

City Council Agenda Item #14D
Meeting of April 10, 2006

Brief Description: Items concerning grade changes and a pervious patio on the lake access lot at 17024 Gray's Bay Boulevard for Lakewest Landscape.

Recommended Action: Adopt the resolution, which approves the conditional use permit and the floodplain alteration permit, but denies the setback variance.

Introduction

Lakewest Landscape, represented by Jim Fretham, is proposing grading within the floodplain and installation of an 18-foot x 18-foot (324 square feet) pervious patio at 17024 Gray's Bay Boulevard. The owners of the lot, Thomas and Patricia Kasbohm, reside in the home across the street at 17025 Gray's Bay Boulevard and use the lot for recreation and access to the lake. The patio would be installed next to the lakeshore. (See the attached narrative and plans on pages A8–A18.)

The proposal requires the following approvals:

1) Shoreland Setback Variance

City Code requires that unenclosed or uncovered patios maintain a shoreland setback determined by a line drawn from the closest corners of the two immediately adjacent structures provided there is a minimum setback of 25 feet and that the lot was recorded as of February 12, 1966. The existing stone patio north of the property is setback 0 feet and the existing wood deck south of the lot is setback approximately 8 feet from the shoreline. (See page A13.) The proposed patio would be setback 14 feet from the shoreline, which requires an 11-foot variance.

2) Floodplain Alteration Permit

A floodplain alteration permit is required for any alteration of the size, depth, or contour of the floodplain greater than 1,000 square feet or excavation/fill activity exceeding 20 cubic yards. The proposal would alter 4,850 square feet of floodplain and the total earthwork proposed is 28 cubic yards.

3) Conditional Use Permit

A conditional use permit is required for any permitted use, including detached patios, that involves excavation or fill of an area greater than 1,000 square feet or a volume exceeding 20 cubic yards. The grading proposed for the installation of

the pervious patio, drain tile, river rock depression, and swale exceeds these perimeters.

Staff is recommending denial, based on the findings below.

Background

Staff had previously recommended approval of the variance for the following five reasons:

- 1) The proposed patio would be set back farther from the shoreline than the deck and patio on the two adjacent lakeshore lots. (See page A13.)
- 2) A significant portion of the patio (44%) would meet the required 25-foot setback. The portion extending into the setback (180 square feet) would be no larger than the size of the two existing structures located on the neighboring lots. (See page A13.)
- 3) The patio would be unenclosed and would not negatively impact the view from Gray's Bay Boulevard, the lake, or neighboring properties. (See pages A17-A18.) The proposed patio would sit less than a foot above the existing grade and would not be higher than the two adjacent structures.
- 4) The patio would be constructed of pervious pavers to allow infiltration, reduce hard surface area, and minimize runoff.
- 5) The property owners plan to use the patio for recreational activity related to the lake. Placing the patio farther from the shoreline would not be consistent with the intended use.

On March 27, 2006, the city council postponed the item to April 10, 2006, at the request of the applicant. The council did not think there were adequate findings showing a hardship for the variance. The applicant wanted time to present additional information justifying the variance. (See the minutes on pages A21–A27.)

The applicant's engineer has since provided the letter on page A9-b that explains their hardship. Generally, the hardship described in their letter is that moving the patio back to meet code would create drainage problems on the applicant's site and potential problems for the adjacent lot. See their letter on page A9-b for details.

Primary Issue

- **Is the shoreland setback variance reasonable?**

No. While staff had previously supported this variance, the council did not think the findings were sufficient to justify the variance. Staff has since reviewed the applicant's latest letter. Staff does not concur with the applicant's engineer. Staff believes that there are other reasonable options. The patio could be moved back to meet the setback requirement. If the applicant is concerned about the additional fill required or drainage issues, the patio could be reduced in size. Staff believes that the patio could be reduced in size and still be a reasonable size. To maintain use of the area in front of the patio, the applicant could use other materials that would not be subject to setbacks, such as reinforced turf or a geo-grid type material with rock infill. Since this material is under the grass and pervious, it would not be subject to setbacks.

- **Is the proposed floodplain alteration permit reasonable?**

Yes. No net fill would occur within the floodplain. A depression would be excavated to compensate for the amount of fill placed on the lot. (See page A15.) Grading would remain slightly lower than the adjacent property and flow will be unobstructed across the lot. Because most of the lot is within the floodplain, any grading on the site would result in alteration of the existing floodplain. (See page A16.)

- **Is the proposed conditional use permit reasonable?**

Yes. The proposed use would not obstruct flood flows, increase flood elevation, decrease existing storage volume, or result in net fill within the floodplain. Surface runoff would be minimized through the use of pervious pavers, landscape stone, and vegetative groundcover. No significant trees would be removed and grading would be minimized adjacent to the existing trees along the northwest lot line.

Planning Commission Recommendation

On January 26, 2006, the planning commission unanimously recommended that the city council approve the project as recommended by staff. (See the minutes on pages A19–A–20.)

Staff Recommendation

Adopt the resolution on pages A1–A4, which approves the conditional use permit, floodplain alteration permit, and denies the shoreland setback variance from 25 feet to 14 feet. This resolution is based on the following findings:

- 1) The proposed variance is denied for the following reasons:
 - a. The patio can be reduced to a reasonable size and moved back to meet setbacks.
 - b. There are other options to use the setback area that would not require a setback variance.
 - c. While the adjacent properties have patios closer to lake, those patios are illegal or legal nonconforming uses.
- 2) The proposed conditional use permit and floodplain alteration permit are approved for the following reasons:
 - a. The proposed use would have low damage potential. Flood flows would not be obstructed, no net fill will occur, water storage would be maintained, and there would be no increase in the flood elevation.
 - b. All fill material and exposed soil will be protected by vegetation or stone.
 - c. No impact will occur to significant trees, wetlands, or public easements.

The above-described conditional use permits are approved, subject to the following conditions:

- 1) Tree protection and erosion control must be installed and maintained until groundcover is established.
- 2) Submit proof of having recorded this resolution with the county before the city issues a grading permit.
- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4) Moving the patio back to meet setback requirements.

Submitted through:

John Gunyou, City Manager
Geoff Olson, Planning Director

Originated by:

Aaron Schwartz, Natural Resources Specialist

SUPPORTING INFORMATION

Surrounding Land Uses

The lots on all sides of the subject property are zoned and guided low-density residential.

Existing Site Features

The owners of the lot reside in the home across the street at 17025 Gray's Bay Boulevard and use the lot for access to the lake. The lot is primarily mowed turf with no existing structures.

Planning

Guide Plan designation: Low Density Residential

Zoning: R-1

Traffic

Construction vehicles would access the site from Gray's Bay Boulevard.

Building Design

The patio would be constructed of pervious pavers and would not be enclosed. No other structures are proposed.

Grading

Most of the site would be graded. The proposed patio area would be filled and leveled, and a depression created west of the patio to compensate for the fill. Minor grade changes would be made to the rest of the lot to install drain tile, direct drainage, and install plantings.

Drainage

The lot would continue to drain to the northeast. Drain tile and a slight swale would be installed to facilitate drainage from the southwest portion of the lot to the depression adjacent to the proposed patio.

Landscaping

Stairs would be installed adjacent to the street with stepping stones leading to the pervious patio. River rock would be placed over the created depression, plants will be installed along the street, and turf established over the remainder of the lot. The owner has decided not to install the sand beach indicated on the plans.

Neighborhood Comments

We surveyed the property owners within 400 feet of this site. We received nine replies as follows:

4 Strongly Support	0 Somewhat Support	3 Neutral	0 Somewhat Oppose	2 Strongly Oppose
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In favor:

“We are pleased to strongly support the application of Tom and Patty Kasbohm for the permits/permissions described in your letter of December 2. We have observed the frequent flooding which plagues the lot in question; alterations to reduce this flooding will improve the views of the lake from neighboring properties while significantly increasing the Kasbohm’s enjoyment of their property. As the applicants’ narrative pointed out, “[the lot] does not meet standard size requirements for building purposes.” The best (and most obvious) use of the lot in question is clearly for the recreational purpose that the applicants propose, and it is in line with the use of the similar lot (which is slightly higher) to the southeast. The proposed alterations appear to be modest and in keeping with the community, and the proposed landscaping and other features (stairs, stepping stones, fire ring, pavers) sound extremely attractive. In line with our strong support, we assume that the proposed improvements will not make the lot more suitable for subsequent building (either on the lot as currently owned/divided or if merged with any of the adjacent lots.) In addition to not meeting standard lot size requirements, the current grade and elevation also inhibit building there. With partial resolution the grade and elevation issues, some neighbors may be concerned that the lot is one step closer to an application to construct a building there at some point in the future. A covenant against subsequent building/application to build on the lot (i.e., to ensure the proposed recreational use in perpetuity) would be an appropriate condition of the department’s approval. Again, we strongly support the application to make the parcel more suitable for recreational purposes as outlined.” (17009 Gray’s Bay Blvd.)

“Just curious how it is possible to put in sand at the lake shore edge when we were required to add a conservation easement to our deed. Is this no longer required? Other than that, we are all for it.” (16940 Gray’s Bay Blvd)

“I own the property at 17021 and 17018 Gray’s Bay Blvd. 17018 is adjacent to the lot in question. I have no objection to the proposed plan.” (17021 Gray’s Bay Blvd)

“It looks like a well thought out plan. Personally, I think it would be a vast improvement over the current look and situation. I strongly support the improvement as suggested.” (7202 Gray’s Bay Boulevard)

“This is a very reasonable application to improve a lot that is not only an eyesore but unusable after periods of rain and spring thaw. The plans will enhance the visual appearance of the lot and make it more usable throughout the year.” (17012 Gray’s Bay Blvd)

Opposed:

“I do not agree with the altering of the current lake shore. Where are the natural plantings to filter the runoff before it drains into the lake?” (No address given)

“My strongest opinion of this application as proposed: Strongly Opposed. Comments or suggestions about this proposal: I oppose this proposal because anything added on to this property will be blocking my view of the lake. One of the major reasons I bought this property was due to the view.” (801 Twelve Oaks Center Drive, Wayzata)

General comments:

“No-looks ok.” (17205 Gray’s Bay Blvd)

“We have no objection to the project as proposed.” (17204 Gray’s Bay Blvd)

“I sincerely hope that the drain tiles will make up for the tree root loss that originally lowered the table (in my opinion). I live next door and I have experienced the water table rise to the house.” (17028 Gray’s Bay Blvd)

Deadline for a city decision: April 10, 2006

RESOLUTION NO. 2006-

RESOLUTION APPROVING A CONDITIONAL USE PERMIT AND FLOODPLAIN ALTERATION PERMIT AND DENYING A SHORELAND SETBACK VARIANCE FOR A PATIO AND GRADING WITHIN THE FLOODPLAIN AT 17024 GRAY'S BAY BOULEVARD

BE IT RESOLVED by the City Council of the City of Minnetonka, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Lakewest Landscaping is requesting conditional use and floodplain alteration permits for fill and excavation related to the construction of a 324 square foot patio (Project 05095.05a). A shoreland setback variance from 25 to 14 feet is also requested.
- 1.02 The property is located at 17024 Gray's Bay Boulevard. It is legally described as follows:
- Lot 5, Block 1, Thorpe Bros Re-Arrangement of Groveland Estates
- 1.03 On January 26, 2006, the Planning Commission held a hearing on the application. The applicant was provided the opportunity to present information to the Planning Commission. The Planning Commission considered all of the comments and the staff report, which are incorporated by reference into this resolution. The Commission recommended that the City Council approve the permits with the variance.

