERA CONTRIB - CITY SHARE
621-00-4122-0000	31.43	0.00	FICA CONTRIB - CITY SHARE
621-00-4131-0000	85.12	0.00	EMPLOYEE INSURANCE - CITY
621-00-4151-0000	2.90	0.00	WORKERS COMPENSATION
FUND Total:	559.77	559.77	
FUND 631	Storm Water Utility		
631-00-1010-0000	0.00	2,652.83	CASH AND INVESTMENTS
631-00-4101-0000	2,018.15	0.00	FULL-TIME REGULAR
631-00-4121-0000	151.36	0.00	PERA CONTRIB - CITY SHARE
631-00-4122-0000	151.87	0.00	FICA CONTRIB - CITY SHARE
631-00-4131-0000	284.18	0.00	EMPLOYEE INSURANCE - CITY
631-00-4151-0000	47.27	0.00	WORKERS COMPENSATION
FUND Total:	2,652.83	2,652.83	
FUND 700	Payroll Clearing Fund		
700-00-1010-0000	94,225.00	0.00	CASH AND INVESTMENTS
700-00-2170-0000	0.00	42,898.58	GROSS PAYROLL CLEARING
700-00-2171-0000	0.00	10,406.16	HEALTH INSURANCE PAYABLE
700-00-2172-0000	0.00	6,234.74	FEDERAL WITHHOLDING PAYABLE
700-00-2173-0000	0.00	2,868.85	STATE WITHHOLDING PAYABLE
700-00-2174-0000	0.00	10,491.06	FICA/MEDICARE TAX PAYABLE
700-00-2175-0000	0.00	9,673.98	PERA WITHHOLDING PAYABLE
700-00-2176-0000	0.00	6,830.13	DEFERRED COMPENSATION
700-00-2177-0000	0.00	2,061.51	WORKERS COMPENSATION
700-00-2183-0000	0.00	1,525.09	HEALTH SAVINGS ACCOUNT
700-00-2184-0000	0.00	826.90	DENTAL DELTA
700-00-2185-0000	0.00	408.00	DENTAL - UNION
FUND Total:	94,225.00	94,225.00	
Report Total:	188,450.00	188,450.00	

Accounts Payable

Computer Check Proof List by Vendor

User: mnguyen
 Printed: 02/14/2022 - 11:46AM
 Batch: 00003.02.2022 - PR-02-14-2022



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 4 February-2022	AFSCME CO 5 MEMBER HEALTH FUND-UT PR Batch 00002.02.2022 Dental - Union	408.00	02/14/2022	Check Sequence: 1 700-00-2185-0000	ACH Enabled: True PR Batch 00002.02.2022 Dental - Union
	Check Total:	408.00			
Vendor: 1084 PR-02-14-2022	BANK VISTA PR Batch 00002.02.2022 HSA-BANK VISTA	281.09	02/14/2022	Check Sequence: 2 700-00-2183-0000	ACH Enabled: True PR Batch 00002.02.2022 HSA-BANK VISA
	Check Total:	281.09			
Vendor: 5 PR-02-14-2022 PR-02-14-2022 PR-02-14-2022 PR-02-14-2022 PR-02-14-2022	EFTPS - FEDERAL W/H PR Batch 00002.02.2022 Federal Income Tax PR Batch 00002.02.2022 FICA Employee Portio PR Batch 00002.02.2022 FICA Employer Portio PR Batch 00002.02.2022 Medicare Employee Pc PR Batch 00002.02.2022 Medicare Employer Po	6,234.74 4,251.29 4,251.29 994.24 994.24	02/14/2022 02/14/2022 02/14/2022 02/14/2022 02/14/2022	Check Sequence: 3 700-00-2172-0000 700-00-2174-0000 700-00-2174-0000 700-00-2174-0000 700-00-2174-0000	ACH Enabled: True PR Batch 00002.02.2022 Federal Income T PR Batch 00002.02.2022 FICA Employee PR Batch 00002.02.2022 FICA Employer I PR Batch 00002.02.2022 Medicare Emplo PR Batch 00002.02.2022 Medicare Emplo
	Check Total:	16,725.80			
Vendor: 6 February-2022 February-2022 February-2022 February-2022	HEALTH PARTNERS-MEDICAL PR Batch 00002.02.2022 Health Ins - CoPay-2 PR Batch 00001.02.2022 Health Insurance-HSA PR Batch 00001.02.2022 Health Ins - CoPay-1 PR Batch 00002.02.2022 Health Insurance-HSA	3,703.75 6,250.00 3,500.00 6,702.41	02/14/2022 01/31/2022 01/31/2022 02/14/2022	Check Sequence: 4 700-00-2171-0000 700-00-2171-0000 700-00-2171-0000 700-00-2171-0000	ACH Enabled: True PR Batch 00002.02.2022 Health Ins - CoP PR Batch 00001.02.2022 Health Insurance PR Batch 00001.02.2022 Health Ins - CoP PR Batch 00002.02.2022 Health Insurance
	Check Total:	20,156.16			
Vendor: 1166 Feb-2022-COBRA February-2022	HEALTHPARTNER-DENTAL PR Batch 00002.02.2022 Dental - Non Union PR Batch 00002.02.2022 Dental - Non Union	45.94 826.90	02/14/2022 02/14/2022	Check Sequence: 5 700-00-2184-0000 700-00-2184-0000	ACH Enabled: True PR Batch 00002.02.2022 Dental - Non Uni PR Batch 00002.02.2022 Dental - Non Uni
	Check Total:	872.84			
Vendor: 2	ICMA RETIREMENT TRUST-302131-457			Check Sequence: 6	ACH Enabled: True

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
PR-02-14-2022	PR Batch 00002.02.2022 Deferred Comp-ICMA	3,155.13	02/14/2022	700-00-2176-0000	PR Batch 00002.02.2022 Deferred Comp-I
	Check Total:	3,155.13			
Vendor: 11	MINNESOTA DEPARTMENT OF REVENUE			Check Sequence: 7	ACH Enabled: True
PR-02-14-2022	PR Batch 00002.02.2022 State Income Tax	2,868.85	02/14/2022	700-00-2173-0000	PR Batch 00002.02.2022 State Income Tax
	Check Total:	2,868.85			
Vendor: 1091	MSRS-MN DEFERRED COMP PLAN 457			Check Sequence: 8	ACH Enabled: True
PR-02-14-2022	PR Batch 00002.02.2022 Deferred Comp-MSRS	3,475.00	02/14/2022	700-00-2176-0000	PR Batch 00002.02.2022 Deferred Comp-1
PR-02-14-2022	PR Batch 00002.02.2022 Deferred Comp-MSRS	200.00	02/14/2022	700-00-2176-0000	PR Batch 00002.02.2022 Deferred Comp-1
	Check Total:	3,675.00			
Vendor: 665	OPTUM BANK			Check Sequence: 9	ACH Enabled: True
PR-02-14-2022	PR Batch 00002.02.2022 HSA-OPTUM BANK	1,244.00	02/14/2022	700-00-2183-0000	PR Batch 00002.02.2022 HSA-OPTUM B.
	Check Total:	1,244.00			
Vendor: 9	PERA			Check Sequence: 10	ACH Enabled: True
PR-02-14-2022	PR Batch 00002.02.2022 MN-PERA Deduction	4,491.49	02/14/2022	700-00-2175-0000	PR Batch 00002.02.2022 MN-PERA Dedu
PR-02-14-2022	PR Batch 00002.02.2022 MN PERA Benefit Em	5,182.49	02/14/2022	700-00-2175-0000	PR Batch 00002.02.2022 MN PERA Benef
	Check Total:	9,673.98			
	Total for Check Run:	59,060.85			
	Total of Number of Checks:	10			

Accounts Payable

Computer Check Proof List by Vendor

User: mnguyen
 Printed: 02/17/2022 - 2:11PM
 Batch: 00006.01.2022 - PR-02-14-2022-Jan-BOM



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 868	BANK OF MONTREAL			Check Sequence: 1	ACH Enabled: True
Jan-2022-Andrew	Fuels	41.17	02/14/2022	101-32-4212-0000	
Jan-2022-BradM	Carquest-Parts	158.12	02/14/2022	101-32-4221-0000	
Jan-2022-BradM	Crysteel-Hyd Connect-Mud Flap	152.15	02/14/2022	101-32-4221-0000	
Jan-2022-BradM	Cub Foods	35.88	02/14/2022	101-32-4245-0000	
Jan-2022-BradM	Ebays	7.47	02/14/2022	101-32-4221-0000	
Jan-2022-BradM	Northern Tool	8.59	02/14/2022	101-32-4221-0000	
Jan-2022-BradM	Shorewood True	7.56	02/14/2022	101-32-4245-0000	
Jan-2022-BradM	Zamoth Brush	338.20	02/14/2022	101-32-4245-0000	
Jan-2022-BradM	Ziegler-Connector & Gasket Kit	143.97	02/14/2022	101-32-4221-0000	
Jan-2022-BradM	Fuels	599.02	02/14/2022	101-32-4212-0000	
Jan-2022-Brenda	Amazon	165.03	02/14/2022	101-13-4200-0000	
Jan-2022-BrettB	Fuel	15.68	02/14/2022	101-32-4212-0000	
Jan-2022-BrettB	Officemax	33.28	02/14/2022	101-32-4245-0000	
Jan-2022-BrettB	Hach-Water testing	275.94	02/14/2022	601-00-4245-0000	
Jan-2022-BrettB	Amazon	53.65	02/14/2022	101-32-4240-0000	
Jan-2022-BrettB	ATT	23.50	02/14/2022	101-32-4321-0000	
Jan-2022-BruceS	Fuels	503.24	02/14/2022	101-32-4212-0000	
Jan-2022-BruceS	Carquest	42.86	02/14/2022	101-32-4221-0000	
Jan-2022-ChrisH	Fuels	975.81	02/14/2022	101-32-4212-0000	
Jan-2022-ChrisP	Fuels	917.18	02/14/2022	101-32-4212-0000	
Jan-2022-ChrisP	Shorewood True	98.97	02/14/2022	101-52-4245-0000	
Jan-2022-ChrisP	Shorewood True	19.18	02/14/2022	101-52-4240-0000	
Jan-2022-ChrisP	Northern Tool	83.86	02/14/2022	101-52-4240-0000	
Jan-2022-CityCard	Culligan Bottled Water - Drink	33.00	02/14/2022	101-19-4245-0000	
Jan-2022-CityCard	Republic Services	10,296.00	02/14/2022	621-00-4400-0000	
Jan-2022-CityCard	Waste Mgmt-Public Works	781.70	02/14/2022	101-32-4400-0000	
Jan-2022-CityCard	Waste Mgmt-SSCC	300.21	02/14/2022	201-00-4400-0000	
Jan-2022-CityCard	Verizon-Lift Station	14.09	02/14/2022	611-00-4321-0000	
Jan-2022-CityCard	Mangold Horticulture-SCEC	175.00	02/14/2022	201-00-4400-0000	
Jan-2022-CityCard	Mangold Horticulture-City Hall	700.00	02/14/2022	101-19-4400-0000	
Jan-2022-CityCard	Mangold Horticulture-Utility Bldg	200.00	02/14/2022	101-32-4400-0000	
Jan-2022-CityCard	Mangold Horticulture-Badger Park	75.00	02/14/2022	101-52-4400-0000	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Jan-2022-CityCard	AT&T - Wade's Ipad	23.49	02/14/2022	101-24-4321-0000	
Jan-2022-GregF	Fuels	408.14	02/14/2022	101-32-4212-0000	
Jan-2022-GregF	Shorewood True	74.16	02/14/2022	101-32-4240-0000	
Jan-2022-GregL	Evenbrite	30.00	02/14/2022	101-13-4331-0000	
Jan-2022-GregL	Amazon-Computer Camera	37.68	02/14/2022	101-13-4200-0000	
Jan-2022-JulieM	Smk Survey Monkey-Shorewood Survey	384.00	02/14/2022	101-13-4433-0000	
Jan-2022-JulieM	Dept of Agriculture- Tree Sales License	253.06	02/14/2022	101-52-4433-0000	
Jan-2022-LarryB	In Enabling Element	17.00	02/14/2022	601-00-4321-0000	
Jan-2022-LarryB	UPS	19.42	02/14/2022	101-32-4208-0000	
Jan-2022-LukeW	Fuels	362.67	02/14/2022	101-32-4212-0000	
Jan-2022-LukeW	Shorewood Trues	6.98	02/14/2022	101-32-4245-0000	
Jan-2022-LukeW	Shorewood Trues	87.06	02/14/2022	101-32-4245-0000	
Jan-2022-LukeW	Shorewood Trues	16.10	02/14/2022	601-00-4223-0000	
Jan-2022-Marie	Dept of Labor-State Surcharge- 4th qtr-2021	3,749.74	02/14/2022	101-00-2085-0000	
Jan-2022-NeliaC	Office Depot	137.38	02/14/2022	101-13-4200-0000	
Jan-2022-Robert	Fuels	534.30	02/14/2022	101-32-4212-0000	
Jan-2022-Robert	Shorewood True	41.93	02/14/2022	101-32-4245-0000	
Jan-2022-Sandie	Amazon	185.23	02/14/2022	101-13-4200-0000	
Jan-2022-Sandie	Dscntrubberstamps	48.18	02/14/2022	101-13-4245-0000	
Jan-2022-Sandie	Wpy National Pelra-Conference	100.00	02/14/2022	101-13-4331-0000	
Jan-2022-Sandie	League of MN - Mayor's conf	275.00	02/14/2022	101-11-4331-0000	
Jan-2022-TimK	Fuels	75.18	02/14/2022	101-32-4212-0000	
Jan-2022-TimK	Shorewood True	56.97	02/14/2022	101-32-4245-0000	
Jan-2022-TwilaG	Fleet Farm	85.96	02/14/2022	101-53-4441-0000	
Jan-2022-TwilaG	Cub Foods	25.98	02/14/2022	101-53-4441-0000	
Jan-2022-TwilaG	Cub Foods	-12.99	02/14/2022	101-53-4441-0000	
Jan-2022-TwilaG	Amazon	33.31	02/14/2022	101-53-4441-0000	
Jan-2022-TwilaG	Caribou	158.45	02/14/2022	101-53-4441-0000	
Jan-2022-TwilaG	Homedepot	24.91	02/14/2022	101-53-4246-0000	
Jan-2022-WadeW	Fuel	42.00	02/14/2022	101-24-4212-0000	
Jan-2022-WadeW	Fuel	46.00	02/14/2022	101-24-4212-0000	
Jan-2022-WadeW	Internation Code Council	450.00	02/14/2022	101-24-4331-0000	
	Check Total:	25,052.60			
Vendor: 327	WINDSTREAM			Check Sequence: 2	ACH Enabled: True
74513757	City of Shwd- Badger Well	69.81	02/14/2022	601-00-4395-0000	
74513757	Public Works	67.20	02/14/2022	101-32-4321-0000	
74513757	City Hall	138.48	02/14/2022	101-19-4321-0000	
74513757	Badger-Manor-Cathcart Parks	206.82	02/14/2022	101-52-4321-0000	
74513757	City of Shwd-West Tower	139.70	02/14/2022	601-00-4321-0000	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	622.01			
	Total for Check Run:	25,674.61			
	Total of Number of Checks:	2			

Accounts Payable

Computer Check Proof List by Vendor

User: mnguyen
 Printed: 02/23/2022 - 1:45PM
 Batch: 00013.12.2021 - AP-02-28-2022-Dec-2021



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 1066	BLONDO CONSULTING, LLC			Check Sequence: 1	ACH Enabled: False
2020-058	Woodside Road Monitoring	1,612.57	12/31/2021	408-00-4680-0000	
2020-058-04	Woodside Road Monitoring	17,163.10	12/31/2021	408-00-4680-0000	
2020-059	Enchanted Island Monitoring	538.35	12/31/2021	410-00-4680-0000	
	Check Total:	19,314.02			
Vendor: 456	CORE & MAIN, LP			Check Sequence: 2	ACH Enabled: False
P920563-2	Shortage Paid from previous invoice P920563	80.39	12/31/2021	601-00-4245-0000	
	Check Total:	80.39			
Vendor: 786	SITEONE LANDSCAPE SUPPLY, LLC			Check Sequence: 3	ACH Enabled: False
114925383-001	Sand/Salt Deicing	497.01	12/31/2021	101-32-4245-0000	
	Check Total:	497.01			
	Total for Check Run:	19,891.42			
	Total of Number of Checks:	3			

Accounts Payable

Computer Check Proof List by Vendor

User: mnguyen
 Printed: 02/23/2022 - 2:02PM
 Batch: 00004.02.2022 - AP-02-28-2022



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: UB*00457	William & Diane Antilla			Check Sequence: 1	ACH Enabled: False
	Refund Check 006128-000, 19415 Vine Ridge F	78.95	02/23/2022	601-00-2010-0000	
	Refund Check 006128-000, 19415 Vine Ridge F	92.10	02/23/2022	611-00-2010-0000	
	Refund Check 006128-000, 19415 Vine Ridge F	39.48	02/23/2022	631-00-2010-0000	
	Refund Check 006128-000, 19415 Vine Ridge F	39.47	02/23/2022	621-00-2010-0000	
	Check Total:	250.00			
Vendor: 1240 31073	BERGERSON-CASWELL, INC. Pump#4-Boulder Bridge Well Inspect	29,890.00	02/28/2022	Check Sequence: 2 611-00-4680-0000	ACH Enabled: False
	Check Total:	29,890.00			
Vendor: 1221 3526-0000G-1 3526-0001G-1 3526-0002G-1 3526-0004G-1 3526-0005G-1 3526-0006G-1 3526-003G-1 3526-0999G-4	CAMPBELL KNUTSON P.A. General Matters/Administration Planning Public Works-Davey Resource Ugerots Litigation Dish Wireless 24283 Smifltown Road T-mobile - 5500 Old Market Road Labadie Variance Prosecution	4,560.30 577.50 49.50 264.00 49.50 363.00 676.50 2,692.60	02/28/2022 02/28/2022 02/28/2022 02/28/2022 02/28/2022 02/28/2022 02/28/2022 02/28/2022	Check Sequence: 3 101-16-4304-0000 101-18-4304-0000 101-52-4304-0000 101-16-4304-0000 101-18-4304-0000 101-18-4304-0000 101-18-4400-0000 101-16-4304-0000	ACH Enabled: True
	Check Total:	9,232.90			
Vendor: 720 2022-AIS	CHRISTMAS LAKE HOMEOWNER'S ASSOC 2022 AIS	5,000.00	02/28/2022	Check Sequence: 4 101-52-4402-0000	ACH Enabled: False
	Check Total:	5,000.00			
Vendor: 149 Inv3133-Refund	CITY OF TONKA BAY Jet Vac Truck-Hydraulic Inv From Flexible Pipe	87.91	02/28/2022	Check Sequence: 5 101-32-4221-0000	ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	87.91			
Vendor: 1096 130793	DAVEY RESOURCE GROUP, INC. Tree Services	551.25	02/28/2022	Check Sequence: 6 101-32-4400-0000	ACH Enabled: True
	Check Total:	551.25			
Vendor: 167 877906 877907 878077	ECM PUBLISHERS INC Animal Regulations CUP-24283 Smithtown Road Animal Regulations	53.55 59.50 34.70	02/28/2022 02/28/2022 02/28/2022	Check Sequence: 7 101-18-4351-0000 101-18-4351-0000 101-18-4351-0000	ACH Enabled: True
	Check Total:	147.75			
Vendor: 202 9213246342	GRAINGER INC Haz Waste Containers	19.48	02/28/2022	Check Sequence: 8 101-32-4245-0000	ACH Enabled: True
	Check Total:	19.48			
Vendor: 216 Res-21-124	HENNEPIN COUNTY RECORDER & REGIS Resolution 21-124 Vacating an Easement-Dvlpm	46.00	02/28/2022	Check Sequence: 9 101-18-4400-0000	ACH Enabled: False Record
	Check Total:	46.00			
Vendor: 896 20132116	HUEBSCH SERVICES City Hall - Mats	192.73	02/28/2022	Check Sequence: 10 101-19-4400-0000	ACH Enabled: True
	Check Total:	192.73			
Vendor: 1232 32600	LANDFORM Labadie Variance	1,171.50	02/28/2022	Check Sequence: 11 101-18-4400-0000	ACH Enabled: False
	Check Total:	1,171.50			
Vendor: 13 40003090-2022	LEAGUE OF MINNESOTA CITIES INSURAN Property/Casualty-Act#40003090-Shorewood Pt	18,344.00	02/28/2022	Check Sequence: 12 101-19-4360-0000	ACH Enabled: False Acct#40003065
	Check Total:	18,344.00			
Vendor: 279 1135968	METROPOLITAN COUNCIL (WASTEWATE Monthly Waste Water Svc	89,237.49	02/28/2022	Check Sequence: 13 611-00-4385-0000	ACH Enabled: True
	Check Total:	89,237.49			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 286	MIDWEST MAILING SYSTEMS INC			Check Sequence: 14	ACH Enabled: True
March-2022	Newsletter Postages	544.23	02/28/2022	101-13-4208-0000	
March-2022	Newsletter Svc	456.96	02/28/2022	101-13-4400-0000	
	Check Total:	1,001.19			
Vendor: 313	MICHELLE THU-THAO NGUYEN			Check Sequence: 15	ACH Enabled: True
February-2022	Mileage Reimbursement	62.81	02/28/2022	101-15-4331-0000	
	Check Total:	62.81			
Vendor: UB*00455	Jeremy & Mieschelle Norman			Check Sequence: 16	ACH Enabled: False
	Refund Check 005193-000, 23690 Gillette Curv	73.43	02/23/2022	601-00-2010-0000	
	Refund Check 005193-000, 23690 Gillette Curv	113.97	02/23/2022	611-00-2010-0000	
	Refund Check 005193-000, 23690 Gillette Curv	52.10	02/23/2022	631-00-2010-0000	
	Refund Check 005193-000, 23690 Gillette Curv	58.19	02/23/2022	621-00-2010-0000	
	Check Total:	297.69			
Vendor: 325	ON SITE SANITATION -TWIN CITIES			Check Sequence: 17	ACH Enabled: True
1286136	Cathcart Park-26655 W- 62nd St	68.10	02/28/2022	101-52-4410-0000	
1286137	Freeman Park-6000 Eureka Rd	391.58	02/28/2022	101-52-4410-0000	
1286138	Silverwood Pk-5755 Covington R	68.10	02/28/2022	101-52-4410-0000	
1286139	South Shore-5355 St Albans Bay	68.10	02/28/2022	101-52-4410-0000	
1286140	Christmas Lk Rd-5625 Merry Ln	238.35	02/28/2022	101-52-4410-0000	
	Check Total:	834.23			
Vendor: UB*00456	Jayne Pluth			Check Sequence: 18	ACH Enabled: False
	Refund Check 008158-000, 19400 Muirfield Ci	121.45	02/23/2022	601-00-2010-0000	
	Refund Check 008158-000, 19400 Muirfield Ci	141.68	02/23/2022	611-00-2010-0000	
	Refund Check 008158-000, 19400 Muirfield Ci	60.73	02/23/2022	631-00-2010-0000	
	Refund Check 008158-000, 19400 Muirfield Ci	60.72	02/23/2022	621-00-2010-0000	
	Check Total:	384.58			
Vendor: 336	PURCHASE POWER			Check Sequence: 19	ACH Enabled: True
Refilled-02-04-2022	Acct #8000-9000-0743-8223	1,000.00	02/28/2022	101-13-4208-0000	
Refilled-02-04-2022	Acct #8000-9000-0743-8223	20.99	02/28/2022	101-13-4208-0000	
	Check Total:	1,020.99			
Vendor: UB*00453	Sarah & Peter Rowland			Check Sequence: 20	ACH Enabled: False
	Refund Check 005497-000, 26795 Noble Rd	41.42	02/23/2022	601-00-2010-0000	

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Refund Check 005497-000, 26795 Noble Rd	48.32	02/23/2022	611-00-2010-0000	
	Refund Check 005497-000, 26795 Noble Rd	20.71	02/23/2022	631-00-2010-0000	
	Refund Check 005497-000, 26795 Noble Rd	20.71	02/23/2022	621-00-2010-0000	
	Check Total:	131.16			
Vendor: 360	SOUTH LAKE MINNETONKA POLICE DEPA			Check Sequence: 21	ACH Enabled: False
January-2022-HC	Monthly-Henn Cty Process Fee	400.95	02/28/2022	101-21-4400-0000	
March-2022-OB	Monthly-Operating Budget Exp	117,010.50	02/28/2022	101-21-4400-0000	
	Check Total:	117,411.45			
Vendor: 370	STRATEGIC INSIGHTS, INC.			Check Sequence: 22	ACH Enabled: False
22Plan-It-037	Plan-It-Capital Planning Softw	775.00	02/28/2022	101-15-4221-0000	
	Check Total:	775.00			
Vendor: 694	TIMESAVER OFF SITE SECRETARIAL, INC.			Check Sequence: 23	ACH Enabled: True
M27109	Park Meeting	227.00	02/28/2022	101-52-4400-0000	
	Check Total:	227.00			
Vendor: 392	VALLEY-RICH CO. INC.			Check Sequence: 24	ACH Enabled: False
30415	Watermain Break	10,271.25	02/28/2022	601-00-4400-0000	
	Check Total:	10,271.25			
Vendor: 393	VESSCO, INC			Check Sequence: 25	ACH Enabled: True
86635	Chlorine Injector Pump & Parts	689.86	02/28/2022	601-00-4223-0000	
	Check Total:	689.86			
Vendor: 415	WARNER CONNECT			Check Sequence: 26	ACH Enabled: True
29940580	Network Maint Services	4,423.77	02/28/2022	101-19-4321-0000	
	Check Total:	4,423.77			
Vendor: 411	XCEL ENERGY, INC.			Check Sequence: 27	ACH Enabled: True
767269179	5655 Merry Lane	29.99	02/28/2022	101-52-4380-0000	5655 Merry Lane
767453486	5500 Old Market Rd	21.13	02/28/2022	601-00-4398-0000	5500 Old Market Rd
768654512	C.H. Svcs	648.97	02/28/2022	101-19-4380-0000	C.H. Svcs
768654512	P.W. Bldg Svc	473.54	02/28/2022	101-32-4380-0000	P.W. Bldg Svc
768654512	P.W. Street Lights Svc	3,903.78	02/28/2022	101-32-4399-0000	P.W. Street Lights Svc
768654512	Parks	739.90	02/28/2022	101-52-4380-0000	Parks
768654512	Amesbury	132.28	02/28/2022	601-00-4394-0000	Amesbury

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
768654512	Boulder Bridge	189.10	02/28/2022	601-00-4396-0000	Boulder Bridge
768654512	S.E. Area Svc	3,082.01	02/28/2022	601-00-4398-0000	S.E. Area Svc
768654512	Lift Station Street Lights	720.65	02/28/2022	611-00-4380-0000	L.S. Street Lights
	Check Total:	9,941.35			
	Total for Check Run:	301,643.34			
	Total of Number of Checks:	27			



City of Shorewood Council Meeting Item

Title / Subject: 2022 Concession Operation Agreement
Meeting Date: Monday, February 28, 2022
Prepared by: Twila Grout, Park and Recreation Director
Attachments: Concession Agreement

2D

Background: Derek Withum has agreed to provide concession services for Eddy Station for the 2022 season.

The Park Commission at its February 8, 2022 meeting agreed to have Derek Withum provide concession services at Freeman Park, Eddy Station in 2022. Services will be provided Monday through Sunday, from 5:30 to 8:30 p.m. on or about May 1 and continue through August 1 or when the sports organizations have concluded their events.

Financial Considerations: The contractor has agreed to pay the city \$394 for the 2022 season. Payment will be due September 30, 2022. A copy of the agreement is attached.

Action Requested: The Park Commission recommends the City Council approve formalizing the Concession Agreement for 2022 with Derek Withum.

Connection to Vision/Mission: Consistency in 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.

**Independent Contractor
2022 Concession Operation Agreement
By and Between City of Shorewood and Contractor**

THIS AGREEMENT, made this ___ day of _____, by and between the City of Shorewood, Minnesota, a Minnesota municipal corporation with its offices located at 5755 Country Club Road, Shorewood, Minnesota 55331 (the "City") and Derek Withum, 1563 Sandbar Circle, MN 55387 (the "Contractor")

RECITALS

WHEREAS, the City is engaged in the business of providing municipal services including park and recreation opportunities within the corporate limits of the City. The City has constructed a concession/restroom/picnic facility in Freeman Park within the City known as Eddy Station; and

WHEREAS, the City desires to provide concession services to the patrons of Freeman Park through the facility of Eddy Station; and

WHEREAS, the City further desires to enter into an agreement with the Contractor for the operation and provision of concession services.

NOW, THEREFORE, the parties agree as follows:

1.) Schedule of Operation. Contractor agrees to provide concession services Monday through Sunday, from 5:30 to 8:30 p.m., commencing on or about May 1 or whenever the first organized sports events begin. Concession operations will continue through August 1, or whenever Freeman Park ceases its summer use by MGSA, Adult Softball and Tonka United Soccer. Contractor agrees to coordinate operations with the Park Scheduling Coordinator.

2.) Contractor Responsibilities.

a.) Contractor agrees to be present each day for opening, training of sales volunteers, and all duties involved with closing the operation at the end of the day. Contractor agrees that if for any reason he is not able to be present for any period of time, while the concession operation is open, he will be available by pager or cell phone for immediate assistance at the site.

b.) Contractor agrees to be responsible for the cleaning and maintenance of the concession area.

3.) Contractor Payment. The Contractor agrees to pay the City \$394 for the year 2022. Payment due to the City by September 30, 2022.

4.) Purchasing. The Contractor agrees to purchase the necessary products and supplies associated with concession sales at Eddy Station.

5.) Equipment. The City agrees to provide the hot dog machine, popcorn machine, cash register, pop cooler, refrigerator and coffee machine.

6.) Termination. Either party may terminate this Agreement, without cause or reason, upon thirty (30) days' written notice to the other party. Either party may terminate this Agreement without notice for cause. "Cause" includes, but is not limited to, dishonesty, failure to meet deadlines, criminal conduct, or breach of this Agreement.

7.) Status of Contractor. As intended by both parties, this Agreement calls for the performance of the services of Contractor as an independent contractor and Contractor will not be considered an employee of the City for any purpose.

a.) The manner and means of performance of Contractor shall be entirely at Contractor's discretion. Contractor is free to employ personnel to assist Contractor in providing services to the City, but such employees shall be Contractor's responsibility and not that of the City. The City shall not provide Contractor or Contractor's employees or agents with any benefits from the City such as workers compensation insurance, unemployment insurance, health insurance, income tax withholding, or social security contributions. The City does not control the performance of Contractor and Contractor accepts all risk of profit and loss flowing from the services provided under this Agreement. All expenses must be borne by Contractor and shall not be reimbursed by the City. Those expenses include furnishing Contractor's place of work, payroll expenses, taxes, and insurance.

b.) Contractor shall conspicuously identify himself to all persons and organizations as an independent contractor and shall not represent or imply that this Agreement authorizes Contractor to act as an agent for, or on behalf of, the City. Neither the City nor Contractor shall be responsible for any agreement, representation, or warranty made by the other, nor shall the City be obligated for damages to any person or organization for personal injuries or property damage arising directly or indirectly out of the conduct of Contractor's business or caused by Contractor's actions, failure to act, conduct or negligence.

8.) Indemnification. Contractor agrees to indemnify and hold the City harmless from and against any and all claims by or on behalf of any person arising from Contractor's actions, failure to act, conduct, or negligence while performing services pursuant to this Agreement unless such damage or liability arises from or in connection with faulty or defective materials or facilities provided by the City. Contractor agrees to carry Commercial liability insurance in the amount of \$1,000,000.

9.) Entire Agreement. This Agreement contains the entire agreement between the parties and no amendment hereto shall be valid unless made in writing and signed by the parties. There is merged herewith all prior and collateral representations, promises, and conditions concerning Contractor and the City. This Agreement supersedes and nullifies any preexisting agreements between the parties relating to the subject matter of this Agreement. All agreements as to payments to be made to Contractor for particular projects must be in writing.

10.) Severable. In the event any portion of this Agreement shall be held to be invalid the remainder of the Agreement shall continue in full force and effect.

11.) Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if it is in writing and sent by registered or certified mail to Contractor's residence or to the principal office of the City, which ever shall be applicable.

12.) Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF SHOREWOOD

CONTRACTOR

By: _____

By: _____

Its: _____

Its: _____



City of Shorewood Council Meeting Item

Title/Subject: T-Mobile First Lease Amendment - East Tower

Meeting Date: February 28, 2022

Prepared By: Greg Lerud, City Administrator

Reviewed By: Jared Shepherd, City Attorney

2E
MEETING TYPE REGULAR

Attachments: Proposed first lease amendment, Resolution

Background: The city was contacted by T-Mobile requesting the city consider and approve a lease amendment to their tower lease on the East water tower. For the past several months, staff has negotiated terms of the amendment. Staff and the City Attorney have reviewed the draft amendment and all our requests have been incorporated into the draft. All terms of the original agreement not changed by this amendment will continue in full force and effect.

On a related note, due to the merger of T-Mobile and Sprint, T-Mobile has given us notice that they are terminating the Sprint lease on the east tower. They will be removing their equipment per the terms of the lease.

Financial or Budget Considerations: The original agreement expires in 2026, at that time, the terms provide for a base rent of \$2,500 with annual escalator clauses of three percent.

Recommended Action: Staff recommends approving the lease amendment as presented by adopting the Resolution.

FIRST AMENDMENT TO WATER TOWER SPACE LEASE AGREEMENT

This First Amendment to Water tower Space Lease Agreement (the "**First Amendment**") is effective as of the last signature below (the "**Effective Date**"), by and between City of Shorewood, a Minnesota municipal corporation ("**City**"), and T-Mobile Central LLC, a Delaware limited liability company ("**Lessee**") (each a "**Party**", or collectively, the "**Parties**").

City and Lessee (or their predecessors-in-interest) entered into that certain Water tower Space Lease Agreement dated May 24, 2004, (the "**Agreement**") regarding the leased premises ("**Premises**") located at 5500 Old Market Road, in the City of Shorewood, in the County of Hennepin, State of Minnesota (the "**Property**").

For good and valuable consideration, City and Lessee agree as follows:

1. At the expiration of the Agreement, the Term of the Agreement will automatically be extended for five (5) additional and successive five (5) year terms, each included as Renewal Term provided that Lessee may elect not to renew by providing City at least thirty (30) days' notice prior to the expiration of the then current Renewal Term.
2. At the commencement of the first Renewal Term provided for in this First Amendment, Lessee shall pay City Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) per month as Base Rent, partial calendar month to be prorated in advance.. Thereafter, notwithstanding anything to the contrary in the Agreement, the Base Rent will escalate by 3% on January 1, 2026 and each anniversary thereafter and replace any annual escalators in the Agreement. Where duplicate Base Rent would occur, a credit shall be taken by Lessee for any prepayment of duplicate Base Rent by Lessee.
3. All notices, requests, demands and other communications shall be in writing and shall be deemed to have been delivered upon receipt or refusal to accept delivery, and are effective only when deposited into the U.S. certified mail, return receipt requested, or when sent via a nationally recognized courier to the addresses set forth below. City or Lessee may from time to time designate any other address for this purpose by providing written notice to the other Party.

If to Lessee:

T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006
Attn: Lease Compliance/ A1P0984B

If to City:

City of Shorewood
5755 Country Club Road
Shorewood, Minnesota 55331
Attention: City Administrator

4. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified. To the extent any provision contained in this First Amendment conflicts with the terms of the Agreement, the terms and provisions of this First Amendment shall

control. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

- 5. This this First Amendment may be executed in duplicate counterparts, each of which will be deemed an original. Signed electronic, scanned, or facsimile copies of this this First Amendment will legally bind the Parties to the same extent as originals.
- 6. Each of the Parties represents and warrants that it has the right, power, legal capacity and authority to enter into and perform its respective obligations under this First Amendment. City represents and warrants to Lessee that the consent or approval of a third party has either been obtained or is not required with respect to the execution of First Amendment. If City is represented by any property manager, broker or any other leasing agent ("Agent"), then (a) City is solely is responsible for all commission, fees or other payment to Agent and (b) City shall not impose any fees on Lessee to compensate or reimburse City for the use of Agent, including any such commissions, fees or other payments arising from negotiating or entering into this First Amendment or any future amendment.
- 7. This First Amendment will be binding on and inure to the benefit of the Parties herein, their heirs, executors, administrators, successors-in-interest and assigns.

IN WITNESS, the Parties execute this First Amendment as of the Effective Date.

City:

City of Shorewood, a Minnesota municipal corporation

By: _____

Print Name: _____

Title: _____

Date: _____

Lessee:

T-Mobile Central LLC, a Delaware limited liability company

By: DocuSigned by:
Brandon Griffiths
AB7AD2234E304E3 _____

Print Name: Brandon Griffiths

Title: Sr. Manager Technology Sourcing

Date: 2/16/2022

Attest:

By: _____

Print Name: _____

Title: _____

Date: _____

T-Mobile Legal Approval By:

Lois Duman



TMO Signatory Level : L07,SL07

**CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

RESOLUTION 22-020

**A RESOLUTION APPROVING A FIRST AMENDMENT TO WATER TOWER SPACE
AGREEMENT WITH T-MOBILE CENTRAL, ON THE CITY'S WATER TOWER
LOCATED AT 5500 OLD MARKET ROAD**

WHEREAS, The City of Shorewood was contacted by representatives of T-Mobile requesting the City consider an amendment to the Tower Lease Space Agreement signed in 2004; and,

WHEREAS, City staff negotiated with representative of T Mobile for terms; and,

WHEREAS, A tentative agreement has been reached,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA AS FOLLOWS:

1. The "First Amendment to Water Tower Space Lease Agreement" with T-Mobile Central, to their current agreement for the city water tower located at 5500 Old Market Road is hereby approved as presented.
2. The Mayor and City Clerk are authorized to sign the agreement on behalf of the city of Shorewood.

Adopted by the City Council of Shorewood, Minnesota this 28th day of February, 2022.

Jennifer Labadie, Mayor

Attest:

Sandie Thone, City Clerk



City of Shorewood Council Meeting Item

Title/Subject: Approving Hire of Jason Carlson as Planning Technician

Meeting Date: Monday, February 28, 2022

Prepared by: Sandie Thone, City Clerk/Human Resources Director

Reviewed by: Greg Lerud, City Administrator

Policy Consideration: Pursuant to Shorewood Personnel Policy Section 3.08 *All new, rehired, promoted or reassigned employees shall complete a six (6) month probationary period upon assuming their new positions. This period shall be used to observe the employee's work habits and ability to perform the work they are required to do.*

Background: The city most recently recruited qualified candidates for the Planning Technician position in the Planning/Building Department. The position is a full-time position reporting to the Planning Director providing planning support for the city. Interviews were held by a selection committee consisting of Greg Lerud, Marie Darling, and Sandie Thone. We were fortunate to have a very qualified candidate pool. It was ultimately agreed that Jason Carlson, with his skills and experience, would be able to offer significant contributions to the city and would be a good fit with our current team.

Financial Considerations: Staff is recommending Jason's compensation rate be set at Grade 10, Step D of Shorewood's Compensation Plan of \$34.65 per hour or \$72,072 annually. The position will be reviewed at the 6-month anniversary for consideration of permanent appointment. The position is non-exempt, PERA eligible, and receives a complete benefit package.

Action Requested: Staff respectfully recommends the city council approve Jason Carlson's hire as a probationary employee in the capacity of Planning Technician for the City of Shorewood. Motion, second and simple majority vote required. If the council approves his appointment, his first day of employment is anticipated to be March 21, 2022.

Connection to Vision/Mission: Consistency in providing residents quality public services, a sustainable tax base, and sound financial management through effective, efficient, and visionary leadership.

CITY OF SHOREWOOD
 PARK COMMISSION MEETING
 TUESDAY, FEBRUARY 8, 2022

5755 COUNTRY CLUB RD
 SHOREWOOD CITY HALL
 7:00 P.M.

MINUTES

1. CONVENE PARK COMMISSION MEETING

Chair Hirner convened the meeting at 7:00 p.m.

A. Roll Call

Present: Chair Hirner, Commissioners Gallivan, Heinz, Tauer, and Schmid (arrived at 7:13 p.m.); City Council Liaison Callies; City Administrator Lerud; Parks and Recreation Director Grout; and Planning Director Darling

Absent: None

B. Review Agenda

Heinz moved to approve the agenda as written. Tauer seconded the motion. Roll Call Vote: Ayes – all. Motion carried 4-0.

2. APPROVAL OF MINUTES

A. Park Commission Meeting Minutes of October 26, 2021

Tauer moved to approve the minutes of the October 26, 2021 meeting as presented. Gallivan seconded the motion. Roll Call Vote: Motion carried 3-0-1 (Gallivan abstained).

3. MATTERS FROM THE FLOOR

There were none.

4. NEW BUSINESS

A. Review Christmas Lake Access Ordinance

City Administrator Lerud review some of the history and background surrounding public access area on Christmas Lake and the work staff has done with the Christmas Lake Homeowners Association (CLHA). He gave a brief overview of the agreements signed with the DNR in 1986 and 2015 for cooperation and maintenance of the public access and explained that it is the City's responsibility to maintain the access. He noted that last year, the City approved a site plan amendment and variance will free up one parking space and allow the cleaning equipment to sit off the space which led them to take a look at what is happening with parking, overall. He explained that with regard to loading of the lake, the recommended amount is 20-30 acres/boat to preserve the ecology of the lake, reduce the number of near misses, allow for a complete and more thorough inspection. He gave an overview of the proposed amendments to the ordinance and reviewed points such as; the landing is considered a park area, proper disposal of bait, no overnight parking, and limiting the number of boats that can use the landing to the number of parking spots available in the landing area. He noted that there is a gate there that has not worked

for many years but has been repaired and is functional again. He stated that the proposal is to increase the number of spots available for vehicles with personal watercraft, such as kayaks, but limited to 7 spots for boats on trailers that are allowed in the lake at any one time.

Chair Hirner asked about the calculation of 20-30 acres/boat and if that took into consideration the number of boats from the people who live on the lake, because that would end up being significantly above the threshold and asked how that is factored into the conversation about safety on the lake. City Administrator Lerud stated that the City does not have control of the number of watercraft on the lake at any time. He explained that the only control that they would have would be that the City is responsible for the landing.

Chair Hirner confirmed that the 7 parking spots refer to a boat and trailer parking and asked what would happen if there were 14 cars with kayaks. He asked if it would be limited to just 7 vehicles or if the larger number would be allowed to park there because there is space. City Administrator Lerud stated that the ordinance allows them to park in those spots if one is available.

The Commission discussed details of the proposed ordinance and details surrounding use of the gate and AIS inspections. Joe Schneider, CLHA, explained that they begin inspections as close to ice-out as possible and continue through October 31st of every year and explained how they taper the hours at various times of the year.

Council Liaison Callies stated that the CLHA sets the inspection times and asked that would work if the City ended up hiring a part-time position for this purpose. City Administrator Lerud explained that the Council had approved a DNR Delegation Agreement which commits the City to doing the AIS work on behalf of the DNR. He stated that in turn, the City works with the CLHA and they hire a contractor and agree to perform the inspection services that the City has committed to doing under the Delegation Agreement.

Commissioner Gallivan asked what kind of engagement there has been with the CLHA regarding this ordinance. City Administrator Lerud stated that the City has had extensive conversations with representatives from the HOA and they are in support of the ordinance.

Commissioner Schmid arrived at 7:13 p.m.

Peter Lehman, 21285 Radisson Road and 21265 Radisson Road, explained that he lives adjacent to the public access and has been there since 1986 when the public access was created. He stated that he is not against anything in the ordinance, but there are some things that he believes should be considered, for example, the possible side effect from these restrictions to the times when boats, such as pontoons are transferred. He stated that he is concerned about the occasional lines that form along Merry Lane for the AIS inspection and asked what would happen to those boats when the access is closed. He explained that currently they would go through the AIS inspection and then could park off site if this lot is full. He stated that when the gate is closed, it will be difficult for a boat with a trailer to back out, if they got there and the lot was full. He noted that his other concern is that many homeowners do not have their own pontoon trailers so the contract companies end up staging boats along Merry Lane on concrete blocks during this process. He stated that he is concerned about the effect this may have on traffic flow or emergency vehicle access in the area. He reiterated that he is not against the ordinance but is a bit concerned about the potential side effect on Merry Lane from not allowing boats to pass through because of the gate.

City Administrator Lerud stated that they have talked about it this issue. He noted that they do not have a solution yet but have discussed things like having some type of advance notice out by the frontage road that shows how many parking spaces are available. He gave the example of the electronic signs that are sometimes seen at rest areas that let people know how many spaces there are, so the boats/trailers should not end up lining up on Merry Lane when there is no room.

Mr. Schneider stated that if this ordinance is approved there will need to be a fair amount of communication with the community. He stated that he likes City Administrator Lerud's idea about utilizing electronic signage and explained that the CLHA would be happy to be involved in that effort. He noted that the CLHA is also committed to getting more cameras up at the landing. He noted that he feels that Mr. Lehman's concern about the transferring of pontoons won't be a large issue because it does not happen during the busy season on the lake because they happen in May and then September/October at the beginning and end of the season.

Mr. Lehman noted that he would like the staging of the pontoon transfers to take place inside the public access in the vacant bays rather than along Merry Lane. He stated that the new area that is being set up for the power washer is less than 100 feet from his beach and would prefer, if there is an expansion of the public access, that the City consider relocating that equipment to the west side.

Chair Hirner asked staff to take note of the preference from Mr. Lehman if the topic of expansion comes up in the future. Planning Director Darling stated that she can but noted that when the Council granted the variance for the existing location, there were several reasons why the alternative location recommended by Mr. Lehman did not work. Mr. Lehman stated that he had proposed another location on the island and now he is asking that it be considered because there seems to be an interest in acquiring additional land.

City Administrator Lerud clarified that this would not be additional land and is land that the City is already occupying with the landing. The acquisition would just be transferring it into the City's name. Mr. Lehman stated that he believes he saw 4 parking spots for single vehicles penciled in on the engineering drawing and explained that his idea was that if there are additional parking pads constructed, they should be considered for the power washing equipment.

