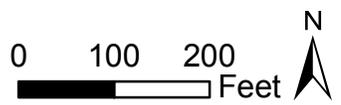
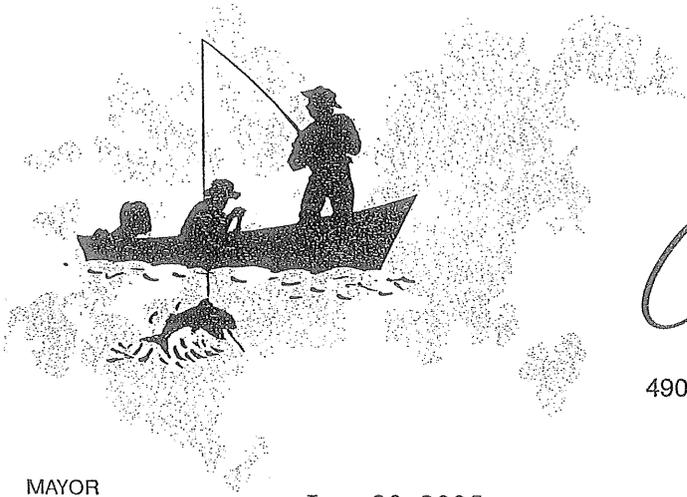




**Exhibit A**

**25 Fairhope Ave  
Tonka Bay MN**





# City of Tonka Bay

4901 Manitou Road, Tonka Bay, Minnesota 55331 (952) 474-7994

MAYOR  
Doug Keller

June 20, 2005

COUNCIL  
John Senescall  
William LaBelle  
Edward G. Bauman  
Anthony Marceau

Howard Root  
25 Fairhope Avenue  
Tonka Bay, MN 55331

ADMINISTRATOR  
Sara K. Irvine

RE: Dock Regulation

Dear Mr. Root:

This year the city will be conducting inspections to make sure lake shore property docks are in compliance with city code.

Tonka Bay city code permits property owners to have one dock structure, which allows for the placement of two slips. If you have more than one dock structure or more than two boat slips, you will need to comply with the regulation or apply for a special permit from city council. A special permit is only granted if the applicant can show that all boats are licensed to the property owner or immediate family members.

A dock inspection will be conducted in early July. Property's that are not in compliance will be notified and will be required to bring the docks into compliance.

Sincerely,

Sara Irvine  
City Administrator

Enclosure

Cc City Council  
City Attorney



# City of Tonka Bay

4901 Manitou Road, Tonka Bay, Minnesota 55331 (952) 474-7994

June 13, 2006

MAYOR  
Doug Keller

COUNCIL  
John Senescall  
William LaBelle  
Edward G. Bauman  
Anthony Marceau

ADMINISTRATOR  
Sara K. Irvine

Howard Root  
25 Fairhope Avenue  
Tonka Bay, MN 55331

RE: Dock Compliance

Dear Mr. Root:

The city is trying to determine if your dock(s) comply with city code. We are asking that you provide us with some information related to your dock(s).

1. What year were your dock(s) first put in the water?
2. Are your dock(s) in the water year round?
3. Where are your dock(s) located? On the main lake or some other water area bordering your property?
3. How many watercrafts do you store at your dock(s). Please include PWCs, boats, sailboats, and the like.
4. Please indicate who the registered owners are of those watercrafts.

You may call city hall at 952-474-7994 and talk to Sara or leave a message, send an email to [sirvine@cityoftonkabay.net](mailto:sirvine@cityoftonkabay.net) or send a letter to City Administrator, 4901 Manitou Road, Tonka Bay, MN 55331.

Thank you for your anticipated cooperation in this matter. A response is requested by June 21, 2006. Feel free to contact me if you have any questions on this request.

Sincerely,

Sara Irvine  
City Administrator



2169919

ONE BOOK

REGISTERED VOL 278 PAGE 648374

2169919

No delinquent taxes and transfer entered; Certificate of Real Estate Value ( ) filed ( ) not required Certificate of Real Estate Value No.