Section 2. GENERAL STANDARDS.

- 2.01 City Code Section 300.16, Subdivision 2, lists the following general standards that must be met for granting of the permits:

1. The use is consistent with the intent of this ordinance;
2. The use is consistent with the goals, policies and objectives of the comprehensive plan;
3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and
4. The use does not have an undue adverse impact on the public health, safety or welfare.

Section 3. SPECIFIC STANDARDS.

3.01 City Code Section 300.24, Subdivision 7 lists the following specific standards that must be met for granting of the permits:

1. The use must have a low damage potential and must not obstruct flood flows or increase flood elevations in the floodway, and must not result in net fill within the subject floodplain.
2. Fill, dredge, spoil and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
3. If significant trees, wetlands, or public easements exist in the location of the proposed excavation or fill activity, administrative approval is not allowed.
4. Moving of 1,000 cubic yards of material per acre or more requires a separate conditional use permit.

Section 4. FINDINGS.

4.01 The proposal meets the required conditional use and floodplain alteration permit standards.

4.02 The proposal does not meet the required standards for a variance because:

- a. The patio can be reduced to a reasonable size and moved back to meet setbacks.

- b. There are other options to use the setback area that would not require a setback variance.
- c. While the adjacent properties have patios closer to lake, those patios are illegal or legal nonconforming uses.

Section 5. CITY COUNCIL ACTION.

5.01 The above-described conditional use permit and floodplain alteration permit are approved, subject to the following conditions:

- 1. Tree protection and erosion control must be installed and maintained until groundcover is established.
- 2. Submit proof of having recorded this resolution with the county before the city issues a grading permit.
- 3. The city council may reasonably add or revise conditions to address any future unforeseen problems.
- 4. Moving the patio back to meet setback requirements.

5.01 The above-described setback variance is denied, subject to the above findings.

Adopted by the city council of the City of Minnetonka, Minnesota, on _____, 2006.

Janis A. Callison, Mayor

ATTEST:

Kathleen A. Magrew, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction:

Date of adoption:

Motion for adoption:

Seconded by:

Voted in favor of:

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota at a regular meeting held on _____, 2006.

Kathleen A. Magrew, City Clerk

Date:

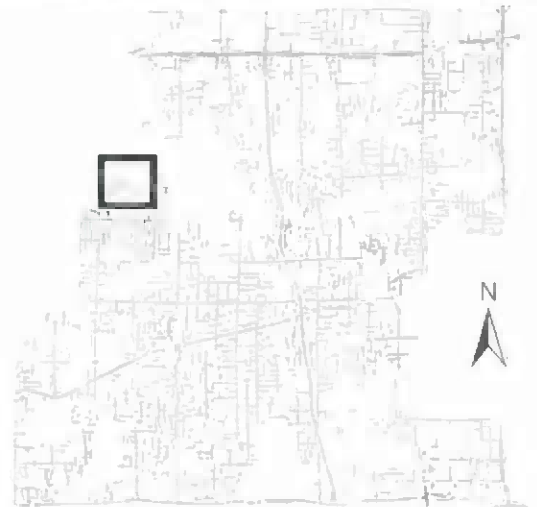


LOCATION MAP

Project &
 Applicant: Lakewest Landscape
 Address: 17024 Gray's Bay Boulevard
 PID: 17-117-22-21-0084

City of
 Annetonka

(05095.05a)



This map is for illustrative purposes only.



PATH: 17024 Grays Bay Blvd.dgn

PLOTTED BY: sornal

DISCLAIMER

This drawing is not a legally recorded plat or an accurate survey. It is intended to be only an approximate representation of information from various government offices and other sources. It should not be used for a purpose that requires exact measurement or precision. People who use this drawing do so at their own risk. The City of Minnetonka is not responsible for any inaccuracies contained in the drawing. The City of Minnetonka provides no warranty, express or implied, about the correctness of the information.

City of minnetonka
 14600 MTKA BLVD, MTKA, MN 55345 PH: 952-839-8200

SCALE:
 1" = 40'
 DATE:
 12/2/2005

17024 GRAYS BAY BLVD.

A6



A7

**PROJECT NARRATIVE
CONDITIONAL USE, FLOODPLAIN ALTERATION P,
AND GRADING PERMIT FOR
17024 GRAYS BAY BLVD
MINNETONKA, MINNESOTA**

Project Description:

Thomas and Patricia Kasbohm are proposing improve the quality and character of their lake access lot for recreational amenities. In efforts to improve their lot from current conditions a conditional use permit, floodplain alteration permit and grading permit is needed for 17024 Grays Bay Blvd (Lot 5, Block 1, Thorpe Bros. Rearrangement of Groveland Shores). Thomas and Patricia currently reside at 17025 Grays Bay Blvd, which is located directly across Grays Bay Blvd from the 17024 site. The Kasbohm's purchased the 17024 lot in October 1997 in hopes to have lake access to Grays Bay of Lake Minnetonka, and a place for passive recreation. The lot is truly unique due to the site's natural setting and is envisioned to be used as a place for recreation and entertaining by the lake. The site will provide an attractive residential enclave that will match the existing character of Grays Bay Neighborhood as a unique lake community.

Existing Conditions:

The lot is currently located in between Grays Bay Blvd and Grays Bay of Lake Minnetonka. The site over years has been used as a lake access lot to Grays Bay since it does not meet standard lot size requirements for building purposes. Due to the existing size of the 17024 lot, it was never developed into a buildable lot and is mainly an open green-turfed lot. Surrounding residential lots which meet the typical size requirement where developed and improved for homeowners and displayed the Grays Bay character along the lakeshore. After years of development in the neighborhood community the lot was substantially lower than surrounding lots. With the lot being lower in elevation than surrounding neighboring lots, most of the lot is located within the floodplain elevation of Lake Minnetonka. The ground surface becomes wet and unusable for passive recreation due to current water runoff conditions from neighboring lots and has degraded the character and feel of the 17024-lake access lot. The current ground surface is mainly green turf area. The existing topography allows water to generally drain from the road to the lake, however due to the uneven characteristics of the lot it tends to stay wet for greater periods, making it unusable for recreational purposes. No wetlands are currently located or identified on the property.

Proposed Conditions:

If efforts to improve the quality and character of there lot, Thomas and Patricia are proposing a stairway for easier access, a pervious patio paver area by the lake and raise the ground surface elevation slightly to make the back portion of the lot more usable for recreational purposes. Since the lot is in a flood plain and the amount of grading is more than 20 cubic yards a balance must be obtained between soil movement on the site within the floodplain. The existing/proposed soil cut and fill balance is at 177 cubic feet in the flood plain.

A pervious patio area is proposed with a 10' setback from the lake with a sand area between the lake edge and proposed patio area. A lower depression is proposed by the patio and lake edge to capture water runoff from the lot. The low depression area is intended to have a decorative river rock surface to help capture and infiltrate the water runoff. Fill will be brought onto the site to raise back portion of the lot slightly in efforts to establish a useable recreation area. Drain tile and a small drainage way located on the northwest side of the lot are proposed to help water runoff from the current lot and water runoff from the surround lots onto there property. The grading improvements to the lot will greatly improve the water runoff flow into the low depression area. Planting beds are proposed along Grays Bay Blvd and by the stairway access to the lot to improve visual character and soil erosion problems along the road edge. Sod is currently being proposed for the back portion of the lot. The existing trees located on the northwest side of the property will remain and will be protected from grading purposes.

Conclusion:

As mentioned earlier the lot is truly unique due to the site's natural setting and is envisioned to be used as a place for recreation and entertaining by the lake. The proposed modifications to the 17024 lot will greatly improve the quality of lot and be an attractive residential enclave that will match the existing character of Grays Bay Neighborhood.



Schoell Madson
Planning Engineering Surveying

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Elk River, Minnesota 55330
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www.schoellmadson.com

March 6, 2006

City of Minnetonka – Planning Department
Geoff Olson
14600 Minnetonka Blvd.
Minnetonka, MN 55345

Subject: 17024 Grays Bay Blvd – Hardships

In regards to the March 27, 2006 City Council meeting per the 17024 Grays Bay Blvd project, it was mentioned that there was not enough hardship to allow for a setback variance from 25' to 14' from the edge of water. It is my hope that this letter will identify the proposed request for the setback variance.

Listed below are explanations of the hardships for the setback variance request:

Grading / Earthwork:

1. *Utilize existing grades to minimize site disturbance and the amount of fill/grading required* - The existing grade elevations south of the proposed patio area are lower than the existing grade elevation at the 14-foot setback location. The proposed location would require less fill to fully grade the patio area for general use in the 14-foot setback location. If the patio were shifted to the south to meet the existing 25-foot setback, far more fill would be required to properly grade the patio for general use.

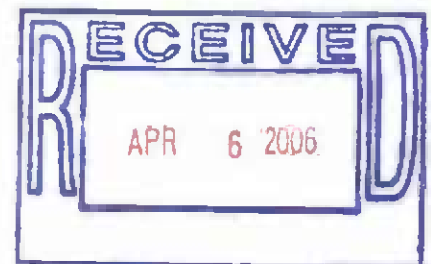
2. *Floodplain requirement requires no additional net fill* - Per city code, you are not allowed to have net fill within a floodplain. Since some additional fill was needed to fully grade the patio out for general purposes, other areas within the lot required soil to be cut for a soil balance. In efforts to comply with the floodplain requirement, fill had to be removed to allow for a soil balance, which allowed us to propose the small infiltration area located around the patio area.

3. *Maintaining Minimum Grades* - Due to the existing site conditions, the depth of the depression area was held to the proposed elevation from the low grades already located onsite and the high-water table. In order for us to capture the additional water, a small swale was designed on the western side of the lot. To maintain 2% slope on grades in the swale to the depression area, the placement of the patio and the depression area was critical because this would allow us to keep maintain a positive hydraulic flow to the depression area. If the depression area were shifted toward the lake, we would not be able to maintain minimum grades and hydraulic flows for proper drainage. This would result in greater saturation and ponding in the middle portion of the site.

Drainage:

1. *Water runoff and drainage from adjoining properties and Grays Bay Road* - As mentioned in the last City Council meeting and in the narrative, the existing lot was a remnant lot and currently has water runoff from neighboring properties and Gray Bay Road. Due to the extra runoff, the lot was not very useable because it stays wet and saturated for longer periods of time. The small depression would allow for a designated area for water storage and infiltration and allow the remainder of the lot to be useable.