Gallivan moved to recommend approval of Ordinance 576, An ordinance Establishing Section 902.05, Subdivision 4 of the Code of Ordinances, Establishing Regulations for the Christmas Lake Boat Landing and Adjacent Parking Lot. Heinz seconded the motion. Roll Call Vote: Ayes – all. Motion carried.

B. Review and Discuss Donation for a Bench at Freeman Park

Chair Hirner gave an overview of the request by Charles Babcock to donate a bench for Freeman Park so people could watch their children go sledding. He noted that he had gone to take a look at a similar bench to what is being proposed that is being used in Deephaven and felt that it looked good, seemed sturdy, and also seemed to be holding up really well.

Parks and Recreation Director Grout asked if the Mr. Babcock was aware that a concrete slab would also need to be installed with the bench.

Chair Hirner noted that he had brought that issue up to Mr. Babcock.

Commissioner Heinz stated that as long as the bench reflected the high quality of the City's park system, he would support accepting this donation. He noted that he would like to make sure that moving forward that these things are consistent with the image the City is trying to protect.

Chair Hirner stated that someone from the City will need to let Mr. Babcock know what the cost of the concrete slab would be if he is expected to cover those costs as well. He stated that before the bench is ordered the color should be checked to ensure it fits in with what the City would like.

Planning Director Darling noted that the concrete slab work may be quite expensive and will likely have to be combined with another larger project in order to get the work completed.

Chair Hirner asked if the Commission should table action until all the details discussed regarding concrete slab costs and design consistency are ironed out with Mr. Babcock.

Planning Director Darling asked the Commission how they felt about accepting an atypical park bench.

Commissioner Heinz reiterated that he feels the City should be consistent with the amenities that are put into the park.

Commissioner Tauer stated that in her opinion, the bench needs to match the integrity of the park, but does not necessarily need to be identical to the other benches. She gave the example of eyebrows, which are sisters, but not twins. She stated that she thinks things can still look nice throughout the park, but look a bit different, because that can bring something special to the park.

Commissioner Gallivan stated that he thinks the City needs to be consistent with things such as color, but thinks a slightly different style would not bother him.

Commissioner Schmid stated that she would like it to blend in with the other benches in the area.

Chair Hirner stated that this bench is likely to be the only one that is over in this area on the edge of the parking lot, so there will be nothing else around it. He stated that he does not think the proposed bench is completely out of character from the park, but would agree that the City may want to have a say in the color of the bench. He reminded the Commission that a similar bench to what is being proposed can be seen in Deephaven. He suggested that perhaps the other information such as the color and cost for the concrete pad be reviewed with Mr. Babcock before this moves onto the Council. He stated that he would like to continue this item to a future agenda in order to have that conversation with Mr. Babcock so they have a complete picture of the cost that will be related to the donation.

Hirner moved to table discussion of the donation of a bench at Freeman Park until the March 2022 Park Commission meeting. Gallivan seconded the motion. Roll Call Vote: Ayes – all. Motion carried.

C. Discuss Options for Southshore Community Park

Chair Hirner noted that he would like the Commission to discuss options and ideas for Southshore Community Park. He reviewed some of the ideas that came out of the survey such as pickleball or a splash pad and whether the focus should be on being family friendly or focus on seniors.

Commissioner Gallivan stated that given the proximity to the highway, the idea of making this into a playground or large scale project is not appealing. He stated that the 2 best options that stand out to him beyond expanding the community garden, is either the pickleball courts or some of the senior equipment that has been considered in the past.

Commissioner Heinz stated that he agrees that anything that is done in this location should be more adult oriented.

Chair Hirner asked about the trees along the highway and what their expected lifespan is because if they are nearing the end of that cycle it may open up what can be done with this park.

Planning Director Darling explained that pine trees usually have a lifespan of 40-70 years, but she is not sure when those were planted. She stated that she can go back through the aerial photos and try to determine their general age.

Chair Hirner stated that he feels the City should take a look at what some options may be for providing a barrier between the park and the highway, such as a fence or sound wall. He stated that he agreed with the recommendation that the focus remain more adult oriented and likes the idea of pickleball courts.

The Commission discussed ideas of additional usage options that may be appropriate for this park considering its proximity to the highway.

Planning Director Darling noted that this is just a continuing discussion item for the Commission and explained that the City is not scheduled to begin doing the Master Plan until 2024.

D. 2022 Work Schedule/Park Meeting Schedule

Chair Hirner reviewed the 2022 Work Program Schedule for Commission action and asked if there was anything the Commissioners would like to add.

Commissioner Heinz explained that he has been working on a way to keep the City's park on the top of the list for attractiveness and usage. He explained that he has been doing interviews in the City parks and has gotten very interesting feedback and would be happy to present his information at an upcoming meeting.

Park and Recreation Director Grout suggested that it be put on the agendas for discussion in March and/or April.

Chair Hirner stated that he would like to discuss this information prior to conducting the park tours because he believes the information gathered may be helpful to those conversations during the tours.

Tauer moved to approve the 2022 Work Program, as revised, and the Park Commission meeting schedule as proposed. Gallivan seconded the motion. Roll Call Vote: Ayes – all. Motion carried.

E. Determine Liaisons for City Council Meetings

February 28, 2022 – Commissioner Gallivan

March 14, 2022 – Commissioner Tauer

April 25, 2022 - Commissioner Schmid

F. Accept the 2022 Concession Agreement

Park and Recreation Director Grout gave an overview on the history of concession services being provided by members of the Withum family.

Heinz moved to recommend approval of the 2022 Concession Agreement, as presented. Tauer seconded the motion. Roll Call Vote: Ayes – all. Motion carried.

5. OLD BUSINESS

A. Senior Programs

Park and Recreation Director Grout reminded the Commission that she had reached out to Mound, Chaska, Eden Prairie, Victoria, and Minnetonka about what senior programming they have available in their parks. She reviewed the information that she found out from each city as outlined in the October 26, 2021 staff report. She reviewed some of the programs that the City has held in the parks in the past. She asked if the Commission had suggestions for other programs that could be tried for the seniors.

Commissioner Heinz noted that the Music in the Park was well attended by the senior demographic.

Chair Hirner reviewed some of the activities that are available in the senior community where his father-in-law lives.

Park and Recreation Director Grout reviewed some of the groups and activities available at the senior center, such as a knitting group, cribbage, woodworking.

Chair Hirner stated that they also had things like tai chi, yoga, and other more outdoor activities. He noted that perhaps those could be organized via the park rather than with the other activities at the senior center.

Park and Recreation Director Grout noted that they do offer pickleball lessons at Badger Park. She stated that they have had tai chi in the past, but there was not enough interest to continue that activity, but she is open to trying some of these activities again and see if the interest has increased.

Commissioner Tauer stated that she likes the idea of doing some sunrise yoga classes during the warmer months, and suggested that it be more 'community' focused than just 'senior' programming.

Chair Hirner stated that he also likes the idea of creating a walking group, for example, at Freeman Park.

Park and Recreation Director Grout stated that she will check into some of these ideas and see about getting them scheduled at the parks.

6. STAFF AND LIAISON REPORTS / UPDATES

A. City Council

Council Liaison Callies gave an overview of recent City Council activities.

B. Staff

a. Update on Grant for Freeman Field 2 Fencing

Park and Recreation Director Grout noted that the City had received a grant for Freeman Park Field 2 to fix the footings and the fencing which will take place this coming spring.

b. Update on January 15, 2022 Arctic Fever Event

Park and Recreation Director Grout reported that Arctic Fever was held on January 15, 2022. She stated that there was a really nice turnout from the public for this event and noted that there demonstrations on outdoor camping and a story stroll that were new this year.

Chair Hirner asked when the contractor would finish the work at Silverwood Park.

Planning Director Darling stated that they do not have a timeline yet because it is still pretty early in the year. She explained that she knows it will be one of their first projects in order to finish the install of the swing sets and the awnings. She stated that she will be working with engineering to finish the improvements so the slides can be installed.

7. ADJOURN

Tauer moved to adjourn the Park Commission Meeting of February 8, 2022 at 8:58 p.m. Schmid seconded the motion. Roll Call Vote: Ayes – all. Motion carried.

CITY OF SHOREWOOD
PLANNING COMMISSION MEETING
TUESDAY, FEBRUARY 15, 2022

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

MINUTES

CALL TO ORDER

Chair Maddy called the meeting to order at 7:03 P.M.

ROLL CALL

Present: Chair Maddy; Commissioners Eggenberger, Huskins, and Riedel; Planning Director Darling; Council Liaison Siakel; Consulting City Planner Kendra Lindahl; and City Attorney Shepherd

Absent: Commissioner Gault

1. APPROVAL OF AGENDA

Riedel moved, Huskins seconded, approving the agenda for February 15, 2022, as presented. Roll Call Vote: Ayes – all Motion passed 4/0.

2. APPROVAL OF MINUTES

- **November 16, 2021**

Chair Maddy noted that Commissioner Huskins was listed as both present and absent in the minutes.

Commissioner Huskins confirmed that he was absent at the November meeting.

Riedel moved, Eggenberger seconded, approving the minutes for the November 16, 2021 meeting, as revised. Roll Call vote: Ayes – all. Motion passed 3/0/1 (Huskins abstained).

3. MATTERS FROM THE FLOOR

Kristine Sanschragrin asked if there would be an opportunity for the public to speak later in the meeting under the New Business items.

Chair Maddy explained that it is not technically a public hearing, but the Commission will open the agenda items up for public comment.

4. PUBLIC HEARINGS - NONE

5. NEW BUSINESS

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

CITY OF SHOREWOOD PLANNING COMMISSION MEETING

FEBRUARY 15, 2022

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Chair Maddy acknowledged that this item involves the Mayor of Shorewood and clarified that there were no conflicts of interest within the Commission for this agenda item. He explained that the staff report would be given by a contract planner, and not Planning Director Darling. He stated that the Commission will allow for public comment on this item, but asked that the speakers limit themselves to three minutes and try not to repeat points that have already been made.

Consulting City Planner Lindahl, Landform Professional Services, stated that this is a request for two variances at 5510 Howards Point Road. One variance request is to allow a dock greater than four feet wide and the other is to allow the dock to branch out within eight feet of the Ordinary High Water Level (OHWL). She explained that notice of the request was mailed to property owners within 500 feet of the property. She noted that the City received twelve letters and e-mails after the packet went out which have been entered into the public record, along with the three e-mails submitted by the applicant, but noted that many of the comments in the letters were unrelated to the variance request. The comments related to the variances requests were expressing the opinion that the variance standards were not met, as proposed. She noted that the dock was installed on or before April of 1985 and is permanent, which means it remains in the water year round. She explained that in 1989, the homeowners at that time, obtained a MNDNR permit to dredge the channel to provide access to the upper lake, which lowered the channel in order to provide access for this home as well as some of the neighbors and created channel in the middle of the lagoon. She stated that in 2000, the existing home was demolished and a new home built, also not by the applicant. She explained that the current ordinance was adopted in 2006 and was intended to bring the City's dock ordinance into compliance with the MNDNR and the Lake Minnetonka Conservation District (LMCD) standards. She noted that the applicant purchased the property in 2010 and explained that they were notified of an existing dock violation in October of 2021. She stated that the applicant received an extension after working with staff, and then submitted a variance application which is what is being considered this evening. She explained that when reviewing a variance, the City Code outlines specific standards or criteria that must be reviewed with the burden of proof landing on the applicant. She gave a brief overview of the standards to be considered as part of the analysis of the variance request. She stated that the dock is allowed in the R1-A district, is consistent with the intent of the Comprehensive Plan and uses anticipated by the Zoning Ordinance, has been in place for at least 36 years, and is not removed during the winter months. She stated that staff finds that the continued use of the dock, which has been in place for over 36 years, is a reasonable use and the plight of the landowner is due to circumstances unique to the property and were not created by this landowner. She noted that the application materials include statements from two local dock installation professionals who gave the 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. She stated that the variance is not based exclusively on economic considerations and noted that the local dock installation professionals who indicated that extending the dock would likely result in its sinking on the end furthest from the shoreline and would create an unstable dock situation as well as an unstable boat lift and slip. She stated that the variance would not impair the supply of light and air to adjacent property owners, increase congestion, or endanger public safety. She stated that the variances to allow the dock to remain would be the minimum action necessary to address the practical difficulties. She stated that for the reasons she has outlined, staff is recommending approval of both variances, but noted that variance criteria are open to interpretation.

Commissioner Riedel stated that in the application packet, the applicant made claim to the so called 'grandfathering' status for the dock and that they felt the dock qualified as a legally non-conforming structure. She stated that it appears as though City staff rejected that argument which resulted in the variance application. He asked about that process and the basis for the City disagreeing with this dock being a legally non-conforming structure.

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Planning Consultant Lindahl stated that staff felt the variance request was the right approach, but asked City Attorney Shepherd to weigh in on that particular analysis.

City Attorney Shepherd stated that the application package does talk about a lawful non-conformity assertion. He stated that it is more akin to an administrative appeal in the context of the procedural posture of the application. He stated that the administrative appeal is not in front of the Planning Commission tonight nor were they being asked to make a decision on whether or not there is a lawful non-conforming use, but are being asked to make a recommendation on the variance application.

Chair Maddy stated that if the City Council ends up granting this variance, then the enforcement action will stop. He asked that if the City Council rejects this variance request, if it would then go back to administrative enforcement on a legally non-conforming use.

City Attorney Shepherd stated that it is correct that the variance application is the opportunity for the applicant to bring their property into compliance with the City Code through the variance. He stated that if the City Council denies the variance, then there is a dock that it is in violation of City Code and enforcement would follow.

Chair Maddy referenced an aerial photo from 2002 that shows the dock was already there, double width and within 8 feet of shore, which pre-dates modern zoning on dock size and asked how the argument could be made that this would not be legally non-conforming. He stated that he would like to understand why this is going through the variance process first.

City Attorney Shepherd stated that the lawful non-conforming use argument is an administrative appeal to the enforcement of the Code, which was not filed in a timely manner. He reiterated that the application being considered tonight is for the variance requests.

Commissioner Riedel stated that he understands that the agenda item is for consideration of the variance requests, but nevertheless, the issue of legal non-conformity does bare on a variance decision. He gave the example of a home on a non-conforming lot where the homeowner wants to put in an addition. He stated that in that example, the addition would not qualify as a legally non-conforming structure, but the discussion of the house being legally non-conforming is relevant because that generally forms the basis of the decision to grant a variance. He asked if the City had taken no position on whether this could be considered a legally non-conforming structure.

City Attorney Shepherd clarified that City staff is not taking a position on whether there is a lawful non-conforming use and are just taking the position, as outlined in the staff report, on the variance application. He stated that he takes Commissioner Riedel's point with respect to the idea of a use pre-dating City Code. He stated that as Planning Consultant Lindahl stated, this is a dock that has been in place for 36 years, which can be a factor in the analysis with respect to the practical difficulties test.

Commissioner Huskins asked if there was a variance request made by the Labadie's in 2012, prior to the dock maintenance and the third section being addition.

Planning Consultant Lindahl stated that her understanding is that the dock was simply installed but no variance was applied for and the slip was part of the work for fixing the footings on the end of the dock. She stated that she does not believe a permit or a variance was applied for at that time.

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Commissioner Huskins asked if there are any legal prohibitions on approving variances retroactively, for work that has already been completed.

City Attorney Shepherd stated that there are no legal prohibitions for that situation and noted that this happens frequently where someone may have a property that is considered in violation of the City Code and then they apply for a variance as a way to remedy the problem and achieve compliance with the City Code.

Commissioner Huskins stated that this is referring to one dock on the lagoon and asked if there would be any precedents set for any of the other docks as to their compliance with the Code from 2006.

City Attorney Shepherd stated that other dock situations will be unique in different ways than this application. He reiterated that the Planning Commission is being asked to consider this particular dock and the variance requests.

Commissioner Eggenberger asked about the variance related to the setback from the OHWL. He asked if the dock was currently 1 foot short of being in compliance.

Planning Consultant Lindahl explained that the dock is 1 foot from the shoreline, where 8 feet is required.

Chair Maddy asked if the applicant would like to address the Commission.

Jennifer Labadie stated that she would like to answer any questions that the Commission may have and asked to reserve the right to speak at the end.

Commissioner Riedel asked the applicant to comment on the precise history of this dock. He stated that from the packet information it appears that there was a dock in place since 1985, but there has been indications from the dock maintenance professionals, that the dock was repaired, maintained, and perhaps expanded. He asked if Ms. Labadie had a precise timeline that she could share, in particular, the footprint of the dock and when any changes were made.

Ms. Labadie stated that the earliest aerial photo related to this property is dated April of 1985 and the earliest County aerial photo is dated 1989. She noted that the current home was built in 2000 and she and her husband moved in in 2010. She stated that when they moved in, there was a dock in the backyard and explained that there are neighbors who are very familiar with the house as it was built in 2000 who have indicated that the dock was in existence in the current location at that time. She explained that the rear end of the dock that is located at the furthest point from the shoreline began to sink and they hired professional dock installers to handle the repair. She stated that two different companies came and performed repair work, lifting up the end of the dock, but the dock was not removed from the water at that point. She explained that mud plates were placed under the footers which is a tool that is commonly used in the dock installation industry when there is a location that is considered substandard soil. She explained that at this time, they did add the second boat house on the north side of the dock and located it where the professionals had recommended.

Commissioner Riedel stated that he believes what is most relevant is the footprint of the dock. He referenced Exhibit E, which is aerial imagery from 2004 which is 2 years prior to the relevant code section being adopted restricting the footprints of docks. He stated that he sees that it has the same footprint that is currently in place and asked if that was accurate.

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Ms. Labadie stated that it is not correct and noted that it appears the same, however, the dock section on the most northern side, did not exist at the time that they purchased the home. She stated that it is similar to their current dock, but that portion of the dock was added to the existing section.

Commissioner Riedel asked when that portion of the dock was added.

Ms. Labadie stated that it was added in 2012 and the other portion had been in existence since 1985.

Chair Maddy asked why it was depicted in the picture from 2004 if it was added in 2012.

Ms. Labadie explained that was a portion that belonged to the former homeowners and explained that portion did not exist when they purchased the home.

Chair Maddy asked if that was within 8 feet of the shoreline on that side of the dock.

Ms. Labadie stated that she is unsure but noted that she believes it is the OHWL and not the shoreline. She noted that it is difficult to determine the OHWL right now because the lake is down several feet due to the drought conditions from last summer.

Chair Maddy asked Planning Consultant Lindahl to comment on whether the northern portion of the dock is in violation.

Planning Consultant Lindahl stated that there are two violations and explained that the entire front section, the 'main dock' is in violation because it ranges from about 1 foot from the shoreline to 4 feet from the shoreline. She stated that they do not have a survey with the OHWL but according to the watershed district, for Lake Minnetonka it is 929.4. She stated that based on the surveys in the packet, it is a bit tricky, but they believe it is about 1 to 4 feet from the OHWL where 8 feet is required.

Chair Maddy confirmed that she was saying that both sides of the dock are too close.

Commissioner Eggenberger asked Ms. Labadie when she first became aware that the dock was not in compliance.

Ms. Labadie explained that they received notice of the violation in the fall of 2021, sometime in October.

Commissioner Eggenberger confirmed that she had no knowledge of this situation when she purchased the home or anytime before the notice came in the fall of 2021.

Ms. Labadie stated that this was correct and noted that they had professional dock installers come and had them install the addition and perform the repair work based on their professional opinion. She noted that they simply relied on the professionals that they had hired.

Commissioner Riedel stated that he would like to ask the same question that he posed earlier to City Attorney Shepherd. He stated that the status of this dock is that it existed prior to the modern City Code and there were modifications made after the modern City Code was adopted. He stated that the legal non-conforming argument hinges on the use of the dock and asked Ms. Labadie to comment on that.

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Ms. Labadie asked if he was asking her to comment on what they use the dock for.

Commissioner Riedel stated that he thinks it is appropriate to ask the question whether she feels this is a legally non-conforming structure or not.

Chair Maddy clarified that the Planning Commission is only talking about variances.

Commissioner Riedel agreed, but explained that he felt this point was relevant because a variance based on a legally non-conforming structure is different than a variance that is simply based on an otherwise fully conforming situation. He stated that the existing dock, that existed prior to 2006, he thinks would qualify as legally non-conforming and the modifications that were made afterwards may not be, which may be the basis for the variance. He asked if that was the argument the applicant was making to the Commission.

Ms. Labadie stated that was the thought process when the application for a variance was prepared. She stated that they have one dock that has been in existence for over 30 years and a newly installed dock. She stated that she feels the requirements for a variance, as set forth in the City Code, are met in this situation and felt a variance would be appropriate.

Commissioner Huskins stated that there are two aspects to the variance and when a recommendation is made he assumes that the Commission will discuss each of them separately. He asked if those two things, in her mind, were tied together.

Ms. Labadie stated that although they are treated in one application for variance requests, she feels they are two distinct issues. She stated that she feels the issues stand separately.

Commissioner Huskins asked if one variance and not the other was approved whether this would not dampen the use of the dock and would be a satisfactory outcome.

Ms. Labadie disagreed and noted that it would hamper the use of the dock and also the safety of the dock, because the dock hugging the shoreline and not meeting the 8 foot requirement, is the safest possible configuration, as has been stated by two dock professionals. She stated that in both of their opinions, they felt extending it out further could result in an unstable dock situation versus leaving it in its current location. She stated that on the second issue, the two dock catwalks that are put together, exceed the 4 feet, which is also a safety issue because it allows full access of the boat from either side on the newly installed dock and from the one side on the original dock that it is attached to. She stated that she does feel this is a safety issue relating to both aspects of the variance requests.

Commissioner Eggenberger asked if the 8 foot catwalk was 8 feet when the second boathouse was installed.

Ms. Labadie stated that the installation of the second boathouse caused it to be the 7 foot width. She stated that before the installation of the boat house, it was not that width. She pointed out that in the opinion of the dock installers and her neighbors, extending the dock out into the lagoon hampers the traverse ability of the lagoon itself because the structure will take up more water space. She noted that valid DNR permits were obtained and channels were dredged to each of the properties, including hers, and it is possible that moving the dock backwards could place it in the dredged channel which definitely would make it more unstable and more difficult to secure in a safe manner.

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Commissioner Riedel stated that in the application packet, much of the argument centers on what was just described by Ms. Labadie of the professional opinion that moving the dock further out may be problematic. She stated that there is not much that describes the basis for the variance for the double-width and asked for more information on that item and the practical difficulty of not having a dock with the double-width in the center.

Ms. Labadie explained that the double-width is the way it was configured and installed by the professionals. She stated that they installed it that way for safety and access to the boat and reiterated that they had relied on the advice of the professionals at the time the work was completed.

Chair Maddy asked if there was anyone from the public would like to speak on this issue and reiterated the request that comments be limited to three minutes, not repeat each other, nor should the comments focus on character assassination.

Jeff Cameron, 27695 Island View Road, stated that he feels this is a pretty clear case where no variance should be allowed. He stated that the applicant had one slip in 2006 as shown on Exhibit F, and the Code was changed just after the picture was taken. He stated that Exhibit I, from 2015 shows the two docks and another slip was added and widened the center section. He stated that the applicant is arguing that they cannot make the dock longer, which does not have to be done. He stated that the applicant would need to move the parts that are parallel to the shore out which will effectively make the slips shorter. He stated that this is not the fault of the City that the applicant chose to make it this way. He stated that the stuff that was added in 2012 does not affect the length of the dock. He explained that the argument for the center portion being 7 feet wide being done because a 3.5 foot dock would be a safety hazard does not make sense because the standard width of a dock is 3.5 to 4 feet wide and people put boats on either side of those all the time. He stated that he feels this is not a substantial hardship and noted that most people on the lake have that dock width.

Kristine Sanschagrín, 27725 Island View Road, stated that she would like to respond to one of the letters that was included in the packet. She stated that she opposes the variance request being made and noted that the process for code compliance has not been followed, nor does the dock meet the 'grandfather' requirements. She stated that she does not feel the applicant meets the hurdle related to hardship. She stated that she finds it interesting that Ms. McNeil's letter was included in the variance request because she appears to be responding to a news story and not the variance included in the packet. She stated that she would like to speak to some of the conjecture and false statements that she feels were included. She stated that Ms. McNeil has the right to disagree with the complaints, but her statement that the access was on the deed as well as others and was clear to all of us that a dock was not permitted, is false. She stated that she is an owner of the property and the claim is unsubstantiated. She stated that Ms. McNeil and her husband are not registered with the County as easement holders nor have the owners of this property been presented with legal proof of their easement. She stated that they have affidavits from an easement holder and an aerial photo from the 1970s that refutes Ms. McNeil's claims that there has never been a dock on the property. In addition, her comment that it is beyond odd that docks that have been on the lake for years are now under investigation is irrelevant. She stated that if someone purchased a home in the neighborhood that was found to have a code violation, the home would have to be brought up to code prior to sale. She stated that Ms. McNeil's claim that there has been a dock on the property since the early 2000s is also irrelevant, however there is a dispute about whether or not the dock was changed and noted her disappointment that this was not noted by the consultant in her presentation. She stated that when false narratives are shared in the neighborhood it provides unneighborly activity and this is an example of something that was included in the packet and is irrelevant and feels it should be withdrawn. She stated that

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she does not feel there is any legal way that this dock should be granted a variance and stated that Ms. Labadie's position as mayor for this variance request should be agnostic. She stated that they are all citizens of this community and nobody, including Ms. Labadie should be an exception in having to meet code requirements. She stated that if the Planning Commission chooses otherwise, they are admitting to special treatment for certain members of the community and not treating all members consistently under the code requirements.

Guy Sanschagrín, 27725 Island View Road, stated that he has written a letter in opposition to the City's practice of providing special treatment to certain residents while dealing with others heavy handedly. He stated that it is important that Shorewood's code enforcement processes are not arbitrary or capricious and noted that currently the process seems selective and subjective. He stated that he would like to ask about the purpose of the rules that are being looked at and whether it was safety, health, welfare. He stated that he feels that understanding this purpose is important. He noted that if this variance is granted, he would question whether these rules should even exist and asked when the City would actually enforce the rules. He asked why the City had any dock regulations at all and noted that the City pays to be part of the LMCD whose purpose is to harmonize the rules on Lake Minnetonka. He asked why another full layer of special rules for Shorewood lakeshore was needed. He suggested that abolishing the City's dock restrictions is the solution in place of a variance. He stated that he feels this action would solve many issues for the City and for its residents. He asked how the City can justify punitively dragging two families through the criminal and civil court systems over the last 5 years while at the same time allowing City officials to violate the code through variances and not enforcement. He asked how the same City officials, who do not adhere to the code turn around and enforce the same code on others. He stated that it is clear that Shorewood's rules only apply to certain residents and the process felt by the common resident is very different than the process afforded to the privileged and politically connected. He stated that zoning enforcement should not be political and should be based on the facts and the law. He stated that residents who stand up to the City and disagree with the status quo are shut out, smeared, and denied a seat at the table. He stated that to him, Shorewood's governance feels much like an oligarchy. He stated that in consideration all these factors, he feels the variance requests should be denied as a first step in reforming the City government in the direction of equal treatment under the law for all residents.

Marty Davis, Edgewood and Birch Bluff area, stated that he feels it is sensible and obvious that this dock should be grandfathered in and fits in with those parameters. He stated that what bothers him is that there have been comments made about false narratives. He stated that some individuals keep putting another dock into the middle of this situation and if they would like, he can lay out the facts, not opinions, for that situation. He stated that he has spoken with Mr. Sanschagrín about these facts so he is aware of them and he is standing too far from the truth. He stated that he feels it is sour grapes to go after a mayor like this and is punitive to her decision to do her job, which he feels is all she has tried to do. He reiterated that he feels the opposition to this request is sour grapes because those individuals did not get what they wanted. He stated that if the truth gets out about what happened in the other situation with the dock next to him at Howards Point, they will find that they have been deceitful and are the ones that have caused the City to waste taxpayer money. He suggested that people contact Brad Neilson and have him let people know what went on with that property. He noted that he does not feel that the people that have written in regarding this issue, have been informed of the truth. He reiterated that people around town really need to understand what went on in that situation and how noble the City officials have been throughout that whole process.

Chair Maddy noted that individuals would only be allowed to speak one time this evening and noted that there appear to be two individuals who have not yet spoken.

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Mary Rotunno, 5525 Howards Point Road, stated that she is here to support the variance requests. She stated that in her opinion, the applicant went through the proper channels, does not believe there was malicious intent, nor does she feel that they have received any special treatment. She stated that she believes that this has become a personal issue within the community which has gotten out of hand. She stated that the personal attacks on the mayor and Council have been, in her opinion, childish. She reiterated that she supports the variance request.

Mary Borgeson, 5485 Grant Lorenz Road, stated that she has been watching this and there have been discussions about whether the dock was legal or not and whether a variance would keep it into compliance. She stated that she is not attacking the mayor, but as someone in a position of power, whether it is legal or ethical, it is always good to take the high road and not be hypocritical. She clarified that she is not calling the mayor a hypocrite, but feels everyone has been guilty of hypocrisy at one time or another because you want something so badly that you cannot see the conflict. She stated the dock issues in this community have become a really hot button issue and she would suggest that the Ms. Labadie bring her dock into compliance first and then ask for a variance. She stated that it may be a sacrifice for Ms. Labadie but explained that it would be a much better look ethically for her to make it legal prior to asking for a variance. She stated that they are very lucky to have a gender diverse City Council and mayor. She noted that when she graduated from high school, a woman could not even get a loan. She stated that the mayor and the two female Councilmembers are leaders in the community and are an example for other young women and thinks they should hold themselves to a higher standard. She reiterated that it would be a much better 'look' and not so divisive if the dock would just be brought into compliance.

Chris Rotunno, 5525 Howards Point Road, stated that he feels this issue comes down to common sense. He stated that there is an aerial photo that shows the dock being discussed and noted that it probably looks better than any other dock in the whole bay. He stated that he knows that because he parked by it until last year and noted that others that have spoken tonight also did, illegally. He stated that he thinks that Ms. Labadie is being persecuted for other issues. He stated that he would encourage the Commission and staff to not treat this like they are dealing with the mayor, but as though they were dealing with a normal citizen. He stated that he really feels like this is common sense and this request is nothing that is hindering anyone else. He stated that it may not sound like a big deal to move the dock out a few feet but the way the bay is configured, they would not be able to get a boat through which would cause complications for the other homeowners in the bay. He stated that some of the individuals no longer have any involvement in this bay and are here fighting against Ms. Labadie and attacking because she is the mayor. He asked the Commission not to punish the mayor because she won an election by a landslide.

Alan Yelsey, 26335 Peach Circle, stated that his interest in this is in the integrity of government. He stated that he appreciates the questions that have been asked by the Planning Commission. He stated that he feels the integrity of the City is at stake in this situation because there is a mayor in the middle of an issue that she should not have been in if Ms. Labadie had followed the code. He stated that he feels the Commission needs to hold Ms. Labadie accountable as it would for any other citizen, without any favoritism. He stated that from what he has seen, in terms of variances and code violations in the past, the City has been fairly strict and feels the process that has been used with others should be followed in this case. He stated that he is disturbed that some other parties have been persecuted for doing something that was compliant with code while in this case, there is clearly non-compliance with code. He stated that for the integrity of government, because the mayor is in the middle of this, it will be very good for her to accept the code violations and change whatever is necessary to be compliant. He stated the hardships that have been mentioned do not sound accurate to him and he feels that some modifications could be adopted with some technical and engineering assistance and still maintain her dock and

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privileges. He stated that this is a City that should not be for the rich, wealthy, and influential and should be a City for everyone.

There being no additional public input, Chair Maddy closed the public testimony portion of the meeting at 8:13 p.m.

Commissioner Riedel stated that he would reiterate the point he made in his earlier questioning. He stated that the dock existed, at least partially in its current configuration prior to the adoption of the Code, which is pivotal in this situation. He gave the example of a non-conforming lot with a house that existed on the lot prior to the code being adopted that restricted the setbacks and other criteria for building. He explained that this would be a legally non-conforming house and the owner could continue to live in the house and even rebuild on the exact same footprint with no variance required. He stated that if the applicant wanted to modify the house, for example, put on an addition, they would be permitted to do it as long as the addition did not increase the non-conformity. He stated that this a common scenario for the Planning Commission to consider, where somebody with such a property wants to do something that is quite reasonable, for instance, put on a new deck. He stated that putting on a new deck would increase the non-conformity, so they would not be permitted to do so without applying for a variance. He stated that the variance process is appropriate in that case and this is a situation where there was an existing dock, partly in its current configuration that existed prior to the code being adopted that restricted such docks. He stated that subsequent to that, there were changes made to the dock, hence the need for a variance. He stated that in that context, the Planning Commission must take into account further information, that the current applicant purchased the property with the dock in place and based upon good faith, made modifications to the dock unaware of the code restrictions 10 years ago. He stated that information can be taken into account in the deliberations and noted that it would seem to him that the grandfathering in of the dock, the legal non-conformity of part of the dock, and the changes made without knowledge that they were violating the code, means a variance is appropriate. He stated that the notion that the Planning Commission would never recommend approval of a variance of this type is false. He stated that each case is unique and there is no concept of a precedent when it comes to a variance. He stated that he feels, on its merits, the variance in this case clearly crosses the threshold of being reasonable based on the fact that there was an existing dock in place and the notice of the code violation is being brought forth 10 years after the last modification.

Commissioner Eggenberger stated that there was an implication that if he chooses to vote in favor of approval of this variance, that he is doing so because of some agenda that he would have. He stressed that he has never done that and explained that he votes for things because he thinks they are right or they are wrong. He explained that he intended to do that in this case, as well. He stated that he thinks this variance request is reasonable and agrees with Commissioner Riedel's comments. He stated that he feels it is common sense that this variance was applied for when the applicant found out they were not in compliance, in order to get it into compliance. He stated that he feels the applicant has met all the criteria for the variance request.

Chair Maddy noted that it appears as though there is a hand raised from someone who has not yet spoken. He noted that to ensure that everyone who would like to comment on this item has that ability, he would like to formally reopen the public testimony portion of the meeting at 8:19 p.m.

Kay McNeil, 5620 Howards Point Road, apologized for her lack of technical knowledge and explained that it took her extra time to figure out how to 'raise her hand' within Zoom. She stated that since her name was brought up by one of the neighbors, she felt that she should be heard. She stated that for her, all of this has been based on right or wrong. She stated that she did have

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deeded access and feels that this has gone on too long because this is a personal vendetta against Ms. Labadie. She stated that the City is very fortunate that there is a young mom and attorney who has been willing to give her time to help the City. She noted that she does not want to play the 'he said/she said' game. She stated that she wrote a letter based on what she knew of the dock, of having taken care of it for the owner, and to stand up and fight for the right things for the City. She stated that she has watched the property for years and now feels that she has been called a liar and publicly shamed. She stated that she is a grandma, loves the marina and feels it is fortunate that the City has Mr. Davis has brought a wonderful manager into the neighborhood marina. She stated that the people on this street love it here and do not need anymore nonsense. She asked that the Planning Commission be allowed to do their jobs and the City perform what they need to do and put this to rest. She stated that she does not know about the legality of the dock, nor does she want to know. She explained that her whole position was to support the mayor and do what is right and explained that she supports her and the Council 100%. She stated that she is in support of the variance request.

Chair Maddy closed the additional public testimony at 8:23 p.m.

Commissioner Huskins stated that from what he has heard tonight and seen in the packet, he thinks it is clear that there has been a dock there for a long period of time. He stated that regardless of whether there were two slips or one slip, he thinks he is seeing in the photographs that it is consistent over the entire period of time, in the location close to shore. He stated that he has to believe that there is some purpose and reason behind why it was constructed that way initially. He stated that the code did change in 2006 but the aerial photos from that time until 2010 do not show any change in the proximity to the shoreline. He stated that there were opinions expressed by two dock experts about the reason for leaving the structure in this place and noted that he is willing to listen to their expertise. He stated that the difficulty here is that a timely variance would have been applied for at the extension of the dock to create the second slip, but is also persuaded that the City did not do anything to notify through inspection when the deed transferred to the owner. He stated that he takes Ms. Labadie's statement at face value that the first time she learned that she was not compliant with the 2006 code was when she received the notice last fall. He stated that similar to Commissioner Riedel, he is struggling not to take into account the legally non-conforming structure, as he believes this dock was in 2010. He asked earlier if there was any legal prohibition of approving variances retroactively and City Attorney Shepherd stated that there was no legal constraint against doing that. He stated that when he takes everything into consideration and reviews the application, he feels very comfortable in approving the variance requests.

Chair Maddy stated that he has struggled with this one. He noted that Ms. Labadie has asked the Commission to not to reference her as an elected official, but feels that they do not have that luxury. He stated that he feels elected officials and people like himself need to be held to a high standard, but at the same time, had the dock contractor in 2012 come in and requested this variance because of the soil conditions, he is sure that it would have been granted. He stated that the Commission does its best to work with homeowners to enable them to be able to enjoy their property. He stated that he feels if any other person had come in and asked for this, the Commission would have recommended it be granted.

Riedel moved, Huskins seconded, to recommend approval of the variance requests at 5510 Howards Point Road, to allow a dock greater than 4 feet in width and to the dock setback from the OHWL.

Chair Maddy clarified that by granting this variance, the City would not be allowing the dock to be further enlarged, but are saying that where it is currently located is as big as it will get.

Planning Consultant Lindahl noted that there is a staff recommendation to recommend approval based on the findings, which allows the dock to remain in its current configuration without expansion.

Roll Call Vote: Ayes – all. Motion carried 4/0.

Chair Maddy recessed the meeting at 8:30 p.m. and reconvened at 8:35 p.m.

B. Urban Farm Animal City Code Amendments Discussion

Planning Director Darling gave an overview of the past discussions regarding amendments to the Urban Farm Animal regulations. She noted that the City Council had adopted standards for keeping and care of urban farm animals but asked staff to research additional standards to reduce negative impacts for things such as keeping birds on the owners property. She explained that when the most recent code amendments were adopted, there were several people in the audience that noted concerns with noise and property damage when the neighbor's chickens escaped. She asked the Commission to review the proposed draft language and noted that a public hearing will be scheduled in March. She reviewed the proposed ordinance amendments and noted that staff is just looking for initial comments from the Commission on the proposed amendments.

Commissioner Huskins stated that under definitions, he asked why the City is referring to certain animals as both farm animals and farm birds.

Planning Director Darling explained that the reason she separated them out was because rabbits generally do not escape from their hutches and bees cannot be contained. She stated that if she required all urban farm animals to be fully enclosed, that would defeat the purpose of keeping bees and would provide unnecessary regulations for rabbits. She explained that ducks, geese, turkeys, chickens, and guinea hens would be in both urban farm animals and urban farm birds.

Commissioner Huskins stated that in the definition he is not sure it is helpful to have them appear under both farm animals and farm birds.

Commissioner Riedel stated that one is the subset of the other and noted that urban farm animal is the larger set and urban farm birds is a subset of that the larger set. He stated that he does think it is useful.

Commissioner Huskins asked about subdivision 3 (4)g, where it talks about some consequence for failure to pay application fee on any condition set forth in any other permits granted by the City. He asked why the City would say that because they defaulted on one permit it would invalidate the ability to have a farm animal permit.

Planning Director Darling stated that she believes it refers to just under this section or chapter.

Commissioner Huskins stated that to him, it reads as though if he did not pay a fee to put an addition on his home or something, that this would invalidate his ability to apply for an urban farm animal permit.

Planning Director Darling stated that she understands that concern and noted that she will clarify the language with City Attorney. She stated that she believes that item was added in solely to be applied to this chapter.

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FEBRUARY 15, 2022

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Chair Maddy stated that he has some really great chicken owners next door and this ordinance seems to be written in response to the worst chicken owners because it limits how many chickens they can have. He stated that he does not want to burden good chicken owners because of the acts of a few others. He stated that is just his general reaction to these proposed amendments and noted that he has also seen good chicken keeping take place on smaller lots and noted that unless the chicken owners want to start feeding the great horned owls, they would already be putting netting on top of their chicken runs and does not understand why the City would require it.

Commissioner Riedel noted that he believes that there had been complaints about escaping chickens.

Chair Maddy stated that there are a large number of wild turkeys who walk through his yard and having concerns about one escaped chicken seems like an over-reaction.

Commissioner Riedel stated that he agrees with the restriction of 6 or 4, but does seem low, if you have a larger lot and only allowing 6 chickens is a fairly strict requirement.

Chair Maddy stated that he understands that the Council gave staff some direction on this that is perhaps more conservative than the Commission feedback. He asked if there were details on what the Council was concerned with.

Planning Director Darling explained that the Council had given general direction to staff and did not supply any specific number of chickens. She stated that they had discussed limiting the number of chickens based on the size of the property.

Commissioner Huskins asked if staff had any data points with neighboring cities.

Planning Director Darling stated that she did not have them with her this evening, but had provided them with previous packets. She stated that she can provide this information at the next meeting.

Commissioner Eggenberger asked if Chair Maddy had a number in mind, because, to him, 6 chickens seems like a lot.

Chair Maddy explained that he had had seen it work well with 6 chickens on a small lot, but they are responsible chicken owners. He stated that he would rather just have 6 total and not limit it down to 4 for the smaller lots.

Commissioner Eggenberger stated that he would agree with that.

Chair Maddy asked if most of the complaints were related to smells or trespassing of chickens.

Planning Director Darling explained that it was primarily trespassing of chickens and noise.

Council Liaison Siakel stated that she thinks some of the comments came where there were situations where there are people who have multiple neighbors who have chickens. She stated that she thinks the thought was to strike a balance for those concerned about escaping chickens, the mess, the smell, and noted that were a number of people who showed up and wanted a bit more restriction and guidance around people who choose to keep chickens. She stated that there was also some conversation about limiting the number of households that the City allows to have chickens.

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Commissioner Eggenberger agreed that even though they are not roosters, they can get noisy. He stated that he has chickens nearby and they get noisy once or twice a day, which he has assumed is at feeding time. He stated that it is not obnoxious, but they do make noise and can be heard.

Commissioner Riedel stated that it seems problematic to cap the total number of chicken permits because it would become like a chicken lottery. He stated that he believes it will be better to deal with this by simple, consistent rules that limit the number of chickens per lot.

Commissioner Huskins asked if the recourse of a neighbor who felt they were disadvantaged because multiple properties had chickens, was to file a complaint with the City.

Planning Director Darling explained that if they have a concern about how the chickens are being kept on a specific property, they would need to call staff and formally ask for the property to be inspected. She noted that if no violations were to be found, there is no recourse.

Commissioner Huskins asked if the City would be able to fairly decide on whether a complaint related to escaped chickens, odor, or noise, was valid.

Planning Director Darling stated that if the chickens are out when the inspector gets there they can. She stated that the challenge with a noise issue is the same as for a barking dog. She explained that if they run and check and the dog is not barking, the inspector or police will just move on. She noted that she had not received any complaints about odor, but did get one for erosion.

Commissioner Huskins stated that he also likes the idea of simplicity without creating a lottery situation. He stated that he would just like to make sure that if there is a legitimate reasons for complaint that there be some mechanism by which the City would handle those in a way that would be satisfactory to the complaining neighbor.

Chair Maddy stated that it sounds like it is tough to enforce much of this and noted that he used to be an odor inspector for the City of Minneapolis. He stated that he believes the City wants to find the balance of something that is enforceable but also protects the adjacent homeowners.

Planning Director Darling stated that she will take the comments received from the Commission and incorporate them into a draft ordinance for review at the time of the Public Hearing.

Chair Maddy asked if the Commission felt the right number of birds should be split or have one flat amount for the City.

There was consensus of the Commission to support a flat number of 6 chickens, regardless of lot size.

The Commission discussed the setback requirements for urban farm animals.

Chair Maddy asked what would happen if there was someone who had an existing coop that is less than the newly adopted required setback.

Planning Director Darling explained that this is not in the Zoning Ordinance because chicken coops are typically mobile, so when the permit expires, the coops will have to be brought into

conformance the next time they apply for a permit. She noted that the permit now expires in 1 year.

Commissioner Eggenberger asked if they could also apply for a variance.

Planning Director Darling stated that there was no variance provision in this section of code.

Chair Maddy noted that he can see that becoming a problem because many people have bought sheds from Home Depot to raise chickens and store lawnmowers in that are not easily moved.

Planning Director Darling stated that she will look into this issue with City Attorney Shepherd.

Commissioner Eggenberger noted that Planning Director Darling had stated earlier in the meeting that rabbits were separated out because they do not typically escape their enclosure.

Planning Director Darling clarified that she had not received any complaints and noted that there is currently only one permitted rabbit hutch in the City.

Commissioner Eggenberger stated that he grew up to people who had rabbits and they had an enclosure that they would let the rabbits run around in, and they were constantly escaping from the enclosure because they would dig under the fencing, so rabbits do escape their enclosures.

Planning Director Darling noted that they do not fly over the top of their enclosure though.

Commissioner Riedel stated that it could also be that rabbits just disappear if they escape, so there is not much complaining if that happens.

C. Work Program and Meeting Schedule for 2022

Chair Maddy noted that missing on the work program was discussion on minimum structure width requirements in residential areas.

Planning Director Darling stated that she had mentioned that at the Council meeting when they were reviewing the variance recommendation for the slightly more narrow home. She stated that she heard from one Councilmember that with only one variance requested, there was not proof that those were forming a hardship for the community, in general. She stated that this is why she had not included it on the work program schedule.

Riedel moved, Huskins seconded, to accept the 2022 Work Program, as presented. Roll Call Vote: Ayes – all. Motion carried 4/0.

D. Liaison Volunteers for February and March

February – Chair Maddy

March – Commissioner Riedel

April – Commissioner Eggenberger

May – Commissioner Huskins

Chair Maddy noted that Commissioner Gault would no longer be serving on the Commission and there will be a new Commissioner starting in March.

Planning Director Darling stated that they are planning to hold the March 1, 2022 Planning Commission meeting virtually.