DALE G. FOLSTAD APR 29 1991

APR 29 1991 County Auditor  
by [Signature] Deputy

STATE DEED TAX DUE HEREON: \$ 309.55

Date: \_\_\_\_\_, 19\_\_\_\_

APR 29 1991

BY [Signature] REGISTRAR OF TITLES DENVER

12M

OFFICE OF THE REGISTRAR OF TITLES HENNEPIN COUNTY, MINNESOTA CERTIFIED FILED ON

543 574

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Jerald J. Brenhofer and Sue Ann Brenhofer, husband and wife as joint tenants (marital status), Grantor (s),

hereby convey (s) and warrant (s) to Gary Towne, a single person, Grantee (s), real property in Hennepin County, Minnesota, described as follows:

See Exhibit A attached hereto

HENNEPIN COUNTY  
PROPERTY TAX DEP  
MN DEED TAX PAID  
04/29/91 11:07AM F-910 \$237.05

(if more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions: easements and covenants as set forth in the Addendum by and between the parties which is attached hereto and incorporated herein in its entirety by this reference

Affix Deed Tax Stamp Here

[Signature]  
Jerald J. Brenhofer  
[Signature]  
Sue Ann Brenhofer

STATE OF MINNESOTA }  
COUNTY OF Hennepin } ss.

The foregoing instrument was acknowledged before me this 17th day of March, 1988, by Jerald J. Brenhofer Husband of Sue Ann Brenhofer, Grantor (s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

MONA HIGGINS  
NOTARY PUBLIC - MINNESOTA  
HENNEPIN COUNTY  
My Commission Expires Mar. 27, 1991

[Signature]  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee).

Gary Towne  
29 Fairhope Avenue  
Tonka Bay, MN 55331

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS)

GILSDORF & JACOBBERGER  
1150 One Capital Centre Plaza  
386 North Wabasha  
St. Paul, MN 55102  
(612) 224-7473

STATE OF MINNESOTA, COUNTY OF HENNEPIN  
Certified to be a true and correct copy of the original on file and of record in my office

APR 0 1 1994  
R Dan Carlson, Registrar of Titles

SEE ADDENDUM PAGES 1-17. 23-4/0041 1/00/16-22-11-17. 23-4/0041

GW  
15  
FA

STATE OF MINNESOTA )

COUNTY OF Hennepin )

SS.

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of March, 1988, by Sue Ann Brenhofer, Grantor. Wife of E. Jerald J. Brenhofer

Mary R. Bensen  
Notary Public

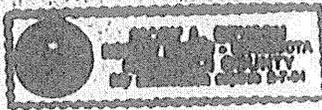
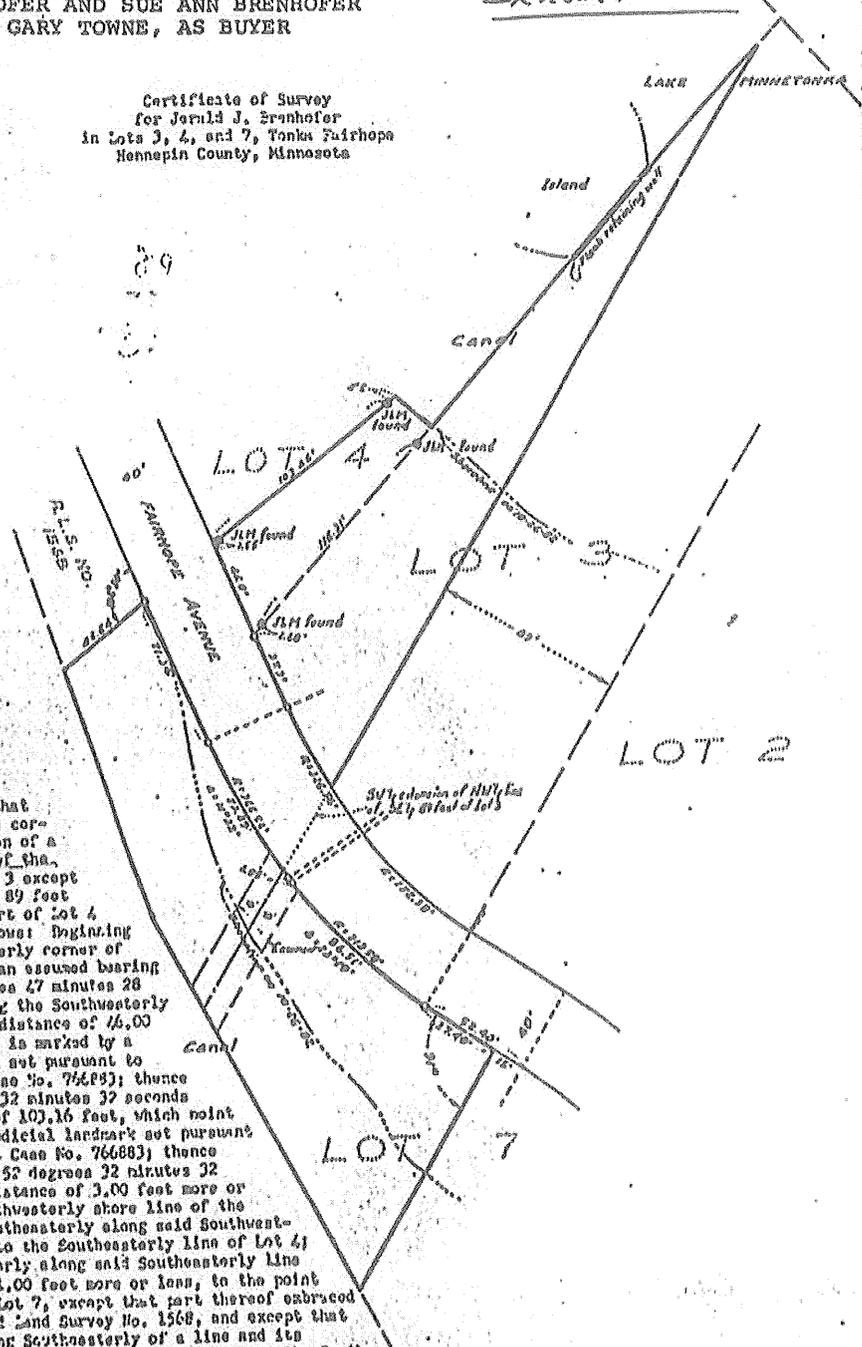