A 9-6



2. *Water quality* – In the current location of the infiltration / depression area you would be able to achieve a higher water quality. If the patio were shifted south, the depression area would have to be placed in front of the patio area. Problems may occur with this because the bottom elevation of the depression area would be lower than the lake elevation. Locating the depression area farther away from the lake also provides additional surface flow and infiltration treatment before the water discharges to the lake.

3. *Lot configuration* – Due to the narrow conditions of the lot, if the patio were shifted to the south it would interfere with the proposed swale area. This swale is critical because it allows drainage of the water, which is currently drained onto the property from surrounding lots to the depression area. Without this swale the western side and middle portion of the lot remain saturated because of the water runoff from adjacent properties. Also, if the patio area were to be shifted back to the 25-foot setback potential flooding problems over the patio may be encountered. Without proper drainage to the depression area in the current location, standing pockets of water would increase because there would be more fill in the middle portion of the lot.

Lake access and safety

1. If the patio were shifted to the south, the only area to put the infiltration area would be in front of the patio. This would block access to the lake. This would create safety issues by blocking a safe path to the lake. The homeowners would have to walk through the depression area to get access to the lake, which may create some safety issues.

Conclusion:

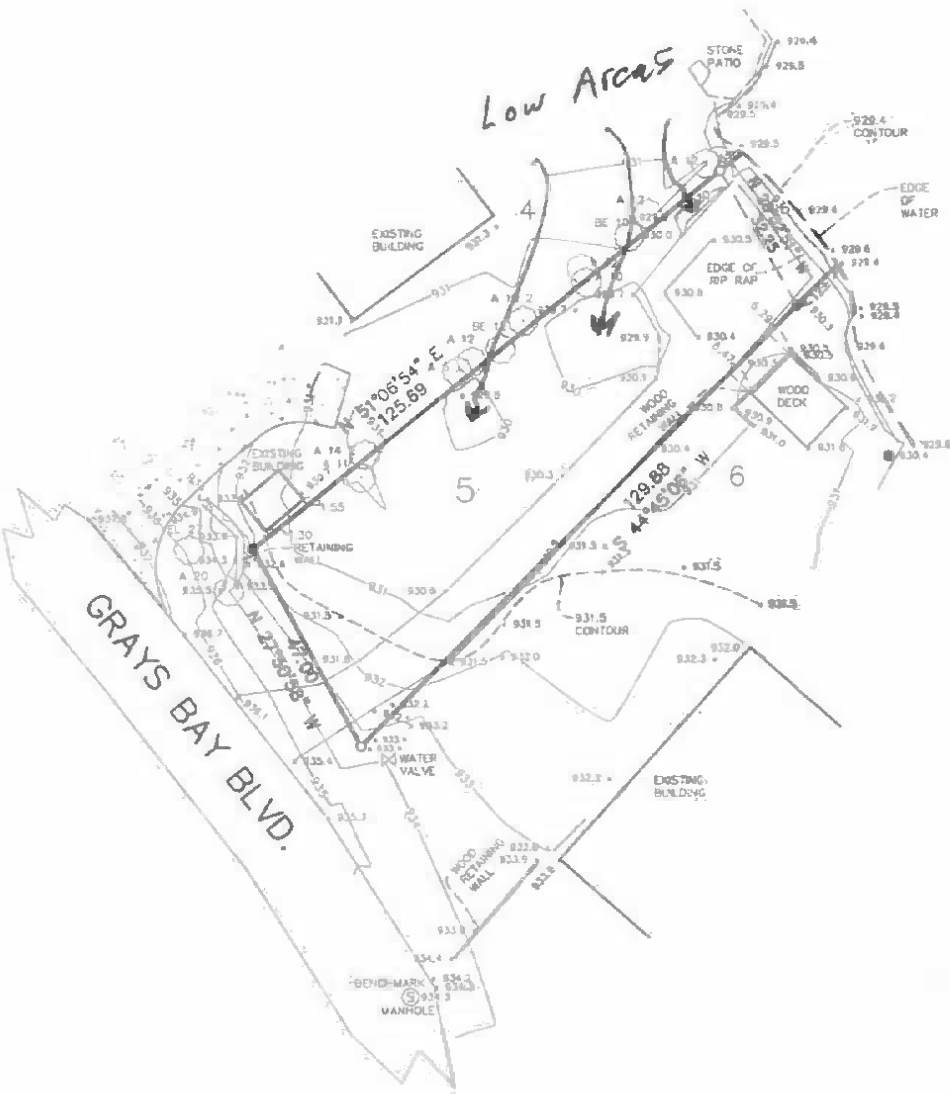
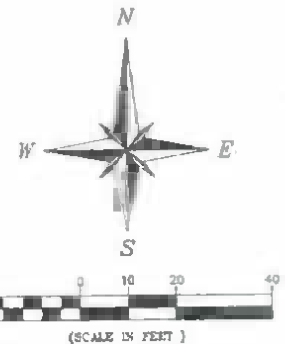
As mentioned earlier, the lot is truly unique due to the site's natural setting, neighborhood character and is envisioned to be used as a place for recreation and entertaining by the lake. It was my hope that this letter would identify the importance of the variance setback request. The proposed modifications to the 17024 lot will greatly improve the quality of lot, provide a designated area for the existing and surrounding drainage runoff, reduce water runoff to the lake and provide an attractive residential enclave that will match the existing character of Grays Bay Neighborhood.

If you have any additional questions regarding this letter you can call me at 763-241-0108 or reach me via email at scotty@schoellmadson.com.

Sincerely,
Schoell Madson,



Scott Yonke
Landscape Architect/Design Leader



TREE LEGEND

Number following abbreviation denotes estimated diameter in inches, three feet above ground level. The second number (if any) denotes the number of trunks at that location (1 denotes a dead tree). Number following shrubs denotes it's diameter in feet.

- Denotes deciduous tree. Example: ○ BE B.2
- A Denotes Ash
- BE Denotes Box Elder
- EL Denotes Elm

LEGEND

- - Denotes Found Iron Monument
- ⊙ - Denotes Set Iron Monument
- - - Denotes Existing Contour
- ▭ - Denotes Bituminous Surface

BENCHMARK

Top Ring of Sanitary Sewer Manhole
Elevation = 934.33 (NGVD-1929).

LEGAL DESCRIPTION

Lot 5, Block 1, THORPE BROS.
RE-ARRANGEMENT OF GROVELAND SHORES

This drawing has been checked and reviewed this 24th day of October, 2005 by DGN

JOB BOOK NUMBER: (ER2-60)
FIELD BOOK: 605 PAGE: 58

A10

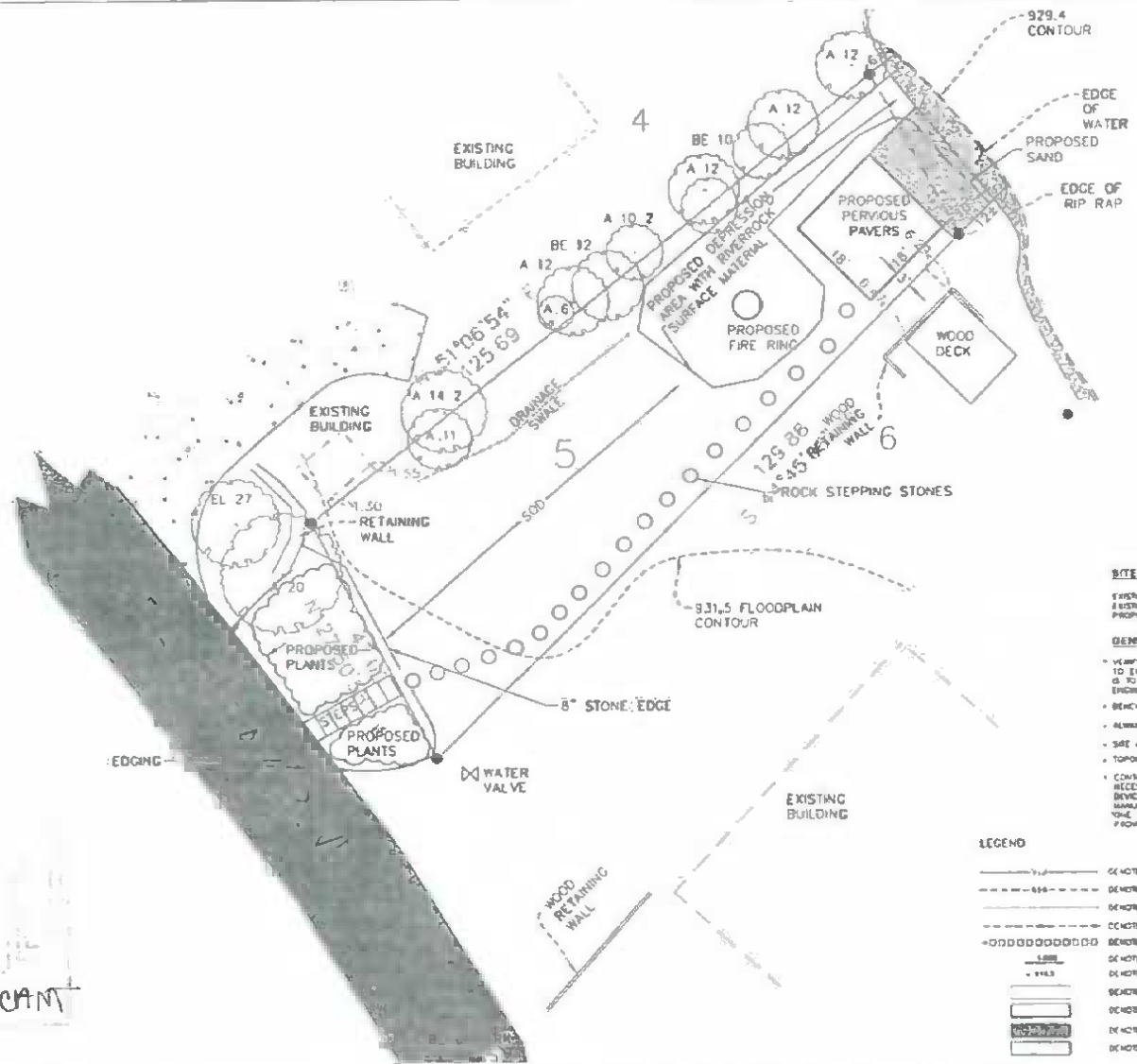
NEW

SCHOELL & MADSON, INC.
ENGINEERS • SURVEYORS • PLANNERS
10580 WAYZATA BOULEVARD, SUITE 1
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554 THIRD STREET NW, SUITE 100
ELK RIVER, MN 55330
763-241-0108 FAX: 763-241-8351
www.schoellmadson.com