Commissioner Huskins noted that he will be out of town for the March 1, 2022 and asked that communication be handled electronically without a physical packet.

6. OLD BUSINESS - NONE

7. REPORTS

- **Liaison to Council**

Council Liaison Siakel reported on Council considerations and actions from the February 14, 2022 meeting.

- **Draft Next Meeting Agenda**

Planning Director Darling stated there will be a discussion of potential ordinance amendments to election, campaign, and non-conforming speech signs. There will also be two Public Hearings one for additional antennae on an existing monopole and another for the amendments to the Urban Farm Animal Ordinance.

Commissioner Eggenberger asked Council Liaison Siakel about past discussions about some available funds for broadband and asked for an update.

Council Liaison Siakel stated that there is a company called Jaguar Communications that approached the City about running fiber optic internet services to residents within Shorewood, Excelsior, and Tonka Bay. She stated that her understanding was that they should be touching base with the public within the next 6 months with their intent to offer additional service to residents of the area. She stated that she will try to find out more details and get back to the Commission with a specific answer.

8. ADJOURNMENT

Huskins moved, Eggenberger seconded, adjourning the Planning Commission Meeting of February 15, 2022, at 9:17 P.M. Roll Call Vote: Ayes – all. Motion passed 4/0.



City of Shorewood Council Meeting Item

7B

MEETING TYPE
Regular Meeting

Title / Subject: Request for Additional Time to Correct a Code Violation
Location: 5885 Hillendale Road
Property Owner: Petra Rand

Meeting Date: February 28, 2022
Prepared by: Marie Darling, Planning Director

Attachments: Violation Notice dated January 20 2022
Written Request from Property Owner for Additional Time
Resolution Approving the Request

Continued from the February 14, 2022 City Council meeting

In November, the City received a complaint regarding the property at 5885 Hillendale Road stating the property has miscellaneous broken items and nuisance items stored all over the front yard and unlicensed vehicles, some of which are being used for storage.

Property Inspections

In December, staff inspected the complainants' concerns. At that time, staff observed that the number of items and unlicensed vehicles was extensive. Staff sent correction notices on January 20, 2022 (attached).

Enforcement Action

The previous property owner died in December. One of the current owners requested the extension on January 25, 2022 (attached) and indicated that she was beginning the clean-up process. Because of the reasons stated in the letter, the property owner is requesting 30 days to complete the clean-up and removal of the unlicensed vehicles. She indicated that they would have much of the materials and vehicles removed from the site by February 7.

On February 8, 2022, staff visited the site and noted that almost no work had progressed on the site. Except for one trailer, no other vehicles had been removed from the property; the dryer was still located outside and various other nuisance items were still present.

On February 14, 2022, the property owner called staff and said that both she and the person that she hired to help with the work were sick and had been unable to complete the work they had intended.

Recommendation / Action Requested: Staff recommends approving the extension because the property owners have not shown that they are actively working to find a solution to the code violations. Any council action on this request requires a simple majority.

Next Steps and Timelines: If the extension is approved, staff will notify the owners in writing and suspend enforcement until the end of March to give them more time to remove the items.

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.*

Marie Darling

From: p rand <petrarand@gmail.com>
Sent: Tuesday, January 25, 2022 12:54 PM
To: Marie Darling
Subject: Amended request for 5885 Hillendale Rd

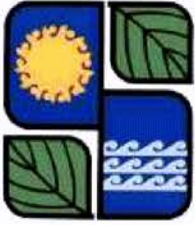
Hi Marie,

Just following up from our conversation on 1/24 regarding the 5885 Hillendale Rd property.

I had received the letter 1/24 at my home in Norwood about cleaning up and removing some items from the property. While I have no problem removing most of these items there may be some people who reside in the home that I may have trouble getting to agree to remove certain items and help and I am not sure what legal stand point I do or don't have and will need time to figure out if they wish to be complicated about this.

I can guarantee that the Dodge truck, dryer, bikes and clutter by the upstairs front door will be removed asap, by 2/7 at the latest if the city would give me some grace period considering I just received the letter. I will then request that I am given more time for any clutter that is at the basement door of the home, the red Grand Am and the red trailer as the owners of these things don't sound like they want to help at this time and I will need time to figure out what I can do about it as a property owner in the mean time. For this I was hoping you would extend until the end of February so some things can be sorted out. John has passed away 12/12 and this has further complicated things at this home as you could imagine but I am working on them and the home and would appreciate any grace period given on this issue.

Thank you for your consideration,
Petra Rand



CITY OF SHOREWOOD

5755 Country Club Road • Shorewood, Minnesota 55331
952.960.7900 • www.ci.shorewood.mn.us

January 20, 2022

John J and Petra J Rand
210 Hill St W
Norwood Young America, MN 55368

Re: Notice of City Code Violations for Property at 5885 Hillendale Road

Dear Mr. Rand;

City staff received a complaint regarding the amount of unlicensed and/or inoperable vehicles on the property and discarded items stored in the front yard. Upon inspection of the property, the inspectors verified that code violations are present on the property.

City Code 501.05, subd. 9 declares the following as public nuisances: *Any abandoned, discarded or unused objects or equipment such as motor vehicles or recreational equipment not displaying a current state license, furniture, stoves, refrigerators, freezers, trash, debris, junk containers, machinery, implements, or equipment that is no longer safely usable for the purpose for which it was manufactured.* Staff identified many discarded items in and around the front yard which must be removed. These items include but are not limited to, a dryer, totes, tables, cooler, shade structure, dolly, wheelbarrow, tarps, buckets, extension pole, stroller, bicycles, etc. See the enclosed photos. Additionally, staff identified the following unlicensed vehicles/inoperable vehicles which must be removed from the property:

Red Grand Am 982 XNE
Red Dodge Truck 383 TYX
Red Trailer T8277E

City Code 1201.03 Subd. 3 c (14) allows one recreational vehicle or piece of equipment that may be stored in required front yards (the first 50 feet from the front property line) provided it is located on an approved driveway, ... it is currently licensed and operable, and it is located no closer than 15 feet from the paved surface of the street. The property currently has two trailers stored in and near the required front yard. Staff were unable to verify the license status of the wooden trailer but the red trailer is unlicensed and two are beyond the number allowed in code.

City Code 1201.03 Subd. 5. f. (3) requires all vehicles parked in the front yard to be at least 15 feet from the public street and City Code 1201.03 Subd. 5. f. (2) prohibits parking in any portion of the required front yard, except the designated driveway leading directly into a garage.... The gray SUV shown in the enclosed picture is parked off the driveway into the front yard.

The violations must be corrected immediately. Your property will be re-inspected for compliance on or after **January 31, 2022**. Any violations found after this date would be subject to administrative enforcement, pursuant to Chapter 104 of the Shorewood City Code. All code sections quoted are available on the City's website.

If you have any questions, please contact me at 952-960-7912 or mdarling@ci.shorewood.mn.us.

Sincerely,

A handwritten signature in blue ink that reads "Marie Darling". The signature is written in a cursive style with a large, stylized initial "M".

Marie Darling, AICP
Planning Director

Enclosure: Photos





12/15/2021 02:37 PM



12/15/2021 02:36 PM

**RESOLUTION 22-014
CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

**A RESOLUTION APPROVING A REQUEST FOR AN EXTENSION TO CORRECT A
CODE VIOLATION FOR PROPERTY LOCATED AT 5885 HILLENDALE ROAD**

WHEREAS, the City of Shorewood sent a violation notice to Petra Rand (“Property Owner”) regarding a violations of City Code on their property addressed as 5885 Hillendale Road; and,

WHEREAS, the Property Owner has requested more time to correct the violation as allowed by chapter 104.03 subd. 2 a. of the City Code; and,

WHEREAS, the City Council considered the appeal for additional time to correct the violation at its regular meeting on February 28, 2022, at which time the Planning Director’s memorandum was reviewed and comments were heard by the City Council from the Property Owner, staff and the public.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA FINDS AS FOLLOWS:

CONCLUSIONS

1. The Property Owner has indicated that they will complete the cleanup of the property from the property as indicated in the submitted letter.
2. The City Council hereby approves a 30-day extension to correct the violation which expires on March 30, 2022 and directs staff to suspend the enforcement process as outlined in City Code Chapter 104.03.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA
this 28th day of February, 2022.

Jennifer Labadie, Mayor

ATTEST:

Sandie Thone, City Clerk



City of Shorewood Council Meeting Item

7C

MEETING TYPE
Regular Meeting

Title / Subject: Dock Variances

Location: 5510 Howards Point Road
Applicant: Jennifer and David Labadie

Meeting Date: February 28, 2022
Prepared by: Kendra Lindahl, Consulting City Planner

Review Deadline: March 23, 2022

Attachments: Planning Memorandum from the February 15, 2022 Meeting
Correspondence Received
Resolution

Background: See attached planning memorandum for detailed background on this request.

The application includes three variance requests:

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).

At the February 21, 2022 meeting, the Planning Commission voted 4-0 to recommend approval of both variances. The Chair clarified that approval of the variance will allow the dock to remain in the current configuration, but not to be expanded or enlarged.

In addition to the applicant, there were nine residents who spoke on this item. Five residents spoke in opposition to the request and four residents spoke in favor of the request. Additionally, there were 12 letters and emails that were submitted after the packet went out and were sent to the Planning Commission in advance of the meeting. Those letters and emails were entered into the public record.

Following the Planning Commission meeting additional comments were received. All comments received prior to distribution of this packet are attached.

There were a number of comments that were unrelated to the variance request. Several people stated that they did not think the application met the variance standards, that the site should be brought into compliance and the variance should be denied. Several others noted that the dock has been in place for years, that it should be grandfathered in and the variance approved.

The City Attorney noted that the applicant did make an assertion that the dock is a legal non-conforming structure ("grandfathered") in the application for the variances; however, that argument would be part of an administrative appeal to the nuisance violation notice that triggered the application. The applicant did not appeal the notice within the timeline required

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.*

by Section 104.03 of the City Code and instead chose to try to resolve the complaint through the variance application.

Financial or Budget Considerations: The application fees are adequate to cover the cost of processing the request.

Recommendation / Action Requested: Staff and the Planning Commission recommend approval of the variance request. A resolution with findings is attached reflecting the discussion and consistent with the decision of the Planning Commission. The Commission wanted to be clear that no expansion is permitted. Staff has included a condition that a survey of the existing conditions be submitted to the City within six months of the date of approval to memorialize the approval conditions.

Proposed motion: Move to adopt the attached resolution approving a variance for C Jennifer and David Labadie for property located at 5510 Howards Point Road based on the findings in the attached resolution.

Any action on this request would require a simple majority.

Next Steps and Timelines: If the item is approved, the code violation complaint would be resolved, as a variance grant would render the dock in conformity with City Code.



CITY OF
SHOREWOOD

5A

5755 COUNTRY CLUB ROAD, SHOREWOOD, MINNESOTA 55331-8927 • 952.960.7900
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us

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.

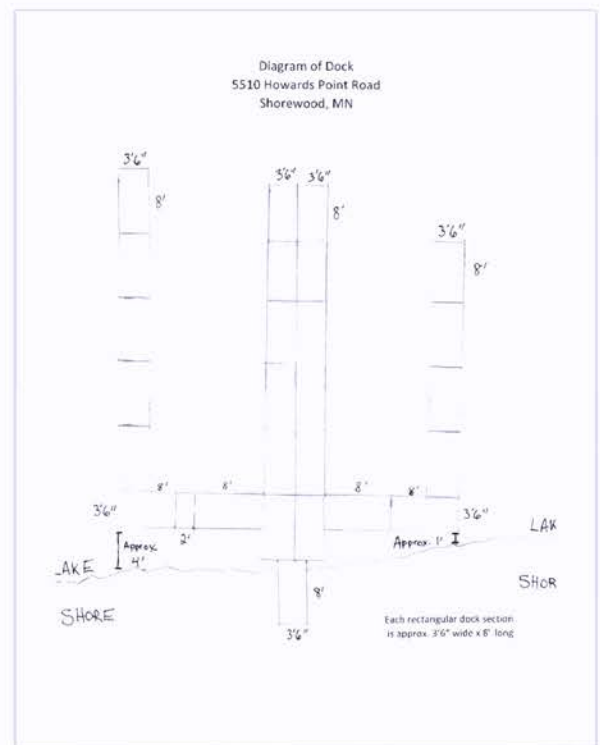


Figure 1 - Existing Dock

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

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 the 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 shoreline, 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 statues 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.

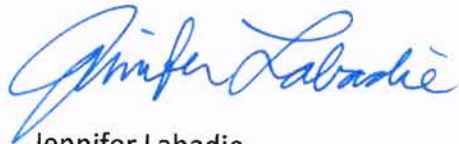
Further, the Applicants have shown that denying the variance and requiring Applicants to move the dock further into the lagoon will have a negative impact on the essential character of the neighborhood. On the other hand, granting the Applicants' variance and allowing the Applicants to simply leave the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

A handwritten signature in blue ink that reads "David Labadie". The signature is written in a cursive style with a large initial "D".

David Labadie
5510 Howards Point Road
Shorewood, MN 55331

A handwritten signature in blue ink that reads "Jennifer Labadie". The signature is written in a cursive style with a large initial "J".

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.



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

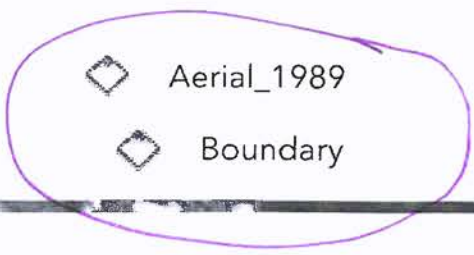
Historic Aerial Photography - 1988 (MP)

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

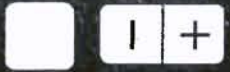
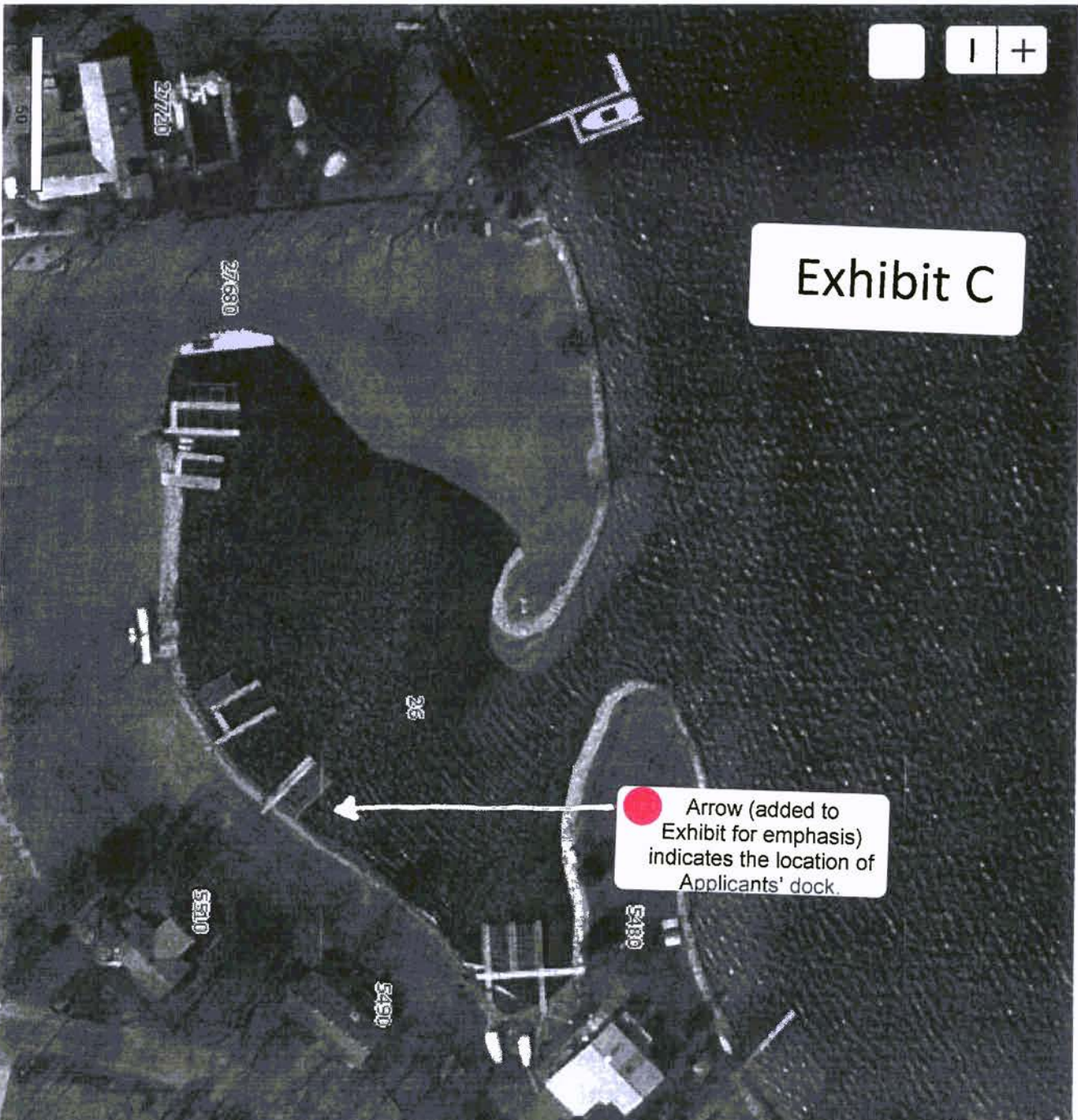


Exhibit C

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



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


Hybrid Basemap 2002 Imagery

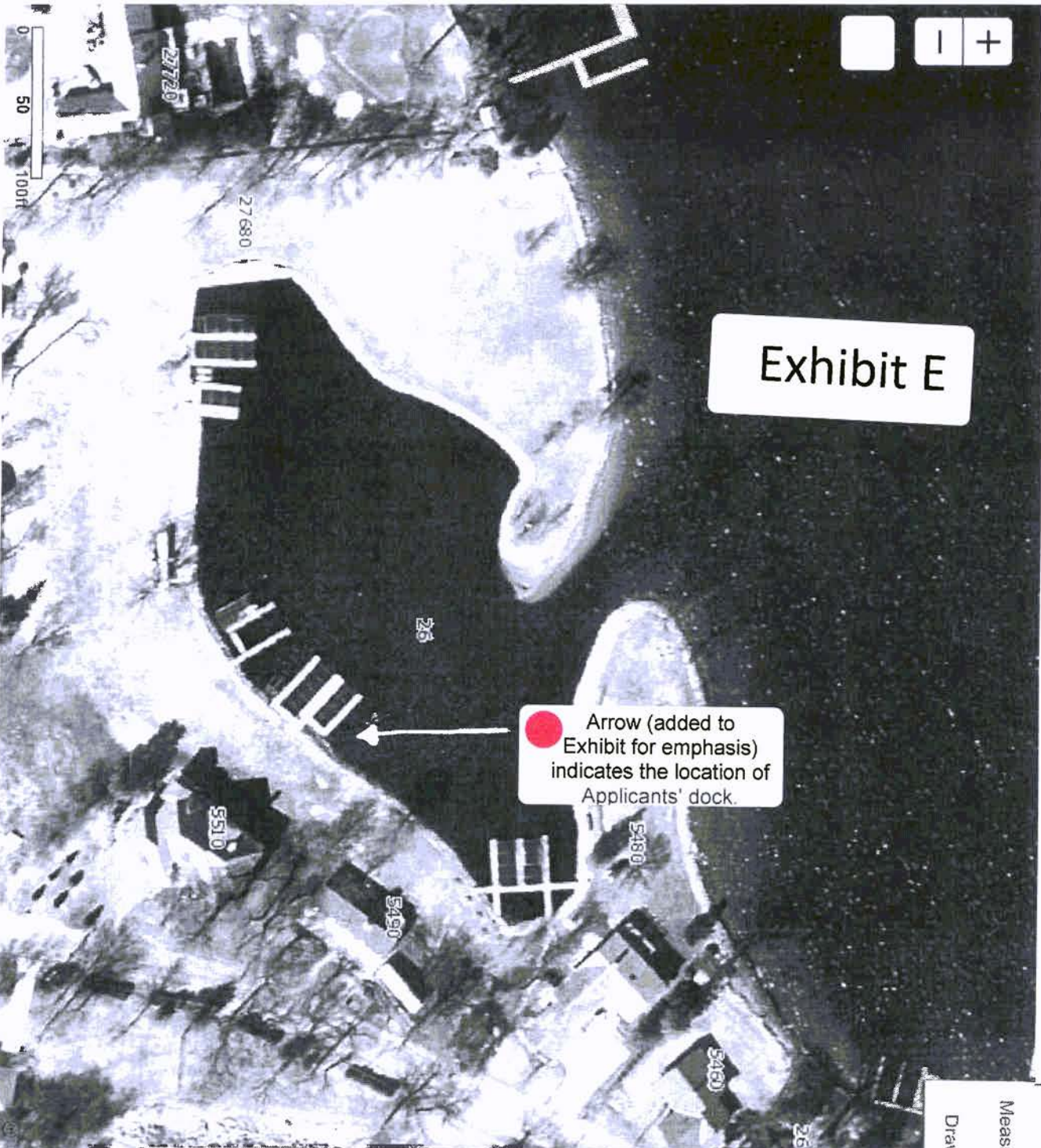
- Map layers ?**
- House Number
 - Parcel Annotation
 - Survey Monuments
 - Survey Grid
 - Abstract/Torrens/Both
 - Market Value Asmt Yr 2020
 - Market Value Asmt Yr 2021
 - Recently Sold
 - Surveyed Properties

address or a property ID (PID) Search help



Exhibit E

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



Tools

Legend

Print

Share

Help

Measure

Draw



Map layers

Basemaps

Road Hybrid ?

Imagery

Select a year

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

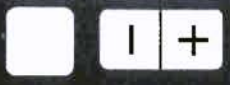
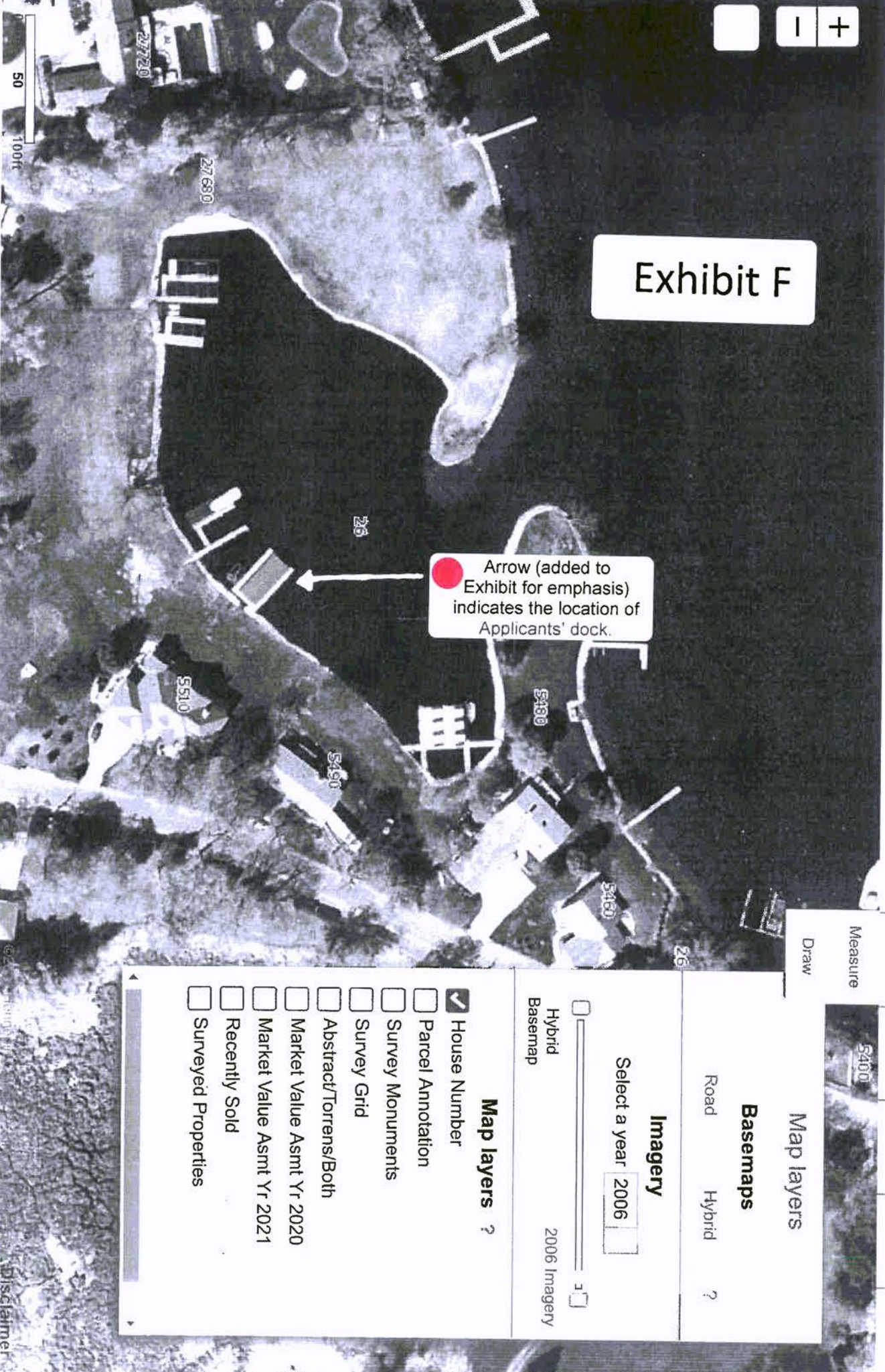


Exhibit F

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



Tools Legend Print Share Help

Measure Draw

5400

Map layers

Basemaps Road Hybrid ?

Imagery

Select a year 2006

Hybrid Basemap 2006 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

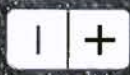
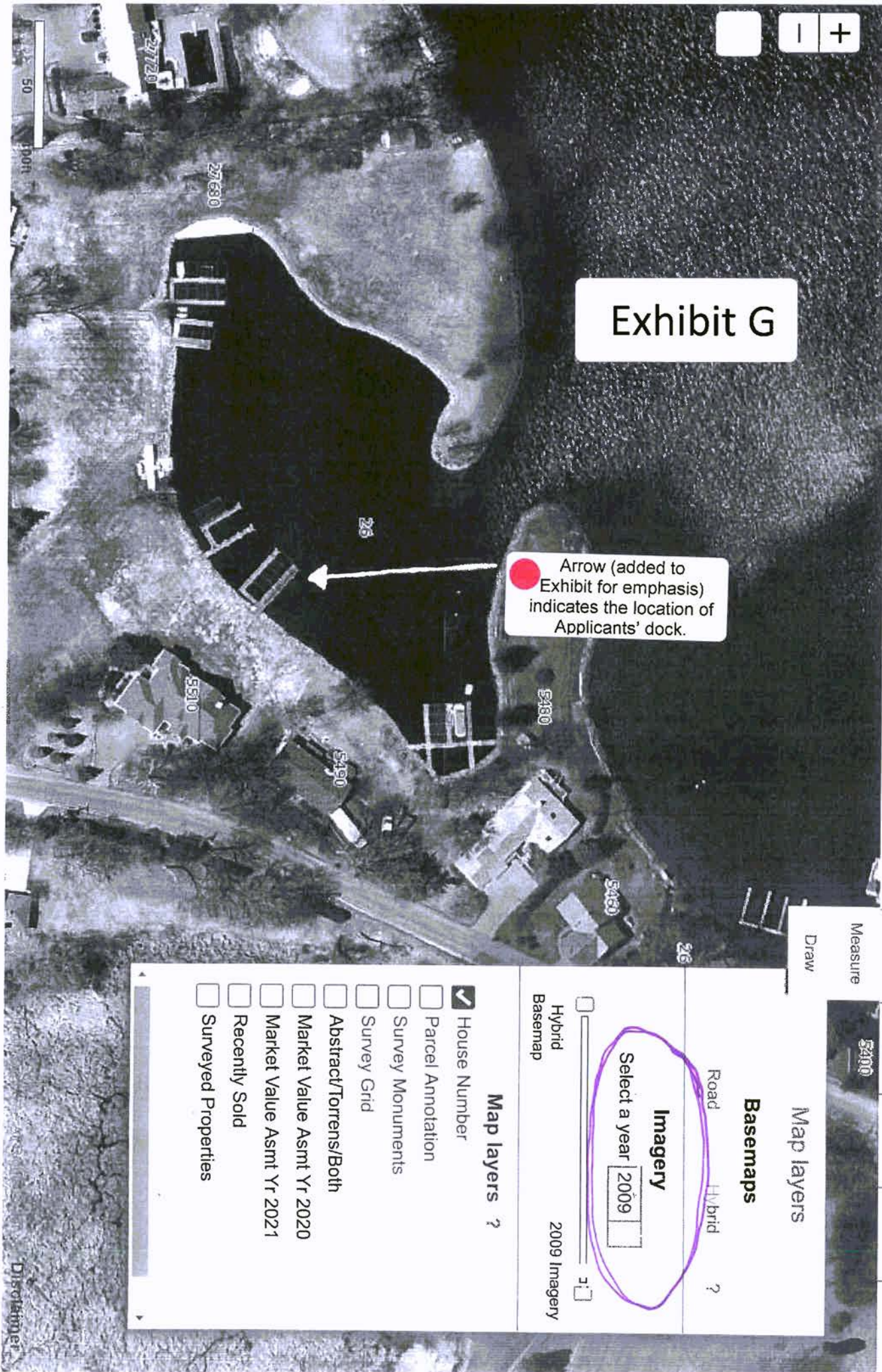


Exhibit G

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 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

Measure

Draw

Legend

Print

Share

Help

5400

Map layers

Basemaps

Road Hybrid ?

Imagery

Select a year 2012

Hybrid Basemap 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 Legend Print Share Help

Measure

Draw



Map layers

Basemaps

Road Hybrid ?

Imagery

Select a year 2015

Hybrid Basemap 2015 Imagery

Map layers ?

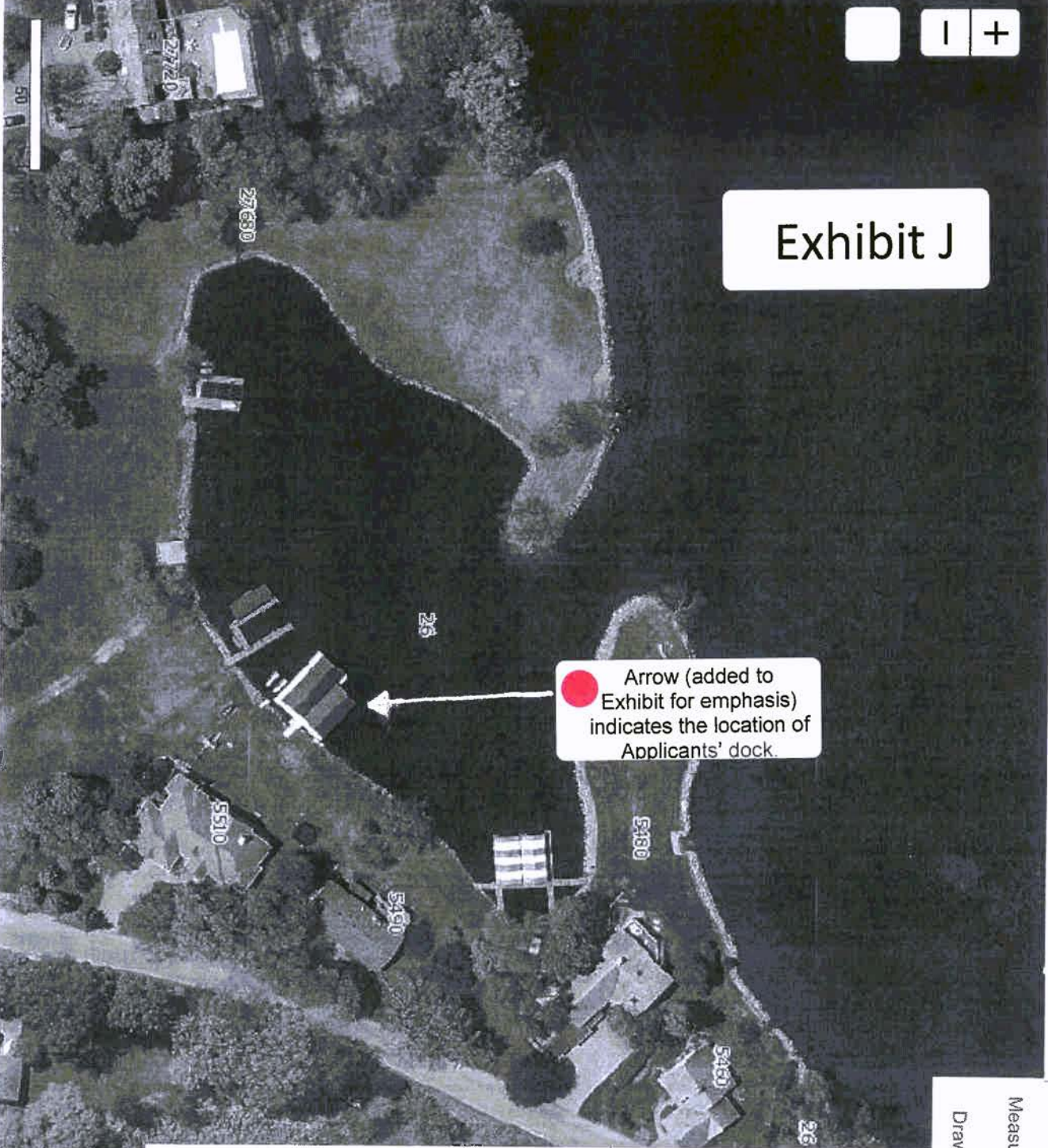
- House Number
- Parcel Annotation
- Survey Monuments
- Survey Grid
- Abstract/Torrens/Both
- Market Value Asmt Yr 2020
- Market Value Asmt Yr 2021
- Recently Sold
- Surveyed Properties

Address or a property ID (PID) Search help



Exhibit J

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



Tools Legend Print Share Help

Measure Draw

5400

Map layers

Basemaps

Road Hybrid ?

Imagery

Select a year [2018]

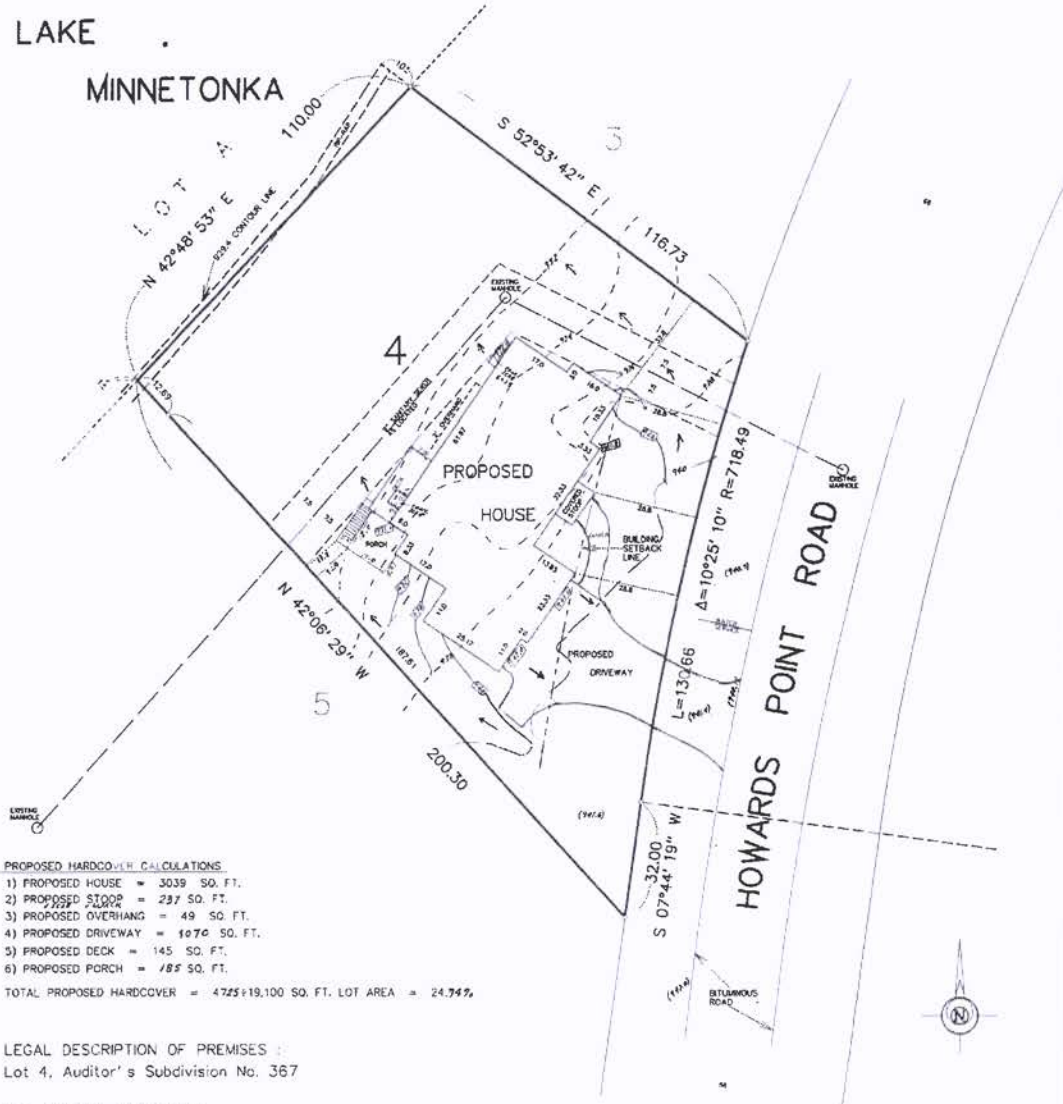
Hybrid Basemap 2018 Imagery

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

CERTIFICATE OF SURVEY FOR
LAUER HOMES, INC.
 OF LOT 4, AUD. SUB. NO. 367
 HENNEPIN COUNTY, MINNESOTA

LAKE
 MINNETONKA



PROPOSED HARDCOVER CALCULATIONS

- 1) PROPOSED HOUSE = 3039 SQ. FT.
 - 2) PROPOSED SIDOP = 237 SQ. FT.
 - 3) PROPOSED OVERHANG = 49 SQ. FT.
 - 4) PROPOSED DRIVEWAY = 1070 SQ. FT.
 - 5) PROPOSED DECK = 145 SQ. FT.
 - 6) PROPOSED PORCH = 185 SQ. FT.
- TOTAL PROPOSED HARDCOVER = 4725±19.100 SQ. FT. LOT AREA = 24,745±

LEGAL DESCRIPTION OF PREMISES :
 Lot 4, Auditor's Subdivision No. 367

o denotes iron marker

Bearings shown are based upon an assumed datum.

This survey intends to show the boundaries of the above described property, and the proposed location of a proposed house thereon. It does not purport to show any other improvements or encroachments.

PROPOSED ELEVATIONS

- 1) GARAGE = 927.0
- 2) TOP OF FOUNDATION = 942.3
- 3) BASEMENT = 928.5

REVISION	DATE	DESCRIPTION	BY
1	2-22-01	HOUSE MOVED TO FIT COVERED STOOP WALK SETBACK	ECD
2	2-28-01	REVISED DRIVE WALKWAY PRICES	
3	3-21-01	REVISED DRIVE WALKWAY PRICES	

COFFIN & GRONBERG, INC.
 CONSULTING ENGINEERS, LAND SURVEYORS, SITE PLANNERS
 482 TAMARACK AVENUE, LONG LAKE, MN. 55356
 612-473-4141

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER AND LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Mark J. Coffin
 DATE 2-21-01 MN LICENSE NUMBER 11755

SCALE
 1"=20'
 DATE
 2-5-01
 JOB NO.
 01-036

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:

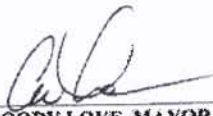
- (1) As part of the annual LMCD license review, the owner of the dock must demonstrate to the City that all boats stored at the dock are owned, registered and operated by the residents of the property on which the dock is located.
- (2) As part of the annual LMCD license review, the owner of the dock 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 satisfactorily 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 27th day of November, 2006.


WOODY LOVE, MAYOR

ATTEST:



CRAIG W. DAWSON, CITY ADMINISTRATOR/CLERK

Exhibit L

WATERFRONT SPECIALTIES INC

November 22nd, 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."



2115
Arboretum Blvd
Victoria, MN
55386

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



2115
Arboretum Blvd
Victoria, MN
55386

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

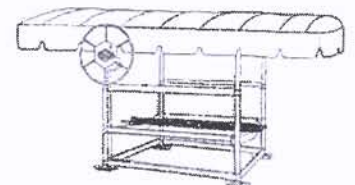
The lagoon does not have a hard packed bottom. As you move further from the lagoon shoreline, the bottom of the lagoon becomes progressively softer. I believe that the applicants' dock was intentionally installed closer to the lagoon shoreline decades ago due to the extremely soft and muddy bottom of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



Paul Jeurissen
Owner of Serv-a-Dock



STATE OF MINNESOTA
 DEPARTMENT OF NATURAL RESOURCES

5-0 1000 14 11

SEP 1989
 FILE COPY

SCANNED

PHONE NO.

METRO REGION WATERS - 1200 WARNER ROAD, ST. PAUL, MN 55106 FILE NO. 296-7523

SCANNED

DNR PROTECTED WATERS PERMIT APPLICATION NUMBER 90-6065
 REQUEST FOR REVIEW AND COMMENTS

DATE: 8/31/89

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

AFM - B. Gilkerson
 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)**



13-0061

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.) **Ken L. Hall** Authorized Agent (if applicable) **MARINE ENVIRONMENTAL SERVICES** Telephone Number & area code **(612) 474-5878**
Address (Street, RFD, Box Number, City, State, Zip Code) **5510 Howards Point Road Shorewood, MN 55331**

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
	NE 1/4 NE 1/4	31	117	23	

Fire No., Box No. or Project Address **5510 Howards Point Road** County **Henn.** Project will affect Lake, Wetland or Watercourse, (name & number, if known) **Upper Lake Lake Area.**

III. TYPE OF WORK PROPOSED (CHECK ONE) IV. TYPE OF PROJECT (CHECK ONE)

<input checked="" type="checkbox"/> excavate	<input type="checkbox"/> repair	<input checked="" type="checkbox"/> shoreline	<input type="checkbox"/> shore-protection	<input type="checkbox"/> obstruction	<input type="checkbox"/> dam
<input type="checkbox"/> fill	<input type="checkbox"/> remove	<input type="checkbox"/> channel	<input type="checkbox"/> harbor	<input type="checkbox"/> bridge	<input type="checkbox"/> other
<input type="checkbox"/> drain	<input type="checkbox"/> abandon	<input type="checkbox"/> sand blanket	<input type="checkbox"/> permanent dock	<input type="checkbox"/> culvert	(specify)
<input type="checkbox"/> construct	<input type="checkbox"/> other (specify)	<input type="checkbox"/> riprap	<input type="checkbox"/> wharf		
<input type="checkbox"/> install					

V. ESTIMATED PROJECT COST \$ **200** VI. LENGTH OF SHORELINE AFFECTED (IN FEET): **1200**

VII. VOLUME OF MATERIAL FILLED OR EXCAVATED (IN CUBIC YARDS): **2,000 CUBIC YARDS**

VIII. BRIEF EXPLANATION OF PROJECT: (EXPLAIN WHAT PROJECT CONSISTS OF AND HOW WORK WILL BE DONE)
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.

IX. PURPOSE OF PROJECT: (Explain why this project is needed)
Homeowner(s) currently do not have navigable access to the lake.

X. ENVIRONMENTAL IMPACT (Anticipated changes to the water and related land resources, including unavoidable but detrimental effects)
Anticipate no changes to the area. Low turbidity due to dredging actions.

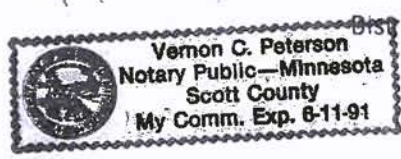
XI. ALTERNATIVES (Other alternatives to the action proposed)
None foreseen.