EXHIBIT A TO WARRANTY DEED BETWEEN  
 JERALD J. BRENHOFER AND SUE ANN BRENHOFER  
 AS SELLERS, AND GARY TOWNE, AS BUYER

Exhibit A

Certificate of Survey  
 for Jerald J. Brenhofer  
 in Lots 3, 4, and 7, Tonka Fairhops  
 Hennepin County, Minnesota

2.739



SAME AS CITY SURVEY

I hereby certify that this is a true and correct representation of a survey of a part of the boundaries of Lot 3 except the Southeastery 89 feet thereof; that part of Lot 4 described as follows: Beginning at the east Southerly corner of Lot 2; thence on an assumed bearing of North 21 degrees 47 minutes 28 seconds West along the Southeastery line of Lot 4, a distance of 14.00 feet, which point is marked by a judicial landmark set pursuant to District Court Case No. 76683; thence North 52 degrees 32 minutes 32 seconds East a distance of 103.16 feet, which point is marked by a judicial landmark set pursuant to District Court Case No. 76683; thence continuing North 52 degrees 32 minutes 32 seconds East a distance of 3.00 feet more or less, to the Southeastery shore line of the canal; thence Southeastery along said Southeastery shore line to the Southeastery line of Lot 4; thence Southeastery along said Southeastery line a distance of 121.00 feet more or less, to the point of beginning; Lot 7, except that part thereof embraced within Registered Land Survey No. 1568, and except that part thereof lying Southeastery of a line and its extensions described as follows: Commencing at the Southeastery terminus of that certain straight portion of the Northeastery line of said Lot 7 having a length of 52.4 feet; thence Northwesterly along said Northeastery line of Lot 7 a distance of 13 feet to the point of beginning of the line being described; thence deflecting left 91 degrees to the Southwestery line of said Lot 7, and thence ending, all in "Tonka Fairhops", according to the plat thereof on file or of record in the office of the Registrar of Titles in and for said County.

The line between Lots 3 and 4, "Tonka Fairhops", is a straight line which passes through a judicial landmark on the Southeastery line of said Lot 2 distant 116.31 feet Northwesterly from a judicial landmark at the east Southerly corner of said Lot 4, said judicial landmarks were set pursuant to District Court Case No. 76683. The judicial boundary lines have been determined in District Court Case No. 76683, as shown in Order Doc. No. 128930E.

It does not purport to show improvements or encroachments except a plank retaining wall.