NO.	DATE	BY	DESCRIPTION	CHK'D
1				
2				
3				
4				
5				
6				
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CERTIFICATION
I hereby certify that this survey was prepared under my supervision and that I am a Licensed Land Surveyor under the laws of the State of Minnesota.
Daniel G. Nickols
DANIEL G. NICKOLS
Date: 10/24/2005 License No. 19839

CLIENT
JIM FRETAM



SITE DATA

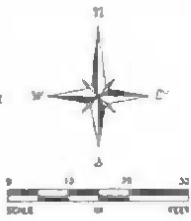
EXISTING LOT AREA = 5,170 S.F. (13 AC)
 EXISTING FLOODPLAIN STORAGE VOLUME = 677 CUBIC FEET
 PROPOSED FLOODPLAIN STORAGE VOLUME = 677 CUBIC FEET

GENERAL SITE WORK NOTES

- VERIFY HORIZONTAL LOCATION AND ELEVATION BEFORE CONNECTION TO EXISTING FURNISHED SUBSTRUCTURE PIPE OR OTHER SITE FEATURE IS TO BE MADE. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM THE PLANS.
- BENCHMARK LOCATIONS = SEE SURVEY
- ALWAYS VERIFY BENCHMARK ELEVATIONS BETWEEN TWO BENCHMARKS
- SITE ACCESS IS ONLY OFF DRIVE'S EAST PLYG
- TOPOGRAPHIC SURVEY BY SCHUELL & MADSON, INC.
- CONTRACTOR SHALL INSTALL HYDRANT, MANHOLE AND REMOVE THE NECESSARY SIGNAGE FOR LANE CLOSURES. ALL TRAFFIC CONTROL DEVICES AND SIGNAGE SHALL CONFORM TO THE MANUAL, INCLUDING FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL, TIME EXCEPTS JANUARY 1998. ONE ELEVEN FOOT MINIMUM WIDTH LANE IN EACH DIRECTION SHALL BE PROVIDED AT ALL TIMES.

LEGEND

- (dashed line) DENOTES EXISTING CONTOUR
- (dashed line) DENOTES PROPOSED CONTOUR
- (dashed line) DENOTES BOUNDARY LINE
- (dashed line) DENOTES DRAINAGE SWALE BY EASEMENT
- (dashed line) DENOTES EROSION CONTROL SWIPE FENCE
- (dashed line) DENOTES PERCENT OF GRADE
- (dashed line) DENOTES PROPOSED SPOT ELEVATION
- (dashed line) DENOTES EXISTING BUILDING
- (dashed line) DENOTES PROPOSED PAVES
- (dashed line) DENOTES EXISTING BITUMINOUS
- (dashed line) DENOTES EXISTING CONCRETE



ALL

SUBMITTED BY APPLICANT

Revisions	Date	Description	By	Date	Description	By

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

[Signature]
 Date: JUL 28 2008

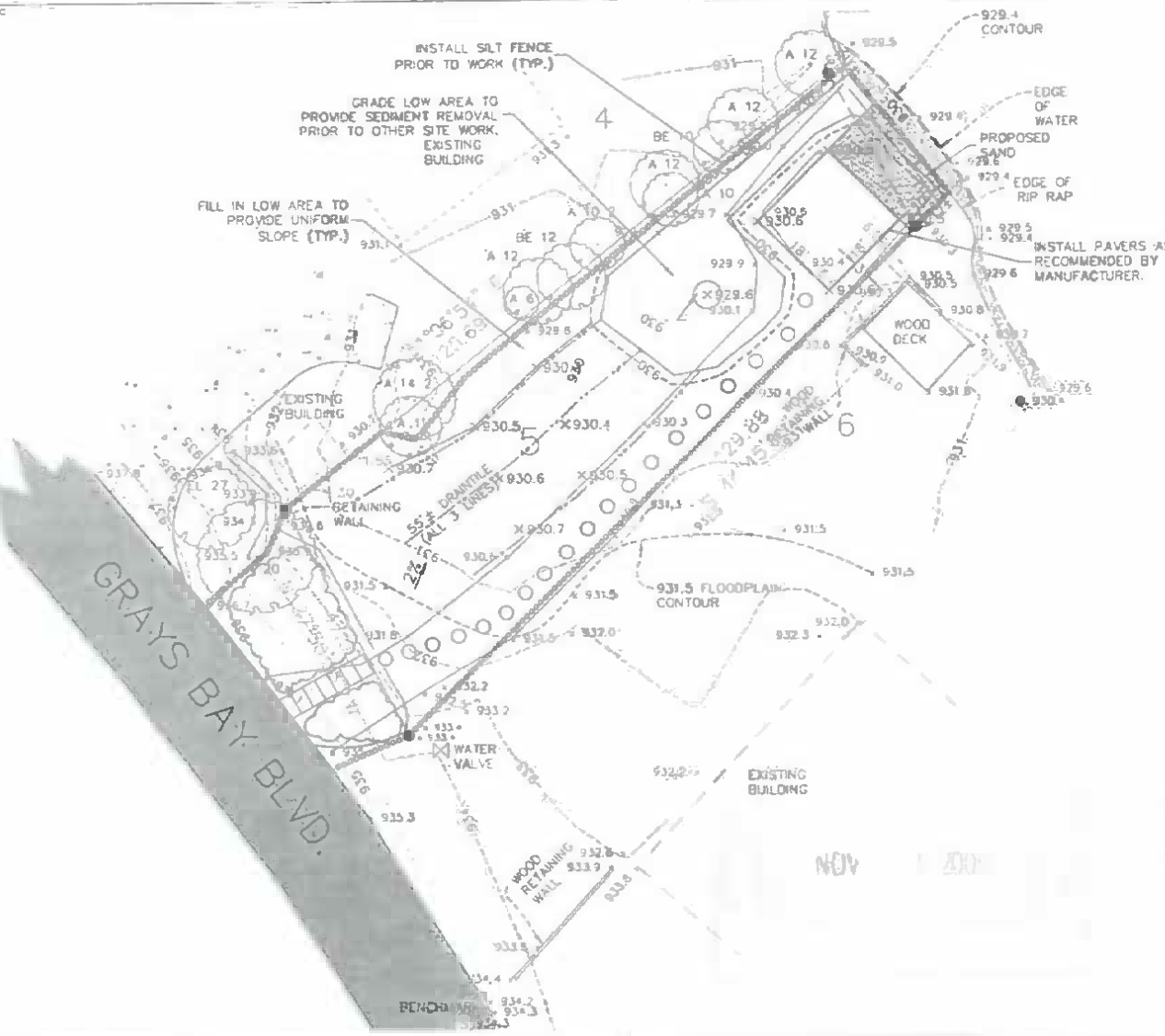
Designed by: LAJ
 Drawn by: WJ
 Checked by: SAT/24

Schoell & Madson, Inc.
 Engineering • Surveying • Planning

12000 Highway 100, Suite 200 • Minneapolis, MN 55425
 612-835-1000 • Fax 612-835-1001

Client: **Jim Fretham**
 2128 Highway 67
 Mendota, MN 56124

Project Name/Location: 17004 Grove Bay Blvd, Mendota, MN	Date: 10/1/08
Sheet No.: Site Plan	Sheet: 1, 2



- GRADING & EROSION CONTROL NOTES**
- CONTRACTOR SHALL FIELD VERIFY THE ELEVATIONS AND ELEVATIONS OF EXISTING UTILITIES AND TOPOGRAPHIC FEATURES PRIOR TO START OF SITE GRADING. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE PROJECT ENGINEER OF ANY DISCREPANCIES OR VARIATIONS.
 - CONTRACTOR SHALL BE RESPONSIBLE FOR ALL HORIZONTAL AND VERTICAL CONTROL.
 - INSTALL PERIMETER EROSION CONTROL AND TREE PROTECTION MEASURES BEFORE BEGINNING SITE GRADING ACTIVITIES. SOME EROSION CONTROLS SUCH AS SILT FENCES AND TEMPORARY SILT PONDS MAY BE INSTALLED AS GRADING OCCURS IN THE SPECIFIC AREA. MAINTAIN EROSION CONTROLS THROUGHOUT THE GRADING PROCESS AND REMOVE WHEN TURF HAS BEEN ESTABLISHED.
 - ALL EXPOSED SOIL AREAS WITHIN 100 FEET OF A WATER OF THE STATE OR ANY STORMWATER CONVEYANCE SYSTEM WHICH IS CONNECTED TO A WATER OF THE STATE MUST BE STABILIZED WITHIN 7 DAYS (STEEPER THAN 3:1 SLOPE), 14 DAYS (10:1 TO 3:0 SLOPES), OR 28 DAYS (FLATTER THAN 10:1).
 - ALL EROSION CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED IN ACCORDANCE WITH CITY REQUIREMENTS.
 - THE CONTRACTOR SHALL MAINTAIN ALL EROSION CONTROL MEASURES INCLUDING THE REMOVAL OF ACCUMULATED SILT IN FRONT OF SILT FENCES DURING THE DURATION OF THE CONSTRUCTION.
 - MAINTAIN EXISTING EROSION CONTROL AND TREE PROTECTION MEASURES RE-ESTABLISH ANY EXISTING EROSION CONTROL DISTURBED BY CONSTRUCTION.
 - CONTRACTOR SHALL PROVIDE ADDITIONAL TEMPORARY EROSION CONTROL MEASURES AS REQUIRED FOR CONSTRUCTION.
 - REMOVE ALL EROSION CONTROL MEASURES AFTER VEGETATION IS ESTABLISHED.
 - THE CONTRACTOR SHALL REMOVE ALL SOILS AND SEDIMENT TRACKS OFF EXISTING STREETS AND PARKED AREAS.
 - IF BLOWING DUST BECOMES A HAZARD, THE CONTRACTOR SHALL APPLY WATER FROM A TRUCK TRUCK TO ALL CONSTRUCTION AREAS.
 - SWEEP SIDEWALK STREETS IN ACCORDANCE WITH CITY REQUIREMENTS.
 - RESPECT EROSION CONTROL DEVICES AFTER EACH RAINFALL AND AT LEAST DAILY DURING PROLONGED RAINFALL. IMMEDIATELY REPAIR FAILED OR FAILING EROSION CONTROL DEVICES.
 - ANY SEDIMENT REMAINING IN PLACE AFTER THE EROSION CONTROL DEVICE IS NO LONGER REQUIRED SHALL BE GRADED TO CONFORM WITH THE EXISTING GROUND, IMPAVED, AND RESEED WITH THE APPROPRIATE SEED MIX AS DIRECTED BY THE OWNER.
 - CONTRACTOR SHALL STOP, STOCKPILE AND RE-Spread EXISTING ON-SITE TOPSOIL TO PROVIDE A UNIFORM THICKNESS OF ALL DISTURBED AREAS TO BE SOILED OR SEED.
 - SUBGRADE EXCAVATION SHALL BE BACKFILLED IMMEDIATELY AFTER FREIGHTION TO HELP OFFSET ANY STABILITY PROBLEMS DUE TO WATER SEEPAGE OR STEEP SLOPES. WHEN PLACING NEW SURFACE MATERIAL ADJACENT TO EXISTING PAVEMENT, THE EXCAVATION SHALL BE BACKFILLED PROMPTLY TO AVOID UNDERMINING OF THE EXISTING PAVEMENT.
 - FINAL GRADING TOLERANCES ARE 0.01 FEET OF PLAN GRIDES.
 - CONTRACTOR IS RESPONSIBLE FOR GRADING AND SLOPING THE FINISHED DRIVING SURFACE TO PROVIDE SMOOTH & UNIFORM SLOPES AND PREVENT PONDING IN LOWER AREAS.
 - SLOPES AT 3:1 OR STEEPER AND/OR WHERE INDICATED ON THE PLANS SHALL BE SEEDED AND HAVE A WOOD FIBER BLANKET INSTALLED OR MAY BE HYDROSEEDS WITH TACKLER GELULA.