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

Signature of Owner or Authorized Agent <i>Ken L. Hall</i>	Date <i>12-11-89</i>
Signature of Leasee <i>[Signature]</i>	Date <i>12-11-89</i>

day of April 19 89
My commission expires 6-11-91



Signature of Notary *[Signature]*

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

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 <i>Ken Hall</i>	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)			

40-6065

MARINE ENVIRONMENTAL SERVICES

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

RECEIVED
AUG 29 1989
REGION VI

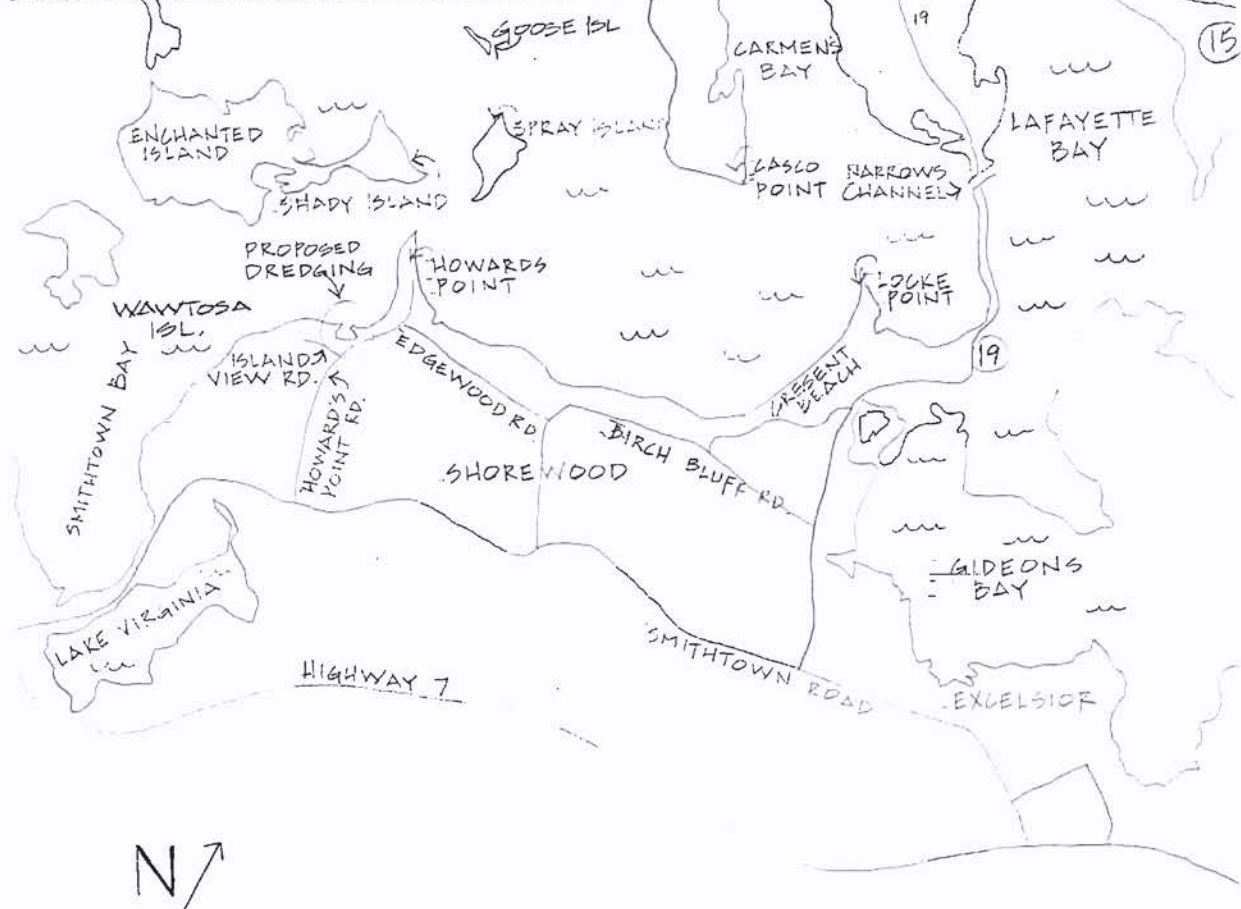
The proposed work on this Lake Minnetonka property will be performed by MARINE ENVIRONMENTAL SERVICES. Operations Manager is Tom Mosher and permit application was completed by JoLynn Mosher. If you have any questions regarding this permit, please call Tom or JoLynn at 874-6386 (answering machine) or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



90-6065

2667380

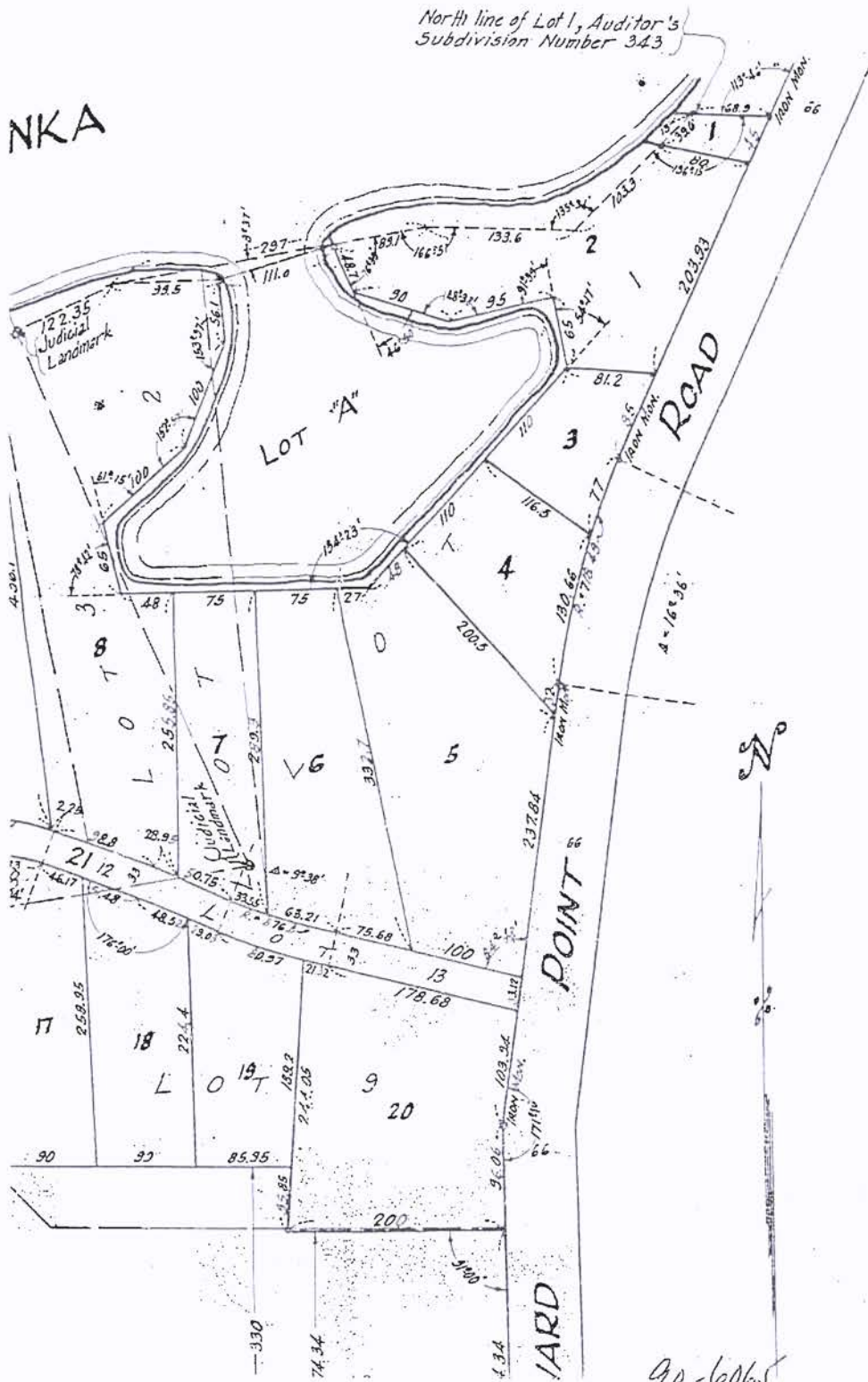
Registered Vol. 406, Pgs. 1248, 2912, 4843
478 Pgs. 1146, 500
388 Pgs. 119, 299

SUBDIVISION NUMBER 367

NEPIN COUNTY, MINNESOTA

EGAN, FIELD & NOWAK
Engineers & Surveyors

December, 1949



North line of Lot 1, Auditor's
Subdivision Number 343

NKA

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

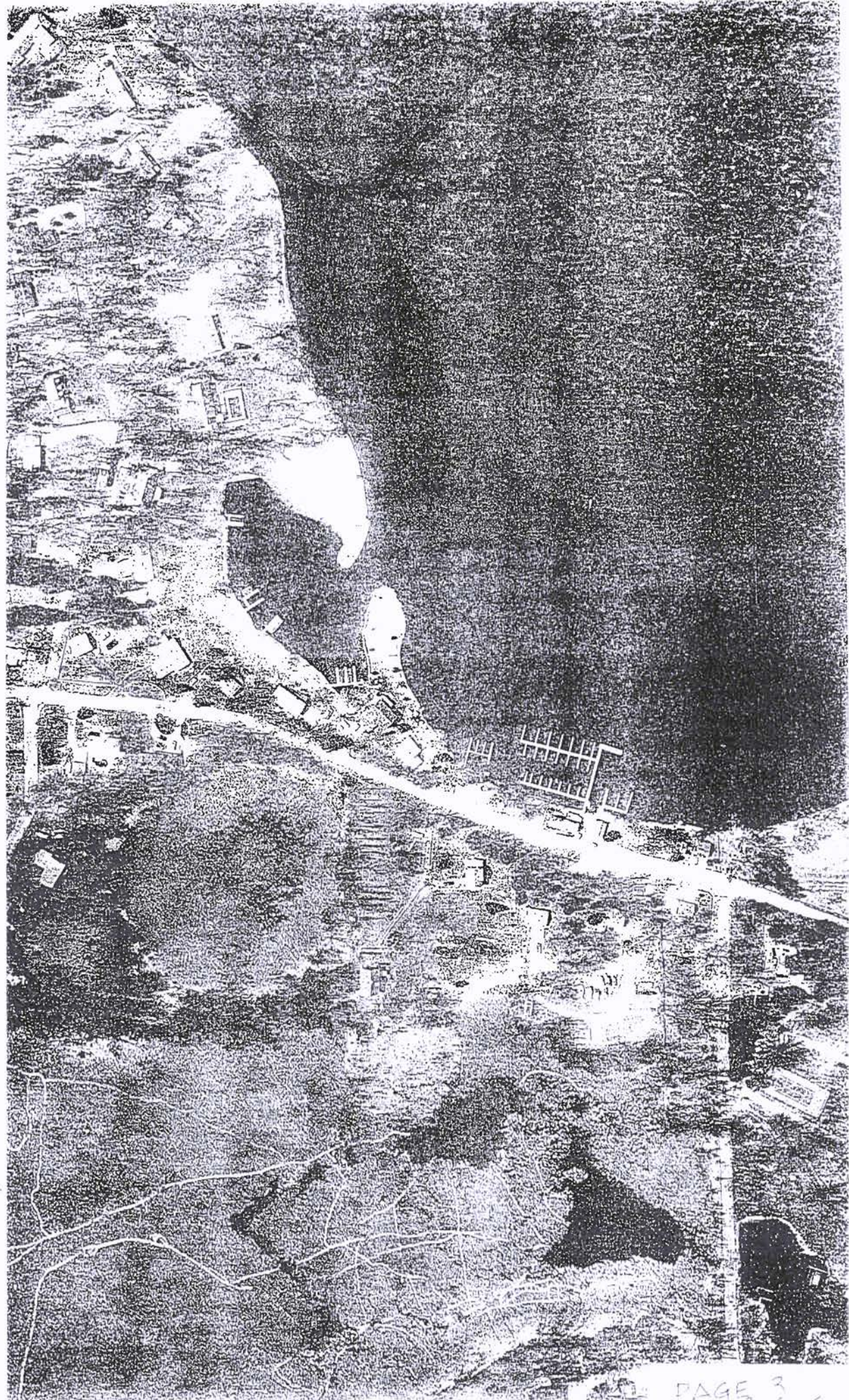
Above certifica
January

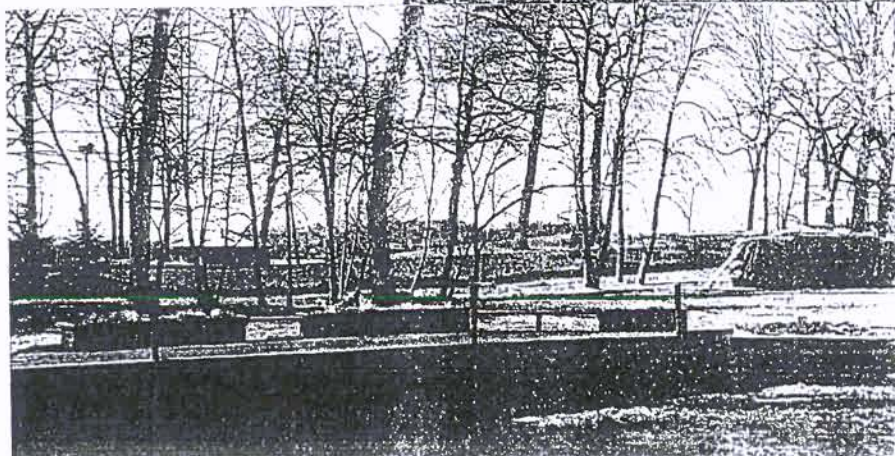
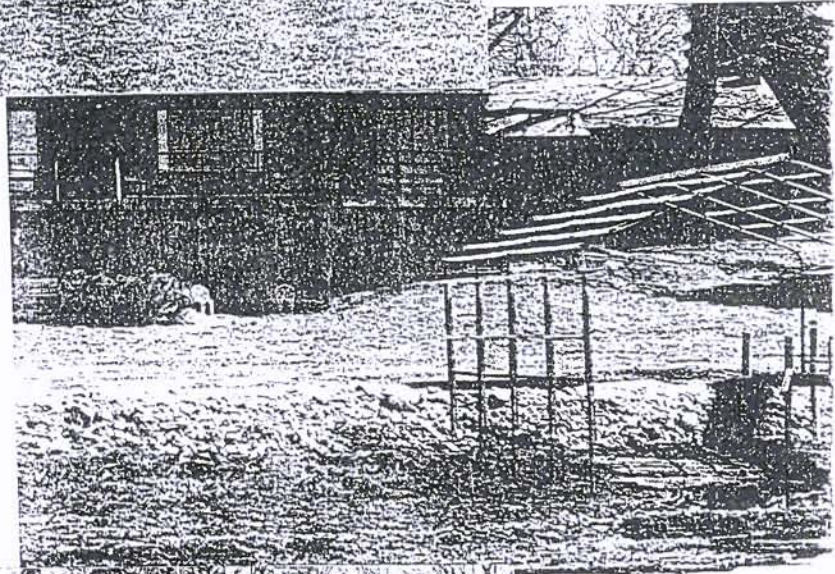
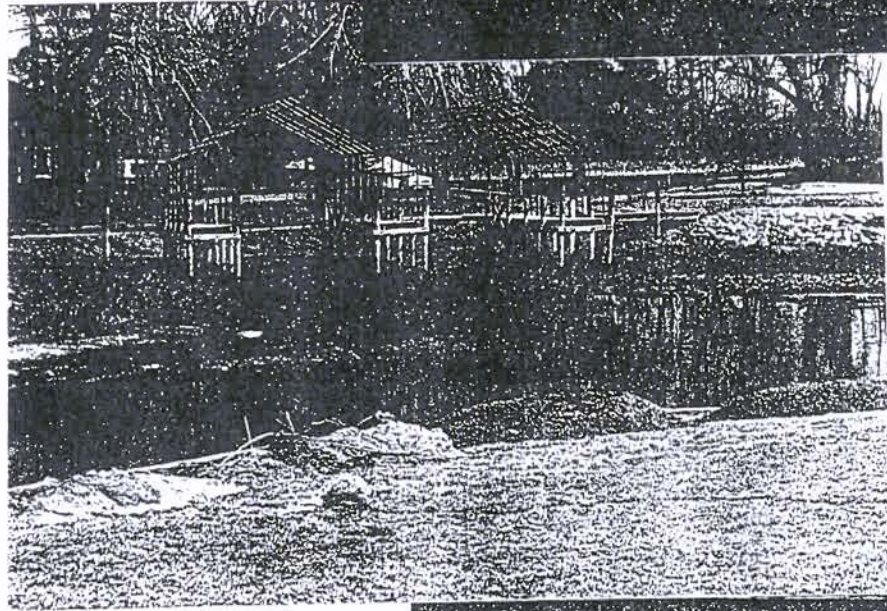
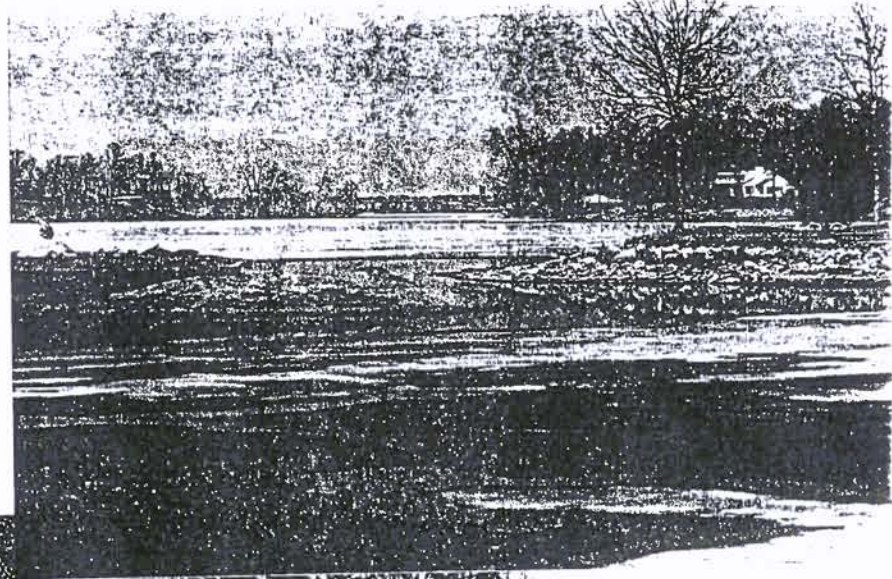
I, Robert F. Fitz
hereby certify th
certificate of the
reasonable time
of said land hav
caused the sam
and same to be
County, Minnaso

Dated *January*

90-6065

DNLF 7





PHOTOS
TAKEN
4.89

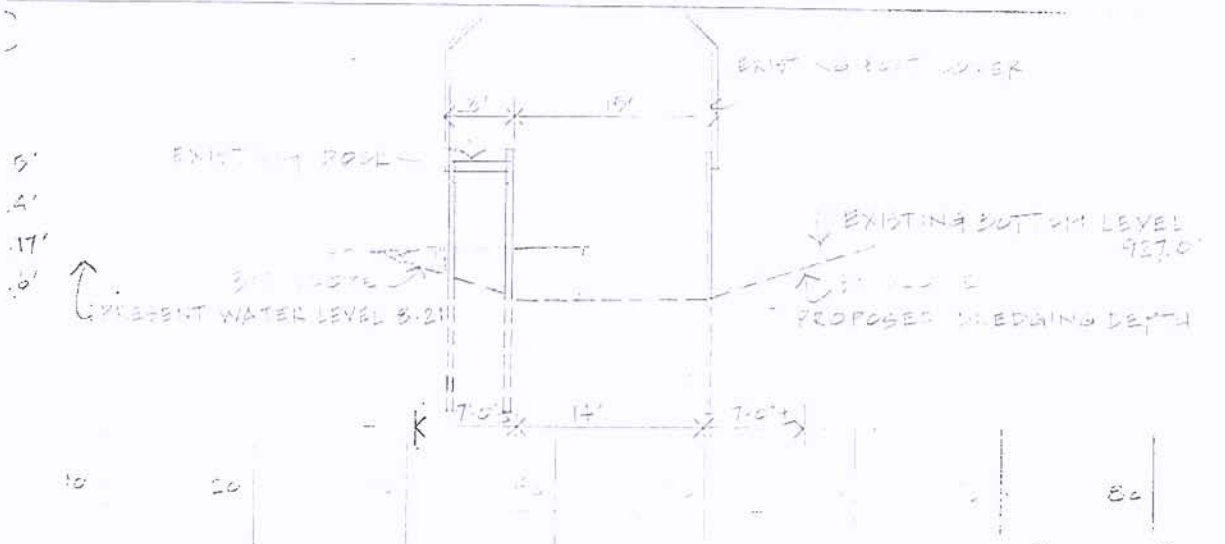
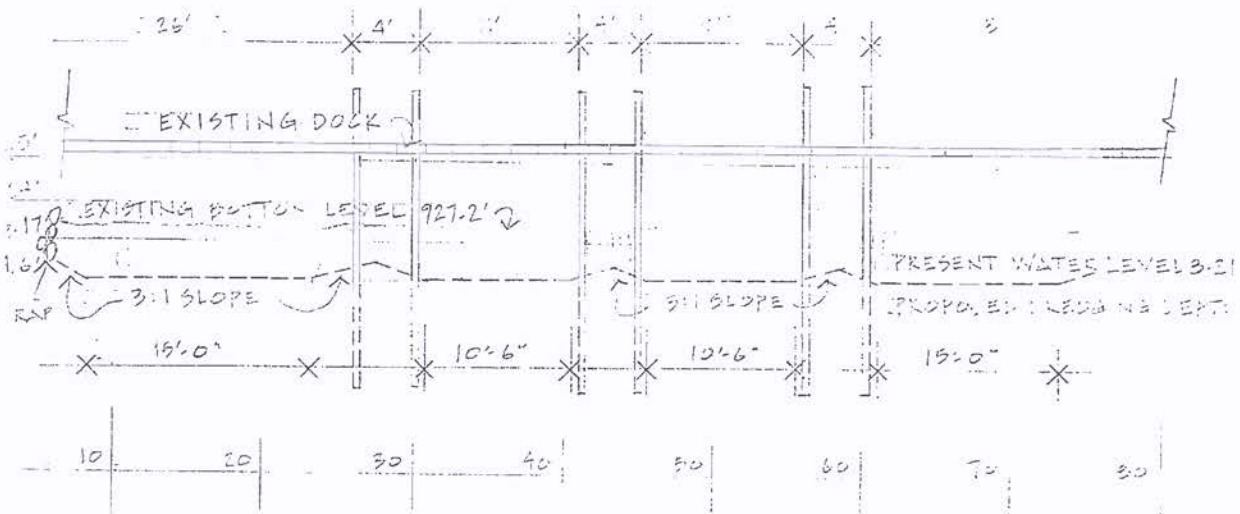
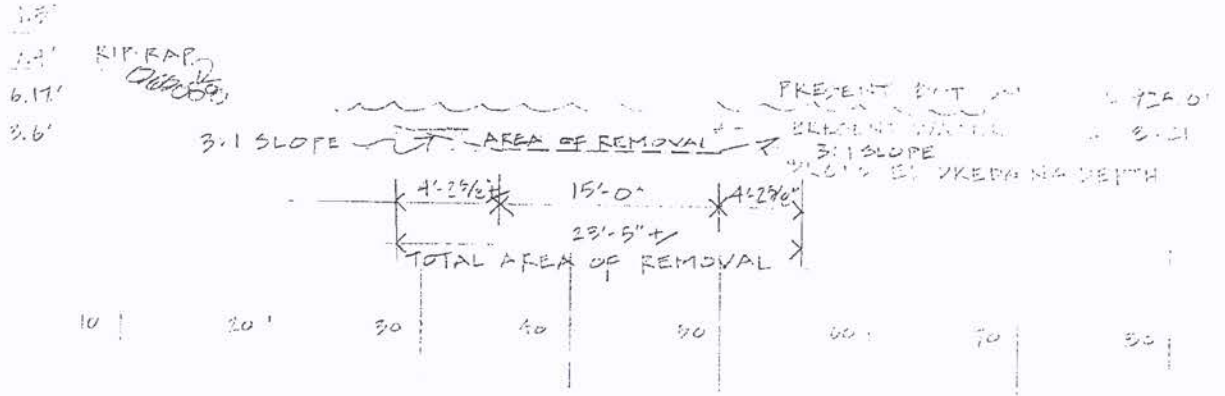
90-6065

D.I.C. A

KEN HALL - DREDGING

CROSS SECTION DETAIL

SCALE: 1" = 10'-0"

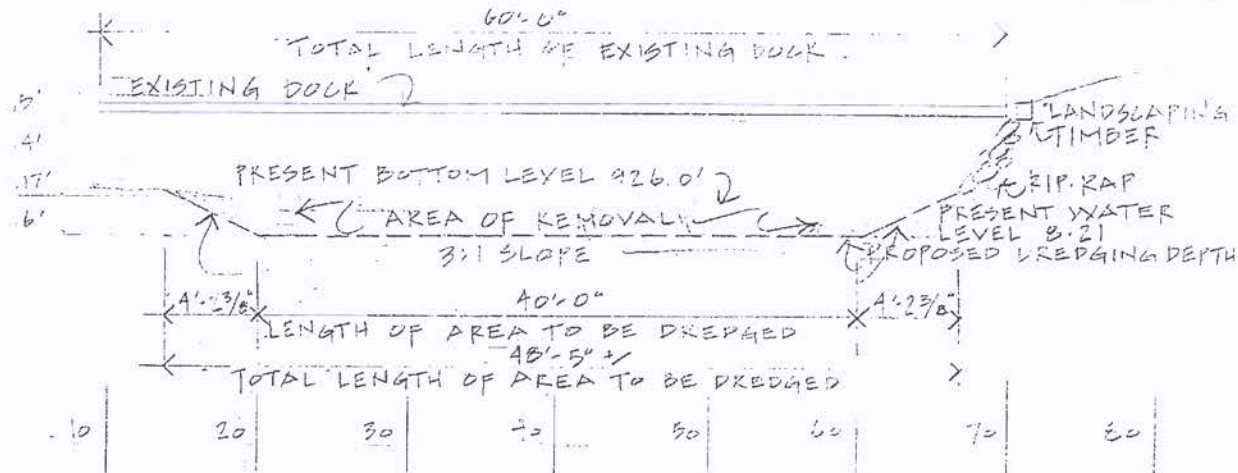
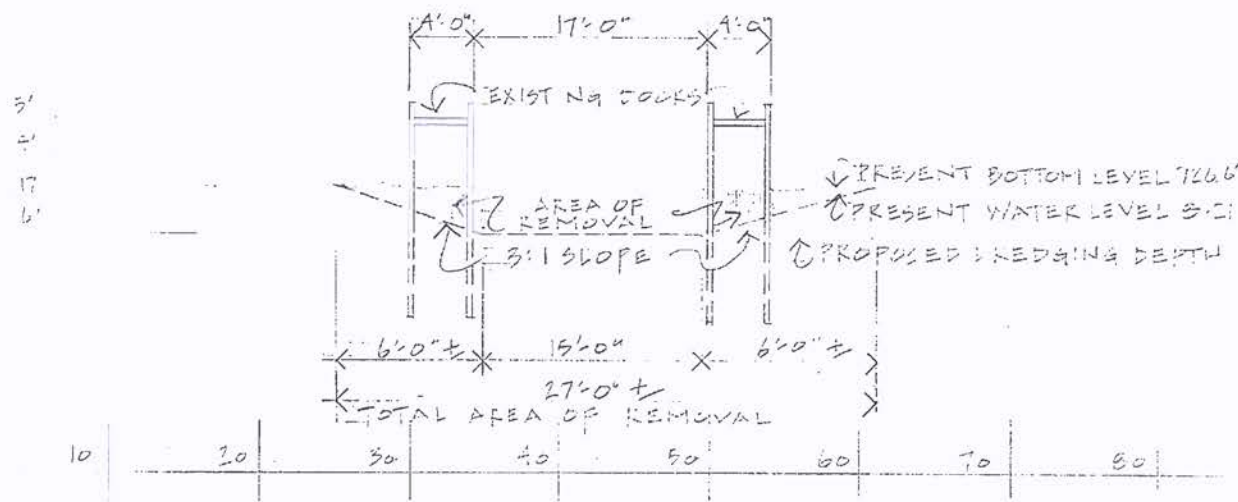
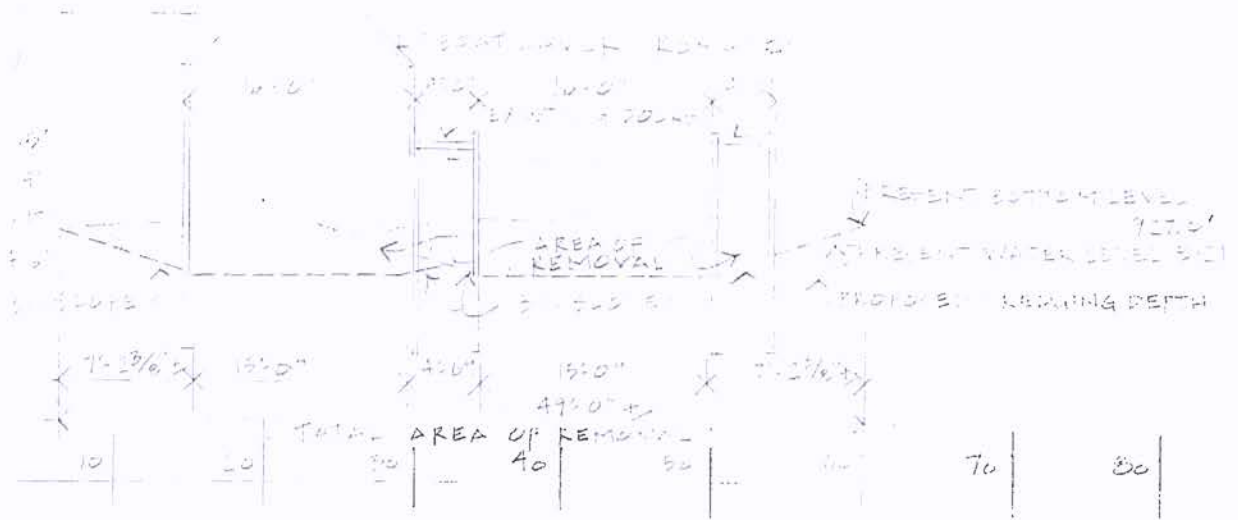


90-6065

KEN HALL - DREDGING

CROSS SECTION DETAILS

SCALE 1" = 2'-0"



90-6065

PAGE 7

KEN HALL - DREDGING

CHANNEL TOP VIEW

SCALE: 1" = 50'



LEGEND	
NORMAL URINARY HIGH WATER LEVEL	---
PROPOSED DREDGING AREA	---
OWL TREE SCULPTURE	↑
LANDSCAPING TIMBERS	

KEN HALL - DREDGING

CROSS-SECTION DETAILS

SCALE: 1" = 10' 0"

G

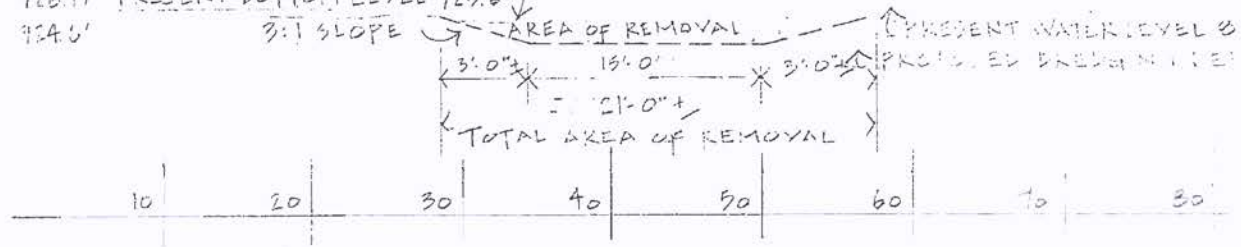
ACCESS FOR ULTRA-LIGHT

931.5'

929.4'

926.17' PRESENT BOTTOM LEVEL 925.6'

924.0'



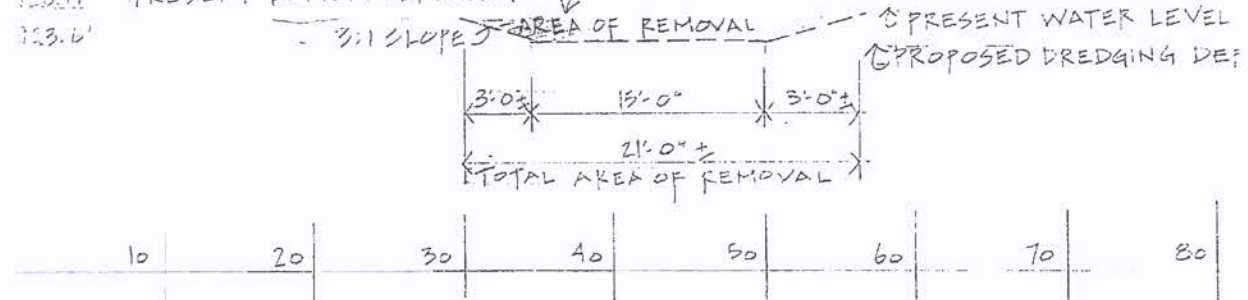
H

931.5'

929.4'

926.17' PRESENT BOTTOM DEPTH 924.0'

923.6'

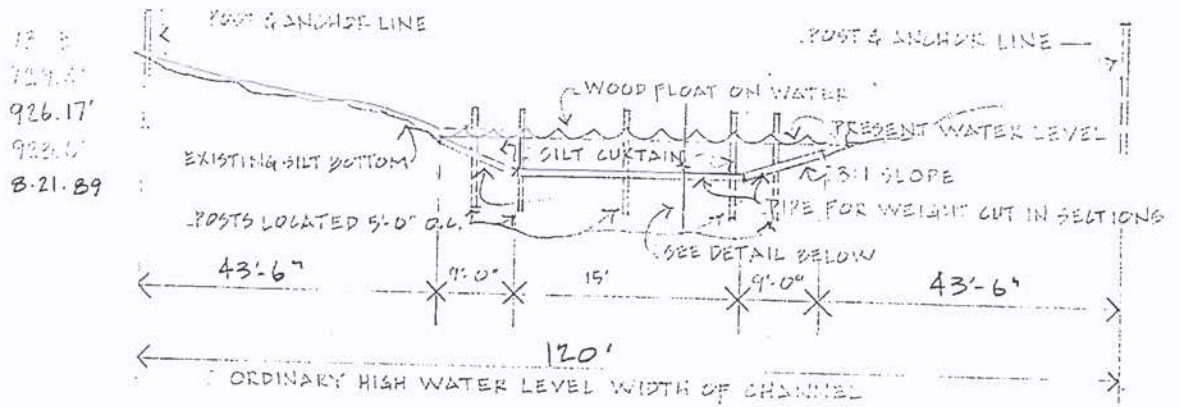


90-6065

KEN HALL - DREDGING

SILT CURTAIN DETAIL

SCALE: NOT TO SCALE



SILT CURTAIN CROSS-SECTION

SCALE: 1" = 1'-0"

AUGUST 21, 1989

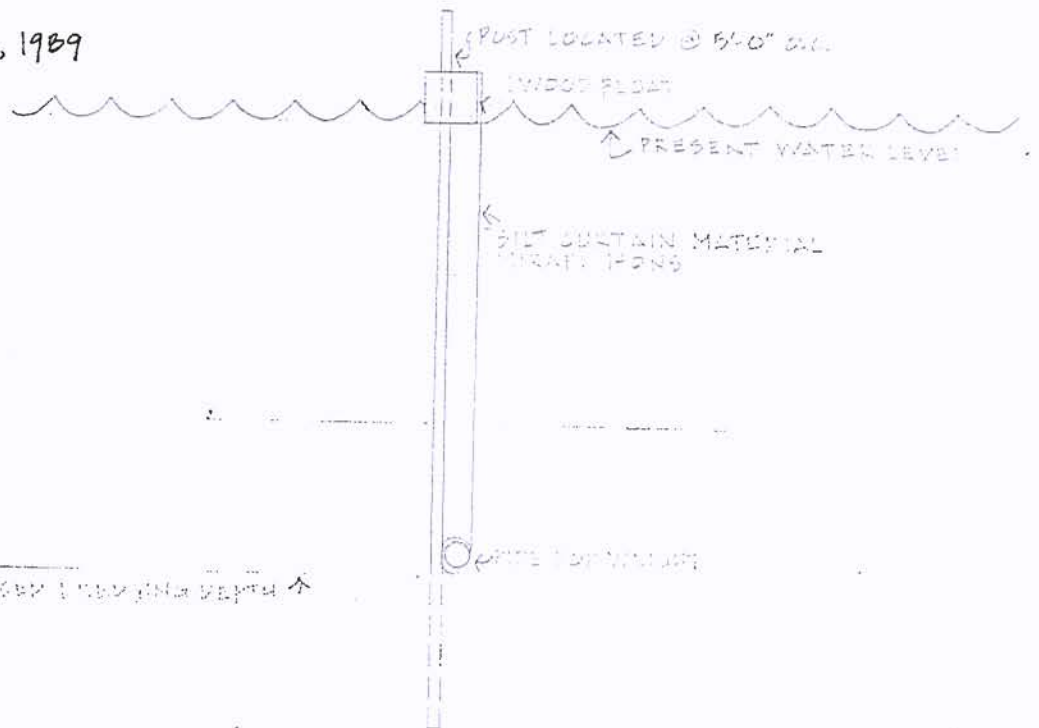
926.17'

922.6'

924.5'

928.6'

PROPOSED DREDGING DEPTH

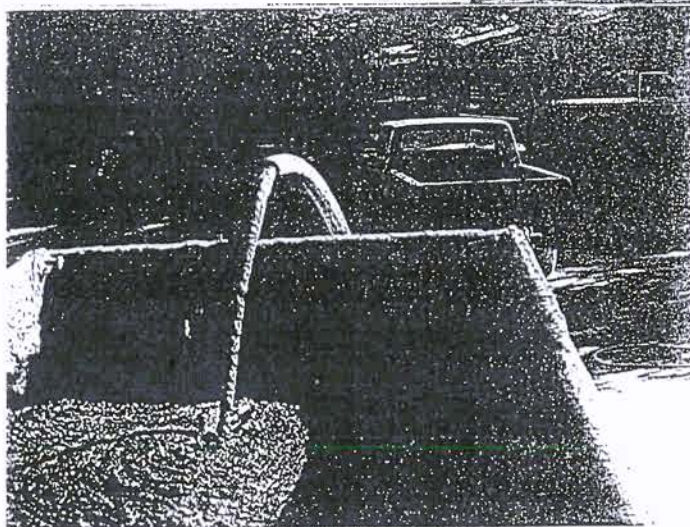
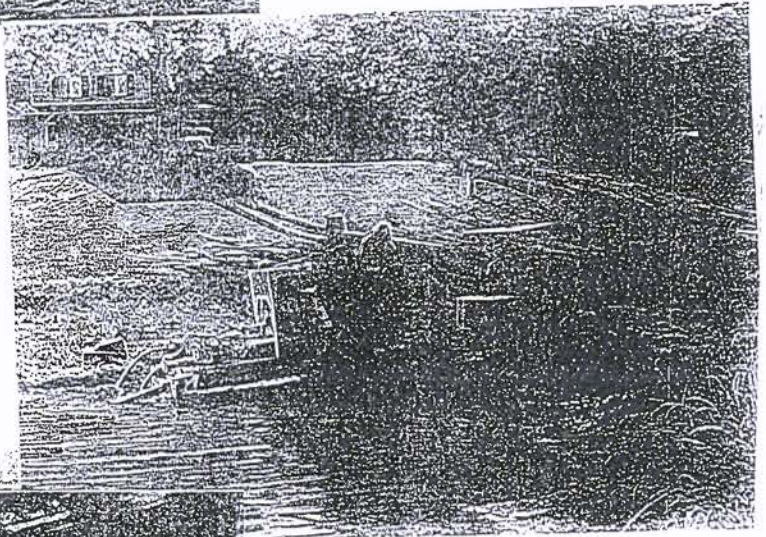
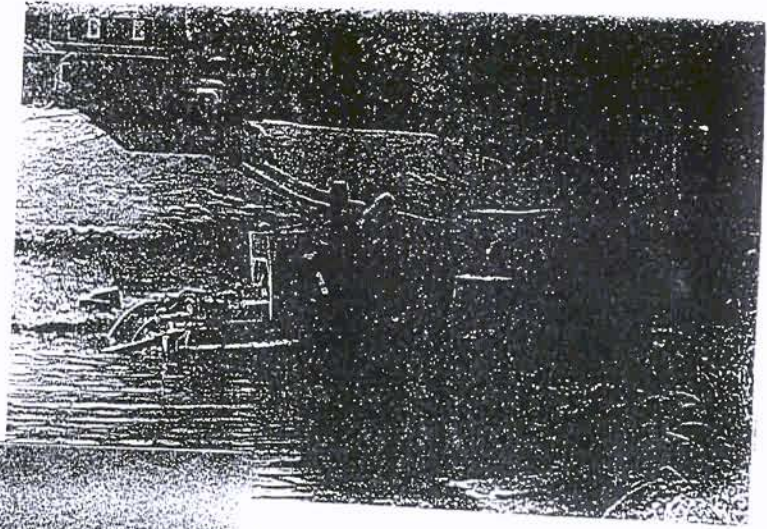


90-6065

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	2500		312.5	
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		182.30	
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.
prop. files

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

*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*



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.) HALL, KEN		Authorized Agent (if applicable) MINNETONKA METAL WORKS		Telephone Number & area code () 474 7454	
Address (Street, RFD, Box Number, City, State, Zip Code) 5510 HOWARDS POINT ROAD EXCELSIOR, MN 55331					
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
	NW 1/4	31	111	23	SUBD 367 LOT 4
Fire No., Box No. or Project Address 5510 HOWARDS POINT ROAD		County HELINEAN		Project will affect <input checked="" type="checkbox"/> Lake, <input type="checkbox"/> Wetland or <input type="checkbox"/> Watercourse (name & number if known) 07-133P LE NITE+	
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): 50		
VII. VOLUME OF MATERIAL FILLED OR EXCAVATED (IN CUBIC YARDS): 90					
VIII. BRIEF EXPLANATION OF PROJECT: (EXPLAIN WHAT PROJECT CONSISTS OF AND HOW WORK WILL BE DONE) DREDGING TO REMOVE 90 CUBIC YARDS OF SILT TO A BOTTOM DEPTH OF 7254. SPOIL TO BE REMOVED FROM SITE BY BARGE.					
IX. PURPOSE OF PROJECT: (Explain why this project is needed) IMPROVE NAVIGATIONAL ACCESS AND PROVIDE ADEQUATE SPACE FOR TURNING & TRANSIENT MOORING.					
X. ENVIRONMENTAL IMPACT (Anticipated changes to the water and related land resources, including unavoidable but detrimental effects) SHORT TERM TURBIDITY CAUSED BY THE DREDGING ACTIVITY.					
XI. ALTERNATIVES (Other alternatives to the action proposed) LONG TERM TURBIDITY CAUSED BY PROP WASH.					

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 Wabasha
Subscribed and sworn to before me this

Signature of Owner or Authorized Agent [Signature]	Date 6/6/85
Signature of Lessee	Date

6 day of June 1985
My commission expires 3-31-87

Signature of Notary
[Signature]

- 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.

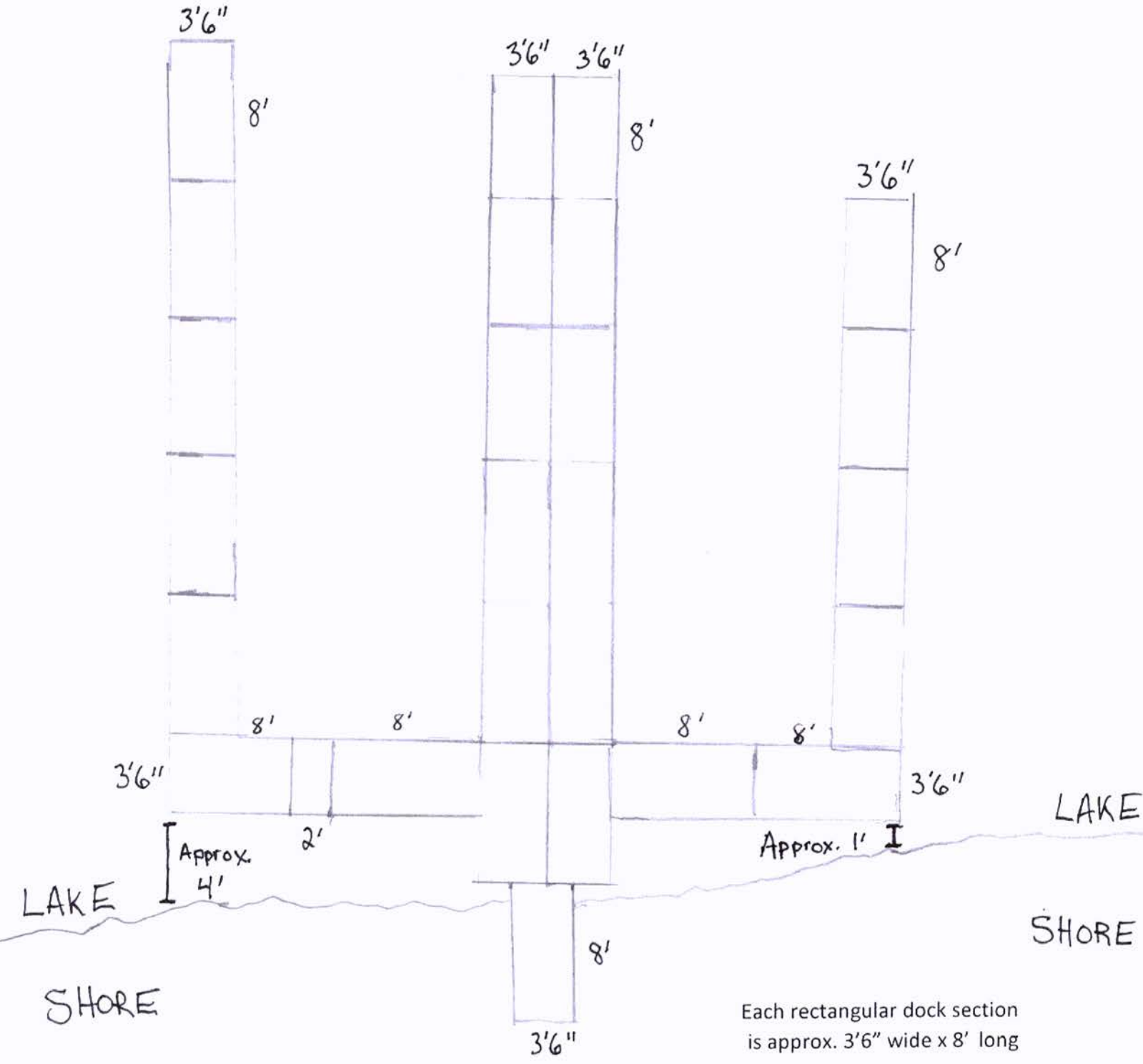
* There a far more neighbors on our street that share in the gratitude of having a smart, highly motivated woman leading a council and doing great things for Shorewood.

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



Date: 1989

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

Comments: 1989

1 inch = 200 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Date: 2000

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

Comments: 2000

1 inch = 100 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Date: 2002

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

Comments: 2002

1 inch = 100 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Date: 2004

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

Comments: 2004

1 inch = 100 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Date: 2012

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

Comments: 2012 aerial

1 inch = 100 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Date: 2020

Hennepin County Natural Resources Map Date: 1/17/2022

PID: 3111723110006
Address: 5510 Howards Point Rd.
Shorewood 55331
Owner: O Labadie & J Labadie
Acres: 0.44

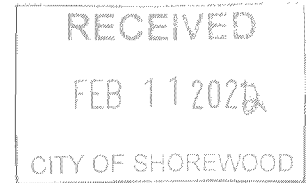
Comments: 2020 aerial

1 inch = 100 feet

This data is a furnished Aerial Image with no representation as to completeness or accuracy. It is furnished with no warranty of any kind, and it is not suitable for legal purposes or as a basis for any action.