CORDON R. COFFIN CO., INC.  
*Cordon R. Coffin*  
 Cordon R. Coffin Reg. No. 6364  
 Mark E. Urenberg Reg. No. 12735  
 Land Surveyors and Planners  
 Long Lake, Minnesota

Scale: 1" = 50'  
 Survey made 12-26-82  
 Description revised 2-11-84, Enclosed sheet 4-11-84  
 o 1 Iron marker found  
 o 1 Iron marker set

ADDENDUM TO CONTRACT FOR DEED  
BETWEEN JERALD J. BRENHOFER AND SUE ANN BRENHOFER  
AS SELLERS, AND GARY TOWNE, AS BUYER

NEW SUBJECT

It is understood and agreed that this conveyance is made and accepted, and the realty is hereby granted, on and subject to the following covenants, conditions, restrictions, and reservations (in addition to hereinabove or hereinmentioned) which covenants, conditions, restrictions, and reservations shall apply to and run with the conveyed land; all successive future owners and occupants have the same right to invoke and enforce the covenants, conditions, restrictions, and reservations applicable to this conveyance as the original parties hereto.

Jerald J. Brenhofer and Sue Ann Brenhofer for themselves, their heirs, executors, administrators, and assigns hereby jointly and severally covenant with Gary Towne, his heirs, executors, administrators, and assigns that:

I. Buyer covenants to restrict all dock construction on the conveyed premises to a common dock to be constructed on the property line adjacent to Sellers' lot. At a time mutually agreed upon by Sellers and Buyer a joint dock will be constructed partly on the above described property (29 Fairhope Ave.) and partly on the adjacent property of Sellers (25 Fairhope Ave.). An equal portion of each lot shall be used for the joint dock and the cost and maintenance thereof shall be borne equally by Sellers and Buyer and their respective, heirs, executors, administrators, and assigns and the joint dock is

to be for the joint use of Sellers and Buyer and their respective heirs, executors, administrators, and assigns. Buyer further covenants and agrees that no boat covers or canopies of any kind or any other structure will be erected on said dock or shoreline that restricts or interferes with Sellers' view, enjoyment, and use of the adjacent shoreline.

II. Buyer covenants and agrees that construction of any dwelling house on the conveyed premises shall be completed and ready for occupancy, including landscaping, within twelve (12) months after commencement of construction.

III. Buyer covenants and agrees that in the event the premises are sold, assigned, or otherwise transferred the entire remaining balance of principal and interest shall become immediately due and payable.

IV. Sellers agree to obtain mortgage releases within thirty days from the date of this agreement.

#### EASEMENTS

I. Sellers, however, hereby expressly reserve to themselves, their heirs, executors, administrators, personal representatives, and assigns an easement in that strip or parcel of land hereby conveyed and legally described as (that part of Lot 7 lying within 10 feet on each side of the Southwesterly extension of the Northwesterly line of the Southeasterly 89 feet of Lot 3, "Tonka Fairhope"), for the purpose of ingress and egress to a boathouse and dock by the lanes and pathways now established on the above described property and at such other points as may be agreed upon by the parties to this Deed, their heirs, successors, or assigns.

NEW SUBS TO.

II. Sellers hereby expressly reserve to themselves, their heirs, executors, administrators, personal representatives, and assigns an easement over that parcel of land legally described above and an adjacent flooded portion of Lot Seven, for the purpose of constructing, maintaining, using, and if necessary replacing a boathouse and dock of dimensions no larger than 600 square feet. No structures may be placed on easement land area other than dock steps or decking to gain access to dock.

It is expressly understood and agreed that Sellers, their heirs, executors, administrators, personal representatives, and assigns shall have the right of ingress to and egress from the property described above belonging to Buyer, his heirs, executors, administrators, personal representatives, and assigns for the purpose of maintaining, repairing, and keeping the boathouse in usable condition at all times.

JOANT T. WIGGS  
 NOTARY PUBLIC - MINNESOTA  
 ANOKA COUNTY  
 My commission expires May 12, 1991

STATE OF MINNESOTA )  
 COUNTY OF ANOKA )

The foregoing instrument was acknowledged before me this 12th day of June, 1984 by Gary Towne, unmarried.