SITE DATA
 EXISTING LOT AREA = 8,178 S.F. (8.12 AC)
 EXISTING FLOODPLAIN STORAGE VOLUME = 117 CUBIC FEET
 PROPOSED FLOODPLAIN STORAGE VOLUME = 127 CUBIC FEET

LEGEND

- (dashed line) DENOTES EXISTING CONTOUR
- - - (dashed line) DENOTES PROPOSED CONTOUR
- (solid line) DENOTES BOUNDARY LINE
- - - (dashed line) DENOTES DRAINAGE/UTILITY EASEMENT
- - - (dashed line) DENOTES EROSION CONTROL SILT FENCE
- (circle) DENOTES PROPOSED DRAINILE
- (solid line) DENOTES PERCENT OF GRADE
- x (spot) DENOTES PROPOSED SPOT ELEVATION
- ▭ (hatched) DENOTES EXISTING BUILDING
- ▭ (dotted) DENOTES PROPOSED PATIO
- ▭ (stippled) DENOTES EXISTING STAIRWAYS
- ▭ (solid) DENOTES EXISTING CONCRETE

Scale: 0 10 20 30 FEET

Revision	Number	Description	By	Date	Checked

DESIGN CHECKED AND THE PLAN, SPECIFICATIONS OR REPORT WILL BE REVIEWED BY ME OR UNDER MY DIRECT SUPERVISION AND SEAL I AS A PROFESSIONAL ENGINEER, REGISTERED UNDER THE LAWS OF THE STATE OF MINNESOTA.

W. K. Kiewit - P. Ashar

Project No: 147
 Drawn By: JAY-H
 Date: 5/17/06

Schoell & Madson, Inc.
 Engineering • Surveying • Planning

STANDARDS ENGINEERING SIGNATURE

4700 Hennepin Avenue, Suite 1
 Minneapolis, Minnesota 55412-1122
 Phone (612) 338-2222 • Fax (612) 338-2222

3400 York Street, Suite 101
 St. Paul, Minnesota 55118-1018
 Phone (612) 338-0022 • Fax (612) 338-0022

Client: **Jim Freilham**
 3848 Hennepin Ave
 Minneapolis, MN 55412

Project Name/Location: **17004 Gray Bay Blvd**
 Minneapolis, MN

Drawn By: **Grading Plan**

Date: **5/17/06**

Sheet: **2** of **2**

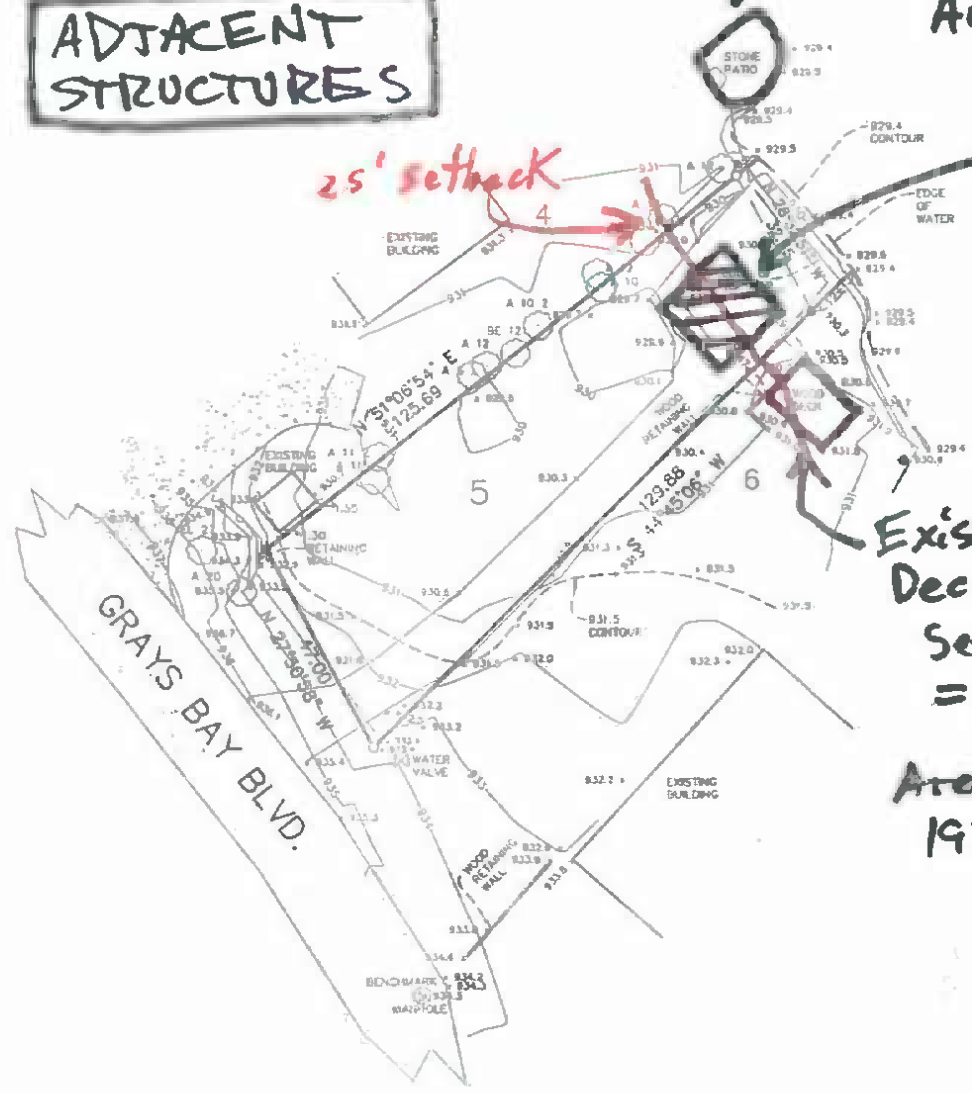
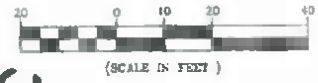
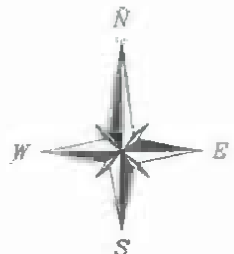
ADJACENT STRUCTURES

Existing Patio
Setback = 0 feet
Area = 289 sq ft

Proposed Patio
Setback = 14 feet
Area = 324 sq ft

25' setback

Existing Deck
Setback = 8 feet
Area = 192 sq ft



Number following abbreviation denotes estimated diameter in inches, three feet above ground level. The second number (if any) denotes the number of trunks at that location (1 denotes a dead tree). Number following shrubs denotes it's diameter in feet.

○ Denotes deciduous tree. Example:
A Denotes Ash ○ BE 8 2
BE Denotes Box Elder
EL Denotes Elm

LEGEND
● - Denotes Found Iron Monument
○ - Denotes Set Iron Monument
- - - Denotes Existing Contour
▭ - Denotes Bituminous Surface

BENCHMARK
Top Ring of Sanitary Sewer Manhole
Elevation = 934.33 (NGVD-1929)

LEGAL DESCRIPTION
Lot 5, Block 1, THORPE BROS.
RE-ARRANGEMENT OF GROVELAND SHORES

This drawing has been checked and reviewed this 24th day of October 2005 by DAN

JOB BOOK NUMBER: (ER2-60)
FIELD BOOK: 605 PAGE: 58

A13



SCHOELL & MADSON, INC.
ENGINEERS • SURVEYORS • PLANNERS
10580 WAYZATA BOULEVARD, SUITE 1
MINNETONKA, MN 55305
952-546-7601 FAX: 952-546-9065
554 THIRD STREET NW, SUITE 100
ELK RIVER, MN 55330
763-241-0108 FAX: 763-241-8351
www.schoellmadson.com

REVISIONS				
NO.	DATE	BY	DESCRIPTION	CK'D
1				
2				
3				
4				
5				
6				
7				

CERTIFICATION
I hereby certify that this survey was prepared under my supervision and that I am a Licensed Land Surveyor under the laws of the State of Minnesota.
Daniel G. Nickols
DANIEL G. NICKOLS
Date: 10/24/05 License No. 19839