Marie Darling

From: Dave Polley <dmpolley@gmail.com>
Sent: Thursday, February 10, 2022 8:19 PM
To: Jennifer Labadie; Paula Callies; Patrick Johnson; Nathaniel Gorham
Cc: Marie Darling
Subject: CAMERON & SANSCHAGRIN LITIGATION



February 10, 2022

To: Shorewood Planning Commission and City Council
Re: Litigation against the Cameron and Sanschagrin families.

My wife and I have been Shorewood residents since 1977. I was an owner of Howards Point Marina from 1978 until we sold it in 2018 so I have had many meetings with the various entities that claim the power to control the lake. Never in all those years have I encountered a Shorewood City Council whose behavior was as corrupt and wasted as much taxpayer money as this current Mayor and Council. The way this Council has treated the Cameron and Sanschagrin families is 1000% unacceptable under any possible rational reasoning. My wife and I stand behind our neighbors 100%. We have deeded access to the lot that my neighbors own, and it has always been our understanding that the owner of that lot could install a dock.

Only people who are "obsessed with their new power" as elected government officials. would act like the current Mayor and Council members. They behave as if there will be no consequences for their abuse of power. Power that should be used to help people, but instead is used to create problems for Shorewood's residents. This Mayor uses her newfound power to intimidate and bully and create problems where the issue has zero negative effect on any other person and is allowed in other Lake Minnetonka cities. This conduct is just reprehensible and needs to stop!

This Mayor is compounding her abuse of power by requesting special treatment by applying for a variance for her illegal docks, while continuing to lead the ridiculous, appalling abuse of our neighbors. Before August 9th, 2021 I had NEVER attended a City Council meeting where I had seen residents so upset. Some people, to the point of screaming insults directed at the Mayor and the City Council over the Cameron and Sanschagrin debacle and other lake issues.

This Council's ultra-aggressive litigation being conducted against my neighbors should be dropped immediately and they should be reimbursed by the city for the money they have wasted fighting this charade plus granted additional money for all the stress, time, "pain & suffering" they have been put through by this Mayor and this City Council.

If this Mayor and this Council continues to illegally prosecute my neighbors and grants this Mayor a variance then heads should roll in the Shorewood City Council that has completely lost its moral and ethical bearings.

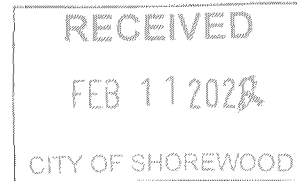
Please confirm your receipt of this message and acknowledge that it will be included in the discussion packet for the Planning Commission, and all future City Council meetings where either of these issues are discussed.

Submitted with Sincere outrage by,

David Polley & Lil Polley
Shorewood Residents
27635 Island View Rd.

February 11, 2022

Planning Dept.
City of Shorewood
5755 Country Club Rd.
Shorewood, MN 55331
planning@ci.shorewood.mn.us



Re: Dock Violation for David and Jennifer Labadie, 5510 Howard's Point Rd.

Greetings Planning Commission Members,

I am a resident of Shorewood and writing to voice my objection to the requested variance to this property. I have been an attorney for almost 25 years and am well studied in the nuances of city code for cities around the lake and Shorewood's City code.

In this matter, I have studied the notice of violation, the Labadie's request for extension, the letter announcing the planning commission's review of this matter, and the Labadie's variance request. In that request, Ms. Labadie admits that her dock violates the two code provisions the City cited against them. She then talks at length about reasons why the code should not be imposed on them. As I explain in the paragraphs below, there is no legal basis by which the City should grant her variance request. I also have concerns that the City is not following its own code regarding its administrative handling of this matter.

Based on the law and the facts, the Labadies are not entitled to a variance

As I explain in the paragraphs below, this is true because the dock clearly violates the code, the dock is not allowed grandfathering status, and they clearly do not meet the criteria in the City's code for a variance. This is an open and shut case and it is not close.

The Labadie's dock clearly violates the two provisions cited by the City

In the notice of violation sent to the Labadies by the City, it provides an accurate factual summary of the dimensions of the dock, its relation to the shore, and why the dock violates the

distance from shore and dock width provisions. The Labadies do not dispute that their dock violates these code provisions. Specifically, on page 1 of their variance request, they state:

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 Labadies' dock cannot be grandfathered in over the current code because it was substantially expanded after the code change in 2006.

The Labadies argue (beginning at page 3 of their variance request) that, despite their dock violating two code provisions, their dock is considered a legal non-conforming use because their dock was legal before the code change in 2006. This is an argument that should be presented in an appeal as opposed to a variance request. Even so, I outline key points below that show the Labadies' dock cannot be grandfathered.

Here, they also state that they purchased the subject property in 2010. This fact will be very important later.

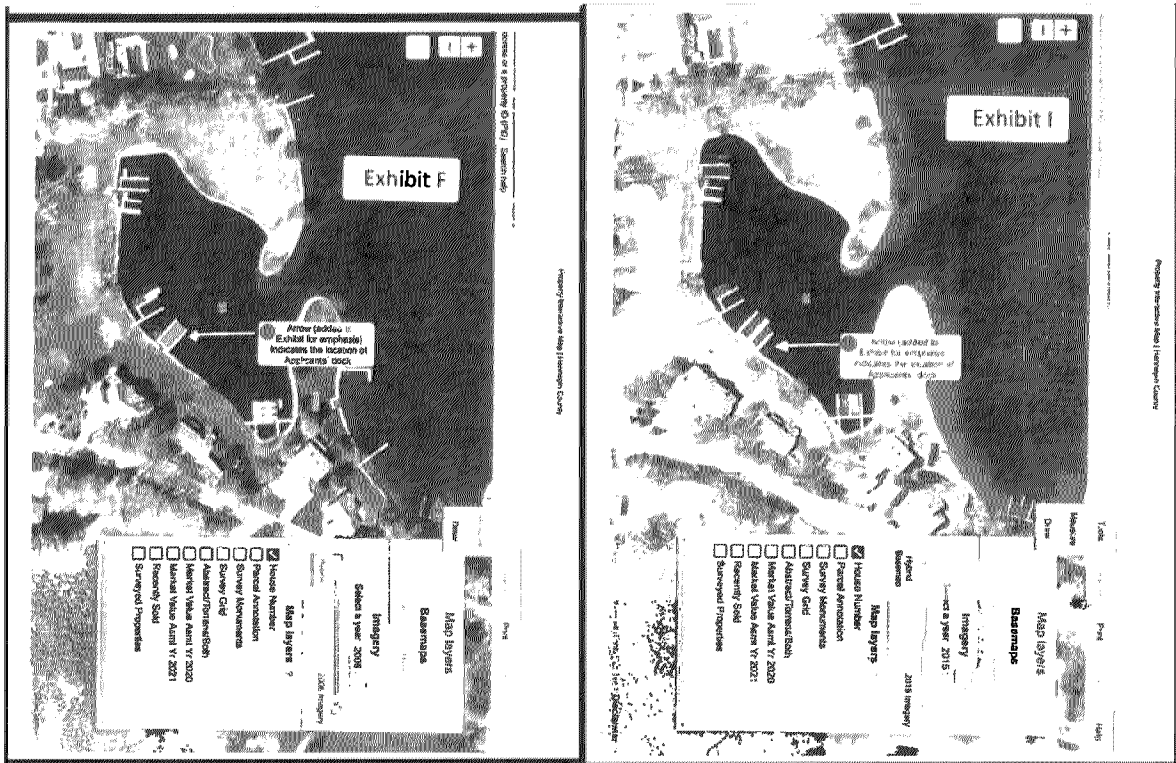
To make the grandfathering argument work, the Labadies need to utilize the City code's grandfathering provision (City Code Section 1201.03) that states that the use may continue as long as it meets the following requirements:

“Any structure or use lawfully existing upon the effective date of this chapter may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless the structure is removed or the use discontinued for a period of more than one year...”

Further, any expansion of the structure extinguishes the property owner's ability to claim grandfathering rights to any portion of the structure.

The Labadies included photos from Hennepin County's historical records (below) to support their assertion. Two of the pictures provided by the Labadies are shown below. These pictures clearly show the smaller dock configuration in the summer of 2006 (before the new rules were adopted) and the expanded dock in 2015. Recall that the Labadies' purchased this property in 2010, during the time the dock was expanded. Additionally, evidence from both of their “dock experts” (e.g., bottom of page 2 of Jeff Fox's letter attached to the variance request wherein the Labadies are referred to as the applicants, Jeurissen similarly states this) confirms that it was the Labadies that expanded the dock in 2012, which will be an important fact to remember for later. Specifically, Mr. Fox states that:

In 2012, the applicants hired myself and Paul Jeurissen to perform the repair to their dock,...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.** (emphasis added)



Google Maps also has historical images that clearly show the Labadies expanded their dock after 2006.



2010

2021

Since the dock was expanded after the new code was in place, code section 1201.03 clearly can't be used to grandfather their dock as a legal non-conforming use because it was substantially expanded and, as such, their dock is in violation.

The Labadies clearly do not meet the criteria in the City's code for a variance

The City code sets out specific criteria that must all be met in order to grant a variance. The specific criteria that the Labadies don't meet are enumerated and discussed below. However, before we get to that, I would like to point out some logical absurdities that are used by the Labadies as reasons for needing a variance.

Principally, the Labadies argue that the dock cannot be moved further out because the bottom is soft and the dock posts at the end would sink. Mayor Labadie provides references from two "dock experts" stating that they recommend leaving the dock in its current condition.

However, this is all a lot of misdirection, as the violations have to do with the extensions that are parallel to the shore being too close to shore. The dock does not need to be lengthened, but the pieces parallel to shore do need to be moved away from shore. Those could be moved out further from shore without impacting the overall length of the dock. The Labadies' slips would merely be shortened and may not accommodate her boats. But, as the Labadies were the ones that changed the dock design in 2012, the issue of whether their boats would fit within the confines of their slips is not the City's problem. Further, the size and the placement of the slips close to shore were all the Labadies' doing as they could have changed that in 2012's redesign.

Alternatively, the Labadies could also remove the dock portions that run parallel to the shore (and their lakeward extensions) that are in violation. This removal would not involve lengthening the dock at all.

Width violation

With regard to the width violation, again, this also has nothing to do with the length of the dock and perceived muckiness of the bottom of the lake. It involves removing a section of dock that runs next to another section, making that portion of the dock double width.

Throughout its history, the City has required many Shorewood landowners tear down sheds, porches, and other structures for such violations and this level of enforcement should be no different here – especially given the applicant happens to be our city's mayor. Her property should be the epitome of code adherence and stand as an example for others to follow.

Variance criteria

Finally, the City code (1201.05) says a variance should be granted only if it meets several criteria. Two of them that are relevant to this discussion are:

The applicant has established that there are practical difficulties in complying with this chapter. Practical difficulties mean:

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner;

As discussed above, the Labadies chose the width and configuration of the dock close to the shoreline when it was expanded in 2012, after the code was changed to include the close to shore and width provisions. Those decisions have nothing to do with the muddy bottom.

For example, the Labadies could have chosen a dock that went straight out with their boat lifts provided next to it, like many lake residents have, but instead the Labadies wanted dock sections surrounding their slips and violated the code to do that. It is the resident's responsibility to understand and adhere to the City code – especially the City's mayor, who formerly served on the planning commission. This mess was all created by the landowner and that fact is undisputable.

Based on not meeting this criterion, the commission must deny the variance request, as a matter of law, as the variance code states that all criteria must be met.

Moreover, the Labadies also fail a second criterion for granting a variance, that being:

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

As discussed above, the Labadies state that the “practical difficulties” are that the bottom beyond their dock is too muddy to support a longer dock. This being their assertion, they therefore, offer that doing nothing is the minimum variance required.

Specifically, the Labadies state that:

Simply leaving the dock in the location where i[t] has continuously and historically been located over 35 years is the minimum variance necessary to alleviate the practical difficulties.

However, again, the issues with the dock have nothing to do with making it longer. So, their stated practical difficulty is moot with respect to granting a variance and, therefore, this criterion is also not met. As such, the variance request must be denied.

The City does not appear to be following their Procedures for Zoning Violation Enforcement

As an aside to the discussion of rejecting this variance request, it appears that the City is mixing it's enforcement with it's variance application processes. For this analysis, I draw your attention to City code section 104.03 which clearly lays out the specific steps for administrative enforcement of code regulations. Herein, it recites the steps to be followed, namely: Administrative Notice, Citation, Responding to a Citation/Payment, Appeal to a Hearing Officer, Appeal of Hearing Officer's Decision, and Failure to Pay.

To my understanding of the record, the City issued an Administrative Notice on 10/26 with a ten-day response window and granted a 30-day extension on 11/8 to 12/8, according to Resolution 21-132. This process follows the code at 104.03 Subd. 2 (a). However, according to that section:

If the code offense is not corrected or abated within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation, as provided below.

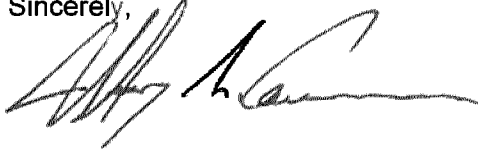
This appears to not have been done even though we are now over two months past the end of the extension period. There is no code provision that states that requesting a variance somehow stays the enforcement process, so that cannot be a reason for delay.

With the mayor as the subject of this enforcement action, it would be wise to carefully and methodically follow your code explicitly. Such delays and other deviations from administrative requirements could be construed as favoritism toward the mayor and conflict of interest laws state that even the appearance of a conflict may disqualify a councilmember.

As a resident of the city, I am sorely disappointed, by the selfishness of the Mayor in not having her dock in compliance with the law and by her, at a minimum misleading statements that her dock has not moved and that lengthening the dock is somehow important to this matter. I am aware that her selfishness and stubbornness has now created a conflict of interest that has

caused the City to hire a third-party arbitrator to handle this mess, thereby costing the taxpayers their hard earned money that could be spent on city improvements. Every resident of Shorewood should be upset by this situation. I sincerely hope that you found this analysis helpful and, based on the evidence provided herein, that you reject this variance request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Cameron". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jeff Cameron

Shorewood Resident

27695 Island View Rd.

Planning Dept.

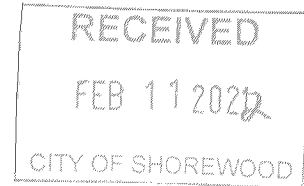
February 10, 2022

City of Shorewood

5755 Country Club Rd.

Shorewood, MN 55331

planning@ci.shorewood.mn.us



Re: Dock Violation for David and Jennifer Labadie, 5510 Howard's Point Rd.

Greetings Planning Commission Members,

Jennifer and David Labadie were cited for violation of two code provisions.

The first having to do with a branch off the main dock being too close to shore. It is supposed to be no closer than 8 feet and hers' is a few inches from shore.

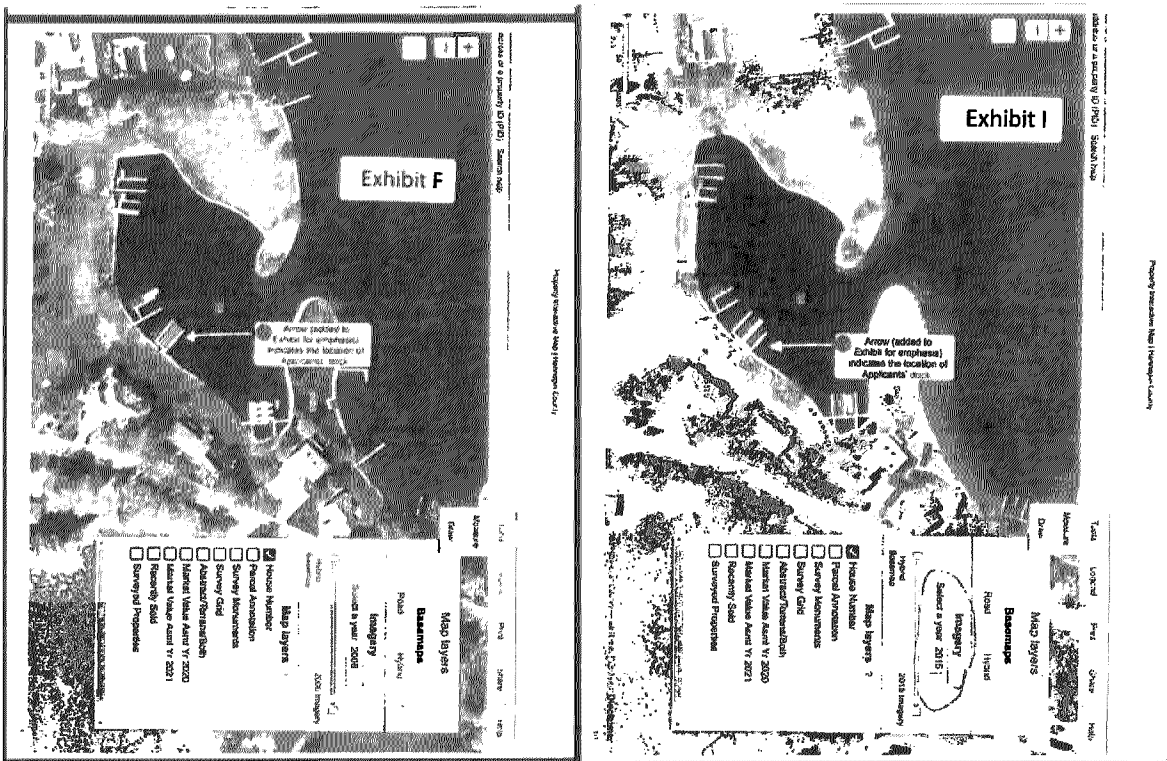
The second provision limits the width of docks to no wider than 4 ft except for one area that can be 8 ft by 8 ft. The center section (probably 25-30 ft long) is over 7 ft wide.

Jennifer Labadie admits that those statements are correct and that she is violating the code, but she says she shouldn't be punished for it for two reasons.

First, Jennifer Labadie is arguing that the dock was there "in the exact same position" before they purchased the property and before the City code was changed in the fall of 2006 to include the above limitations. To make this argument work, Labadie needs to be allowed to grandfather her legal prior use in over the current code. The City code has a grandfathering provision (Section 1201.03) that states that the use may continue as long as it meets the following requirements:

"Any structure or use lawfully existing upon the effective date of this chapter may be continued, including through repair, replacement, restoration, maintenance, or improvement, **but not including expansion**, unless the structure is removed or the use discontinued for a period of more than one year..."

However, pictures don't lie, and to support her assertion, Jennifer Labadie included photos from Hennepin County's historical records (below). In these pictures you can clearly see the smaller dock configuration in the summer of 2006 (before the new rules were adopted) and the expanded dock in 2015.



Mr. Fox states that, in 2012, he expanded the original dock with additional dock sections and to include the second boat slip with canopy. Clearly Labadie made changes, and Mr. Fox states this even though Labadie denies it. Since the dock was expanded after the new code was in place, her use cannot be grandfathered and, as such, Jennifer Labadie is in violation.

Her second argument is that the dock cannot be moved further out because the bottom is soft and the dock posts at the end would sink. Jennifer Labadie provides references from two “dock experts”. However, the code violations for the dock have to do with the extensions that are parallel to the shore being too close to shore and the width of a dock section, not its length. So her dock experts opinion on leaving her dock where it is, doesn’t even address the code issues. Are they experts on reading city’s codes? Why did she ask them to give their opinion on lengthening her dock? She just needs to remove the parallel to the shore dock sections. Most docks on the lake only have docks extending straight out from shore. It is not a hardship to be without these shore running dock sections, to claim a variance for this seems unnecessary and excessive.

The second violation has to do with the width of the center span of the dock that is extending straight out from the shore. Again, fixing this has nothing to do with making the dock longer. Removing one of the middle 3’ 6” wide docks would bring her into compliance with the code. Having a dock that is 7’ wide is once again excessive and unnecessary to be able to use your boats.

It concerns me that the Mayor herself (who is a law school graduate) doesn’t seem to understand her own city’s code, and that she has the power to enforce it on other citizen’s violations. If she does claim she understands these code sections clearly, then this shows that she is fabricating a reason to avoid making the two simple changes required by the code.

The City has required landowners to tear down sheds, porches, and other structures for such violations and it should be no different here. But luckily for her, there is no tearing down her entire dock. She can reduce her dock width and extra shoreline dock sections, and still gets to enjoy two boats, an up to code dock and the lake. There are boat lifts that do not require a dock to be on both sides of the boatlift.

Further, the City code (Section 1201.05) says a variance should be granted if it meets a number of criteria. Two of them are:

That the applicant has established that there are practical difficulties in complying with this chapter. Practical difficulties mean:

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

As discussed above, Jennifer chose the width and configuration of the dock close to the shoreline when she expanded it. She should have read the code before she expanded her dock. She could have chosen a dock that went straight out, but she chose dock sections surrounding her slips and violated the code to do that.

The second criterion for granting a variance is that:

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

As discussed above, Jennifer Labadie states that the practical difficulties are that the bottom beyond her dock is too muddy to support a longer dock and, therefore, doing nothing is the minimum variance required. If lengthening the dock is an issue, she doesn't need to do it. She can simply remove the portions parallel to the shore to meet the code requirements, and narrow the wide portion of her dock without lengthening the dock, so no variance is needed. Each of these options require no variance. Accordingly, there are alternative dock configurations that meet the code that do not lengthen the dock.

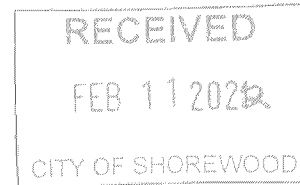
In summary, Mayor Labadie has further wasted the city of Shorewood taxpayers money by creating a conflict of interest that required the city to hire a third party consultant to oversee her violations. Mayor Jennifer Labadie should not get special treatment by being the current mayor and cannot qualify for a variance. Accordingly, the planning commission should not grant Jennifer Labadie's request.

Sincerely,

Linda Cameron

Shorewood Resident

27695 Island View Rd.



**City of Shorewood Planning Commission
Re: Labadie dock variance request**

I am writing on behalf of my family in opposition to the variance request in my neighborhood for several reasons. First, my parents built their home across Island View Road from the lake (and this dock) 61 years ago, and we have a lot of collective history to draw upon. Second, since I moved back here to take care of my mother in 2009, I have seen a gradual, organic shift and change in how some things are allowed to slide and others become a fight. Third, there seems to be some inequality regarding when things are enforced, a little more looking the other way at times.

I realize these are observations and feelings, but I know others will present the hard facts about the law and the code. Listen to them and combine their details and hard words with mine. The entire picture from all perspectives is what matters. That's what makes this a place people want to live.

This little town was a friendly, caring place when I grew up here, where people didn't care if you walked across their lawn to drop off something, and where more was done on a handshake than is possible now. Change comes to every corner of life over time, but more and more I hear people are losing trust in the systems that run Shorewood. There is a sense that money talks in a way that doesn't represent all residents equally.

We have seen this neighborhood go through many changes, as the original lake homes were scraped and replaced with bigger and bigger versions on the same lot. Lately there have been variance requests that brought the issues to our doorstep and mailbox. Since my mother passed away at Thanksgiving, I have to speak for her. As a family we were taught that rules mattered, and that honoring someone else's rules - and the law or code - was important. This meant that I knew that the speed limit sign on Howard's Point was a rule I had to follow, even at night when there was no one outside and no one to see. I do it to this day, and I know the city values this, since the police sit there watching at times!

In the same way, we have to value the code and rules laid out by the city for things that are more personal, such as docks and lot line variance requests. It is easy to let these go, since "it's not my problem," but that is the start of erosion of the system. It needs the same examination as the speed limit sign. Just because a dock has been that way for a while doesn't mean it gets to stay that way if it doesn't follow code. If the code isn't right or needs changing, then that will affect very many people and you will have a bigger task on your hands.

My understanding is that the grandfather clause doesn't apply since the dock was expanded after 2006, and the pictures of the dock that were submitted show it was changed subsequent to Fall 2006. I wouldn't be bothered as much by this since it appears there are several solutions that could bring the dock back into code compliance, but this dock belongs to a person of influence. In all the years living on the lake (or across from it), I learned to value that my friends from fancy gated communities weren't any better than I was and their positions of power or

money didn't allow them different rules of operation. I want this to be true in 2021 in my hometown. We need to be sure that those in positions of power and influence don't get a pass, that they have to follow the same exacting rules in the same exacting way as I do when I drive 20 on Howard's Point in the darkness.

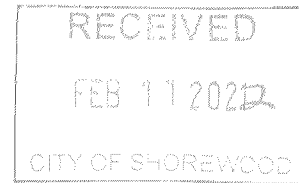
I've watched the saga of the access easement owned by the non-lakeshore folks on Island View and kept a decent distance from it, while my mom was alive. Now I have to carry forward her 61 years and my most recent 13, to say that didn't feel like equal treatment of my fellow neighbors. It feels like a big fight over a small thing. Something neighbors when I grew up here would just graciously allow someone to do. But if we are going to tolerate that level of vehemence and exacting enforcement of code on the little access strip, then I guess I have to ask the same exacting enforcement and fight for this variance. Rules are rules. And this one should be followed in the same way, despite what has already happened and how long the dock has been out of compliance.

Thank you for listening to me, and to the voice of my mom and her 61 years across from the lake. We love this town and really hope it stays the way it was meant to be.

Sincerely,
Nancy Thomson Fifer
for Norma Thomson and family
27665 Island View Road
763-238-1513

Marie Darling

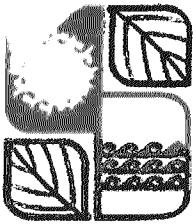
From: John Einhorn <jeinhornjj@gmail.com>
Sent: Friday, February 11, 2022 1:08 PM
To: Planning
Cc: Guy Sanschagrín
Subject: variance application



In regards to the application for variances for the dock at 5510 Howard's Point Road. My name is John Einhorn and I am a lifelong resident of 5580 Howard's Point Road. I have tried to avoid getting involved with disputes between neighbors and friends. I am aware of the great lengths, time and money spent by the city to deny another neighbor and friend their right to have a modest dock on the property they own. The hypocrisy was literally stunning to me as I read the notice. The city should be very careful about considering granting variances retroactively. This would set a dangerous precedent. It is surprising that the city attorney would give this the green light. The fact that the mayor is party to it doesn't pass the smell test. There is nothing about the Labadie's dock that bothers me and I do not want them to have to remove and replace it, but I also feel forcing the Sanschagrín's to remove their dock was not the right thing to do. The solution is simple! Forget the variance. Stop the litigation. Apply the grandfather clause to both docks. I fished off the dock on the lot Sanschagrín's now own as a young man 40 plus years ago, so it should qualify. It's never too late to do the right thing. Give us a chance to be neighbors AND friends again.

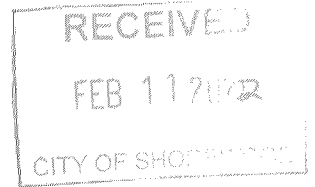
John Einhorn
5580 Howard's Point Road
Shorewood Mn

Sent from [Mail](#) for Windows



CITY OF SHOREWOOD

5755 COUNTRY CLUB ROAD, SHOREWOOD, MINNESOTA 55331-8927 • 952.960.7900
www.ci.shorewood.mn.us • cityhall@ci.shorewood.mn.us



PUBLIC MEETING NOTICE PLANNING COMMISSION MEETING

Applicant(s): David and Jennifer Labadie

For: Public meeting to review a request for two variances for a dock, one to the setback from the Ordinary High Water Level (OHWL) of Lake Minnetonka for a dock and the other for the maximum dock width at 5510 Howard's Point Road.

Why: The applicants are requesting approval of variances to maintain the existing configuration and location of their dock. Please see the following pages for location map of the site and a diagram of the existing dock. More information on the application can be obtained by calling 952-960-7900 or emailing staff at planning@ci.shorewood.mn.us.

When: Tuesday, February 15, 2022 at 7:00 p.m. or as soon thereafter as possible.

Where: The meeting will be held by video conference during the pandemic, as gatherings are limited. For those wishing to attend the meeting via computer or phone, a link will be available on February 15th at 6:30 p.m. on the City's website. Please go to http://ci.shorewood.mn.us/current_meeting/ for the meeting link. Contact the city at 952-960-7900 during regular business hours with questions.

The agenda and packet will be available on the City's website on February 11, 2022.

How do I participate? You may attend the virtual Planning Commission meeting or provide written comments.

Written comments will be considered at the Planning Commission meeting if received prior to 4:00 p.m. on February 15, 2022. You may submit written comments via U.S. Mail to:

Planning Dept.
City of Shorewood
5755 Country Club Road
Shorewood, MN 55331

Or by email to: planning@ci.shorewood.mn.us

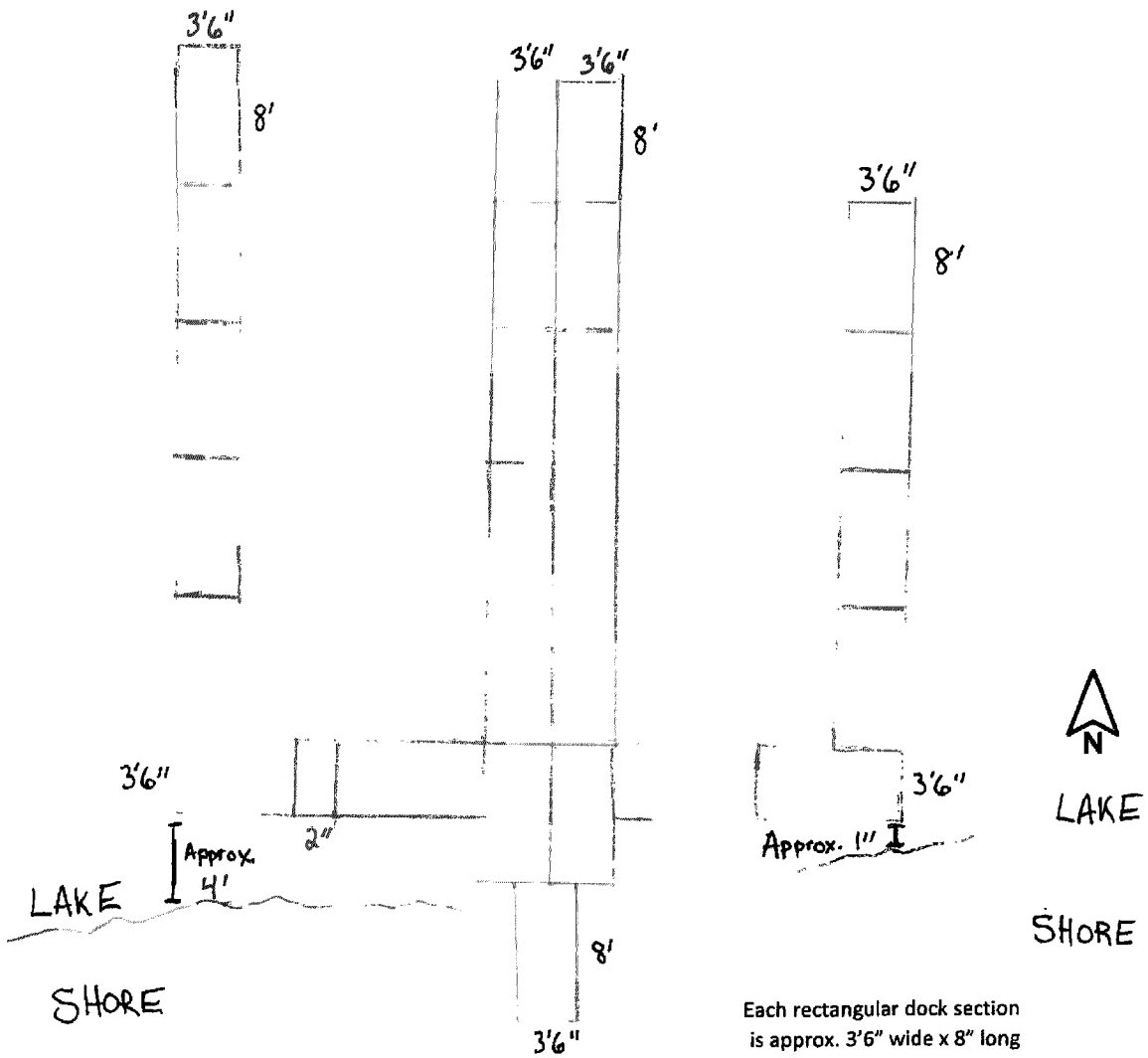
Anonymous comments are not accepted as public testimony.

Marie Darling, AICP
Planning Director
City of Shorewood



SEE ATTACHED LETTERS.
NO VARIANCE NEEDED
FROM CITY OF SHOREWOOD -
THEY HAVE NO LEGAL
AUTHORITY ON THIS OR
OTHER MATTERS
PENDING!

Diagram of Dock
5510 Howards Point Road
Shorewood, MN



2-9-22

To the Shorewood Mayor and City Council –

My wife and I have been Shorewood residents for nearly 30 years. I have worked in real estate throughout the metropolitan area and have had dealings with numerous municipalities. Over this time, I have never seen a city so overtly mistreat its residents as I have seen you prosecute the Sanschagrin and Cameron families for placing a dock on a property they own and pay taxes on. Other cities like Minnetonka Beach allow docks on empty lots. It's the same lake. Why should the law be different in Shorewood?

When I received your notice about our mayor requesting a variance for her dock violations, I was astonished by the special treatment offered to the mayor in contrast with the ill treatment of my neighbors. I have many questions. For instance, is the ability to apply for a variance even part of the zoning enforcement process for someone who is already in violation of the code? I remember the property in question had a simple dock without slips in the early 90s. Wouldn't this simple dock configuration be sufficient use to allow the mayor to comply with the code?

In my experience with the LMCD, I know they actively work with residents to enjoy their properties whenever potential issues arise. Shorewood appears to provide options for some (e.g., our mayor) while at the same time dragging my neighbors through the courts for nearly five years. Given its inequitable handling of dock violations and membership in the LMCD, Shorewood should consider abolishing all its dock rules. After all, it remains uncertain whether the city can legally apply land zoning regulations to regulate the use of the waters that are the jurisdiction of the State of Minnesota, the DNR and the LMCD. For instance, please refer to the attached letter sent by now councilmember Callies regarding her concern about Shorewood's jurisdiction over public waters. According to Ms. Callies, a practicing attorney, "The City's zoning regulations stop at the shoreline."

In my opinion, under the current circumstances, our mayor should not be granted a variance and Shorewood should immediately stop wasting my tax dollars prosecuting my neighbors.

Sincerely,

Handwritten signatures of Dean and Doris Akins in cursive script.

Dean and Doris Akins

27720 Island View Rd, Shorewood

May 2, 2016

Shorewood Planning Commission
Shorewood City Council

Re: Lot 11 Christmas Lake-- Appeal of Administrative Decision

Dear Commissioners and City Council Members:

I have had done additional research and am submitting this letter in support of our appeal of the Zoning Administrator's determination. Because the City of Shorewood does not have jurisdiction over Christmas Lake, there is no legal basis for the Zoning Administrator's decision in this matter.

On behalf of the State, the DNR has jurisdiction over public waters in Minnesota under Minn. Stat. Ch. 103A-103G. Christmas Lake is designated as a public water under Ch.103G. The City of Shorewood does not have authority, nor jurisdiction to regulate the use of surface waters, including but not necessarily limited to, the number and type of boats and docks on Christmas Lake. The City's zoning regulations stop at the shoreline.

Pursuant to Minnesota Rule 6120.3200, local regulations must receive prior approval of the DNR to be effective. The DNR maintains a summary of local restrictions that have been approved concerning Minnesota lake and river use. See www.dnr.state.mn.us/regulations/hotwater. The only regulations that have been approved for Christmas Lake relate to water skiing, not boats and docks.

According to LMCD Code Section 1.02, the LMCD regulations were adopted in order to implement the statutory responsibilities established by the Minnesota legislature in 1967. The legislature created the LMCD and specifically authorized it to establish regulations for Lake Minnetonka, as provided by Minn. Stat. §103B.601 through §103B.645. The legislature did not authorize the extension of LMCD regulations to apply to other public water bodies, nor allow a city to unilaterally adopt its own regulations over public waters. There is no legislative authority for the City of Shorewood to deny the Applicants' request for 4 boats at the Lot 11 dock in this case.

The decision of the Zoning Administrator in this matter should be overturned.

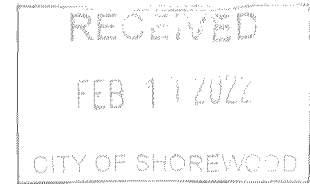
Thank you for your consideration,

Paula A. Callies
20465 Radisson Road



Marie Darling

From: Mitzi Clayton <mclayton@mcarroll.org>
Sent: Friday, February 11, 2022 3:43 PM
To: Planning
Subject: Tuesday Public Meeting



To whom it may concern,

We are unable to make Tuesday meeting, below are our concerns as taxpaying Shorewood residents.

Applicants David & Jennifer Labadie's dock isn't to code. Why is Labadie's dock situation different than any other Shorewood tax paying citizens??? Mayor Labadie has sued repeatedly using Shorewood taxpayers' money, this is a huge conflict of interest. If you grant Labadie's a code variance Mayor Labadie will need to grant code variances to the other dock owners involved in lawsuits with city and stop wasting taxpayers' money.

I have been in business over 30 years, this is a huge conflict of interest for the Mayor of Shorewood to think it even remotely appropriate to request a variance when she has fought in court at great expense and hardship to hardworking Shorewood taxpayers . Labadie's didn't fix their dock so it was compliant but rather the dock issue was discovered against code and now she wants a pass, it's truly shameful.

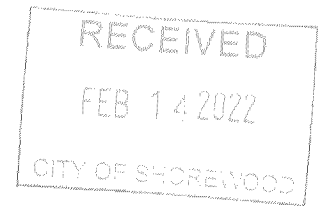
Shame on Mayor Labadie – Shame on Shorewood City Council for wasting so much money on court fee's fighting their residents. Clearly Mayor Labadie doesn't believe the code is important enough to fix her own code violation but was happy to spend taxpayers money's fighting Residents for same kinds of code violations. This is a clear abuse of power, power which you were given, by voting taxpayers.

Sincerely

Mitzi Clayton

February 11, 2022

Shorewood City Planning Commission,



I am writing this letter in response to the variance request notification I received and the letter from one of my neighbors Kaye McNeil included in the variance request packet.

First, I oppose the approval of the variance request for Mayor Labadie and her dock violations. She does not follow the process of code compliance, her dock does not meet Grandfather requirements, and under the planning commission's requirement of hardship – she does not meet this hurdle. The variance should be denied.

I find it interesting that Ms. McNeil's letter was included in this variance request since the date of this letter is November 16, 2021. Why is this letter relevant? Ms. McNeil appears to be responding to a news story and her letter does not reference the variance request at hand nor was the variance request even filed until November 23. Why did Ms. Darling include documentation that is emotional and heresay for this matter in the packet? Why include neighborhood conjecture that is ill informed and contains false statements?

Since it is in the packet, I would also like to address specific items included in Ms. McNeil's emotional response. Ms. McNeil has the right to disagree with the complaint, but her statement "the access was on our deed as well as others and it was clear to all of us that a dock was not permitted" is false. As an owner of this property her claim is unsubstantiated. She and her husband are not registered with the county as easement holders nor have the owners of this property been presented with legal proof of their easement. Additionally, we have affidavits from an easement holder and aerial photos from the 1970's that refute Ms. McNeil's claims that there has never been a dock on the property.

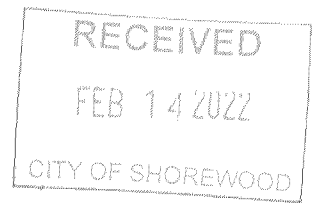
Ms. McNeil's opinion "that it is beyond odd that docks that have been on the lake for years are now under investigation" is irrelevant. If someone purchased a home in the neighborhood that was found to have a code violation, the home would have to be brought up to code prior to the sale. Would Ms. McNeil believe it to be "beyond odd" for it to be corrected since it had been in the neighborhood for years? It is not up to her opinion – it is up to what is required by code.

Ms. McNeil's claim that there has been a dock on the property since the early 2000's is additionally irrelevant. No one, including the current owners disputes this fact. Additionally, why is her employment with the previous owners relevant? Who cares that the Gardner's were clients of hers? Perhaps they did not change the dock, but Mr. Fox, Mayor Labadie's expert, noted the dock was changed. In fact he states that he changed it in the letter provided in Mayor Labadie's variance request.

Ms. McNeil's emotional comment about the division in the neighborhood is not shared by the other easement holders. She is one voice that spreads false narratives and her letter for this issue is irrelevant and as such should be removed from the packet.

Lastly, from my view of the facts regarding Mayor Labadie's dock, there is no legal way that this request should be granted a variance. Mayor Labadie's position as mayor for this variance request should be agnostic. We are all citizens – and no one including Mayor Labadie should be an exception to meeting the code requirements. If the Planning Commission chooses otherwise – they are admitting to special treatment to certain members of the community.

Submitted with respect,
Kristine Sanschagrin
27725 Island View Road



Submitted: February 11, 2022

To the Shorewood Planning Commission –

This letter is in opposition to the City's long-standing practice of providing special treatment for certain powerful, politically connected residents while, at the very same time, applying heavy-handed, bully-style code enforcement against common residents. For this reason and the reasons outlined below, I oppose the approval of Mayor Labadie's variance request to excuse her two code violations.

First, it is unclear whether Mayor Labadie has filed a variance request or an appeal. The variance application inappropriately requests dismissal of the violation by claiming grandfather status. Her grandfather argument should have been presented in a proper appeal. By filing a variance request the resident essentially acknowledges that their property is not compliant. Adding a grandfather argument for dismissal in a variance request is an attempt to have it both ways. Notwithstanding the inappropriateness of slipping an appeal argument in her variance request, Mayor Labadie's grandfather argument fails decisively because her own request includes historical pictures and "expert professional opinions" that clearly establish she has modified and expanded her dock system. As an attorney who knows the history of her dock, Mayor Labadie should be well versed in grandfathering. Thus, it is reasonable to assume she understood (or should have understood) that her expansion of her dock in 2012 disqualifies her dock for grandfather status under State law and City code.

Second, in reviewing the history of Mayor Labadie's dock contained in the packet, an appropriate time to request a variance would have been in 2012 when the dock system was maintained and expanded. During this time, Mayor Labadie should have reviewed the relevant City code and complied with it. After all, this is what the city expects residents to do. As an attorney and former member of the city's planning commission, Mayor Labadie should have known that her dock configuration did not comply with the code and should have addressed it in 2012. City officials should understand and carefully abide by the code. Given their authority, city officials should in fact be held to a higher standard than the general public – not a lower one.

Third, her variance request claims that compliance with the code would require her to "move" her dock. This is false and her argument is disingenuous. All Mayor Labadie must do to become compliant is to move or remove the dock section that runs parallel to shore and the extra dock section in the middle that makes her dock wider than the code allows. She could reduce her dock configuration to a single dock extending from shore into the lake and still have the same use by having a boat on either side of the dock. In short, Mayor Labadie's dock is too big and is illegally configured under the city code. Her violation is akin to a situation involving a common resident who is forced to relocate hedges that are not set back far enough from the right of way on the street or reduce the size of structures to comply with the 25 percent hard surface cover rule. The city enforces dozens such violations yearly on common residents. In these actions, it doesn't matter whether the code violations existed at the time a resident bought their property if they were changed after the code became effective. Why wouldn't the same standards and enforcement apply to Mayor Labadie's situation?

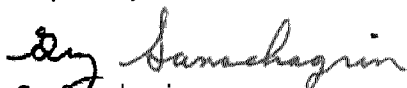
Frankly, I am concerned that the mayor has made no effort to comply with the code, but instead is trying to misdirect the commission with arguments that are logical fallacies. This is not the mayoral conduct this city deserves. The city should deny the mayor's variance request and then dialogue with the mayor about the issue and find a solution wherein she brings her property into compliance.

The enforcement of Mayor Labadie's violation contrasts heavily with the enforcement actions the City took against the Camerons and us on a property we co-own. After we carefully reviewed the code and consulted land use attorneys, we determined that the City's dock restrictions did not apply to seasonal docks. When we received a notice of violation from the City for installing our seasonal dock, we appealed on the basis that the code only applied to permanent and floating docks. The City effectively agreed with us because it then withdrew the citation, rewrote the code to eliminate the limiting modifiers ("permanent" and "floating"). In the following year, the City cited us based on its expanded dock restrictions. We then renewed our appeal because we were grandfathered under the prior code language and our appeal was not heard the first time. We had filed a valid appeal, meeting all the requirements in the prior year. Our appeal was denied without even a hearing. There was no opportunity for discussion or compromise. No opportunity for mediation. And we were denied our due process on our appeal. At one point, then council member Labadie explained to me that we were "red flagged" and that City council members and other City officials were not even permitted to speak with us until the city got its way. The city has essentially ostracized our families for over five years. This experience is exceptionally disappointing because the complainants themselves and the mayor all have their own dock violations that continue to exist today. In fact, at one point we noted to the city that ours was one of the few code compliant docks in the vicinity. Our protests fell on deaf ears. After denying to hear our appeal, the city charged us criminally and civilly for violating the new code. These "bait and switch" tactics and the city's vindictive and cruel actions against residents who defend themselves against the city's bully tactics are why people lose trust in government to do the right thing.

I am troubled by a city culture that is blind to its double standards. We need to use this conversation on the mayor's variance request to shine a light on the "two Shorewoods" as residents I've spoken to have characterized the unequal treatment of residents. We need to use this opportunity for a call to action to reform our city government. Let's put an end to the city's bully tactics that common residents must endure in code enforcement actions. I submit that all residents are entitled to equal, fair, and evenhanded treatment by the planning director, the planning commission and city council. For example, if the city is wrong or the code is badly written, the city should not punish those that correctly read the code, but rather should admit that the city isn't perfect, learn from mistakes, correct the mistakes, and move on.