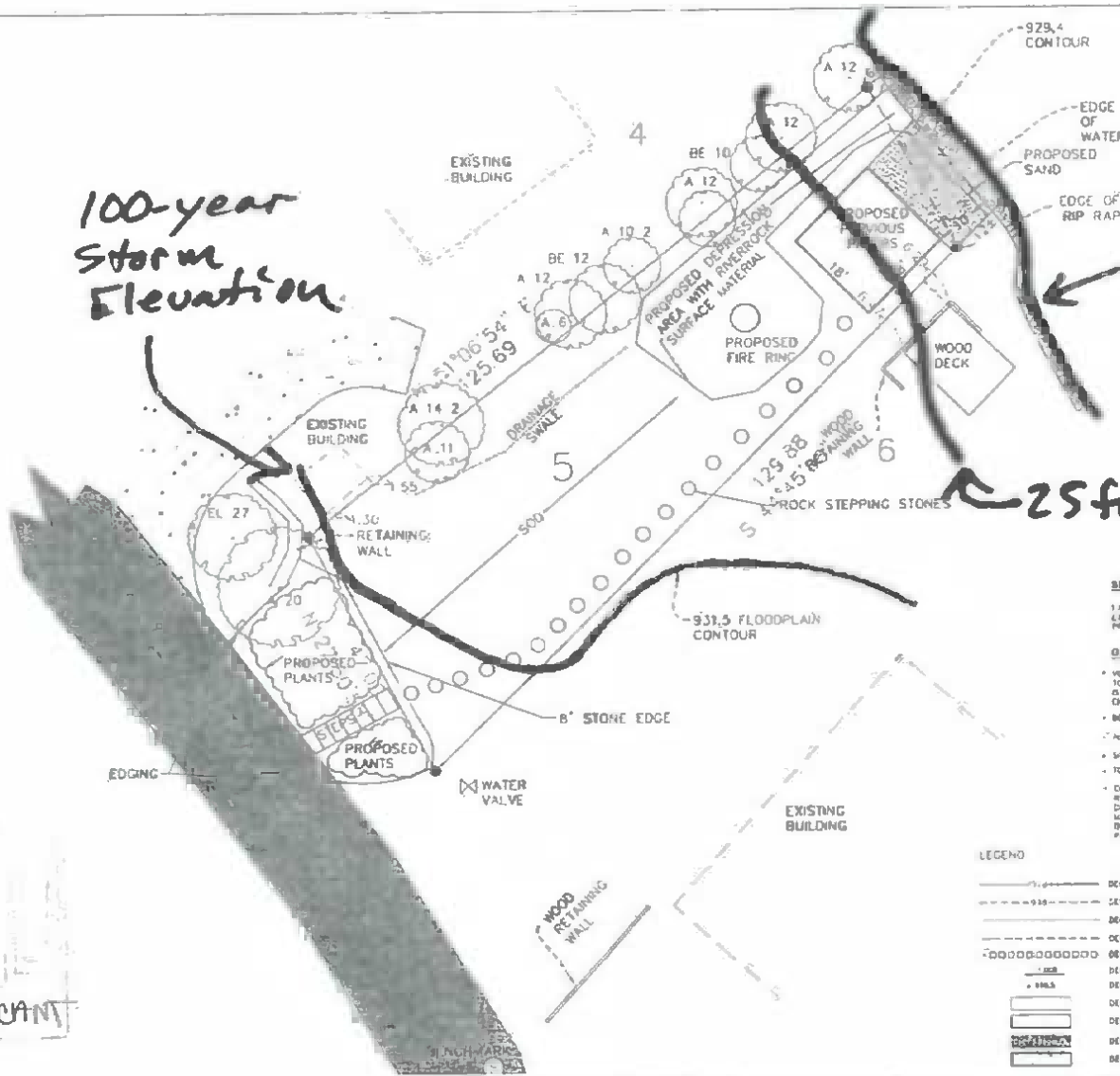
CLIENT

JIM FRETAM

**100-year
 Storm
 Elevation**

**Shoreline
 (929.4)**

25 feet setback



SITE DATA

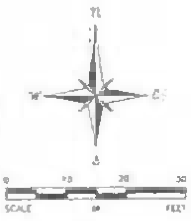
EXISTING LOT AREA = 3,178 S.F. (0.72 AC)
 EXISTING FLOODPLAIN STORAGE VOLUME = 177 CUBIC FEET
 PROPOSED FLOODPLAIN STORAGE VOLUME = 177 CUBIC FEET

GENERAL SITE WORK NOTES

- VERIFY HORIZONTAL LOCATION AND ELEVATION WHERE A CONNECTION TO EXISTING PAVEMENT, STRUCTURE, PIPE OR OTHER SITE FEATURE IS TO BE MADE. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR INADEQUACIES FROM THE PLANS.
- BENCHMARK LOCATIONS - SEE SURVEY
- ALWAYS VERIFY BENCHMARK ELEVATIONS BETWEEN TWO BENCHMARKS.
- SITE ACCESS IS ONLY OFF GRASS BY DIRT.
- TOPOGRAPHIC SURVEY BY SCHOELL & MADSON, INC.
- CONTRACTOR SHALL OBTAIN, INSPECT, MAINTAIN AND REMOVE THE NECESSARY PERMITS FOR LANE CLOSURES, ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM TO THE MINNESOTA HIGHWAY FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL ZONE BARRIERS, JANUARY 1998. THE ELEVATION FROM BARRIERS MUST BE IN EACH DIRECTION SHALL BE PROVIDED AT ALL TIMES.

LEGEND

- DENOTES EXISTING CONTOUR
- DENOTES PROPOSED CONTOUR
- DENOTES BOUNDARY LINE
- DENOTES DRAINAGE FLUME EXEMPTION
- DENOTES EROSION CONTROL S&S FENCE
- DENOTES PERCENT OF GRADE
- DENOTES PROPOSED SPOT ELEVATION
- DENOTES EXISTING BUILDING
- DENOTES PROPOSED PAVEMENT
- DENOTES EXISTING BITUMINOUS
- DENOTES EXISTING CONCRETE



114

NOV 7 2008

SUBMITTED BY APPLICANT

Revision	Description	By	Date	Reviewed	By

1. DESIGN GROUP SHALL BE FULLY RESPONSIBLE FOR ALL DESIGN AND CONSTRUCTION OF THE PROJECT AND SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MINNEAPOLIS.
 Jim Fretham
 Date: 11/7/08 By: 11/27

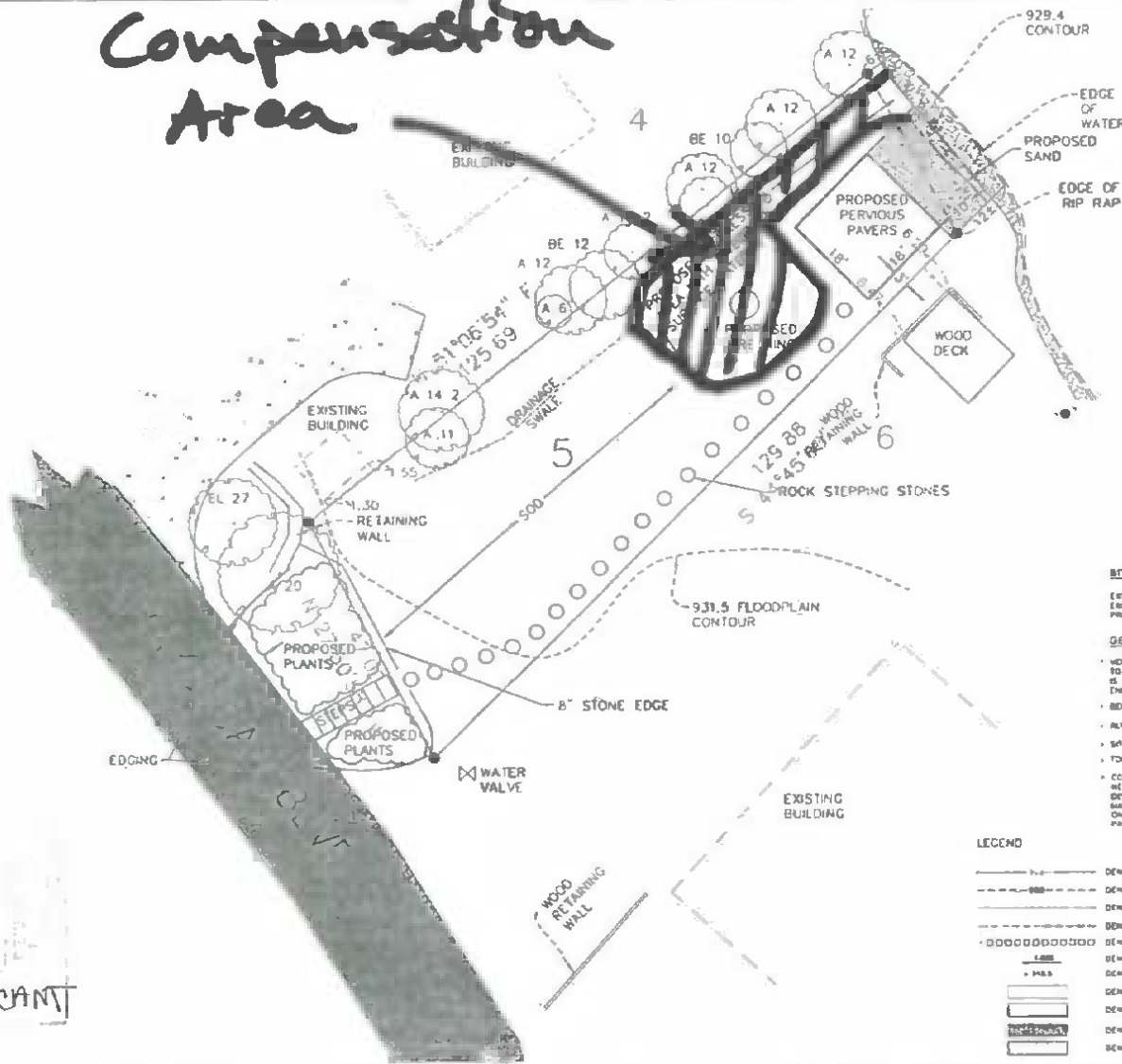
Schoell & Madson, Inc.
 Engineering & Surveying + Planning
 2240 Myrtle Avenue, Suite 1
 Minneapolis, MN 55405
 Phone: 612-338-1122 Fax: 612-338-1123
 555 Ford Street, Suite 102
 St. Paul, Minnesota 55103
 Phone: 651-436-1122 Fax: 651-436-1123

Jim Fretham
 2121 Highway 55
 Forest, MN 55824

Project Name/Location	1726 Grand Bay Blvd Minneapolis, MN	Date	11/13/08
Sheet No.	Site Plan	Sheet	1 of 2

Compensation Area

Call 48 hours before digging
GOPHER STATE ONE CALL
 In Ill. Cities Area 851-854-0007
 Toll Free 1-800-297-1188



SITE DATA

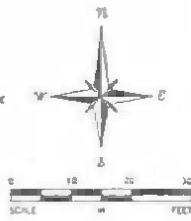
EXISTING LOT AREA = 3,178 SF, 18.10 ACS
 EXISTING FLOODPLAIN STORAGE VOLUME = 177 CUBIC FEET
 PROPOSED FLOODPLAIN STORAGE VOLUME = 177 CUBIC FEET

GENERAL SITE WORK NOTES

- VERIFY HORIZONTAL LOCATION AND ELEVATION WHERE A CONNECTION TO EXISTING PAVEMENT, STRUCTURE, PIPE OR OTHER SITE FEATURE IS TO BE MADE. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VARIATIONS FROM THE PLANS.
- BENCHMARK LOCATIONS - SEE SURVEY
- ALWAYS VERIFY BENCHMARK ELEVATIONS BETWEEN TWO BENCHMARKS
- SITE ACCESS @ ONLY ONE CHRYSLER BAY DRIVE
- TOPOGRAPHIC SURVEY BY SCHOELL & MADSON, INC.
- CONTRACTOR SHALL INSTALL, MAINTAIN AND REMOVE THE NECESSARY SIGNS FOR LANE CLOSURES. ALL TRAFFIC CONTROL DEVICES AND SIGNALING SHALL CONFORM TO THE UNIFORMED, INCLUDING FIELD SIGNS, FOR TEMPORARY TRAFFIC CONTROL, EIGHT LAYOUT, JANUARY 1998. ONE ELEVEN FOOT WIDENING LANE IN EACH DIRECTION SHALL BE PROVIDED AT ALL TIMES.

LEGEND

- DENSITIES EXISTING CONTOUR
- DENSITIES PROPOSED CONTOUR
- DENSITIES BOUNDARY LINE
- DENSITIES DRAINAGE/UTILITY EASEMENT
- DENSITIES EROSION CONTROL Silt FENCE
- DENSITIES PERCENT OF CANAL
- DENSITIES PROPOSED SPOT ELEVATION
- DENSITIES EXISTING BUILDING
- DENSITIES PROPOSED PAVEMENT
- DENSITIES EXISTING DIMENSIONS
- DENSITIES EXISTING CONCRETE



A15

NOV 1 2008

SUBMITTED BY APPLICANT

Revision	Date	Description	By	Check

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

Jim Fratham
 State of Illinois
 License No. 111/08

Prepared by: JAF
 Drawn by: JFS
 Checked by: JAF/JM

Schoell & Madson, Inc.
 Engineering • Surveying • Planning

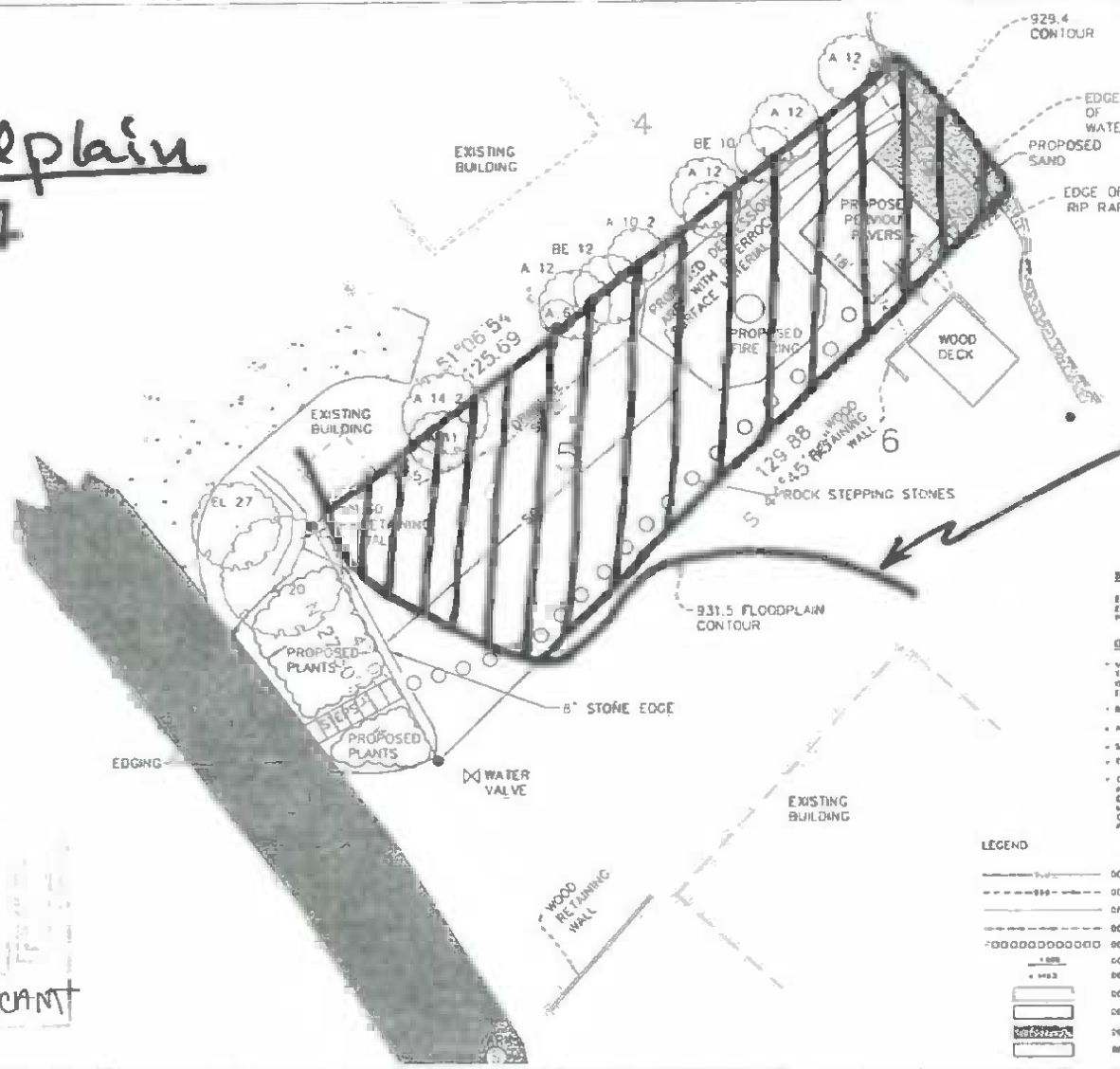
1000 North Broad Street, Suite 200
 Springfield, Illinois 62761-1000
 Phone: 217-544-2200 Fax: 217-544-2201
 Website: www.schoell-madson.com

1601 North Broad Street, Suite 200
 Springfield, Illinois 62761-1000
 Phone: 217-544-2200 Fax: 217-544-2201

Jim Fratham
 1122 Imperial Road
 Mount, Ill 62554

Project Name/Location 1754 Green Bay Blvd Springfield, Ill.	Date 11/1/08
Sheet Title Site Plan	Sheet 1 of 2

Floodplain



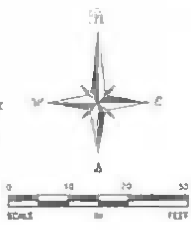
**100-year
 Storm
 elevation**

SITE DATA
 EXISTING LDR AREA = 5,178 S.F. (0.12 AC)
 EXISTING FLOODPLAIN STORAGE VOLUME = 917 CUBIC FEET
 PROPOSED FLOODPLAIN STORAGE VOLUME = 177 CUBIC FEET

- GENERAL SITE WORK NOTES**
- VERIFY BUILDING LOCATION AND ELEVATION WHERE A CONNECTION TO EXISTING PAVEMENT, STRUCTURE, PUMP OR OTHER SITE FEATURE IS TO BE MADE. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF ANY DISCREPANCIES OR VIOLATIONS FROM THE PLAN.
 - BENCHMARK LOCATIONS - SEE SURVEY
 - ALWAYS VERIFY BENCHMARK ELEVATIONS BETWEEN TWO BENCHMARKS
 - SOE ACCESS IS ONE OF GRAYS BAY BLVD.
 - TOPOGRAPHIC SURVEY BY SCHOELL & MADSON, INC.
 - CONTRACTOR SHALL INSTALL, INSPECT, MAINTAIN AND REMOVE THE NECESSARY SIGNS FOR LANE CLOSURES. ALL TRAFFIC CONTROL DEVICES AND SIGNS SHALL CONFORM TO THE MANUAL, INCLUDING FIELD MANUAL FOR TEMPORARY TRAFFIC CONTROL ZONE LIMITS, JANUARY 1998. ONE ELEVATION FOOT SIGN/ARROWHEAD LINE IN EACH DIRECTION SHALL BE PROVIDED AT ALL TIMES.

LEGEND

- DENOTES EXISTING CONTOUR
- - - - DENOTES PROPOSED CONTOUR
- - - - DENOTES BOUNDARY LINE
- - - - DENOTES DRAINAGE/CULVERT EASEMENT
- - - - DENOTES EROSION CONTROL SET FENCE
- DENOTES PERCENT OF GRADE
- DENOTES PROPOSED SPOT ELEVATION
- DENOTES EXISTING BUILDING
- DENOTES PROPOSED PATIO
- DENOTES EXISTING PATIO
- DENOTES EXISTING CONCRETE
- DENOTES EXISTING CONCRETE



Alb

NOV 7 2001

SUBMITTED BY APPLICANT

Date	Description	By	Date	Description	By

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 UNDER THE Laws OF THE STATE OF IOWA 2001.

Rodger
 Rodger
 State L. No. 110,701 Sig. Ex. 0107

Designed by: S&M
 Drawn by: WS
 Checked by: S&M

Schoell & Madson, Inc.
 Engineering • Surveying • Planning

1100 1st Avenue, Suite 100
 Des Moines, IA 50319
 Phone: 515-281-1108 Fax: 515-281-1109
 Website: www.schoell.com

Client: **Jim Fretham**
 8123 Ingersoll Blvd
 Des Moines, IA 50314

Project Name/Location: **17824 Grove Bay Blvd**
 (Bluffs at Grove Bay)

Sheet Title: **Site Plan**

Date: 11/1/01
 Sheet: 1 of 2



View across the lot from the northwest



View from Gray's Bay Boulevard towards the lake

A18

Cheleen moved, second by Brandt, to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

- B. Floodplain alteration permit, conditional use permit, and shoreland setback variance for grade changes and a pervious patio on the lake access lot at 17024 Grays Bay Boulevard for Lakewest Landscape (05095.05a)**

Recommend that the city council adopt the resolution on pages A1–A4 of the staff report, which approves the conditional use permit, floodplain alteration permit, and a shoreland setback variance from 25 feet to 14 feet. This resolution is based on the following findings:

- 1) The proposed variance meets the intent of the ordinance.
 - a. The variance is a reasonable use of the property. The lot currently is used for recreation and lake access, and the proposed changes would not alter this use.
 - b. The character of the neighborhood is unique. The patio would be setback farther from the shoreline than the existing structures on adjacent property.
- 2) The proposed grade changes within the floodplain are consistent with the standards in the ordinance for floodplain alteration and conditional use.
 - a. The proposed use would have low damage potential. Flood flows would not be obstructed, no net fill will occur, water storage would be maintained, and there would be no increase in the flood elevation.
 - b. All fill material and exposed soil will be protected by vegetation or stone.
 - c. No impact will occur to significant trees, wetlands, or public easements.

The above-described conditional use permits are approved, subject to the following conditions:

- 1) Tree protection and erosion control must be installed and maintained until groundcover is established.

- 2) Submit proof of having recorded this resolution with the county before the city issues a grading permit.
- 3) The city council may reasonably add or revise conditions to address any future unforeseen problems.

Brandt, Britain, Cheleen, Dahl, Frisque, and Hart voted yes. Motion carried and the items on the consent agenda were approved as submitted.

Rick Stellmach, 11100 Cedar Hills Blvd., #122, Minnetonka, has been employed by Tonka Bottle Shop for 13 years. He opposed the proposal. The liquor industry is regulated at the federal, state and local levels. Minnetonka still requires an 8 p.m. closing, and did not opt for 10 p.m. closings as allowed by state law. He noted that there is far more traffic through the area where Haskell's and Byerly's coexist. He asked that the city follow the state guidelines for first class cities. He said that the current license holders should be considered.

Schneider moved. Thomas seconded a motion to continue the public hearing to consider an application by C & R Partners, LLC, for an off-sale intoxicating liquor license for The Wine Shop, 17523 Minnetonka Boulevard to April 10, 2006. All voted "yes." Motion carried.

Wagner asked that staff provide an overlay showing school buildings and liquor licenses for the April 10 agenda.

14. OTHER BUSINESS:

- A. Ordinance allowing certain recreational uses as principal uses on R-1, low density residential lots.**

Olson gave the staff report.