As a community, we can follow the model of the LMCD which goes through great lengths to encourage homeowners to resolve differences between themselves. Let us merge the "two Shorewoods" into one Shorewood. If we can agree to treating all residents equally, then we will come a long way to reforming the government of the city we all cherish.

Respectfully,

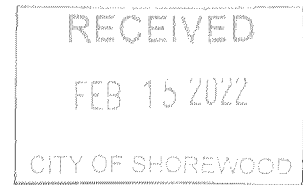


Guy Sanschagrin

27725 Island View Rd

Marie Darling

From: Dustin Maddy <dustinmaddy@gmail.com>
Sent: Tuesday, February 15, 2022 10:38 AM
To: Marie Darling; Kendra Lindahl, AICP
Subject: Fwd: Dock variance



Did you get this one yet?

Dustin Maddy
612.481.7418
dustinmaddy@gmail.com

----- Forwarded message -----

From: Bridget Donahue <bridget@bridgetdonahue.com>
Date: Sun, Feb 13, 2022 at 1:08 PM
Subject: Dock variance
To: <teggerberger@ci.shorewood.mn.us>, <khuskins@ci.shorewood.mn.us>, <dgault@ci.shorewood.mn.us>, <dmaddy@ci.shorewood.mn.us>, <mriedel@ci.shorewood.mn.us>

To the Shorewood Planning Commission,

It has come to my attention that Mayor Labadie is requesting a variance for a non conforming dock.

I admit, I have been guilty of hypocrisy at some point. No one can really escape an indiscretion from time to time, but as ethical people, we eventually recognize our mistaken and regret the bitter taste it leaves behind. When we become so focused on what we think we want we become blinded to hypocrisy. I bring this up because in those times only a strong voice of reason can point out a better path.

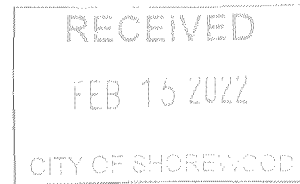
Dock issues have become a hot button in Shorewood. Might I suggest that Mayor Labadie, simply comply and not request a special variance. Yes, this might require some sacrifice. However it would not only set an example for our residents that our Mayor is an ethical leader, but especially set an example, for our young women, who look at successful women in our community for ethical leadership. Mayor Labadie, as well as our Council Women are those successful women who lead by example.

Leading with ethics, ages well, sets a path of success for our young women to follow, and has a much sweeter taste over time.

I hope the planning commission will recognize the irony of Mayor Labadie's request for a variance, and point out a better path.

Thank you,

Mary Borgeson
5485 Grant Lorenz Rd S
Shorewood



February 15, 2022

Planning Dept.
City of Shorewood
5755 Country Club Rd.
Shorewood, MN 55331
planning@ci.shorewood.mn.us

Re: Dock Violation for David and Jennifer Labadie, 5510 Howard's Point Rd.

Greetings Planning Commission Members,

This is a brief addendum to my comments of 2/11 to address the Consulting City Planner's Report that was provided in the meeting packet published after my comments were submitted. The report fails to adequately address two critical variance criteria, namely, that:

The applicant has established that there are practical difficulties in complying with this chapter. Practical difficulties mean:

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner;

The consultant fails to address the fact that the Labadies chose the width and configuration of the dock close to the shoreline when it was expanded in 2012, after the code was changed to include the close to shore and width provisions. Accordingly, the plight of the landowner was created by the landowner as the dock width and configuration close to shore were changed in 2012 for at least the expanded dock area and since the dock was expanded after 2006, the code equally applies to the old portion of the dock. These critical facts were also not mentioned by the consultant.

Additionally, the consultant also fails to adequately address a second criterion for granting a variance, that being:

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

The consultant recommends leaving the dock in its current configuration when there are two obvious alternatives that would put the dock in compliance without a variance and without lengthening the dock. I have attached diagrams of the current configuration as well as two

configurations that are code compliant, don't lengthen the dock, and don't require a variance. Both of these options provide plenty of slip length for accommodating most boats on Minnetonka.

Variances should only be used when there is no code compliant alternative, where here, there are at least the two shown below. Accordingly, a variance is not appropriate in this case.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Cameron". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

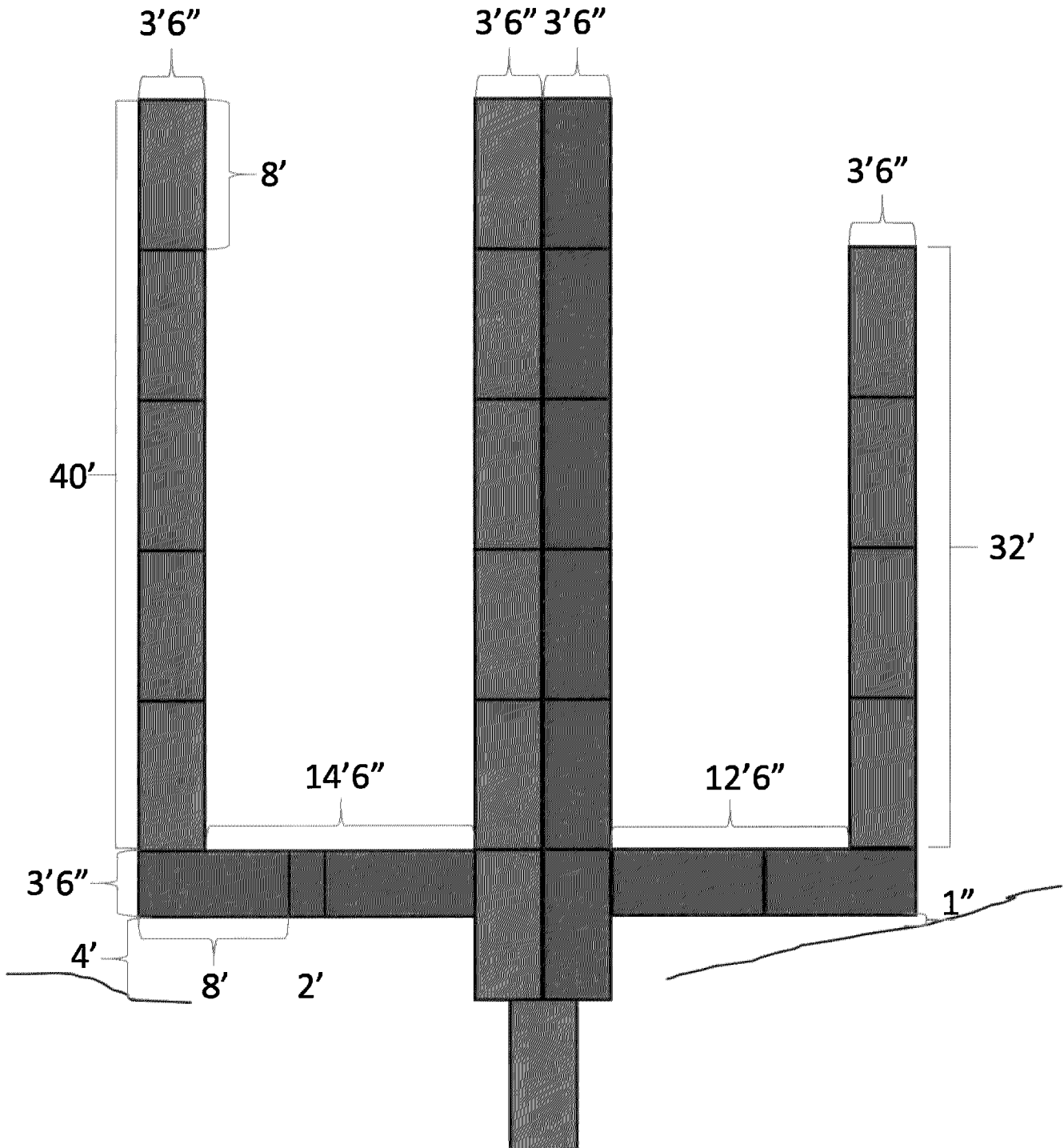
Jeff Cameron

Shorewood Resident

27695 Island View Rd.

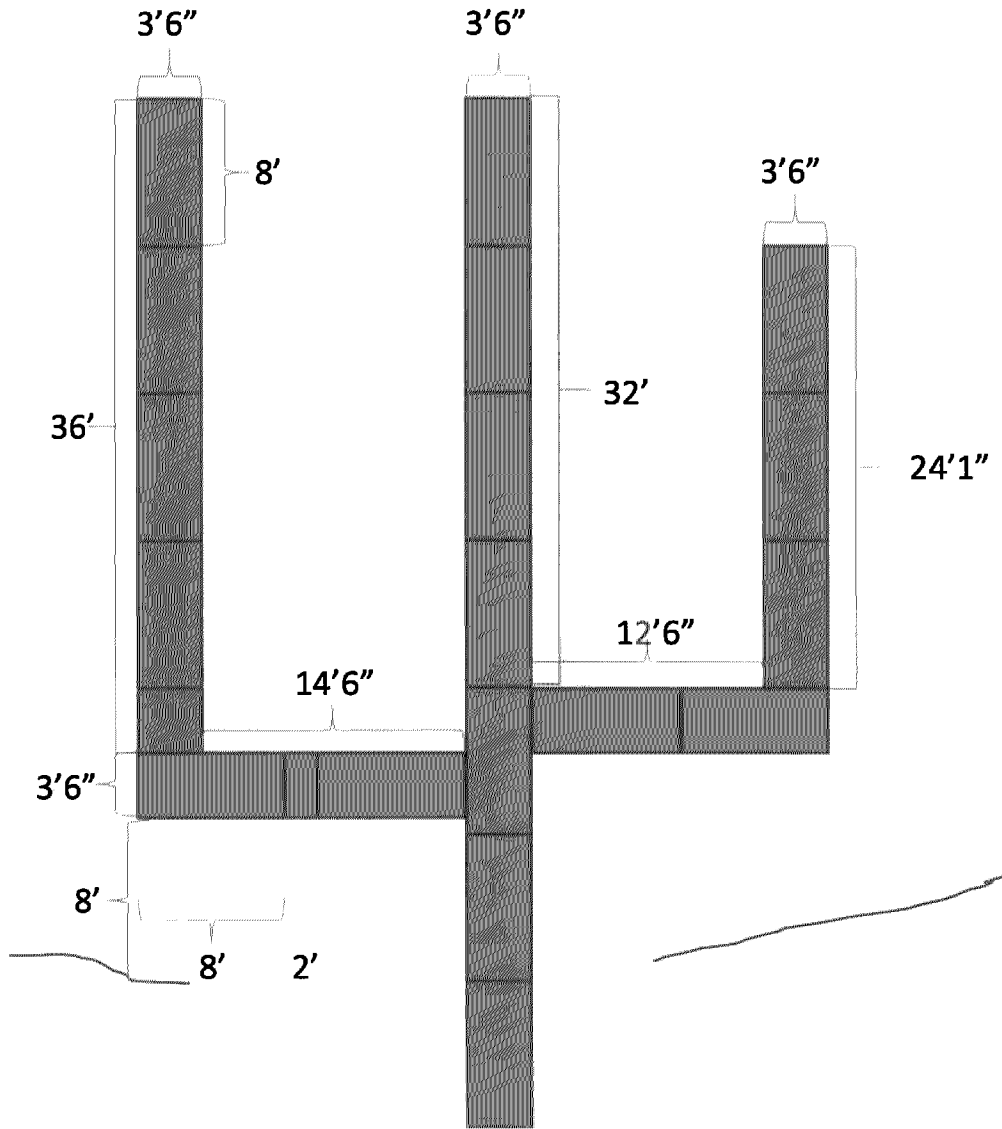
Current Configuration

Red Sections Violate Code



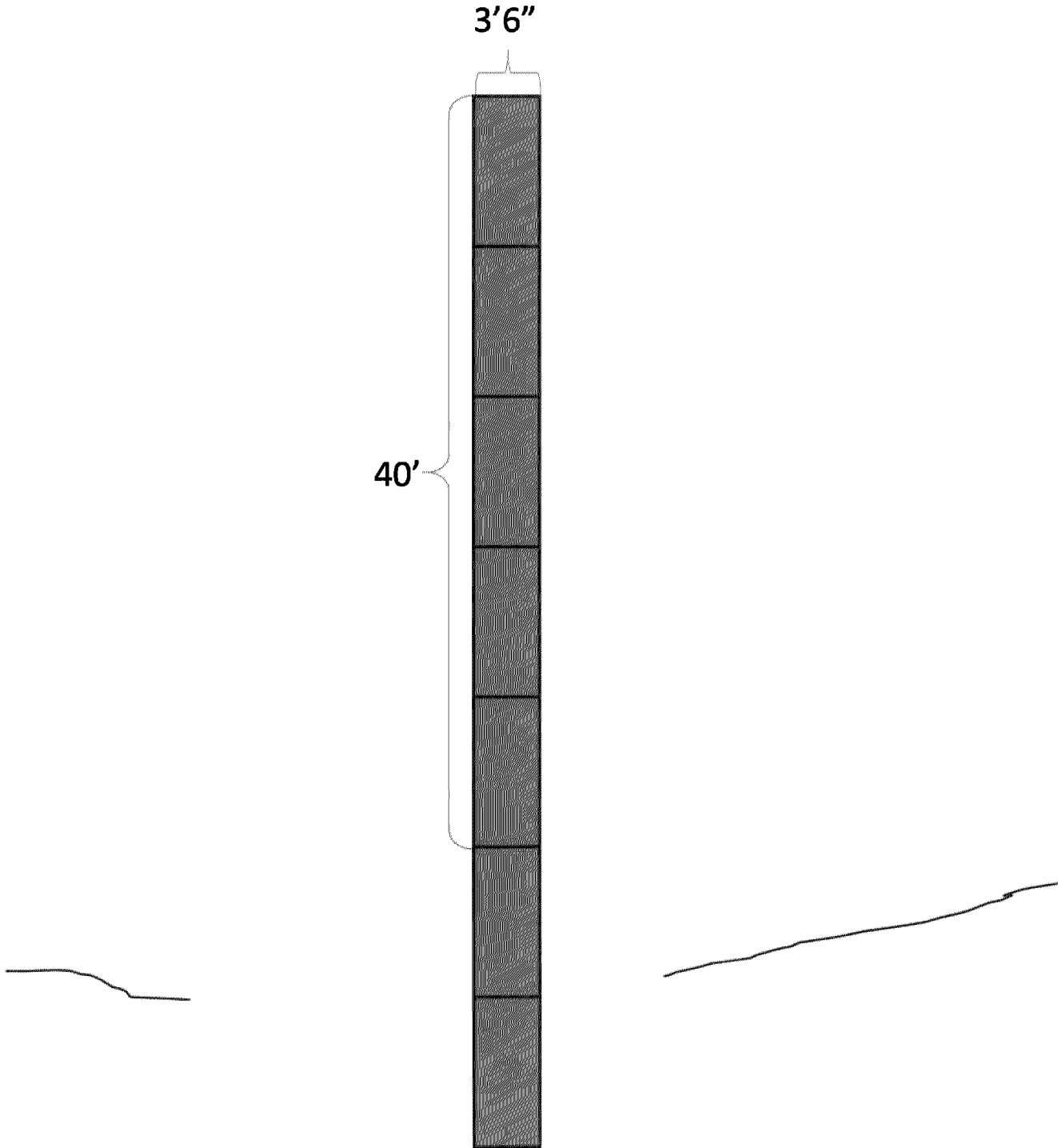
Current Configuration

First Code Compliant Option



Current Configuration

Second Code Compliant Option



Marie Darling

From: Heidi Robertson <hrob24@gmail.com>
Sent: Tuesday, February 15, 2022 4:03 PM
To: Planning
Subject: Variance

Good afternoon, as for the variance request being reviewed. Given all that has happened recently in regards to the dock variance process in this neighborhood, I agree to the point made by the Sanschagrín residence in the letter questioning the overreach in general, as stated:

Lastly, if the Mayor wants her dock “as is”, the City could just do away with the dock regulations completely as they are likely over reaching into the jurisdiction given to the Lake Minnetonka Conservation District (LMCD). They already refer to the LMCD as their base code and then add their limitations on top of it. This would bring the City code into agreement with the LMCD code, which was the intent of forming the LMCD in the first place (uniform rules for the whole lake). To do this, they would remove dock from the definition of “ACCESSORY BUILDING, STRUCTURE, OR USE” and delete all of 1201.03 subdivision 14.

Thank you,

Heidi Robertson

Marie Darling

From: Marie Darling
Sent: Saturday, February 19, 2022 5:39 PM
To: greg larson; Greg Lerud; Todd Eggenberger; Ken Huskins; Dara Gault; 'dmaddy@ci.\\shorewood.mn.us'; Marc Riedel
Cc: Kendra Lindahl, AICP
Subject: RE: EXTERNAL-Feb. 15 Planning session

Thank you for your comments Mr. Larson. Your letter (with this response) and all the other letters received after the packet was published will be attached to the report that is sent to the City Council. All letters received after the packet was distributed were sent to the Commissioners, the consulting planner and the Council liaison before the meeting and the comments were summarized by the consulting planner in her presentation.

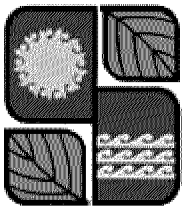
The Commission members are not able to respond to your email because a response from a quorum of Commissioners outside a meeting would be violation of the open meeting laws.

Marie Darling
Planning Director

952-960-7912
mdarling@ci.shorewood.mn.us

City of Shorewood
5755 Country Club Road
Shorewood, MN 55331

MN Data Practices Notification: Pursuant to MN Data Practices Chapter 13 all government data including email communications is presumed to be public unless there is a specific state statute, federal law, or temporary classification that classifies it otherwise.



CITY OF
SHOREWOOD

www.ci.shorewood.mn.us

From: greg larson <g.larson@mchsi.com>
Sent: Saturday, February 19, 2022 3:46 PM
To: Greg Lerud <GLerud@ci.shorewood.mn.us>; Marie Darling <MDarling@ci.shorewood.mn.us>; Todd Eggenberger <TEggenberger@ci.shorewood.mn.us>; Ken Huskins <khuskins@ci.shorewood.mn.us>; Dara Gault <DGault@ci.shorewood.mn.us>; 'dmaddy@ci.\\shorewood.mn.us'; Marc Riedel <MRiedel@ci.shorewood.mn.us>
Subject: EXTERNAL-Feb. 15 Planning session

Administrator Lerud, Planning Director Darling, Planning Commission members;

I was unable to attend the online Planning Commission session on Feb 15 but did review the information on the Labadie dock variance that was posted in the agenda packet. Seeing no opposition to the variance it appeared, to me, that the community supported approval. That conclusion was wrong.

Recently, I have found at least 10 letters in opposition. Though the city was in possession of those letters, inexplicably, none were included in the packet or made available to the public. Anyone reading the opposition letters would have viewed the variance request in a very different light but the packet was dominated by opinions in favor of granting the variance.

If the opposition letters had been included and considered, a much different outcome might have occurred. It is wrong that a small number of elite are awarded voice and the majority muted. You should know and understand that trust in government is fragile and once broken is exceedingly difficult to repair

The opposition letters are logical and cogent with reasonable recommendations on solving the issue without inviting a charge of favoritism. The letters/emails were received in time to allow public view considering the packet wasn't printed but digitized and posted to the city website. If received too late to meet the requirement for the meeting notice, the letters should have been placed on the "Agenda and Minutes" web page under the category of "more.." - as is commonly done.

The oppositional arguments included important background information and commonsense suggestions:

1. The configuration of the dock could be easily redesigned to stay compliant with the ordinance.
2. Photos show that fairly recently the dock was reconstructed thereby undermining the claim that the dock was original to the site.
3. The planning commission could refuse to act on the variance request and instead recommend that city dock/lake ordinances be voided and enforcement left to the LMCD, an agency with a history of fairness and with more expertise and financial resources. This was suggested in the several written comments.

This variance, because it involved a legal favor to the sitting mayor, demanded that the meeting be ultra-fair and unbiased and without hint of prejudice. But, instead the Commission allowed a village bully to devolve the session into an unrelated and slanderous diatribe. After which the Commission forged ahead with approval based on slanted technical analysis and without discussion or consideration of alternative views and remedies.

Again, more than other issues considered by the commission, this specific variance demands a process that is open, fair and beyond accusations of bias. That has yet to happen.

In view of that fact, the Planning Commission must now rescind the approval recommendation of the dock variance. Reconsideration of the variance must be based on an honest and open discussion of ALL available information. But more importantly, for the integrity of the process, the city must apologize publicly for allowing vile slander to be injected into a public meeting and for hiding important information that all citizens deserve to see and consider.

I expect a response from each of you including the city administrator and planning director.

Respectfully,
Greg Larson
Shorewood
612 325-7308

February 21, 2022

Planning Commission, City Administrator, Planning Director;

The reasoning in the city's email response is suspect.

Let me be clear, I'm trying to uncover if, as it appears, the Planning Commission decision to recommend approval of the dock variance was predetermined. There is plenty of evidence to suggest the outcome was a fait accompli.

Justification of that conclusion is partially based on the fact that letters/emails opposing the variance approval were not, before the meeting, made available to the public, thereby denying to the public access to opinions, facts and data that would have allowed a broader discussion and may have led the planning commission to reach a different conclusion.

The city erroneously claims that the oppositional correspondence was not included in the packet because of time constraints based on the 72 hour requirement for publicly posting a meeting notice.

But according to the dates of the letters/emails, all were received on or before Friday, Feb. 11 and stamped by the city as such. That means there was ample time, based on the meeting time and date of 7:00 PM, Tuesday, to include the oppositional letters/emails because the 72 hour notice requirement began at 7:00 PM Saturday. Therefore, the oppositional emails were available well before the 72 hour posting interval began. Moreover, because the packet was posted on city website, no physical printing of any of the packet occurred.

My concern is simple: The public was denied access to data that the public had a legal right to view and the city had an obligation to make available.

The city of Shorewood wants to hide behind the Minnesota Open Meeting Law. So here are legal and legislative opinions that bolster my argument regarding the obligation the city of Shorewood had in this case.

*Moberg, 336 N.W.2d at 518. The Commissioner of Administration stated in a July 9, 2008, opinion that an e-mail sent to all members of a city council by the city manager was effectively "printed material" that should be available to members of the public.**

And:

*"A public body cannot fulfill its obligation to make members' materials available in the meeting room for inspection by the public if the public does not know they are available for inspection. While there is not an affirmative duty to distribute copies to each member of the public in attendance at the meeting, liberally construing the law to protect the public's right to full access to the decision-making process of public bodies requires a public body to provide easy access to the materials." **

And more:

*"The open meeting law requires that for open meetings, at least one copy of any printed material prepared by the public body and distributed or available to all members of the public body also be available in the meeting room for inspection by the public". **

A reasonable interpretation concludes that the city was negligent and unjustified by not providing to the public information that was available to the planning commission and as a result the decision rendered by the planning commission is likely illegal and must be rescinded.

Another error in the city's response to my 2/19 email misconstrued that I was calling for a private meeting with the planning commission. I'm not sure how that conclusion was reached but it is wrong. I wasn't asking for a meeting, but dialogue between a commission member and me - hardly a quorum.

I find nothing in Minnesota statutes including chapter 13D (Minnesota Open Meeting) that justifies the city's argument that communications between a citizen and a member of a commission is unlawful. If the city's opinion is based on statute, law or ordinance, please provide the specific legal basis for the claim. But keep this mind:

*"Gatherings of less than a quorum of a public body are not subject to the law; a "meeting" is held when the group is capable of exercising decision-making powers". **

Instead of legal and fact based, the city's argument looks like a blatant attempt to muzzle the planning commission from interacting, one-on-one, with a neighbor and resident. I find that unacceptable and it adds to my skepticism regarding the fairness of the process and calls into question the City of Shorewood's commitment and adherence to transparency and equal treatment under the law – pretty fundamental concepts of good government.

So, I again request that each member of the planning commission contact me for a one- on-one conversation.

Finally, here are the Minnesota Supreme Court's stated three purposes of the Open Meeting Law:

- To prohibit actions taken at secret meetings
- To assure the public's right to be informed
- To give the public an opportunity to present its views to the public body

I repeat from the earlier email: **The Planning Commission must now rescind the approval recommendation of the dock variance. Reconsideration of the variance must be based on an honest and open discussion of ALL available information and the public must have access to those data. But more importantly, for the integrity of the process, the city must apologize publicly for allowing vile slander to be injected into a public meeting and for hiding important information that all citizens deserve to see and consider.**

- <https://www.house.leg.state.mn.us/hrd/pubs/openmtg.pdf>

Greg Larson 612 325-7308

**RESOLUTION 22-021
CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

**A RESOLUTION APPROVING VARIANCES FOR AN EXISTING DOCK ON
PROPERTY LOCATED AT 5510 HOWARDS POINT ROAD**

WHEREAS, Jennifer and David Labadie, (the “Applicant”) are requesting two variances for the existing dock on property legally described as:

Lot 4, Auditor's Subd. No. 367, Hennepin County, Minnesota.

WHEREAS, the variance application is in response to a code enforcement violation notice.

WHEREAS, the first variance request is to allow a dock greater than four feet in width and the second variance is to allow the dock less than eight feet from the Ordinary High Water (OHW) mark.

WHEREAS, the Applicant’s request was reviewed by the planning staff, whose recommendation is included in a memorandum for the February 15, 2022 Planning Commission meeting, a copy of which is on file at City Hall; and

WHEREAS, the Planning Commission held a public meeting on February 15, 2022 to review the application, the minutes of the meeting are on file at City Hall; and

WHEREAS, the City Council considered the application at its regular meeting on February 28, 2022, at which time the planning staff memorandum and the Planning Commission’s recommendations were reviewed and comments were heard by the City Council from the Applicant, staff and public.

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA FINDS AS FOLLOWS:

FINDINGS

1. The subject property is located in R1-A zoning district and is a shoreland lot with frontage on Lake Minnetonka.
2. In 2006, the City Code was modified to adopt dock standards that were consistent with the Lake Minnetonka Watershed District (LMWD) and Minnesota Department of Natural Resources (MNDNR) standards.
3. City Code Section 1201.03, subd.14c, limits properties to one dock and requires that the dock to connect to the shoreline at only one location, no wider than four feet, and requires that the dock shall extend into the lake at least eight feet beyond the OHW 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.
4. In August 2021, the City received a complaint regarding the dock on the property.

5. In September 2021, the City inspected the property and observed that the dock did not comply with ordinance standards.
6. The applicant received a Notice of Violation dated October 20, 2021.
7. On November 8, 2021, the City Council granted an extension to December 8, 2021 to allow the property owner additional time to address the violation.
8. The Applicant submitted a variance request as detailed on the application materials and plans on November 23, 2021.
9. The center dock section has an eight-foot long, 3.5-foot wide section at the shoreline and then expands to seven feet wide for 48 feet.
10. The center dock branches out near the shoreline in two sections. The eastern section is approximately one foot from the OHW and the western section is approximately four feet from the OHW.
11. The existing dock and the western boat slip have been in place since 1985, according to aerial surveys and statements from two Lake Minnetonka dock professionals, and remain in place year-round.
12. The dock professionals confirmed that the lagoon has an extremely soft bottom and it progressively becomes softer as you proceed from the shoreline. Placing a dock further from the shore could result in a less stable dock and potentially unsafe dock situation. For that reason, Jeff Fox of Waterfront Specialties, Inc. opined that the choice to install the dock close to the shoreline was intentional due to the circumstances of the lagoon bottom.
13. Section 1201.05, subd. 1(b) of the City Code provides that the purpose of a variance is to allow a process to deviate from the strict provision of the zoning regulations.
14. Section 1201.05, subd. 1(b) provides the variance process is neither appropriate nor applicable to allow a use on a property that is not permitted in the zoning district. A dock is an allowed accessory use in the R1-A zoning district. See Section 1201.10, subd. 3(k).
15. With respect to docks, Section 1201.03, subd. 14(f) provides no dock located within a residential district shall extend further into the water than reasonably necessary to provide docking space for boats and crafts used by the owner of the dock, and under no circumstances shall a dock create a safety or navigational hazard or block any channel or access to the lake from adjoining lots or parcels.
16. Section 1201.05, subd. 3 provides that any variance granted must consistent with the intent of the comprehensive plan and in harmony with the general purposes and intent of the zoning code, and must the applicant must establish that there are practical difficulties with complying with the zoning requirements.
17. Section 1201.05, subd. 3(b)(7)(a) permits the Council to impose any condition it considers necessary to protect the public health, safety, and welfare, provided such conditions are directly related to and bear a rough proportionality to the impact of the variance.

DECISION

A. Based upon the foregoing, and the records referenced herein, the City Council hereby approves the Applicant's request for a variance to allow a seven-foot wide dock where a maximum width of four feet is permitted, based on the plans and materials submitted on November 23, 2021.

B. Based upon the foregoing, and the records referenced herein, the City Council hereby approves the Applicant's request for a variance to allow dock less than eight feet from the OHW, based on the plans and materials submitted on November 23, 2021.

C. The City Council specifically finds that the Applicant's request for the variances to maintain their permanent dock meets the variance criteria listed in the City Code. Specifically:

1. The variances are 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 generally 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.
 - a. The property owner proposes to use the property in a reasonable manner not permitted by this chapter. The continued use of the permanent dock, which has been in place for more than 36 years, is reasonable. The dock placement and its width is reasonable in light of the unstable soils in the lagoon, and creates more reliable and safe dock for the property owner.
 - b. 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 extension of the dock from the OHWL is incompatible with boat navigation patterns previously created by dredging of the lagoon to create a channel for boat passage in and out of the lagoon. The current location of the dock, and the variance herein, renders the dock compatible with Section 1201.03, subd. 14(f) by avoiding the creation of a safety or navigational hazard and blocking any channel or access to the lake from adjoining lots or parcels.
 - c. The variances would not alter the essential character of the locality. 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. The dock is consistent with the character of the area, which is a residential, lakefront lot improved with a single-family home and an accessory dock to access the lake.
3. The variances are 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 variances 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. As noted above, allowing the current dock placement supports public safety in the lagoon as it allows ample room for navigation in the channel through the lagoon by neighboring property owners.
5. 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. Any change to the 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.

D. The variance approval shall be subject to the following conditions:

1. The applicant shall submit a certificate of survey for the property and the dock within six months of the variance approval date to memorialize the existing conditions approved by the variance.

E. The City Clerk is hereby authorized and directed to provide a certified copy of this resolution for filing with the Hennepin County Recorder or Registrar of Titles.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA
this 28th day of February 2022.

Patrick Johnson, Acting Mayor

Attest:

Sandie Thone, City Clerk



City of Shorewood Council Meeting Item

Title/Subject: Strawberry Lane Final Design Direction, City Project 19-05
Meeting Date: Monday, February 28, 2022
Prepared by: Andrew Budde, City Engineer
Reviewed by: Larry Brown, Director of Public Works
Attachments: Overview Map of Easement Needs and Resolution

Background: At the February 14 council meeting staff presented design information and comments from an open house to seek final design direction for the Strawberry Lane Reconstruction project. The final design items are as follows: 1.) The need or justification for a sidewalk, 2.) Minimizing impacts to yards and trees by reducing the proposed street width by two feet, and 3.) Shifting the alignment on the south of the Light Rail Trail (LRT) towards the west.

In general, for Item 1, there is public support for a 6-foot-wide sidewalk against the east curb of Strawberry Lane. For Item 2, the residents adjacent to Strawberry Lane support a narrower roadway of 24 feet, however staff continues to recommend a 26-foot-wide roadway to meet city ordinances related to State Fire Code and allow for on-street parking, which should help slow vehicle speeds and provide additional buffer to the sidewalk.

The item that received the most discussion was related to the roadway alignment shift south of the LRT. Many residents adjacent to the project are in favor of maintaining the western most alignment of the roadway on the south end, which was identified as Alternate 2 at the open house. This would generally keep the western edge of the roadway within a couple feet of its current location. If the city were to pursue the easements as "Roadway Easements" it would require the acquisition of easements from four additional property owners on the west side and south of the Lake Minnetonka Regional Trail. Since initial scoping and further staff discussion, it was determined that Roadway Easements would change the front building setback location. The current zoning for these parcels is R-1D and requires a minimum front yard setback of 30 feet. All these homes are set back at least 40 feet from the current right of way and would not make any of the properties be out of compliance, however it could impact the location and extend of future improvements to their property. For comparison the properties on the east side are zoned R1-C and requires a minimum front yard setback of 35 feet. Most of these homes are at or near the 35-foot setback.

If the city were to acquire Drainage & Utility Easements where possible, it would not impact future building setbacks. In addition, two of the properties on the west side currently have 20 feet of Drainage and Utility Easement dedicated. Therefore, the city would only need to acquire easements from the two southern most properties on the west side. Staff has contacted one of the properties and they are willing to discuss the easement. Staff has reached out to the other property owner in which an easement is needed but has not been able to connect with as of the writing of this memo.

To maintain the ideal project schedule, staff could have open negotiations with these property owners in March and April. Then at the beginning of May the city would need to decide on filling for condemnation, altering the alignment to avoid/minimize condemnation, or adjust the project schedule. In both Alternate 1 (eastern alignment) and Alternate 2 (western alignment) the city would need a portion of Roadway Easement at the corner of Strawberry Lane/62nd Street W.

Financial Considerations: This project has been budgeted for in the Capital Improvement Plan (CIP) in years 2021 and 2022 and includes an overall budget of \$5,466,000. \$150,000 of the budget is specific to Right of Way Acquisition. The total project costs estimated for the feasibility study is \$4,820,000. It is estimated that the western alignment south of the LRT will add a minimum of \$25,000 in right of way/drainage & utility easement acquisition costs.

Recommendation/Action Requested: Staff recommends the city council pursue the six-foot-wide sidewalk next to the back of curb, maintain the proposed street width at 26 feet measured from face of curbs, and negotiate for easements from two properties on the west side to maintain the western alignment of Strawberry Lane south of the LRT thru April 2022. Then if amicable agreements are not met, council will provide further direction at the May 9 council meeting to pursue condemnation, adjust the roadway alignment, or adjust the project schedule.

In the meantime, staff will continue work on the final plans & specifications, determine final easements needs, meet with residents, and advance the permit and coordination with other agencies. The overall goal is substantially completion by the start of school in 2023. Below is an approximate schedule for delivery of the project.

Final Design: February through August of 2022

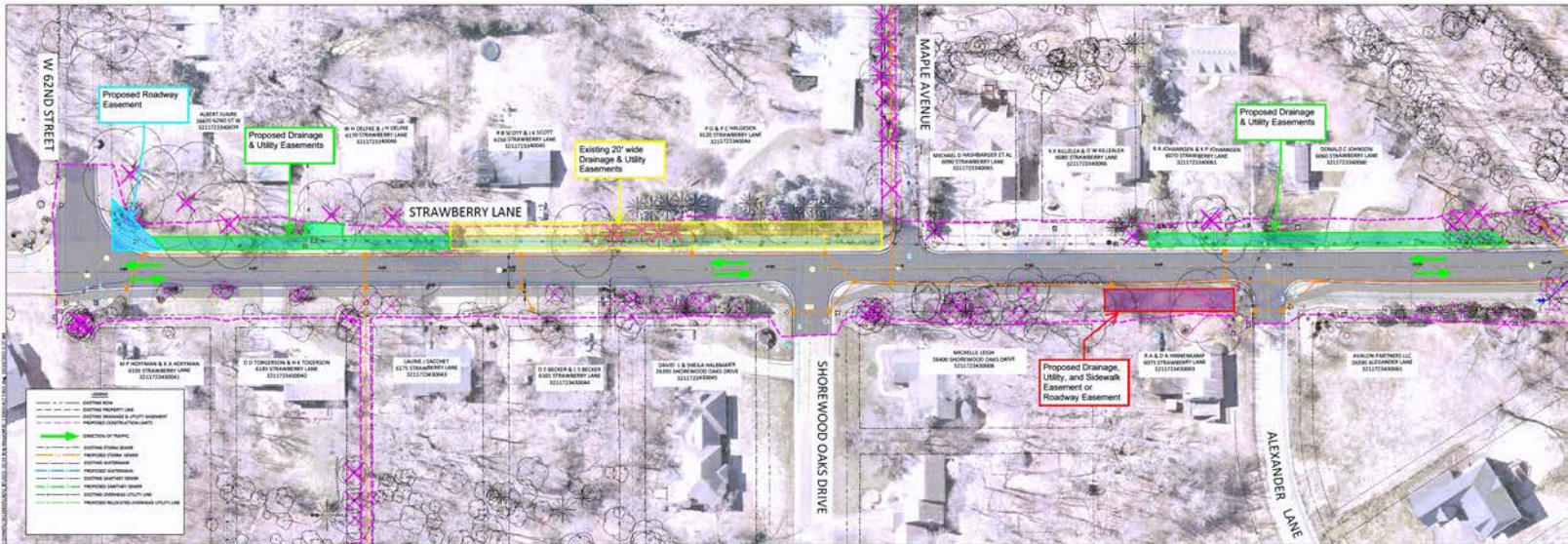
Easement Acquisition/Negotiations: March through August 2022

Approve Plans and Award Project: September through October 2022

Tree Removal* and Private Utility Relocations: August 2022 through March 2023

*Tree Removal may occur under a separate contract to facilitate private utility relocations in 2022. This will help ensure substantial completion by September, 2023.

Strawberry Lane Reconstruction & Trail
City of Shorewood



**CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

RESOLUTION 22-022

**A RESOLUTION PROVIDING FINAL DESIGN DIRECTION
FOR STRAWBERRY LANE
CITY PROJECT 19-05**

WHEREAS, the current Capital Improvement Plan (CIP) identifies improvements to Strawberry Lane for improvements to the roadway, construction of a trail, installation of watermain and drainage improvements from West 62nd Street to Smithtown Road; and

WHEREAS, the city prepared a Feasibility Study and Scoping Document for Strawberry Lane and Trail project that summarized the costs and impacts of multiple roadway alignments with varying widths and sidewalk/trail configurations; and

WHEREAS, the city hosted an Open House to gather resident feedback on the various alternatives; and

WHEREAS, overwhelming feedback was received by the city from adjacent residents to include a six-foot-wide sidewalk on the east side of the roadway, adjacent to the back of curb, to minimize impacts to yards, trees, and other features along the corridor; and

WHEREAS, many residents adjacent to the project would prefer a 24 foot wide roadway with no on street parking compared to the proposed 26 foot wide roadway that allows on street parking. However, staff believes having a 26-foot-wide roadway that allows on street parking is in the best interest of the community as it will provide convenience for residents, calm traffic speeds, and provide separation from vehicles and pedestrians; and

WHEREAS, many residents adjacent to the project prefer the roadway south of the Lake Minnetonka Regional Trail follow the western alignment and require the acquisition of additional easements from properties on the west side; and

WHEREAS, the city will pursue the western alignment of Strawberry Lane and negotiate with the residents on the west side of the roadway for the acquisition of required easements. However, if the city is required to engage in condemnation strictly to facilitate the western alignment of Strawberry Lane, the city will then adjust the design to follow the eastern alignment that minimizes easement needs; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA AS FOLLOWS:

1. The City Council of the City of Shorewood, Minnesota directs staff to incorporate a six-foot-wide concrete sidewalk on the east side of Strawberry Lane adjacent to the back of curb, a 26-foot-wide roadway that allows on street parking, and south of the Lake Minnetonka Regional Trail to follow the western alignment if it does not require the need for condemnation. If condemnation is required staff shall adjust the design to the eastern alignment. Staff should provide an update on the final alignment for the area south of the Lake Minnetonka Regional Trail by May 9, 2022.

Passed by the City Council of Shorewood, Minnesota this 28th day of February 2022.

Jennifer Labadie, Mayor

Attest:

Sandie Thone, City Clerk



City of Shorewood Council Meeting Item

8B

MEETING
TYPE
Regular
Meeting

Title/Subject: Birch Bluff Road: Present Draft Scoping Document and Communication Plan, City Project 21-01

Meeting Date: Monday, February 8, 2022

Prepared by: Andrew Budde, City Engineer

Reviewed by: Larry Brown, Director of Public Works

Attachments: Preliminary Layout, Draft Scoping Document, Project Process & Decision Chart

*Due to the file size, a link to Attachments 1, 2 and 3 is shown here:
ci.shorewood.mn.us/councilmeeting22822

Background: On June 14, 2021, the City Council authorized the preparation of the Scoping Study for the Birch Bluff Road Reconstruction project. The project is included in the Capital Improvement Plan (CIP) for construction in 2023. Attachment 1 is the preliminary layout for the project.

The preparation of the Scoping Study is the first step to define options for the improvements, define the project cost implications of those options, and to document expectations from residents, staff, and the City Council. Attachment 2 is the draft Scoping Document.

The project scope currently includes full reconstruction of Birch Bluff Road and Lee Circle to the city standard width of 26 feet wide from face to face of the concrete curb and gutter, addition of storm sewer and required stormwater management, the addition of watermain, and the addition of a trail or sidewalk from Eureka Road to the Tonka Bay City limits.

The Scoping Study also includes full topographic survey of the project area, delineation of wetlands, evaluation of soil conditions, review of the existing sanitary sewer system and lift station, preparation of preliminary storm sewer layout and ponding, determination of preliminary construction limits, identification of preliminary easement needs, updating project cost estimates, understanding overall permitting needs, and developing a preliminary project schedule.

At this point in time, the document is considered “Draft”, while staff continues to engage with residents along the corridor and hosts a Public Informational Meeting for the project. To date the city has provided an online Story Map that provides preliminary information and allows residents to provide comments that can impact the scope of the project. Staff will update the Story Map content with information from the draft Scoping Study and will solicit additional feedback from residents at the Public Informational

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.*

Meeting. Staff will then utilize the public comments to provide recommendations to the council, for consideration and direction to staff for final design.

It is noted that even after the initial approval, staff may need to continue to evaluate other elements of the project scope, based on input and questions from residents. After the public engagement process staff will finalize the scoping document, present it to council seeking final approval and authorization to proceed with final design in April.

Another element that is recommended to be incorporated as an additional information tool is the "Project Process and Decision Chart." This has been included as Attachment 3. This interactive document helps clarify information that is known at various stages of project development and provides residents key points when public input is most effective. This is intended to help the city be transparent with the project information and process, and provide education and guidance to residents when to engage with staff and council. This also allows the city to be efficient in the project development process.

Financial Considerations: This project has been budgeted for in the Capital Improvement Plan (CIP) in the year 2023 and includes four items from the CIP:

2023 Birch Bluff Street Reconstruction	\$2,071,008
2023 Birch Bluff Water	\$866,533
2023 Birch Bluff Sanitary	\$120,200
<u>2023 Birch Bluff Stormwater Management</u>	<u>\$410,866</u>
Total Budget	\$3,468,607

The above budget amounts include concept construction costs and project development costs such as survey, engineering, legal, and administration. The completion of the scoping study will allow for adjustments to the CIP if needed. Items that were not included in the original budget items are the costs associated with Lee Circle reconstruction and its watermain and the costs associate with the trail/sidewalk if it is pursued.

Recommendation/Action Requested: Staff recommends the city council select a date to host an open house in March, and provide direction if this meeting should be conducted in person or a virtual format.

Motion, second and Simple Majority required.



City of Shorewood Council Meeting Item

8C
MEETING TYPE Regular Meeting

Title/Subject: **Approve Plans and Specifications and Authorize Advertisement for Bids for Lift Stations 7, 9 & 10 Rehabilitation Projects, City Projects 20-12 & 21-08**

Meeting Date: Monday, February 28, 2022

Prepared by: Matt Bauman, Assistant City Engineer

Reviewed by: Larry Brown, Director of Public Works

Attachments: **CIP Excerpts, Site Location Maps, Plans and Specifications and Resolution**

*Link to Plans and Specifications: ci.shorewood.mn.us/councilmeeting22822

Background: The Covid 19 pandemic and variants dramatically impacted the ability to complete several lift station (aka wastewater pumping station) rehabilitation projects, due to material shortages and what had been perceived as inflated pricing for these types of improvements. The past projects and current projects are summarized in Table 1 below.

Lift Station No.	Location	Original CIP Year
10	4773 Lakeway Terrace	2020
7	5600 Woodside Ln.	2021
9	20995 Minnetonka Blvd.	2022

Table 1

On July 6, 2021, the city received bids for lift stations 7 and 10, however, the bids were rejected due to what appeared to be inflated pricing, due to impacts of the pandemic.

Therefore, staff has opted to group all three lift stations together, attempting to take advantage of economies of scale and hopefully an increase in the number interested bidders.

- Lift Station 10 was listed in the 2020 CIP, as shown in Attachment 1, in addition to a site location map as Attachment 2.
- Lift Station 7, was listed in the 2021 CIP, as shown in Attachment 3. A site location map is shown as Attachment 4.
- Lift Station 9, is listed in the 2022 CIP for reconstruction, as shown in Attachment 5. Attachment 6 is the site location map for this lift station.

Items under consideration for this agenda item is:

- Approval of Final Plans, Specifications and Estimate for the Lift Station 9 Rehabilitation Project.
- Authorize Advertisement for Bids for all three lift stations 7, 9, and 10.
- Authorize direct purchase of critical pump and control circuitry form Electric Pump, Inc. for lift station 9. (Pumps, critical hardware, and circuitry for lift stations 7 and 10 were authorized previously by the City Council).

Our current practice with lift station projects has been to purchase directly, from a trusted vendor, critical components. This typically includes control panels, circuitry, pumps and hardware. This allows the city to have uniformity across all the lift stations, minimizes the spare parts that are warehoused, and standardizes operations for employees. This is especially important during failures and emergencies.

Therefore, staff has solicited a quote from Electric Pump, Inc. for the critical components for lift station 9. The quote for the pumps, hardware and controls is \$66,625.00 and is included as Attachment 7.

It is noteworthy that if the projects move forward, the unsightly green “check valve vaults” that exist at the present sites will be replaced with flush mounted access hatches. This will improve the aesthetics of the sites dramatically.

Finally, Shorewood has many cultural resource monitoring locations and Lift Station 7 falls into one of those known areas. Provisions have been made to account for this during construction. The site is considered previously disturbed, since excavations were made when the lift station was originally installed.