Allendorf moved. Thomas seconded a motion to adopt Ordinance No. 2006-05 amending City Code Section 300.10, Subdivision 2, to allow certain recreational uses as principal uses on R-1, low density residential lots. All voted "yes." Motion carried.

- B. Items concerning grade changes and a pervious patio on the lake access lot at 17024 Gray's Bay Boulevard for Lakewest Landscape.**

Olson gave the staff report.

In response to Wagner's question, Olson said that shoreland buffers are excluded from Gray's Bay due to the character of that area.

Thomas asked if the setback variance was reasonable, and wondered if the patio could be moved back to comply and protect the shoreline. Olson said that this is not a "natural environment" lake, so the variance would be acceptable here. Thomas said that

those types of uses could have made the bay an area that is not a natural environment.

Callison was not concerned about the proposed use, but questioned the practical difficulty that would warrant the variance—she did not see a practical difficulty. Olson suggested looking at the adjacent properties for frontyard setbacks as an example of what is reasonable and, therefore, a practical difficulty. The applicant is trying to maximize the recreational use of his parcel. Callison said that we'll never get the uses pushed back if we continue to use them as justification to develop close to the lakeshore.

Schneider said that pervious pavers will allow moisture to go through but they are not grass. He asked if an analysis had been done about how this use compared to the 30% required in the shoreline ordinance. Olson said this use would meet the impervious requirement. Pervious pavers don't allow all the water to pass through. They can become clogged with sand, but even impervious pavers would meet the requirements.

Thomas noted that any grading would result in an alteration of the existing floodplain, and asked how that would affect the floodplain. Olson said that it's a hydraulic issue for flood storage. They will fill and excavate to create more area to hold floodwater, so there will be no impact in terms of the floodplain compensation or alteration, no net loss or gain.

Wagner asked if there was any reason staff would oppose moving the patio back to the setback line, other than the owner would like a patio closer to the lake. Olson did not know of any reason other than it would reduce the recreational use of their lot by another 11 feet.

Jim Fretham, Lakewest Landscape, spoke for the applicant. He said that they want to be close to the lake to watch their children swimming. Fretham said that they discussed these issues with the planning staff. He noted that one neighboring lot has a 0 setback and the other an eight foot setback.

Scott Yonke, Schoell & Madson, provided graphics. He said that the hardship is the current water drainage. During heavy rains, much of this lot is soggy, which makes it unusable for recreational purposes. The pervious pavers and grading in the floodplain to meet the net fill will be balanced with an infiltration area that wraps around the left and rear of the patio to create proper drainage. A tiny swale on the left side will pick up water flow, and drain tile

throughout the lot will permit drainage to the infiltration area. The water will soak into the soil and will not run into the lake. In response to Callison's question, he said that the drainage issue was not the cause of the patio location.

Schneider noted that the adjacent decks and patios are non-conforming. He could not see a practical difficulty in this case, and thought it was a matter of personal preference. The setback and use may be appropriate. If this is not an unreasonable use, the city should change the ordinance to allow pervious pavers closer to the lake.

Wagner could not see a practical difficulty to complying with the ordinance and could not support the variance. He could only support the request if it complied with the 25 foot setback.

Thomas said that a practical difficulty did not exist, and did not want to compare this request to nonconforming structures that would not be allowed. He said that at some point, the city has to stop if it ever wants to talk about shoreland quality. He said that the city needs to be more supportive of these issues.

Allendorf questioned if water drainage was the hardship in staff's opinion, to support the location of the pavers. Olson said that was not one of the hardships they considered for the variance.

Tom Kasbohm, 17025 Grays Bay Boulevard, is the applicant. He said they have 8 and 5 year old daughters, and have lived in that neighborhood for 8 years. He viewed them having to walk through two to four inches of water to get to the lake as a hardship. They have to walk through neighbors' properties. The neighbors have asked him to address the eyesore. The pervious pavers would provide environmental benefits. Shifting the patio to meet the setback requirement would eliminate the possibility for the gravel area. Their proposal would provide a dry walking path for them to walk to the lake and watch their children swim. As a layperson, he had a hard time understanding the 0 and 5 foot setbacks of his neighbors, when his would be further back. He noted that no neighbors have complained, and most are looking forward to the improvements. Their project would have no net effect on the lake. Their intent is to make the property usable.

Callison said that Kasbohm would have to deal with the drainage issues no matter what he does with the lot.

Kasbohm said that the depression proposed in the back would take care of the drainage issues. He noted that the neighbor with the 0 clearance has resodded so that more drainage flows onto his lot. When the water comes in, it has to go somewhere. If the patio is moved back by 11 feet, the gravel would push into the area they use for play. Kasbohm did not think that his request was unreasonable.

In response to Schneider, Kasbohm said that he has a dock. Schneider asked if the deck could be modified to provide the viewing area they seek. Kasbohm said that would not allow for a gravel walk for his young children.

Callison said that the neighboring lots were closer to the shoreline because they were built before any standards. Schneider noted that they might be illegal.

Yonke said that the neighbor's stone patio drains to the lake without protection. The other neighbor has a wood deck that is five feet from the lake. This site gets lots of drainage from surrounding properties, and the water sits on the lot or drains into Gray's Bay. They are promoting a recreational area, and pushing the patio back would reduce that. They are also directing the drainage to the infiltration area so it would not drain to the lake, and this would be a tenfold improvement to the current situation.

Callison understood the improvements to drainage, but did not see how the positioning of the patio would help solve the drainage problem. The placement of the patio is related to watching the children and not to solving the drainage issue.

Schneider offered a suggestion that the patio could be 10' x 10', rather than 18' x 18', so the holding area could be wider and not have to infringe on the recreational area.

Callison noted the council's concerns with the proposal, and asked if it would make sense to postpone the decision for staff to work with the applicant.

Schneider supported that. He asked if decks and boardwalks would qualify as structures or if they would be exempt from the setback. Olson said that the setback applies to structures on the ground. Structures do not have to be buildings. He did not know if there was an ordinance provision about paths to a dock.

Schneider suggested creativity to find a solution that meets the needs without granting a variance.

Callison said that a decision was needed tonight unless the applicant would agree to an extension. Her sense was the request would not be approved.

Kasbohm said he would like to conclude this process that started last year. They have spent considerable time and funds on the project which they felt met staff's approval. Callison said that the staff and planning commission make recommendations, but it is the council that decides. Kasbohm was concerned that another summer would pass, and Callison said that the item could be continued to April 10.

Peterson asked if he would agree to continue the item to April 10. Kasbohm said he would, but asked for clarification. Callison said that she was hearing the council wanted to see the patio pushed back either through changes in size, type of structure, or a further exploration of the drainage issue and whether or not that was a hardship or a personal preference. Kasbohm said he would not be interested in a 25 foot setback because he would be giving up a lot of green area. Callison said that this was the council's first view of the project, and the council needed time to get answers to its questions.

Schneider clarified that he did not want the patio to be closer than 25 feet to the lake. He was suggesting a smaller seating area to watch the children swim, with the patio located further back. He said that might be accomplished by consolidation and moving, so the engineering costs would not be lost.

Callison noted that all councilmembers would be present on April 10.

Wagner noted that the applicant was only being asked to move the patio back 10 feet. Kasbohm was not interested.

Schneider said that a wooden or elevated dock with slats would allow water to pass through. The floodplain could be under that dock and protect the back playground area. Kasbohm said that this was not their first proposal, and that they had gone out of their way to address the concerns of staff. He felt that the variance request was reasonable, and the neighbors agree.

Callison asked how Kasbohm could address the drainage issues without coming back through the planning process. Olson said that floodplain alternation requires a permit. Kasbohm said that he would have to consider if he wants to give up part of the lot to improve the drainage. In heavy rain conditions, drainage flows to the lake. His proposal offers an environmentally sound option.

Allendorf moved, Wagner seconded a motion to deny the shoreline setback variance request, and approve the conditional use permit and the floodplain alteration permit.

Peterson asked the council to state its reasons for denial for the record. Based on their comments, she said that she wrote down for the record that the council denied the shoreline setback variance because there are no practical difficulties or hardship to justify the variance. The land is vacant and the patio could be moved. Council members agreed with those statements.

Fretham said that moving the patio further back would mean that drainage would go uncontrolled and directly into the lake. The proposal builds a buffer in front of it with dirt and sod that would direct the drainage back. If the infiltration area is moved back, the children would have to walk through the water and rock.

Callison supported the use of the lot and the improvements, but could not find a practical difficulty. She said that the city must support its ordinances. She stated that Fretham pointed to drainage as a justification but that their consultant had stated an opposite conclusion.

Kasbohm said that after talking with his landscaper, he would agree to postpone the decision to April 10. He stated his understanding that he would likely get approval of the floodplain alternation and the conditional use permit, and there may or may not be a way to have the patio work.

Callison said that two councilmembers were very concerned about the 25 feet. She said that waiting for April 10 would give more time to consider Fretham's information about drainage. Kasbohm said that he would be out of town on the 10th. He signed a statement agreeing to continue the item to April 10, 2006. He wants a patio, whatever it takes.

Allendorf and Wagner withdrew their motion to deny the variance and approve the conditional use permit and floodplain alternation permit, and moved to continue the request by Lakewest Landscape

for grade changes and a pervious patio on the lake access lot at 17024 Gray's Bay Boulevard to April 10, 2006. All voted "yes."
Motion carried.

C. **Preliminary plat for a three-lot subdivision at 13533 Wentworth Trail for Earl Fischer.**

This item was pulled from the agenda.

15. **APPOINTMENTS and REAPPOINTMENTS:**

A. **Student appointments to the EDA and park board.**

Callison moved. Thomas seconded a motion to approve the following appointments:

- Elizabeth Bayer, to the EDA as a non-voting student representative for a one-year term, effective March 27, 2006 and expiring on January 31, 2007.
- Cody Dick, to the park board as an alternate voting student representative for a one-year term, effective March 27, 2006 and expiring on January 31, 2007.

All voted "yes." Motion carried.

B. **Appointments and reappointments to the Arts Center on 7 advisory committee.**

Callison moved. Allendorf seconded a motion to approve the following appointments and reappointments to the Arts Center on 7 advisory committee:

Appointments

- Joel Gotz, to the Arts Center on 7 advisory committee, to serve the 2 months remaining in the term vacated by Annie Paul, plus an additional three years, effective March 27, 2006 and expiring on May 31, 2009.
- Maureen Kvam, to the Arts Center on 7 advisory committee, to serve the remainder of the term vacated by Bob Gilbertson, effective March 27, 2006 and expiring on May 31, 2007
- Joan Nelson, to the Arts Center on 7 advisory committee, to serve the remainder of the term vacated by Kelly Denzer, effective March 27, 2006 and expiring on May 31, 2007.
- Paul Rosen, to the Arts Center on 7 advisory committee, to serve the remainder of the term vacated by Miles Mortenson, effective March 27, 2006 and expiring on May 31, 2007.