Financial Considerations: The total project costs for each of the lift stations are listed below:

Lift Station 10:	\$150,000 (As originally listed in 2020 CIP)
Lift Station 7:	\$240,000 (As originally listed in 2021 CIP)
Lift Station 9:	\$240,000 (2022 CIP)

Costs were unintentionally not updated with the latest round of CIP planning. The most current total project cost estimates are:

Lift Station 7:	\$359,000
Lift Station 9:	\$344,600
Lift Station 10:	\$341,500

Timing: The following time schedule is being proposed for this project:

- February – Order pumps, control panels and accessories and post plans for bidding
- April – Open bids and award project
- August through October – Construction

Options: Staff recommends that the Council consider the following actions:

1. Approve the Resolution that approves the Plans, Specifications for the Lift Station 10, 7, 9 & Rehabilitation Project, and authorize advertisement of bids for City Projects 20-12 and 21-08, and authorize purchase of lift station components for City Project 21-08 from Electric Pump for an amount of \$66,625.00.
2. Provide Staff with alternate direction.

Recommendation/Action Requested: Staff recommends that the Council adopt the Resolution as submitted that approves the Plans, Specifications for the Lift Station 7, 9 & 10 Rehabilitation Project, proceed with bidding the project and authorize purchase of lift station components from Electric Pump.

Link to Plans and Specifications: ci.shorewood.mn.us/councilmeeting22822

**CITY OF SHOREWOOD
COUNTY OF HENNEPIN
STATE OF MINNESOTA**

RESOLUTION 22-023

**A RESOLUTION APPROVING PLANS & SPECIFICATIONS AND AUTHORIZE
BIDDING FOR THE LIFT STATIONS 7, 9 AND 10 REHABILITATION PROJECT
CITY PROJECTS 20-12 AND 21-08**

WHEREAS, the City of Shorewood approved the 2020 Capital Improvement Plan which includes the Lift Station 10, Lakeway Terrace, City Project 20-12; and

WHEREAS, the City of Shorewood approved the 2021 Capital Improvement Plan which includes the Lift Station 7, Woodside Lane, City Project 20-12; and

WHEREAS, the City of Shorewood approved the 2022 Capital Improvement Plan which includes the Lift Station 9, Minnetonka Boulevard, City Project 21-08; and

WHEREAS, the City of Shorewood purchased lift station components for Lift Station 7 and Lift Station 10 in 2021 and solicited pricing for Lift Station 9; and

WHEREAS, the proposed improvements will help to maintain and extend the longevity of the sanitary sewer system; and

WHEREAS, combining the three projects is in the best interest of the City; and

WHEREAS, the project will be funded through the Sanitary Fund, and

NOW THEREFORE, IT RESOLVED:

1. That the City Council of the City of Shorewood hereby approves the Final Plans & Specifications and authorizes advertisement for bids for the 2022 Lift Station 7, 9 and 10 Rehabilitation projects.
2. That the City Council hereby authorizes direct purchase of critical lift station components for City Project 21-08 from Electric Pump for an amount of \$66,625.00.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD this 28th day of February 2022.

Jennifer Labadie, Mayor

Attest:

Sandie Thone, City Clerk



City of Shorewood Council Meeting Item

Title/Subject: Accept Quote for Integrated Pest Management Plan

9A

Meeting Date: February 28, 2022

Prepared By: Greg Lerud, City Administrator

Reviewed By: Jared Shepherd, City Attorney; Larry Brown Director of Public Works

MEETING
TYPE
REGULAR

Attachments: IPM proposals

Background: Following the discussion at the January 24 work session about the city's pollinator policy not being adhered to, the City Council directed staff to reach out to organizations of firms to assist the city in developing an Integrated Pest Management program (IPM). Staff prepared a Request for Quote (RFQ) for the work to develop a plan and an alternate quote to assist staff with ongoing implementation of the plan.

The RFQ was sent to nine parties. The city received three quotes: Davey Resource Group (DRG), Bolton & Menk, the IPM Institute.

Financial or Budget Considerations: Below is a breakdown of the proposals received:

	DRG	Bolton & Menk	IPM Insitute
Quote	\$9,770	12,900	5,806
Alternate Quote	5,175	6,600	6,039

Options:

1. Accept one of the quotes.
2. Reject all quotes.
3. Request additional information from one or all of the organizations who submitted a quote.
4. Provide staff alternative direction.

Recommended Action: All three proposals were comprehensive. The city has relationships with both DRG and Bolton & Menk. Based on a recommendation from Lauri Schneider, Executive Director of the Pollinator-Friendly Alliance, an interview we held with Ryan Anderson at the IPM Institute, and the desire of staff to ensure that there is no conflict of interest with this particular project and other services presently provided

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.*

by DRG and Bolton and Menk, staff recommends accepting the quote and alternate quote from the IPM Institute by simple majority.

Next Steps and Timeline: Staff will work with the city attorney and the IPM Institute to draft any necessary agreements for the city council to approve at a future meeting.



City of Shorewood Integrated Pest Management Plan

Prepared For:

City of Shorewood
5755 Country Club Rd
Shorewood, MN 55331

Prepared By:

Gail Nozal
Area Manager
Davey Resource Group
1196 7th St E
St. Paul, MN 55196
Phone: 651-442-7153
E-mail: gail.nozal@davey.com

February 15, 2022

Integrated Pest Management Plan (IPMP)



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Section I. Company Overview and Values

History of Davey Resource Group

Davey Resource Group, Inc “DRG” provides natural resources and urban and utility forestry management services to clients throughout the United States. DRG was founded on the principle that nature and the built environment can co-exist for the benefit of people and their communities. Davey Resource Group is a nationally recognized leader in innovation, research, and development of creative solutions for the stewardship of natural resources. Founded in 1992, DRG is a wholly-owned subsidiary of The Davey Tree Expert Company, which is one of the oldest and largest tree care companies in the country.

Davey Resource Group provides a variety of natural resource consulting services to state and local governments, electric utility companies, conservation organizations, and various commercial markets. These services include:

- Natural resources and endangered species surveys and studies
- Urban Forestry Consulting
- Ecosystem restoration services
- Water resources management
- Permitting
- Geographic Information System (GIS) applications
- Environmental planning
- Invasive species control
- Stormwater/Green Infrastructure service

DRG is fully staffed with hundreds of professional scientists and technicians specializing in environmental planning, botany, forestry, wetlands and stream science, hydrology/soils, zoology, and all aspects of computer science. DRG has extensive experience assisting architects, landscape architects, planners, and park managers with ecological surveys, environmental resources analyses, environmental planning, wetlands and stream restoration, watershed management, and Geographic Information System (GIS) mapping.

Customer Service Philosophy

We know that to be the best, we must always work to be better. DRG understands that innovation, experience, technology, quality assurance, and communication—provided by a well-trained, professional staff—are keys to successful projects and client satisfaction. Our staff are trained to understand the critical importance of quality assurance and internal and client communication before, during, and after a project. Pre-work meetings, routine project meetings, communication during the project, and post-work debriefings are all keys to delivering a successful project outcome for you, our client.



From Davey Resource Group's (DRG) commitment to job site safety to complete team communications, DRG is dedicated to doing what is necessary to exceed expectations.

Quality, Teamwork, Communication

These three words are the guiding principles of our project approach—the elements that we will never compromise on. We manifest **quality** through the continual reinvention and adaptation of our processes to achieve the highest quality results at the best value. Fostering an environment of **teamwork** is essential for meeting customer expectations and achieving fiscal responsibility. To that end, we consider our clients as the team leaders, and we take our role as project manager and facilitator of your goals very seriously. DRG begins every project by forming a team of experts hand-picked to serve the needs of your individual project. Open **communication** is the glue that binds it all together, ensuring that project goals, strategic direction, and updates are shared and understood by all.

Stewards of Your Goals and Budget

The true test of an effective solution to your natural resource challenge lies in whether the solution helps you achieve your overall vision. We understand the importance of your project goals as well as the funds you have made available for the completion of this work.

We are committed to meeting established deadlines and delivering a completed project at or below the estimated budget. DRG project managers are evaluated on their ability to contain and manage project costs, and we will always strive to provide feasible strategies that will maximize your investment.



DRG'S CORE VALUES



Safety

Davey goes above and beyond standard safety expectations, so it's no surprise we've earned one of the top safety records in the industry.



Integrity

Rooted in tree care expertise since 1880, we continue to live by John Davey's original company motto of "Do it right or not at all."



Expertise

The Institute strives to lead Davey in scientific rigor and advancement, ensuring that we provide the highest quality of service in our industry.



Leadership

Davey is proudly committed to supporting our communities where we live and work, focusing especially on trees and the environment.



Stewardship

For 140 years, Davey has been rooted in corporate responsibility—demonstrating environmental, social and economic stewardship in everything we do.



Perseverance

At Davey, ongoing training is important to ensure our employees are equipped with the best and safest techniques to care for the unique needs at every job site, every time.

Section II. Statement of Project Approach

Understanding of Project Goals

Based on information provided by the City of Shorewood, Davey Resource Group understands the overall primary goal of this project is to assist the city in developing an Integrated Pest Management Plan.

Davey Resource Group's Approach

Davey Resource Group must thoroughly understand your requirements and goals for a successful project before we can implement the approach detailed in this proposal. Davey Resource Group proposes the following project approach:

1. **Client Involvement:** Davey Resource Group encourages the full involvement of the City of Shorewood in this project to plan future implementation and pest management efforts. Davey Resource Group will hold two in-person meetings with client-specified stakeholders in person to establish future goals and priorities. DRG may perform additional site visits under a change order contract for an additional fee.
2. **Diversified and Knowledgeable Staff:** Davey Resource Group has a team of experienced and committed professionals who will support the goals of your organization. Our team includes GIS experts, biologists, stream and shoreline stabilization restoration specialists, landscape designers who specialize in native plant community restoration, Certified Ecological Restoration Practitioners, Certified Lake Professionals, and more.

Project Management

The project will be managed from Davey Resource Group's regional office in St. Paul, Minnesota. The project will be overseen by Gail Nozal who will provide general project management and oversight of work conducted by DRG staff. Gail Nozal will coordinate all project planning and fieldwork activities, and will provide primary authorship on any project reports or other deliverables.

Primary contact information Shorewood can use to contact Gail Nozal are provided below.

Name: Gail Nozal

Phone Number: 651-442-7153

Email: gail.nozal@davey.com

Staffing Flow

The following is a team table Davey Resource Group has developed for this project, which can be fine-tuned prior to the start of the project. It is worth noting that all project stakeholders are considered integral team members.

Resumes of key Davey Resource Group staff are provided in **Appendix A**.

Organization	Team Member	Title	Project Role
DRG	Gail Nozal	Area Manager	Project Leader
DRG	Katie Karl	Senior Inventory Arborist	Team Member
DRG	Melissa Seidel	Environmental Specialist	Team Member
Davey Institute	Audrey Sellepack	Pesticide Compliance Specialist	Team Member

Scope of Work

Upon initial inspection of the project requirements, Davey Resource Group has determined possible solutions to achieve project success. The purpose of this initial planning phase is to evaluate and decide which methods will best suit your priorities, goals, and budget. Davey Resource Group’s approach to completing the project tasks is as follows:

Task 1: Document review and meeting with city staff

Davey Resource Group will research and meet with city staff to better understand their needs for an Integrated Pest Management (IPM) plan. IPM makes use of environmental monitoring, cultural practices, pest growth patterns and life cycles, human contact, mechanical removal and pesticides to control harmful organisms if they reach a level unacceptable to stakeholders.

The premise of IPM programs apply a holistic approach to pest management decision-making, they take advantage of all appropriate pest management options, including, but not limited to pesticides. Thus, IPM is:

- A system using multiple methods;
- A decision-making process;
- A risk reduction system;
- Information intensive;
- Cost-effective; and
- Site specific.

To achieve the goal of a well written plan we will review current management of invasive weeds, turf management, parking lot weed control, tree insect and disease management, restoration practices of natural areas, formal gardens. This review also includes reviewing labels and records of past pesticide

applications the last two to five years, current cultural practices, review of existing pollinator policy approved on July 28, 2014. Discussions with existing staff will include acceptable levels of insect or disease damage and current culturally acceptable practices for weed management, height of natural area grasses and plants as well as the height of turf and grasses in maintained and low maintained areas.

Task 2: Public Listening Session

A resilient, healthy, and sustainable IPM Plan requires input and engagement from the citizens of Shorewood. Davey Resource Group will conduct two virtual public listening sessions to better understand community concerns about management of park and public spaces that include turf, natural areas and tree insect and disease management. Included in these listening sessions will be directed questions to better understand community thresholds for insect and disease damage to plant material that includes turf, perennials/forbs, shrubs and trees.

Task 3: Plan Report and Presentation to City Council

Based on the results of data analysis, review of City operations and policies, as well as input collected from public outreach, DRG will develop a custom plan specific to Shorewood. Recommendations will be made to improve pest management within the city. Davey Resource Group will prepare a report and recommendations based on meetings with city staff, public listening sessions, synthesis of findings. The final plan will include goals and objectives, as well as the strategies and resources needed to accomplish integrated pest management.

Once a draft is developed, one (1) comment period/draft review will be coordinated with the city. The City of Shorewood will return all comments, edits, or recommendations in one consolidated document. Davey Resource Group will coordinate any further discussion with the city, before finalizing the plan. Both a draft and final report will be presented to the city council.

Project Deliverables

Davey Resource Group will provide: two presentations of the draft and final report to the city council. Also included are two final written bound report copies.

Project Schedule

The following table presents the proposed project schedule. Davey Resource Group will work with you, our client, to fine-tune this schedule to meet required deadlines.

Project Schedule (weeks)											
Task	1	2	3	4	5	6	7	8	9	10	Result/Deliverable
#1	■	■	■								Review of existing documents and meeting with city staff.
#2				■	■	■					Public Listening Sessions
#3							■	■	■	■	Final Report and Presentation to City Council

Section III. Project Experience

Below is a list of projects that demonstrate Davey Resource Group's experience. Davey has a long history of public engagement and plan writing. Experience with management plan and urban forest master plan writing locally has included management plans written for the Cities of Shorewood, Shoreview and South St. Paul. These projects show Davey Resource Group's capabilities across a number of projects similar in scope to your needs, and show how we are uniquely qualified to complete this project. While this experience does not include municipal experience in specific IPMP plans or examples of these exact plans, our company does have the experience and knowledge to take on this task.

Public Listening Sessions

DRG takes a variety of approaches depending on the scale of the project to engage the community. DRG has the experience to lead community engagement or work with a sub consultant to conduct public engagement sessions. These sessions are led in a way to have as many constituencies as possible in a fair and equitable way. Sessions are interactive, solicit responses from parties. The sessions focus on sharing information about the current state of management of public spaces as it relates to insect and

disease management and soliciting feedback from participants and stakeholders through question & answer discussions, live polling and/or questionnaire survey. These type of sessions over the last few years in these communities have been held remotely/virtually and in person when possible. Overall public and stakeholder input was used in a number of ways, mainly: A series of goals and objectives was developed. Summary reports of the input from each of the meetings were prepared and submitted and summarized in the final plans. Some examples of public engagement or listening sessions have been conducted for the following projects.

- City of Pittsburgh Urban Forest Master Plan
- City of Dallas, Texas Urban Forest Master Plan
- City of Ann Arbor, Michigan Urban Forest Master Plan
- City of Wilmington, North Carolina Urban Forest Master Plan
- City of Chicago, Illinois Urban Forest Master Plan
- City of Columbus, Ohio Urban Forest Master Plan

Davey Annual Plant Health Care and Treatment Guide

Each year Davey publishes a confidential book for Davey employees intended to provide guidance on insecticides, fungicides, and herbicides. This book not only contains information about these products it contains educational information for employees on monitoring, application techniques and detailed information about all allowed Davey pesticides. This book is not meant to be a substitute for labels rather than a resource and education aid for employees. Due to the confidential nature of this book we are not able to share a copy so this description is what we are able to provide about this 111 page guide. This book contains confidential business information for use by Davey employees only.

Management Plans

DRG has a wide variety of plan writing. Please see Appendix B for a few examples of previous plans that we have written.

Invasive Species Monitoring and Inspection

DRG has a wide variety of invasive species monitoring and inspection for the USDA. These monitoring contract projects have taken a wide variety of approaches from ground monitoring, monitoring by climbing or aerial lift truck. If insects such as Asian Longhorned Beetle or Spotted Lanternfly are detected further inspection including taking samples, documenting in writing and by photography are used. This information is then given to the client and further action is taken such as tree pruning and removal. Mechanical removal of the insects in these cases is not feasible.

IPMP Fort Worden State Park, Washington

DRG plan focused on the prevention and control approaches required over a 5-year time horizon for Poison Hemlock and Sand Mat. A Integrated Pest Management plan outlined recommendations for achieving the highest quality habitat with the greatest biodiversity. The plan included a seasonal schedule of action items that will guide the Friends of Fort Worden in implementing these recommendations. Davey Resource Group staff met virtually to discuss the draft and identify ways to best align it with the strategic vision of the State Park.

Emerson Electric Monitoring and Inspection Program, St. Louis, MO

Davey Resource Group, Inc. works in collaboration with The Davey Tree Expert Company St. Louis office, DCM Group, and Emerson Electric staff to carry out a robust plant health care regimen which will include scouting, treating, and managing various biotic and abiotic pests throughout the entire campus.

Davey staff conduct monthly site visits - one visit from the plant health care technician who will scout for pests and administer pesticides accordingly, and one to two visits from DRG arborists, depending on the time of the season. Each visit includes a thorough inspection and assessment of trees and shrubs in high visibility areas, as instructed by Emerson Electric staff, along with all other areas on campus. Scouting and pesticides used to treat and manage pests will adjust accordingly throughout the season depending on pest trends, campus tree species, and what pests are identified.

Section IV. Professional Services Agreement

This proposal can be implemented by either issuing a purchase order, or by signing the following Authorization to Proceed and returning to our office. Please feel free to only choose the line items for the work you would like DRG to perform at this time. Davey Resource Group reserves the right to renegotiate our estimated fees in the event that new guidance documents or changes in local, state, or federal regulations require altered approaches or additional studies.

If you have any questions or wish to arrange for a meeting to discuss this scope of work and more specifically the treatment methods and areas, please call Gail Nozal, 651-442-7153. Thank you for allowing DRG the opportunity to work with Shorewood.

Authorization to Proceed

The following pricing options have been developed for consultations and reports as requested. Any additional consultation or effort would be priced at our consulting rate of \$115 per hour. Any on-site supervision by an arborist during construction will require a three (3)-hour minimum charge.

Integrated Pest Management Plan (IPMP)

Tasks 1 & 2 & 3: Meetings with staff, listening sessions and reporting	\$9,770.00
Project Total	\$9,770.00

By signing this form, I do hereby acknowledge acceptance of the scope of work and associated fee, as well as the terms and conditions and limited warranty contained herein. Furthermore, my signature authorizes the work to be performed.

Client Name:

Authorizing Signature:

Title:

Date:

Davey Resource Group, Inc.

Name/Title:

Date

TERMS AND CONDITIONS

- All pricing is valid for six months from the date of this proposal.
- Time and materials (T&M) estimates may fluctuate and will be billed accordingly. Fixed fee contract prices will be billed as shown.
- Invoicing will be submitted monthly for work performed, unless otherwise agreed upon.
- Payment terms are net 30 days.
- If prevailing wage requirements are discovered after the date of this proposal, we reserve the right to negotiate our fees.
- The client is responsible for any permit fees, taxes, and other related expenses, unless noted as being included in our proposal.
- The client shall provide 48 hours' notice of any meetings where the consultant's attendance is required.
- Unless otherwise stated, one round of revisions to deliverables is included in our base fee. Additional edits or revisions will be billed on a time and material (T&M) basis.
- All reports are provided only to the client unless otherwise directed.

LIMITED WARRANTY

Davey Resource Group, Inc. ("DRG") provides this limited warranty ("Limited Warranty") in connection with the provision of services by DRG (collectively the "Services") under the agreement between the parties, including any bids, orders, contracts, or understandings between the parties (collectively the "Agreement").

Notwithstanding anything to the contrary in the Agreement, this Limited Warranty will apply to all Services rendered by DRG and supersedes all other warranties in the Agreement and all other terms and conditions in the Agreement that conflict with the provisions of this Limited Warranty. Any terms or conditions contained in any other agreement, instrument, or document between the parties, or any document or communication from you, that in any way modifies the provisions in this Limited Warranty, will not modify this Limited Warranty nor be binding on the parties unless such terms and conditions are approved in a writing signed by both parties that specifically references this Limited Warranty.

Subject to the terms and conditions set forth in this Limited Warranty, for a period of ninety (90) days from the date Services are performed (the "Warranty Period"), DRG warrants to Customer that the Services will be performed in a timely, professional and workmanlike manner by qualified personnel.

To the extent the Services involve the evaluation or documentation ("Observational Data") of trees, tree inventories, natural areas, wetlands and other water features, animal or plant species, or other subjects (collectively, "Subjects"), the Observational Data will pertain only to the specific point in time it is collected (the "Time of Collection"). DRG will not be responsible nor in any way liable for (a) any conditions not discoverable using the agreed upon means and methods used to perform the Services, (b) updating any Observational Data, (c) any changes in the Subjects after the Time of Collection (including, but not limited to, decay or damage by the elements, persons or implements;

insect infestation; deterioration; or acts of God or nature [collectively, “Changes”]), (d) performing services that are in addition to or different from the originally agreed upon Services in response to Changes, or (e) any actions or inactions of you or any third party in connection with or in response to the Observational Data. If a visual inspection is utilized, visual inspection does not include aerial or subterranean inspection, testing, or analysis unless stated in the scope of work. DRG will not be liable for the discovery or identification of non-visually observable, latent, dormant, or hidden conditions or hazards, and does not guarantee that Subjects will be healthy or safe under all circumstances or for a specified period of time, or that remedial treatments will remedy a defect or condition.

To the extent you request DRG’s guidance on your permitting and license requirements, DRG’s guidance represents its recommendations based on its understanding of and experience in the industry and does not guarantee your compliance with any particular federal, state or local law, code or regulation.

DRG may review information provided by or on behalf of you, including, without limitation, paper and digital GIS databases, maps, and other information publicly available or other third-party records or conducted interviews (collectively, “Source Information”). DRG assumes the genuineness of all Source Information. DRG disclaims any liability for errors, omissions, or inaccuracies resulting from or contained in any Source Information.

If it is determined that DRG has breached this Limited Warranty, DRG will, in its reasonable discretion, either: (i) re-perform the defective part of the Services or (ii) credit or refund the fees paid for the defective part of the Services. This remedy will be your sole and exclusive remedy and DRG’s entire liability for any breach of this Limited Warranty. You will be deemed to have accepted all of the Services if written notice of an alleged breach of this Limited Warranty is not delivered to DRG prior to the expiration of the Warranty Period.

To the greatest extent permitted by law, except for this Limited Warranty, DRG makes no warranty whatsoever, including, without limitation, any warranty of merchantability or fitness for a particular purpose, whether express or implied, by law, course of dealing, course of performance, usage of trade or otherwise.

Appendix A: Resumes

DRG intends to assign the following team members to this project. Their experiences and credentials demonstrate that they have the qualifications needed to successfully contribute to your project goals.



Gail Nozal

Area Manager

Based in Minneapolis/St. Paul, Minnesota, Gail Nozal is one of the Area Managers for Davey Resource Group (DRG). Gail has over 27 years of industry experience, and has been with Davey for over 15 years—beginning with S&S Tree, a Davey Company, and joining DRG in 2019. She has worked in municipal, non-profit, and commercial sectors.

With her wealth of industry knowledge, Gail brings specific expertise in contract forestry projects, oak wilt management, general management and operations, and public education. As Area Manager with DRG, Gail is primarily responsible for business development, operational management, and staff supervision of a Minnesota-based team focused on Urban Forestry and Ecological Consulting. Gail's experience includes completing urban forest inventories, management plans, contract forestry, plant health care diagnosis, oak wilt management, tree preservation, operations and ordinance review. Additionally, she is skilled in using various technologies to improve efficiency for urban forestry projects, and participates in public education opportunities. She also completes tree risk assessments and i-Tree tree inventories.

Education

- M.S., Forestry, Emphasis in Education, University of Minnesota
- B.S., Urban Forestry, University of Minnesota

Certifications

- Board Certified Master Arborist (#MN-0276BM), International Society of Arboriculture (ISA)
- Certified Municipal Specialist (#MN-0276BM), ISA
- Tree Risk Assessment Qualification (TRAQ), ISA
- Certified Minnesota Commercial Pesticide Applicator (#MN 20163825), Minnesota Department of Agriculture
- Adult First Aid/CPR/AED, American Red Cross

Special Training

- Minnesota Tree Inspector
- Minnesota Certified Landscape Specialist
- Minnesota Pest Detector (Invasive Species)

Professional Affiliations

- International Society of Arboriculture
- Minnesota Shade Tree Advisory Committee
- Minnesota Society of Arboriculture
- Minnesota Nursery and Landscape Association
- Minnesota Department of Agriculture



Katie Karl

Senior Inventory Arborist

Katie Karl is a senior inventory arborist with Davey Resource Group (DRG). Katie is knowledgeable in urban forestry, conservation of natural areas, and native landscaping. In her role at DRG, Katie performs tree inventories; hazard tree assessments; onsite tree monitoring; invasive species management; native landscaping and seeding; erosion control; and prescribed burns. She also writes tree preservation and management plans.

Katie has led multiple tree inventories and works directly with clients to deliver progress reports and educate them on tree management and health.

Currently, Katie is serving as consulting arborist for the City of Shorewood (MN) Tree Inventory and road construction project. She is responsible for installing fencing to designate tree protection zones (TPZ), root cutting following excavation, and managing interface with concerned homeowners.

Education

- B.S., Beloit College

Certifications

- Wetland Professional In-Training (#5339), Minnesota Wetland Professional Certification Program
- Certified Minnesota Pesticide Applicator (#202116013), Minnesota Department of Agriculture
- Turf & Ornamentals (E) Pesticide Applicator, Minnesota Department of Agriculture
- Aquatic (F) Pesticide Applicator, Minnesota Department of Agriculture
- Forestry, Rights-of-Way, and Natural Areas (J) Pesticide Applicator, Minnesota Department of Agriculture
- Certified Municipal Specialist (#MN-4820AM), International Society of Arboriculture (ISA)
- Tree Risk Assessment Qualification (TRAQ), ISA
- S130/S190/I100 Wildland Fire Training Certifications, National Wildfire Coordinating Group
- Adult First Aid/CPR/AED, American Red Cross

Special Training

- TreeKeeper®

Professional Affiliations

- Minnesota Shade Tree Advisory Committee
- Minnesota Native Plant Society
- Minnesota Master Water Steward, 2020



Missy Seidel

Environmental Technician

Missy Seidel is an environmental technician with Davey Resource Group (DRG). Missy has over three years of industry experience and approaches projects with expertise in plant identification, invasive species and noxious weed removal, and native plantings. She performs and leads the restoration and maintenance of urban landscapes with DRG.

Missy has experience working with county and city parks and recreation districts in multiple states. In Minnesota, she helped manage the spread of oak wilt and participated in park arborist surveys. In Ohio, she assisted in restoring properties into new parks, maintained wetlands, and monitored wildlife habitat.

Prior to joining DRG, she worked for Minnesota Conservation Corps for two years, learning technical skills and leadership for ecological projects. During this time, Missy participated in a variety of environmental projects such as tree planting, invasive species removal, prescribed burning, litter removal, trail construction/management, soil erosion control, and seed collection/dispersal. Missy also gained work experience in wildlife handling, prairie restoration, and formal STEM education while she was obtaining her Master's degree.

Recently, Missy participated in small installation and landscaping projects for private clients and restoration projects for commercial property owners. One notable project she worked on was a soil stabilization at Camp Teko in Minnesota, where she helped remove invasive buckthorn, created a shoreline path for campers, and planted native understory. She currently is working on a large raingarden installation for Johanna Shores retirement community to clean stormwater runoff from the residential areas.

Education

- M.S., Ecology, Bowling Green State University
- B.S., Ecology and Environmental Biology, The University of Wisconsin-Eau Claire

Certifications

- Certified Arborist (#MN4919A), International Society of Arboriculture (ISA)
- Certified Minnesota Pesticide Applicator (#20225681), Minnesota Department of Agriculture
- Adult First Aid/CPR/AED, American Red Cross

Special Training

- ArcGIS
- R Statistical Software
- Prescribed Fire Application
- Chainsaw Certification

Professional Affiliations

- Ecological Society of America
- Entomological Society of America
- Audubon Society
- Arbor Day Foundation

Audrey Sellepack

3258 Seneca Street Apt 6 • West Seneca, NY 14224 • 585-698-7960 • Audrey.Sellepack@davey.com

SUMMARY OF QUALIFICATIONS

- Knowledge of state and federal pesticide laws and regulations
- Experience in consulting, education and outreach, client interaction, pesticide application, and leadership in a plant healthcare department
- Knowledge of pest identification, biology, ecology, and management
- Certified New York State Pesticide Applicator
- Relevant coursework in Dendrology, Ecology, Biology, GIS, and Advanced Statistics

EDUCATION

SUNY College of Environmental Science and Forestry (SUNY-ESF) Syracuse, NY

May 2018

B.S., Environmental Biology

Minor: Marine Science

GPA: 3.93

CURRENT POSITION

The Davey Tree Expert Company Kent, OH (Based in Buffalo, NY)

December 2020 – Present

Pesticide Compliance Specialist, The Davey Institute

- Assists all Davey Tree offices across the United States and Canada with pesticide compliance assistance, including obtaining their pesticide applicator credentials, keeping complete application records, submitting integrated pest management and pesticide application reports, and storing and handling pesticides properly
- Trains certified applicators and technicians on proper pesticide safety, laws and regulations, emergency response, and application techniques
- Compiles information and publishes the annual Davey Tree Plant Health Care Guide based on industry knowledge, experience, and best management practices

RELATED EXPERIENCE

The Davey Tree Expert Company Rochester, NY

June 2018 – December 2020

Plant Healthcare Specialist

- Inspected trees and shrubs for company clients and treats them as needed for insects and disease
- Provided excellent customer service, answers clients' questions, and addresses their concerns
- Coordinated routes and communicates with counterpart technicians to ensure work is being done efficiently
- Executed proper pesticide application and mixing techniques

SUNY-ESF Department of Environmental and Forest Biology Syracuse, NY

Undergraduate Research Assistant

August 2017 – May 2018

- Conducted research in Dr. Rebecca Rundell's lab on Palau land snail species composition at different habitat types. Identified snail species under a dissecting microscope and takes photographs of each species type

Harbor Branch Oceanographic Institute Fort Pierce, FL
May 2017 – August 2017

Outreach Intern

- Designed and constructed an exhibit, a video, and outreach materials at HBOI's Ocean Discovery Visitors Center regarding their water quality assessment study on the Indian River Lagoon (IRL)
- Investigated measurements taken by water quality sensors in the IRL and linked them to different current events. Analyzed how each water quality parameter was changing over time
- Communicated with visitors on how the sensor system operates and why the information gathered is relevant
- Published a paper about the exhibit and presented the project at Harbor Branch's annual summer internship symposium

SUNY-ESF Department of Environmental and Forest Biology Syracuse, NY

Undergraduate Teaching Assistant

Dendrology

August – December 2017

- Instructed a weekly lab section independently, introduced 70 species of trees and described their characteristics, issued quizzes to test student understanding and graded them weekly.

Diversity of Life I

August – December 2016

- Assisted a graduate TA in teaching students plant, fungus, and tree diversity. Taught a lab section on how to identify different tree families.

Cranberry Lake Biological Station Clifton, NY

June – July 2016

Student Researcher

- Designed and conducted an experiment in a small group to study mobbing behavior in reaction to different bird calls. Received the Shields Award for outstanding research upon presenting findings. Presentation was published on the ESF Digital Commons database.

ADDITIONAL EXPERIENCE

Cafe Kubal Syracuse, NY

August 2015 – May 2018

Shift Leader

- Oversaw the store for 15-20 hours a week and manage coworkers to ensure work is being done efficiently and correctly
- Delegated necessary tasks to coworkers to make sure opening, operating, and closing the cafe occurs tidily and smoothly
- Communicated regularly with customers, provided excellent service and an enjoyable cafe experience

Rotary Youth Exchange Program Besancon, France

August 2012 – July 2013

Exchange Student

- Participated as an exchange student for the entire 2012/2013 school year, stayed with three host families, and attended a French high school
- Developed fluency in reading and understanding the French language and high proficiency in speaking and writing

Appendix B: Management Plan Profiles

DRG provides these profiles of completed management plans. These projects demonstrate their depth of plan writing.



Louisville Urban Tree Canopy Assessment

Louisville, Kentucky

Louisville, Kentucky may be best known as the home of the Kentucky Derby, but it's quickly gaining a reputation for being one of the hottest cities in America—literally. Louisville ranks as the fourth hottest urban area in the country, but is turning to trees as a solution for combating Urban Heat Island Effect. Heat islands have a number of negative effects, including an increase in summertime peak energy demand and costs, an increased severity of air pollution and emissions, and a rise in human health issues, especially when the temperature reaches over 90°F. Hotter temperatures help create dangerous ozone pollution levels that can trigger asthma attacks, heart attacks, and other serious health conditions.

Louisville is now directing efforts to reduce its growing urban heat island (UHI) threat by increasing the tree canopy. Trees are considered one of the most cost-effective, long-term solutions to mitigating heat islands, and significant heat reductions can be achieved by strategically planting trees. Louisville took the first step to complete an urban tree canopy (UTC) assessment within the city limits. Along with establishing a current baseline of tree canopy, UTC assessments were completed for 2004, 2008, and 2012 to determine the historic trend of canopy cover changes and to identify hot spots within Louisville. The second step was to identify where UHI effect was happening in the metro area. Based on surface temperature data, it was determined that 12% (approximately 31,000 acres) of Louisville is heat-stressed, or classified as “hot spots.”

As expected, the vast majority of hot spots were areas with large amounts of impervious surface and low amounts of tree canopy. Tree canopy made up only 8% of the land cover in designated hot spots, while impervious and bare soil covered a combined 66%. The hot spots map clearly showed a concentration within the urban core of Louisville, from the downtown area to the airport. Overall, the hottest land use categories were found to be commercial, multi-family residential, and industrial. Together, these three categories accounted for almost 20,000 acres of heat stressed areas, or 63% of all hot spots in Louisville. A final step was completed to combine the UHI and UTC data to create a prioritized planting plan which uses trees as an effective solution to the public health and safety issues created by urban heat.

Louisville's goal was to achieve 45% tree canopy cover, and then reap the many benefits trees provide, particularly related to UHI. The urban forest in Louisville is estimated to save 67 million kilowatt hours of energy—a **savings of more than \$5 million for consumers every year**. Natural cooling provided by urban trees reduces consumer demand for electricity which, in turn, also reduces harmful emissions released from the burning of fossil fuels because of the decreased demand on power plants. The cooling benefit of trees can also be felt at the street level where lower ambient temperatures of 5–15 degrees have been recorded around street trees. Adding trees for their cooling benefits alone in areas with large amounts of concrete surfaces would quickly help reduce ambient temperatures in Louisville's Urban Heat Islands.

Read more about Louisville's UTC initiatives and the efforts revolved around reducing the urban heat index in the full report by scanning the code below.





Charlotte, NC Urban Forest Master Plan

Charlotte, North Carolina

Faced with an aging canopy and high rates of development, the City of Charlotte and TreesCharlotte (TC) completed Charlotte's 2017 Urban Forest Master Plan with input from 40 organizations and almost 3,000 citizens, and led by Davey Resource Group. The plan's aim was to clarify the greatest challenges facing their urban forest and map out the most comprehensive way to reach the city's bold 50% canopy goal by 2050.

The City and TC have a unique partnership that leverages both public and private capital to protect and grow Charlotte's urban forest. The created plan revealed some interesting analytics:

- Projections of urban forest coverage by land use classification
- Quantification of the impact of the tree protection land use ordinance on development projects

Learn how the City and TC planned to use the data collected from citizens as well as Davey's analyses to further expand and deepen their partnership, and to further engage the citizenry. The plan is web-based to ensure the plan's findings reach and engage the entire community.

Scan below using your phone's camera to view the full Charlotte Urban Forest Master Plan!



CHARLOTTE
URBAN FOREST
MASTER PLAN
 2017
 PRESERVING AND ENHANCING CHARLOTTE'S URBAN FOREST

COMMUNITY INVOLVEMENT

- Public Survey Responses: 2,990
- Stakeholder Meetings: 4
- Number of Stakeholder Groups Participating: 40
- Community Meetings: 5
- Community Meeting Participants: 62

CHARLOTTE HAS ONE OF THE **BEST URBAN FORESTRY PROGRAMS** IN THE COUNTRY

Charlotte, North Carolina, is proud to be known for its vibrant urban tree canopy. When viewed from above, tree canopy covers 47% of the city, which makes Charlotte one of the top cities in the U.S. for tree canopy coverage.

In addition to the aesthetic benefits Charlotte's trees provide, the city realizes over \$20 million in real benefits and services from these trees every year.

NEIGHBORHOOD	EGGSHEDS	TREES	ANNUAL VALUE
Produce Through Tree Shade Cooling	110	6670	\$28,910
PROPERTY Increases in Property Values	1	5	\$208,500
SO2 Carbon Monoxide (CO) Removal	153,790	96	100,000
SO4 Nitrogen Oxide (NO2) Removal	442,400	66	\$144,000
PM10 Particulate Matter (PM) Removal	1,340,000	20	\$200
PM2.5 Particulate Matter (PM) Removal	145,800	66	\$145,000
SO2, SO4, NO2, Other Particulate Removal (Microclimate Value, \$/acre)	1.66	66	\$1.50
SO2, SO4, NO2, Other Particulate Removal (Microclimate Value, \$/acre)	1.28	6670	\$160
Carbon Sequestration	403,000	666	\$190
Reserve Total Annual Benefits			\$2200

CHARLOTTE'S TREES PROVIDE THE CITY **SIGNIFICANT** REAL BENEFITS AND SERVICES ANNUALLY.

Why trees?

1. Trees provide effective and low-cost solutions to many urban challenges. Urban trees have proven to benefit multiple city management areas, including parking, recreation, development, public health, and aesthetics.
2. Trees are a smart investment. Trees are a living infrastructure investment that every public sector leader should invest in and take care of. A recent tree city study found that trees produce benefits ranging from \$1.00-\$2.00 for every \$1.00 invested in trees (U.S. Environmental Protection Agency 2016).
3. Trees increase in value over time. While most people believe that trees are the only urban infrastructure that actually increases in services and value over time. As trees mature, the benefits they provide to communities multiply. Traditional city infrastructure such as roads and bridges deteriorate with age.



Wills Creek Land Reforestation

Coshocton County, Ohio

Wills Creek is a typical northern Appalachian surface coal mine site, reclaimed under Surface Mining Control and Reclamation Act (SMCRA) regulations. During reclamation, the soils were heavily compacted and seeded with non-native grasses, forbs, and legumes. A variety of woody species were used in the reclamation as well including, autumn olive (*Elaeagnus umbellata*), white pine (*Pinus strobus*), European alder (*Alnus glutinosa*), black locust (*Robinia pseudoacacia*), and other hardwood species were planted across the site. Many of the original pines and other hardwood species remain, but much of the area had become dominated by autumn olive, thus native tree regeneration is limited and succession will occur much more slowly without intervention.

Over the course of the project, non-native, invasive shrubs and trees (primarily autumn olive) were removed and approximately 131 acres of surface mined land was reforested to upland oak-hickory forest. To enhance the survival and growth rates of planted seedlings, various combinations of site preparation were used, including brush management, herbicide applications, and deep-ripping.

Initial treatments included mechanical removal of shrub thickets by utilizing a skid-steer driven, rotating mulching head. Mechanical removal of brush occurred in the winter of 2016. After brush removal, two staggered herbicide treatments were applied in 2017 to control emergent species and other undesirable vegetation that germinated from the seed bank.

Once adequate control of autumn olive and other non-native vegetation was controlled, soil ripping was required to mitigate soil compaction. Deep-ripping loosened soils to create a better rooting medium for trees and increased water infiltration, thereby reducing surface runoff and sedimentation. This was conducted using Caterpillar D-9 bulldozer, or equivalent sized machine, pulling two ripping shanks that were fully immersed into the soil to a depth of no less than three feet, creating parallel rips every eight feet across the project area. The entire project area was then “cross-ripped”, or ripped a second time, perpendicular to the first set of rips. Cross-ripping was performed in the fall of 2017.

The species chosen for planting were native, exfoliating bark species which are preferred summer roost trees by bat species, and those that are known to perform well on surface mined land reforestation projects. A variety of 1-0 and 2-0 bare-root tree seedlings were planted in the spring of 2018 at a planting density of 681 trees per acre. All 89,211 trees were hand planted in the intersecting soil furrows created by the cross-ripping soil treatment.

Additional benefits of this project include improved water and air quality, increased carbon sequestration, improved aesthetics, and future economic returns through timber harvests.





Corporate Headquarters
295 South Water Street, Suite 300
Kent, OH 44240
800-828-8312

Local Office
1196 7th St E
St. Paul, MN 55106
1-800-966-2021

2/15/2022

Greg Leruds
City of Shorewood
5775 Country Club Rd
Shorewood, MN 55331

RE: Alternate Quote for Management and Implementation of city IPMP

Dear Greg,

Thank you for the opportunity for the Davey Resource Group, Inc. “DRG” to present a pricing estimate for the implementation of the cities Integrated Pest Management Plan (IPMP). Through DRG and our dedicated team of ecological and arboricultural specialists, you will be assured of quality environmental services and professional assessments to help you achieve your long-term goals.



Scope of Work

DRG's Minnesota's-based team will provide support to the City of Shorewood's Integrated Pest Management Plan. Support may include a wide range of support for the ongoing management of the city's IPMP. That support may include assisting staff in implementing the plan, monitoring pesticide applications on city property, ensuring electronic storage of pesticide records, advising on public questions and inquiries and preparing a year end report. DRG's support will be provided on an on-demand basis, augmented by biannual or quarterly planning conversations.

Our experienced staff include college-educated biologists, ISA Certified Arborists, Minnesota Tree Inspectors, Minnesota Commercial Pesticide Applicators and professionals with municipal experience. Our entire team is positioned to help support Shorewood's environmental programs and guide special projects in your community.

Pricing structure is provided in the next section, followed by the resumes of the primary staff identified to provide and/or support these services.

Key Staff

Gail Nozal is one of the Area Managers for Davey Resource Group (DRG). Gail has over 27 years of industry experience, and has been with Davey for over 15 years—beginning with S&S Tree, a Davey Company, and joining DRG in 2019. She has worked in municipal, non-profit, and commercial sectors.

With her wealth of industry knowledge, Gail brings specific expertise in contract forestry projects, oak wilt management, general management and operations, and public education. As Area Manager with DRG, Gail is primarily responsible for business development, operational management, and staff supervision of a Minnesota-based team focused on Urban Forestry and Ecological Consulting. Gail's experience includes completing urban forest inventories, management plans, contract forestry, plant health care diagnosis, oak wilt management, tree preservation, operations and ordinance review. Additionally, she is skilled in using various technologies to improve efficiency for urban forestry projects, and participates in public education opportunities. She also completes tree risk assessments and i-Tree tree inventories.

Gail has a Master's degree in Forestry with Emphasis in Education and a Bachelor's degree in Urban Forestry, both from the University of Minnesota. She is a Board Certified Master Arborist and Municipal Specialist (#MN-0276BM) through the International Society of Arboriculture (ISA) and has an ISA Tree Risk Assessment Qualification. She is also a Certified Minnesota Pesticide Applicator (#MN20163825). Gail is a Minnesota Tree Inspector, Minnesota Certified Landscape Specialist, and Minnesota Pest Detector.

Katie Karl is a senior inventory arborist with Davey Resource Group (DRG). Katie is knowledgeable in urban forestry, conservation of natural areas, and native landscaping. In her role at DRG, Katie performs tree inventories; hazard tree assessments; onsite tree monitoring; invasive species management; native landscaping and seeding; erosion control; and prescribed burns. She also writes tree preservation and management plans.

Katie has led multiple tree inventories and works directly with clients to deliver progress reports and educate them on tree management and health.

Katie has experience using DRG's TreeKeeper® software suite for inventory management, and has worked on urban forestry projects throughout the Upper Midwest. She is a Certified Arborist and Municipal Specialist (#MN-4820AM) through the International Society of Arboriculture with a Tree Risk Assessment Qualification (TRAQ), and Certified Minnesota Pesticide Applicator (#202116013) in Categories E, F, and J. Katie also carries S130/S190/I100 Wildlands Fire Training Certifications through the National Wildfire Coordinating Group and is a Wetlands Professional In-Training (#5339) through the Minnesota Wetland Professional Certification Program.

Experience and Expertise

Davey Resource Group, Inc is the arboricultural and horticultural consulting subsidiary to The Davey Tree Expert Company. With extensive experience assisting private and commercial properties and other entities including municipalities and utilities, we work with asset managers around the country and provide customized solutions to managing and tracking vital environmental assets. Our urban forestry services have provided clients nationwide with the ability to accurately and sustainably manage their critical 'green' infrastructure.

The DRG team is devoted to providing excellent customer service through our technical expertise and our passion for innovative solutions. We recognize that our success depends on meeting your needs and we are excited about the opportunity to collaborate with you on your project. Please feel free to contact me with any questions.

Sincerely,



Gail Nozal
Area Manager
Davey Resource Group, Inc.
ISA Board Certified Master Arborist MN-0276BM
www.daveyresourcegroup.com

Authorization to Proceed

The following pricing options have been developed for a tree inventory as requested.

IPMP Plan Management Consulting Services Rates

Rates effective until December 31, 2022. This proposal is renewable annually with yearly rate increases.

Gail Nozal, Manager/Consultant ISA Board Certified Master Arborist MN-0276BM, ISA Tree Risk Assessment Qualified, ISA Municipal Specialist	\$115.00/hr
Katie Karl, Arborist/Junior Consultant ISA Certified Arborist MN-4820AM, ISA Tree Risk Assessment Qualified, ISA Municipal Specialist	\$65.00/hr

Estimated Project Total (45 approximate hours)	\$5,175.00
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By signing this form, I do hereby acknowledge acceptance of the terms described above and authorize work to be performed.

Client Name:

Authorizing Signature:

Title:

Date:

Davey Resource Group, Inc.

Name/Title:

Date:

TERMS AND CONDITIONS

- All pricing is valid for 60 days from the date of this proposal.
- Time and materials (T&M) estimates may fluctuate and will be billed accordingly. Fixed fee contract prices will be billed as shown.
- Invoicing will be submitted monthly for work performed, unless otherwise agreed upon.
- Payment terms are net 30 days.
- If prevailing wage requirements are discovered after the date of this proposal, we reserve the right to negotiate our fees.
- The client is responsible for any permit fees, taxes, and other related expenses, unless noted as being included in our proposal.
- The client shall provide 48 hours' notice of any meetings where the consultant's attendance is required.
- Unless otherwise stated, one round of revisions to deliverables is included in our base fee. Additional edits or revisions will be billed on a time and material (T&M) basis.
- All reports are provided only to the client unless otherwise directed.

LIMITED WARRANTY

Davey Resource Group, Inc. ("DRG") provides this limited warranty ("Limited Warranty") in connection with the provision of services by DRG (collectively the "Services") under the agreement between the parties, including any bids, orders, contracts, or understandings between the parties (collectively the "Agreement").

Notwithstanding anything to the contrary in the Agreement, this Limited Warranty will apply to all Services rendered by DRG and supersedes all other warranties in the Agreement and all other terms and conditions in the Agreement that conflict with the provisions of this Limited Warranty. Any terms or conditions contained in any other agreement, instrument, or document between the parties, or any document or communication from you, that in any way modifies the provisions in this Limited Warranty, will not modify this Limited Warranty nor be binding on the parties unless such terms and conditions are approved in a writing signed by both parties that specifically references this Limited Warranty.

Subject to the terms and conditions set forth in this Limited Warranty, for a period of ninety (90) days from the date Services are performed (the "Warranty Period"), DRG warrants to Customer that the Services will be performed in a timely, professional and workmanlike manner by qualified personnel.

To the extent the Services involve the evaluation or documentation ("Observational Data") of trees, tree inventories, natural areas, wetlands and other water features, animal or plant species, or other subjects (collectively, "Subjects"), the Observational Data will pertain only to the specific point in time it is collected (the "Time of Collection"). DRG will not be responsible nor in any way liable for (a) any conditions not discoverable using the agreed upon means and methods used to perform the Services, (b) updating any Observational Data, (c) any changes in the Subjects after the Time of Collection (including, but not limited to, decay or damage by the elements, persons or implements; insect infestation; deterioration; or acts of God or nature [collectively, "Changes"]), (d) performing services that are in addition to or different from the originally agreed upon Services in response to Changes, or (e) any actions or inactions of you or any third party in connection with or in response to the Observational Data. If a visual inspection is utilized, visual inspection does not include aerial or subterranean inspection, testing, or analysis unless stated in the scope

of work. DRG will not be liable for the discovery or identification of non-visually observable, latent, dormant, or hidden conditions or hazards, and does not guarantee that Subjects will be healthy or safe under all circumstances or for a specified period of time, or that remedial treatments will remedy a defect or condition.

To the extent you request DRG's guidance on your permitting and license requirements, DRG's guidance represents its recommendations based on its understanding of and experience in the industry and does not guarantee your compliance with any particular federal, state or local law, code or regulation.

DRG may review information provided by or on behalf of you, including, without limitation, paper and digital GIS databases, maps, and other information publicly available or other third-party records or conducted interviews (collectively, "Source Information"). DRG assumes the genuineness of all Source Information. DRG disclaims any liability for errors, omissions, or inaccuracies resulting from or contained in any Source Information.

If it is determined that DRG has breached this Limited Warranty, DRG will, in its reasonable discretion, either: (i) re-perform the defective part of the Services or (ii) credit or refund the fees paid for the defective part of the Services. This remedy will be your sole and exclusive remedy and DRG's entire liability for any breach of this Limited Warranty. You will be deemed to have accepted all of the Services if written notice of an alleged breach of this Limited Warranty is not delivered to DRG prior to the expiration of the Warranty Period.

To the greatest extent permitted by law, except for this Limited Warranty, DRG makes no warranty whatsoever, including, without limitation, any warranty of merchantability or fitness for a particular purpose, whether express or implied, by law, course of dealing, course of performance, usage of trade or otherwise.



**BOLTON
& MENK**

Real People. Real Solutions.

1960 Premier Drive
Mankato, MN 56001-5900

Ph: (507) 625-4171
Fax: (507) 625-4177
Bolton-Menk.com

February 16, 2022

Greg Lerud, City Administrator
5755 County Club Road
Shorewood, MN 55331
952-960-7900
glerud@ci.shorewood.mn.us

RE: Integrated Pest Management Plan Proposal
City of Shorewood

Dear Mr. Lerud:

After initial review of the City of Shorewood's "Bee-Safe" Policies and Procedures and attending a working session with the City and residents interested in Shorewood's pollinator policies, our natural resource staff is excited to have the opportunity to work with the City to develop an Integrated Pest Management Plan. Bolton & Menk takes great pride in environmental stewardship, protecting our local ecosystems and sustainability through environmentally safe best management practices. Our approach to natural resources makes your priorities our priorities.

Dedicated Team of Natural Resource Specialists – Bolton & Menk's Natural Resource Team includes wetland scientists, prairie biologist, MN certified tree inspectors, drone pilots and aquatic biologists. Our team is dedicated to restoring, preserving, and improving our natural environment, finding cost effective and innovative solutions to successfully meeting our client's needs.

Pollinator Expertise – Being part of the pollinator safe campus initiative at Mankato State University, our prairie biologist has an intimate understanding of pollinator needs. The campus program has troubleshooted many techniques in maintaining turf grasses, athletic fields, and native pollinator planting plots. With ties to the grounds crew at the campus, Bolton & Menk can determine what techniques can be successfully used in maintaining pollinator habitat while meeting the needs of City of Shorewood.

Community Outreach – Our natural resource team has strong public outreach experience. We take pride in coordinating with community leaders to understand their concerns and using their suggestions to resolve issues.

We are excited at the opportunity to work with you on maintaining pollinator habitat. I will personally serve as your lead client contact and project manager. Please contact me at 507-380-2620 or dan.donayre@bolton-menk.com if you have any questions regarding our proposal.

Respectfully submitted,
Bolton & Menk, Inc.

Dan Donayre
Natural Resources Project manager



PROJECT OVERVIEW

In 2014, City of Shorewood, MN was the first community in Minnesota to establish a pollinator friendly city with the Resolution Endorsing “Bee-Safe” Policies and Procedures. The resolution spells out specific goals to ensure the goals of a “bee-safe” community:

- The City shall undertake its best efforts to become a Bee-Safe City by undertaking best management practices | the use of plantings and pesticides in all public places within the City.
- The City shall refrain from the use of systematic pesticides on Shorewood City property including pesticides from the neonicotinoid family.
- The City shall undertake its best efforts to plant flowers favorable to bees and other pollinators in the City’s public spaces.
- The City shall designate bee-safe areas in which future City plantings are free from systematic pesticides including neonicotinoids.
- The City shall undertake best efforts to communicate to Shorewood residents the importance of creating and maintaining a pollinator-friendly habitat.
- The City shall publish a Bee-Safe Progress Report on an annual basis.

This resolution set some excellent groundwork for a successful pollinator program but lacks details on how to

achieve the goals. The City is now looking for specific pollinator best management practices to ensure that the 2014 goals are met. This will be achieved through the development of an Integrated Pest Management Plan that is specifically developed to serve the City of Shorewood’s needs.

SCOPE OF WORK

Task 1 – Integrated Pest Management Plan

Public Outreach

Bolton & Menk’s natural resource staff will review provided material in preparation for an initial public outreach campaign. This campaign will be developed and driven by the needs of the City and resident concerns. Our team will meet with City staff to determine the goals of outreach and how to meet those goals. We will then meet with concerned citizens as part of our initial outreach. The goal of this meeting will be to obtain a better understanding of community concerns and where some of the community experts think changes can be made.

Integrated Pest Management Plan

An Integrated Pest Management Plan (IPMP) is an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Pesticides are used only

after monitoring indicates they are needed according to established guidelines, and treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.

An IPMP responds to pest problems with the most-effective, least-risk and least-toxic option. By correcting conditions that lead to pest problems and using approved pesticides only when necessary, an IPMP provides more effective control while reducing pesticide use and using alternatives to pesticides. The conservation of beneficial insects, which include bees, insect predators, parasitic wasps, and butterflies, is an essential part of an IPMP.

Using the information and suggestions gathered from City staff and the community, Bolton & Menk will develop an IPMP that is tailored to the City of Shorewood. This document will focus on current issues:

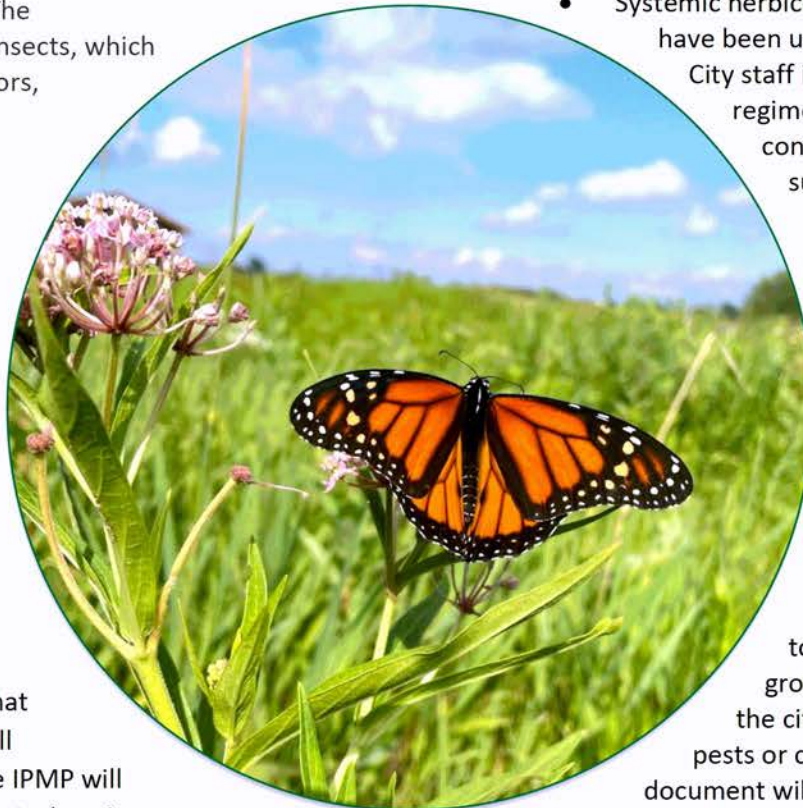
- Minnesota State Statue mandates that each city manage all noxious weeds. The IPMP will be developed to control noxious weeds with pollinator acceptable herbicides and practices.
- Sports fields should be kept weed free for safety reasons and aesthetics. The IPMP will develop site specific management plans for all City owned sports facilities that will be effective and pollinator friendly.
- Buckthorn is an invasive shrub species found in various areas of Shorewood. Current control efforts have used herbicides that are not pollinator friendly. The IPMP will review other techniques to control this species and develop a plan that effective.

- Emerald Ash Bore (EAB) is a statewide pest that attacks Ash trees. There are several methods of controlling EAB, one of which is injections into the tree. This methodology is preferred because it is more cost effective than removing and replacing trees, but systemic herbicides are used which can be dangerous to pollinator species. We will look at opinions for herbicides to determine the best route for control. If it is determined that removal is the best management practice for the City, Bolton & Menk will seek funds from the MNDNR EAB Grants Program.

- Systemic herbicides and neonicotinoids have been used by contractors and City staff in various control regimes. This can include control of water nuisances such as algae or duckweed, wasp nests and around infrastructure. The plan will be specifically tackle common nuisance treatments specifying the best management practice.

The IPMP will also include any additional areas of concern and look to the future to lay groundwork on what actions the city should take if new pests or concerns arise. The document will look at current pollinator specific plantings and identify locations for new ones.

A draft of this plan will be presented to the City council for their review. Their suggestions and comments will be incorporated to into the document, which will then be presented to concerned community members. Their suggestions and comments will be considered and the final IPMP will be drafted and presented to the Council for final approval.





Task 2 – Plan Management and Reporting

Pollinator and Herbicide Training

Bolton & Menk’s natural resource specialists will meet with City staff to help them understand and importance of pollinators. The trainings will focus on options other than systematic herbicides and neonicotinoids. We will look at method and timing of application in relation to pollinator life cycles.

Site Inspections

Our staff will make site visits and visit with City staff to determine the effectiveness of the best management practices outlined in the IPMP. If techniques are not effective, Bolton & Menk will determine a more effective method of treatment that is pollinator safe.

Bolton & Menk staff will inspect and share maintenance needs with City staff for pollinator

specific plantings. With input from the City, we will also look at possible additional locations and provide planting and maintenance suggestions at each location.

Annual Report

Bolton & Menk natural resources staff will complete an Annual Report that will include herbicide applications, timing of the applications and success of the applications. The report will also discuss the condition of the existing pollinator plantings and any new or future plots that are planned. Finally, the report will address any issues that developed over the year, how it was handled and make suggestions to remedy the issue if it is still outstanding.

FEES

For the development and implementation of an Integrated Pest Management Plan for the City of Shorewood, Bolton & Menk proposes to complete the work described herein as follows (based on the 2022 calendar year):

Task	Fee Basis	Fees
Task 1: Integrated Pest Management Plan	Lump Sum	\$12,900.00
Task 2: Plan Management and Reporting	Hourly Estimated	\$6,600.00
		\$19,500.00

Note: Hourly, estimated costs are provided based on our experience with similar projects. However, each site is different, and the reaction times of maintenance contractors cannot be guaranteed. As such, these costs are based on our regular hourly rates and can increase or decrease based on the time required for your site.



City of Shorewood Proposed Scope of Work

I. Contact Information

Firm Contact Information:

IPM Institute of North America, 211 S. Paterson St, Suite #380, Madison, WI 53703

Individual Contact Information:

Ryan Anderson, Community IPM Manager, randerson@ipminstitute.org, 773-878-8245

II. Background of firm:

The IPM Institute of North America is an independent 501(c)3 non-profit formed in 1998 to improve sustainability in agriculture and communities by using the power of the marketplace: buyers want to support products and services that work to protect the environment and reduce health hazards.

Our team of 15 currently works on more than a dozen projects to increase the adoption of Integrated Pest Management (IPM) and other sustainable practices that improve working conditions, reduce greenhouse gases, improve air quality, water quality, and soil health and reduce risks to human health and the environment from pesticide and nutrient use in agriculture and communities.

Our programs have received the following recognition:

- 2014 Whole Foods Market Supplier Award for Outstanding Quality Assurance
- 2012, 2009 Sustained Excellence in IPM Award from the US EPA
- 2009, 2008, 2005, 2004 National Champion from the US EPA Pesticide Environmental Stewardship Program

Our Community IPM programs promote and implement sustainable and safer pest and weed management practices where people live, learn and play. One of our newest Community IPM programs, [Midwest Grows Green](#) (MGG), educates and empowers citizens to take sustainable landscaping action that reduces harmful runoff into our waterways, protects the health of our most vulnerable citizens and reduces negative impacts of pesticides on non-target species such as pollinators. MGG wants to make all public and private parks, playing fields and outdoor landscapes in the Midwest organic by 2030.



III. Firm Qualifications:

Midwest Grows Green's (MGG) experience working with municipalities to develop an IPM program for outdoor landscapes.

MGG's Technical Assistance Program (TAP) helps municipalities, park districts and schools eliminate synthetic pesticides and fertilizers on outdoor landscapes and market these transitions to local communities (see bit.ly/MGGassistance). MGG holds the expertise, knowledge and resources to share landscape management strategies with the City of Shorewood that meets community expectations without the use of harmful synthetic pesticides or fertilizers. In its six years of existence, MGG recruited 40 pesticide-free parks. This has reduced an estimated 87,742 lbs of synthetic fertilizers and 1,403 lbs of synthetic pesticides.

Breadth and Scope of MGG capacity to deliver the service.

MGG and TAP focuses on urban, peri-urban and rural greenspaces of grass, natural areas and other landscaping intended for recreational or aesthetic use. Greenspaces include, but are not limited to, parks, athletic & recreational turfgrass fields, corporate and educational campuses, wetlands, shorelines, forest preserves, prairies and more.

TAP completes its work in three phases: (I) the IPM audit, (II) the three year sustainable landscape management plan and (III) implementation of recommendations from the Phase I and II reports. The City of Shorewood can request to receive services from a single TAP phase or multiple. The IPM Institute provided prices for each phase in "Section V" starting on page 7. Phase I adheres to the RFQ request for an "initial review of city documents and meeting with city staff." Phase II and III adhere to the "Alternate Quote" request. The following describes deliverables for each TAP phase:

Phase I- IPM Audit Scope of Work

The Phase I IPM audit identifies opportunities to eliminate or reduce pesticide, fertilizer and water use on all Shorewood greenspaces. To narrow the scope of the audit's recommendations, MGG will request that Shorewood prioritizes its greenspaces into three different classes based on their foot traffic and visibility: (1) Class A Fields- Highly used athletic fields or destination parks, (2) Class B Fields- moderately trafficked athletic fields or parks and (3) Class C Fields- General use, low traffic parks or natural areas. Learn more about MGG's field classification and prioritization process at bit.ly/MGGprioritization.

Following greenspace prioritization, MGG will ask the City of Shorewood to select one greenspace in each class and provide MGG with data for every mowing, aeration, irrigation,



overseeding, fertilization and weed/pest control event that takes place on the selected greenspaces over three-years.

MGG will use this data to compile an IPM Report that evaluates the City of Shorewood's IPM program with respect to Shorewood's goals and greenspace classification system.

Recommendations in the report will include:

1. Evaluation of the effectiveness of Shorewood's IPM program towards reaching its pesticide reduction goals. This will include a comparison of Shorewood's landscape management program to current best practices and "state of the science" related to IPM policies, programs and practices in the US and Canada.
2. An assessment of trade-offs and costs for changing maintenance approaches and techniques on Shorewood's greenspaces (e.g. What is the trade-off in terms of aesthetic quality, recreational usability and investment of time and resources?)
3. Recommendations and cost estimations for specific action steps to improve Shorewood's IPM practices and overall program.

Phase II- Three Year Sustainable Landscape Management Plan

The MGG Team and the City of Shorewood staff will meet to review the properties owned and managed by Shorewood. In the meeting, the City of Shorewood will agree on the greenspace or greenspaces to implement all or the majority of the recommendations presented in the Phase I audit. To help with greenspace selection, Shorewood staff will fill out a pre-project questionnaire about the total budget they allocate to the fields in question and details regarding field management expectations, equipment, practices, and products used (see survey at bit.ly/MGGnIcInfoSurvey).

MGG's soil scientist [Vytautas Pabedinskas or Alec McClennan] will complete an assessment report and management plan for each chosen greenspace. The MGG team will incorporate the assessment reports into a final management plan. Services provided during this step include:

1. **Introduction and client history of practices to that point-** The MGG Team will record the client's current greenspace management practices, knowledge of sustainable landscaping practices, and plans or objectives for sustainable landscaping implementation.
2. **Soil description and project identification-** This entails a preliminary assessment of the pedology/formation of the soil. The soil scientist will use a soil probe to assess depth of topsoil, clay content, stratification and barriers that could impede water, nutrient and air movement and root growth.

3. **Mapping of site, identification of target areas and photo documentation-** The soil scientist will walk through the site with the client to identify the scope of changes they would like to happen. The walk through will identify target areas including pointing out high weed density areas, compacted/cracked soil and high-traffic areas. The soil scientist will then map the site to catalog the target areas and identify drainage patterns. Finally, the soil scientist will take photo documentation of the sites to show before and after comparisons, accurately convey the severity of issues and track seasonal/weather related issues such as standing water after rain events or slow spring recovery. To help with this site assessment, the client team will complete a “Turf Rating System” rubric for the site(s) evaluated.
4. **Soil Test Results and their interpretation-** The soil scientist will take samples from the site visit to measure key soil health indicators of sum of cations, water pH, organic matter, primary macronutrients, secondary macronutrients, essential micronutrients and texture. The MGG team will use test results to support management decisions or make some necessary alterations to the sustainable landscaping management plan.
5. **Native planting recommendations-** To further support the City of Shorewood’s “Bee-Safe” policy, the TAP team will identify park or field areas that would benefit from native plants as opposed to turfgrass. MGG should have collected sufficient information about the site’s soil, sunlight access and climatic conditions to help determine the appropriate native seed mixes to replace the existing turfgrass. The Phase II plan will include recommendations to kill the turfgrass and control invasive weeds such as buckthorn, honeysuckle, reed canary grass and phragmites on site with no or limited synthetic herbicides.
6. **Final draft of the three-year sustainable landscape management plan-** MGG will submit a plan to Shorewood staff summarizing the current greenspace management practices, soil characteristics of the project sites and management recommendations for cultural practices, fertilization and weed and pest control. Plan sections include (1) Overview, (2) Introduction, (3) Description of selected fields, (4) Summary of expectations, (5) Site and field management assessment, (6) Soil testing, (7) Cultural practices recommendations, (8) Fertilization and soil amendment recommendations, (9) Weed and pest management, (10) Additional recommendations, (11) Management calendar and (12) Additional reading material.
7. **A brief presentation can be assembled to present at an in-person or remote client team meeting, highlighting most relevant and pertinent details that can inform management decisions-** Based on request, the presentation could include powerpoint slides, brief video chronicling the process and/or poster for display to the public that utilizes the space.

Phase III- Implementation of Recommendations from Phase I and II Reports.

The MGG team will provide ongoing technical assistance for three years to ensure the implementation of the site management plan. Technical assistance includes:

- Quarterly check-in calls with City of Shorewood staff
 - During calls, the Shorewood team will provide MGG with adequate photo and other documentation of the fields so the TAP team can make practical recommendations.
- Access to MGG's network of organic and natural lawn care product, service, and technical assistance providers.
- The MGG Team will provide Shorewood staff with updates of the latest best sustainable landscaping practices, products\ and strategies.
- Outreach and communication support that includes
 - 1-2 public education events for 50+ people.
 - Interpretive Signage.
 - Annual press release.
 - 5-10 social media post suggestions per year.

The TAP Team

The TAP team includes the following individuals:

Ryan Anderson, Community IPM Manager, IPM Institute of North America, Inc.

IPM Institute's Ryan Anderson will assume primary management responsibilities. A 2016 National Academies of Sciences, Engineering, and Medicine Christine Mirzayan Science & Technology Fellow, Mr. Anderson has extensive experience advancing science-based solutions in urban and residential communities highlighted by his leadership of IPM's Midwest Grows Green (MGG) sustainable landscaping initiative that has recruited 40 pesticide free parks, 30 point-of-purchase retailers and more than 800 pledges. Ryan has a Masters of Sustainable Solutions from Arizona State University and holds a dual bachelor's degree in Biology and Electronic Journalism from Butler University.

Leah McSherry, Community IPM Coordinator, IPM Institute of North America, Inc.

IPM Institute's Leah McSherry will help coordinate project meetings and provide day-to-day assistance. Leah has a B.S. in Wildlife Ecology & Biology from the University of Wisconsin – Stevens Point. Her past experience includes working for the Columbia County USDA Farm Service Agency where she headed the Organic Certification Cost-Share Program and Emergency Assistance for Livestock – Honeybees.

Vytas Pabedinskas, Save our Soil, LLC.

Vytas Pabedinskas will provide soil and turf management technical assistance for this project. Mr. Pabedinskas offers a unique soil health perspective as he has a Masters degree in soil



IPM Institute of North America, Inc.

Harnessing Marketplace Power to Improve Health, Environment and Economics

science from the University of Arizona and a Masters degree in education from the University of Illinois. He has taught soils, soil health and compost production in academic and industry settings across Illinois. Currently he is working with a number of school districts that want to institute composting/waste diversion programs and revive greenhouses. He is a member of the Soil Science Society of America and participates on the Education committee. He is, also, a member of the Illinois Food Scrap Coalition promoting composting and compost use in Illinois.

Alec McClennan, Good Nature Organic Lawn Care

Alec McClennan will provide soil and turf management technical assistance for this project. Alec is Founder and President of Good Nature Organic Lawn Care, a firm specializing in natural, organic fertilization and weed suppression for lawns, trees and ponds on residential and commercial properties in Cleveland, Columbus, Akron and Indianapolis. Alec became a Master Gardener and Certified Turfgrass Professional at the University of Georgia. Alec is a member and past president of the Entrepreneur's Organization in Cleveland and a founding member of the Organic Landscape Association. He earned a degree in Civil Engineering from the University of Pennsylvania.

Examples of IPM programs that MGG has previously prepared.

MGG's Ryan Anderson attached completed drafts of Phase I and II reports for the City of Elgin, IL in his email. MGG plans to produce similar reports for the City of Shorewood. Results for the City of Elgin can be found at bit.ly/ElginRestoration21.

Public listening sessions to solicit input from the community

The TAP team will arrange to meet with the City of Shorewood within 30 days of Phase I and II report completion. The team will present the major findings from the reports during these meetings. The community can attend these report presentations. Community involvement and input in these meetings is left to the discretion of Shorewood staff. The same policy applies to the Phase III quarterly meetings.

IV. List of municipal or other governmental authorities the MGG has supported:

TAP started in 2020. Current TAP clients include the City of Elgin, IL, City of Lake Forest, IL, Clarendon Hills Park District, IL, River Forest Park District, IL and City of Grand Rapids, MI.

Partial TAP client includes Village of Skokie, IL, which received a Phase I Audit in 2019.



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MGG has supported natural lawn care, pesticide reduction and sustainable landscaping work for the Lisle Park District, IL, Naperville Park District, IL, Park Ridge Park District, IL, Elmhurst Park District, IL, City of Evanston, IL, Chicago Park District, IL, City of Urbana, IL, City of East Grand Rapids, MI and City of Stoughton, WI. Find a map of MGG pesticide-free parks at bit.ly/MGGparkmap.



V. Price

Phase I Estimated Hourly Fees and Expenses (Primary Quote)

Task	Staff	Hours	Rates	Total
1. Research, summarize state of science in community structural, turf and landscape IPM including identifying appropriate model communities and performance metrics with city staff. Components include plant health; soil quality; pest prevention for insects, plant diseases, weeds including invasives, rodents, wildlife; and pesticide risk assessment and mitigation.	Community IPM Manager	2	\$50	\$100
2. Desk audit: Evaluate City of Shorewood IPM practices data provided by Shorewood staff including policies, goals, performance metrics, cultural practices, fertilizer applications and weed/pest control.	Community IPM Manager	20	\$50	\$1,000
3. Draft preliminary report including state of science, City of Shorewood position along continuum, recommendations including costs/benefits.	Community IPM Manager	2	\$50	\$100
4. Finalize report by May 1, 2022	Community IPM Manager	2	\$50	\$100
5. Present final report to Park Board at public meeting.	Community IPM Manger	2	\$50	\$100
6. Bookkeeping, accounting, recievables/payable management	Accountant	2	\$60	\$120
	Community IPM Manager	1	\$50	\$50
	Soil Scientist	1	\$60	\$60



Phase I Hourly Fees and Expenses Subtotal (Required) \$1,630

Travel (Optional)

Item	Cost
Round Trip Flight from Chicago to Shorewood	\$180
Lodging based on Federal per diem	\$180
Daily Meals & Incidentals	\$79

Travel Subtotal (Optional) \$439

Phase I Total with travel (Optional) \$2,069



Phase II Estimated Hourly Fees and Expenses.

Task	Staff	Hours	Rates	Total
7. Meet to review properties owned and managed by Shorewood.	Community IPM Manager	1	\$50	\$50
	Soil Scientist	1	\$60	\$60
8. Site Visit	Soil Scientist	8	\$60	\$480
9. Results and interpretation from initial soil testing samples.	Soil Scientist	10	\$60	\$600
10. Draft three year landscape management plan.	Soil Scientist	10	\$60	\$600
11. Phase II report review and finalization.	Community IPM Manager	5	\$50	\$250
	Soil Scientist	5	\$60	\$300
12. Presentation of Phase II report	Community IPM Manager	2	\$50	\$100
	Soil Scientist	2	\$60	\$120
13. Bookkeeping, accounting, recievables/payable management	Accountant	6	\$60	\$360
	Community IPM Manager	1	\$50	\$50
	Soil Scientist	1	\$60	\$60

Phase II Hourly Fees and Expenses Subtotal (Required) \$3,030

Travel for Soil Scientist Site Visit (Required)



Item	Cost
Round Trip Flight from Chicago/Cleveland to Shorewood	\$180-\$350
Lodging based on Federal per diem	\$180
Daily Meals & Incidentals	\$79
Soil testing	\$250

Travel for Phase II Plan Presentation (Optional)

Item	Cost
Round Trip Flight from Chicago/Cleveland to Shorewood (n=2)	\$360-\$540
Lodging based on Federal per diem (n=2)	\$360
Daily Meals & Incidentals (n=2)	\$158

Travel Subtotal (Required) \$859

Travel Subtotal (Required + Optional) \$1917

Phase II Total (Required) \$3,889

Phase II Total (Required + Optional) \$5,806



Phase III Estimated Hourly Fees and Expenses

Task	Staff	Hours	Rates	Total
1. Quarterly Check-in calls for 2022	Community IPM Manager	12	\$50	\$600
	Soil Scientist	12	\$60	\$720
2. Public Education Events (Optional)	Community IPM Manager	10	\$50	\$1000
	Graphic Designer	2	\$50	\$150
3. Interpretive Signage Design (Optional)	Community IPM Coordinator	2	\$50	\$100
	Graphic Designer	1	\$50	\$50
4. Press Release (Optional)	Community IPM Manager	9	\$50	\$450
5. 5-10 social media post suggestions per year (Optional)	Community IPM Coordinator	9	\$50	\$450



6. MGG BMP updates via Lawn & Land Forum	Community IPM Manager	20	\$50	\$1,000
	Soil Scientist	2	\$60	\$120
7. MGG networking with organic and NLC product, service and technical assistance providers.	Community IPM Manager	10	\$50	\$500
	Soil Scientist	2	\$60	\$120
8. Bookkeeping, accounting, recievables/payable management	Accountant	12	\$60	\$480
	Community IPM Manager	2	\$50	\$100
	Soil Scientist	1	\$60	\$60

Phase III Hourly Fees & Expenses Subtotal (Required)
\$2,980

Phase III Hourly Fees & Expenses Subtotal (Required + Optional) \$5,600

Travel (Optional)

Item	Cost
Round Trip Flight from Chicago to Shorewood	\$180
Lodging based on Federal per diem	\$180
Daily Meals & Incidentals	\$79

Travel Subtotal \$439

Phase III Total for all items (Required + Optional) \$6,039



City of Shorewood Council Meeting Item

Title/Subject: COVID-19 Testing Policy

Meeting Date: February 28, 2022

Prepared By: Greg Lerud, City Administrator

Reviewed By: Jared Shepherd, City Attorney; Sandie Thone, Human Resources Director

9B
MEETING TYPE REGULAR

Attachments: Draft Policy

Background: The City Council directed staff to prepare a COVID-19 testing policy and bring the draft back to the February 28 meeting for consideration. Staff developed the attach policy by reviewing similar policies from the State of Minnesota and the cities of Minneapolis, St. Paul, and Duluth.

Vaccinations have shown to be quite effective in preventing COVID infections, and/or limiting the severity of the illness if COVID is contracted. However, particularly with the Omicron variant, break thru infections in the vaccinated have become common. Because the goal of this testing program is to identify those who are infected and isolate them before they can spread the virus, the policy has been written to require weekly testing of all employees regardless of vaccination status. There has been a lot of controversy about polices requiring employees be vaccinated or be subject to testing. There has been far less controversy about implanting a mandatory testing policy and program that impacts all employees equally.

Financial or Budget Considerations: \$79.50 per employee per week for testing. Testing 22 employees would cost \$6,996 per month.

Options:

1. Adopt the policy as presented or amended. As presented, there are a couple of questions where the city council would need to provide staff policy direction:
 - a. If the city council wishes to amend the policy, it should determine if contracted city employees (city attorney, city engineer) should also be required to test.
 - b. What would the circumstance be that would lead to the suspension of the policy, and similarly, if suspended, what would the conditions be to reinstate the policy?
 - c. If still a factor later this year, would election judges be subject to the testing requirements?
 - d. Other?
2. Not adopt the policy.

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.*

3. Provide alternative direction.

Any council decision can be done by motion/second and simple majority approval.

Recommended Action: Staff recommends not adopting a policy at this time for several reasons. First, since the beginning of the pandemic in March 2020, the city has repeatedly communicated to employees the need to stay home and test if they are sick. That policy has served the city well. We have followed MN Department of Health policies regarding exposures, to vaccinated and unvaccinated employees, and isolation procedures as they have evolved. Some employees have had COVID, but I can say with a high degree of certainty, though not 100%, that city employees have not experienced COVID transmission from employee to employee. What staff has been doing has been working to prevent transmission of COVID.

Second, because it is possible to have and transmit COVID before being symptomatic and testing positive for COVID, as shown by the recommendation that a person is not tested for COVID until four days after the possible exposure, a weekly testing schedule may be no better than the current policy in limiting the spread of COVID. It could be possible for an employee who tests negative at their weekly test on Monday to finally feel ill on Thursday, and in those circumstances the test failed to provide any advance notice.

Third, not that Shorewood has to follow what other cities do, but there are few cities who have adopted a testing/vaccination policy for workers, and most of them are large cities. In addition, the number of mandates continues to decline. Relatedly, I have heard from a couple of employees who recently attended training in their respective areas, and they indicated that only a couple of the larger cities are keeping their vaccine/testing policies in place.

While staff recommends against adopting a policy at this time, COVID-19 and its variants have proved to be mutating and changing regularly. It is staff's recommendation that the city council and staff continue to monitor the pandemic and be prepared to adopt appropriate policies should circumstances change.

COVID-19 EMPLOYEE TESTING POLICY

OBJECTIVE

To prevent the transmission of COVID-19 and variants by providing standards and expectations for mandatory testing of City Employees.

POLICY STATEMENT

The COVID-19 pandemic presents an unprecedented and ongoing health challenge to the city. The virus is highly contagious, including among asymptomatic people and is potentially deadly. According to the Minnesota Department of Health, the best way to prevent infection and spreading the disease is by being vaccinated. The vaccination, however, does not prevent the ability of vaccinated persons from having and transmitting the COVID virus, especially more transmissible variants of the COVID-19 virus.

Testing staff for COVID-19 infection is a critical tool for minimizing potential exposure to COVID-19 and enabling an early response to prevent further transmission of the virus. Therefore, to protect to the extent reasonably possible, the health and safety of city employees, customers, and residents, it shall be the policy of the City of Shorewood to require mandatory COVID-19 weekly testing of employees.

This policy is subject to change at the City's discretion, including based on public health guidance, and community transmission rates.

SCOPE

This policy applies to all City of Shorewood employees and volunteers who work in positions where they regularly have contact with the public. Employees who have received a positive COVID-19 Test within the last three months will be exempt from this COVID-19 Testing Policy until three months has passed from the testing date that resulted in a positive test. Employees who have tested positive in the last three months must submit a copy of their positive test result showing the date of the test to the Human Resources Director.

DEFINITIONS

Employee: All Shorewood employees, whether full-time, or part-time, as well as volunteers who work in positions where they have contact with the public.

COVID-19 Test: A medical test to determine if someone has an active COVID-19 infection. As methods become available, recommended test may include a polymerase chain reaction (PCR) test or an antigen test.

EMPLOYEE EXPECTATIONS AND RESPONSIBILITIES

The City will determine testing dates, which will occur at least weekly.

The City has sole discretion to choose or authorize the testing location and whether to accept the results from a particular testing method. In the event on-site testing is not available, the City may send the Employee to a testing facility.

Testing will occur during work hours and be considered work time.

Test results will automatically be reported to the Human Resources Director.

The COVID-19 test and results will be conducted and handled in compliance with all applicable rules and laws. Due to the pandemic and Employees' job-related interaction with others, COVID-19 testing is job related and consistent with business necessity. A positive COVID-19 test result will not be used as the basis for discipline or discharge.

Employees who refuse to test will be informed that they will be excluded from the workplace, and will be subject to disciplinary action below, for refusing a work directive:

- 1st Offense: Verbal Warning
- 2nd Offense: Written Warning
- 3rd Offense: Five-day Unpaid Suspension
- 4th Offense: 15-day Unpaid Suspension
- 5th Offense: Termination

Employees who refuse to test will also be sent home and placed on unpaid leave until they have been tested for COVID-19 and have provided a test result or until Administration, in its sole discretion, determines they no longer require COVID-19 testing. Prior to being placed in no-pay status, Employees will be offered a meeting with their supervisor to learn the reasons for being placed in no-pay status and to tell their side of the story. The Employee may have representation at the meeting. Employees who refuse to test will progress through the disciplinary steps each week they refuse, regardless of being placed in no-pay status.

Employees placed in no-pay status who later determine they wish to be tested may obtain a COVID-19 test on their own time at their own expense and have the results reported to the Human Resources Director. Once documentation confirming a negative COVID-19 test result is received by the City, the Employee may return to work no later than the next day the Employee is scheduled to report to work.

Employees with positive test results or who are experiencing symptoms, regardless of their vaccination status, must call their supervisor, and must follow the appropriate actions according to current City guidelines listed here:

EMPLOYER EXPECTATIONS/RESPONSIBILITIES

A. Communication. The City Administrator and Human Resources Director are responsible for communicating this policy and the details of the testing program with the selected vendor, to all employees to ensure that each Employee is aware of and understand the content and effect of this policy.

B. Compliance. Department heads are responsible to ensure employees in their department are tested according to this policy and that such tests are scheduled during regular work time.

C. Tracking and Reporting. The Human Resources Director is responsible for maintain all testing records and informing department heads of positive test results for employees in their department.

D. Confidentiality of Medical Information. The City, through the City Administrator and Human Resources Director, shall maintain the confidentiality of employee COVID-19 test results. All information gathered under this policy, including test results, attestation, Requests for Medical Accommodation, and Religious Exemption forms shall be retained by the city according to the applicable retention schedule and in a secure medical file separate from the Employee's personnel file. Testing results may be shared with the Minnesota Department of Health, City employees with a business need to know, and others authorized by law.

RELIGIOUS ACCOMMODATION REQUEST FORM

Applicant's or Employee's Name:

Date of Request:

Email Address:

Telephone Number:

Employee's Position:

- 1) Please identify the EEOC requirement, policy, or practice that conflicts with your sincerely held religious observance, practice, or belief (hereinafter "religious beliefs").

- 2) Please describe the nature of your sincerely held religious beliefs or religious practice or observance that conflict with the EEOC requirement, policy, or practice identified above.

- 3) What is the accommodation or modification that you are requesting?

- 4) List any alternative accommodations that also would eliminate the conflict between the EEOC requirement, policy, or practice and your sincerely held religious beliefs.

Requester Signature:

Date:

Accommodation Decision

- Accommodations:
- approved as requested
 - approved but different from the original request
 - denied

Identify the accommodation provided.

If the approved accommodation is different from the one originally requested, explain the basis for denying the original request.

If an alternative accommodation was offered, indicate whether it was:

- accepted
- rejected

If it was rejected, state the basis for rejection.

If the accommodation is denied and no alternative accommodation was proposed, explain the basis for denying the request without an alternative accommodation.

An individual who disagrees with the resolution of the request may ask the Chief Human Capital Officer to reconsider that decision within 10 business days of receiving this completed form with the Deciding Official's decision. Note that requesting reconsideration does not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

If an individual is dissatisfied with the resolution and wishes to pursue administrative, statutory, or collective bargaining rights, they must take the following steps:

- For an EEO complaint pursuant to 29 C.F.R. part 1614, contact an EEO counselor in the Office of Equal Opportunity within 45 days from the date of receipt of this form or a verbal response, whichever comes first.
- For a collective bargaining claim, file a written grievance in accordance with the provisions of the collective bargaining agreement.

- For adverse actions over which the Merit Systems Protection Board has jurisdiction, initiate an appeal to the MSPB within 30 days of an appealable adverse action as defined in 5 C.F.R. § 1201.3

Religious Accommodation Case Number:

Deciding Official Name:

Deciding Official Signature:

Date:



City of Shorewood Council Meeting Item

Title/Subject: Review Status of Meetings

Meeting Date: February 28, 2022

Prepared By: Greg Lerud, City Administrator

Reviewed By: Jared Shepherd, City Attorney

9C

MEETING
TYPE
REGULAR

Attachments: Version 1 & 2 of Resolution

Background: At the January 10 meeting, the City Council adopted Resolution No. 22-009 which called for meetings of the Council and advisory commissions to be held virtually in response to the Covid1-19 Omicron variant. That requirement expires without any further action on February 28, unless the City Council votes to extend it.

There is a planning commission being held on March 1. Because it was not known if meetings would be in-person after February 28, staff had to determine a couple of weeks ago whether the meeting would be held in person or remotely. Staff erred on the side of caution and advertised the meeting as being held virtually.

Options:

1. Allow the provisions of Resolution 22-009 to expire without taking any additional actions. Meetings of the City Council and advisory commissions would then go back to in-person/virtual for Council meetings, and in-person for Advisory Commission meetings.
2. Extend the provisions of Resolution 22-009 by determining a date to extend the emergency and adopt the attached version 1 of the Resolution.
3. Extend the provisions of Resolution 22-009 until March 5, affirming the Planning Commission meeting to be held remotely by adopting the attached version 2 of the Resolution.

Recommended Action: Staff recommends version 2 of the attached Resolution be adopted. Although the Omicron variant has retreated, staff will continue to be vigilant in monitoring the pandemic and will bring a Resolution forward for council consideration should conditions dictate.

CITY OF SHOREWOOD

RESOLUTION NO. 22--024

A RESOLUTION ACKNOWLEDGING THE OMICRON VARIANT SURGE OF THE COVID-19 HEALTH PANDEMIC IMPACTING IN-PERSON MEETINGS OF THE CITY COUNCIL AND ADVISORY COMMISSIONS

WHEREAS, The Shorewood City Council adopted Resolution No. 2022-009 on January 10, 2022 in response to the Omicron Variant Surge of the Covid-19 Health Pandemic; and,

WHEREAS, that Resolution called for all meetings of the City Council and City Advisory Commissions to be conducted by interactive technology/videoconferencing until February 28, 2022; and

WHEREAS, the provision of that Resolution would expire at 11:59 p.m. on February 28, 2022 without future City Council action; and

WHEREAS, despite relaxation of state and local measures to respond to the COVID-19 pandemic, the pandemic persists.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHOREWOOD MAKES THE FOLLOWING FINDINGS:

1. The U.S. Centers for Disease Control and Prevention (“CDC”) has stated that data suggests that persons, regardless of vaccination status may, in some cases, become infected with COVID-19 and its variants and transmit the same to other persons.
2. The existence of COVID-19 within the community poses a direct threat to the health, safety, and well-being of the community.
3. Pursuant to Minn. Stat. § 13D.021, subd. 1(1), and consistent with the previous determination of Mayor Jennifer Labadie, the City Administrator, and the City Attorney it remains neither practical nor prudent to hold in-person meetings of the City Council or City advisory commission due to the status of the COVID-19 health pandemic.
4. Furthermore, due to the measures necessary to contain and mitigate the impacts of COVID-19, it has been determined that attendance at the regular meeting location by members of the public is not feasible and that the physical presence at the regular meeting location by at least one member of the body, chief legal counsel, or chief administrative officer is also not feasible.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Shorewood, as follows:

1. The City Council finds that given the current impacts of Covid-19, that in-person meetings of the City Council and all City advisory commission is not practical or prudent due to current status of the COVID-19 pandemic and that all meetings of the City council and meetings of City advisory commissions shall continue to be conducted by interactive technology/videoconferencing under the authority and requirements of Minn. Stat. § 13D.021, so as to permit any persons, including but not limited to members of the City Council or advisory commissions, to participate from a remote location not open to the public.
2. This Resolution and its directives shall expire without further action at 11:59 p.m. on _____, unless rescinded or extended, as the case may be, by Resolution of the City Council.

Adopted by the City Council of the City of Shorewood this 28th day of February, 2022.

Mayor Jennifer Labadie

ATTEST

Sandie Thone, City Clerk

CITY OF SHOREWOOD

RESOLUTION NO. 22-024

**A RESOLUTION RESUMING IN-PERSON MEETINGS OF THE CITY COUNCIL AND
ADVISORY COMMISSIONS**

WHEREAS, pursuant to Minn. Stat. 13D.021, subd. 1(1), by Resolution 2022-09, the City Council determined that all meetings of the City Council and advisory commission shall be conducted by interactive technology/videoconferencing due to the surge of the Omicron variant of COVID-19; and

WHEREAS, by its terms, Resolution 2022-09 and its directives expire without further action at 11:59 p.m. on February 28, 2022, unless rescinded or extended, as the case may be, by resolution of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHOREWOOD MAKES
THE FOLLOWING FINDINGS:**

1. While the existence of COVID-19 remains a direct threat to the health, safety, and well-being of the community, the immediate threat of the Omicron surge is waning as daily cases of COVID-19 reported by the Minnesota Department of Health are in significant decline.
2. The City should transition back toward in-person meetings in an orderly manner.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Shorewood, based upon the above recitals and findings, as follows:

1. All meetings of the City council and meetings of City advisory commissions shall be conducted by interactive technology/videoconferencing under the authority and requirements of Minn. Stat. § 13D.021, so as to permit any persons, including but not limited to members of the City Council or advisory commissions, to participate from a remote location not open to the public through March 5, 2022.
2. All meetings of the City council and meetings of City advisory commissions shall be in-person from March 6, 2022 forward.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD this 28th day of February, 2022.

Mayor, Jennifer Labadie

ATTEST:

Sandie Thone, City Clerk