Joan T. Wiggs

STEPHEN H. SCHMIDT  
 NOTARY PUBLIC - MINNESOTA  
 HENNEPIN COUNTY  
 My Commission Expires Mar. 5, 1987

SELLERS:

Gerald J. Brenhofer  
 Gerald J. Brenhofer  
Sue Ann Brenhofer  
 Sue Ann Brenhofer

BUYER:

Gary Towne  
 Gary Towne

STATE OF MINNESOTA )  
 COUNTY OF Hennepin ) ss.

The foregoing instrument was acknowledged before me this 30 day of May, 1984, by JERALD J. BRENHOFER, SUE ANN BRENHOFER and ~~GARY TOWNE~~ husband and wife.

Stephen H. Schmidt  
 Notary Public



## LAKE MINNETONKA CONSERVATION DISTRICT

SMITHTOWN ROAD, SUITE 120 • SHOREWOOD, MINNESOTA 55331 • TELEPHONE 952/745-0789 • FAX 952/745-9085

Gregory S. Nybeck, EXECUTIVE DIRECTOR

### BOARD MEMBERS

Lisa Whalen, Chair  
Minnetrista  
Tom Tanner, Vice Chair  
Wayzata  
Andrew McDermott III, Secretary  
Orono  
Tom Scanlon, Treasurer  
Spring Park  
Doug Babcock  
Tonka Bay  
Chris Jewett  
Minnetonka  
Steve Johnson  
Mound  
Keith Kask  
Deephaven  
Dennis Klohs  
Minnetonka Beach  
Bill Olson  
Victoria  
Kelsey Page  
Greenwood  
Herb Suerth  
Woodland  
Dick Woodruff  
Shorewood  
Vacant  
Excelsior

July 30, 2009

Mr. Howard Root  
25 Fairhope Ave.  
Tonka Bay, MN 55331

Mr. Greg Brettingen  
29 Fairhope Ave.  
Tonka Bay, MN 55331

Subj: License #09-93-25, 25 & 29 Fairhope Ave., Tonka Bay

Dear Mr. Root & Mr. Brettingen:

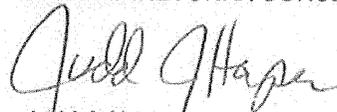
The Lake Minnetonka Conservation District (LMCD) has approved your permanent dock license application for your shared permanent dock located at 25 & 29 Fairhope Ave., Tonka Bay on Lafayette Bay. Additionally, your permanent dock has been approved in accordance with MN DNR General Permit 97-6098. Approval from the LMCD does not absolve you of the need to secure all necessary permits or approvals from other governmental agencies.

The permanent dock, as located on the site plan received July 6, 2009, appears to be within your combined authorized dock use area. This approval is contingent upon the owners of 25 & 29 Fairhope Ave. agreeing to the common dock. If either property owner removes consent to the common dock, the dock must be removed.

If the size, location, or configuration of the dock is changed in the future, a new permanent dock license application will be required. A new permanent dock license is not required for repair or replacement if it does not alter the size, type, location, or configuration of the dock.

Current LMCD code does not offer you the option to de-ice prior to March 15<sup>th</sup> of each year. LMCD Code Section 2.09, Subd. 10, entitled, "Exception," does allow you to deice after March 15 of each year without a permit as long as "Thin Ice" warning signs are placed every 50' along the affected shoreline. The dock and de-icing activity is subject to current and future LMCD regulations. Please call me if you have any questions.

Sincerely,  
LAKE MINNETONKA CONSERVATION DISTRICT

  
Judd J. Harper  
Administrative Technician

encl: 7/6/09 approved site plan





Exhibit E: LMCD  
Letter for 15 and 25  
Fairhope Ave

**LAKE MINNETONKA CONSERVATION DISTRICT**  
23505 SMITHTOWN ROAD, SUITE 120 • SHOREWOOD, MINNESOTA 55331 • TELEPHONE 952/745-0789 • FAX 952/745-9085  
Gregory S. Nybeck, EXECUTIVE DIRECTOR

March 25, 2011

Mr. Mark Niforopulos  
15 Fairhope Avenue  
Tonka Bay, MN 55331

Mr. Howard Root  
25 Fairhope Avenue  
Tonka Bay, MN 55331

RE: Site #611, Echo Bay

Dear Mr. Niforopulos and Mr. Root

In follow-up to our telephone conversation, Mark, the following is offered to assist you and Mr. Root in assessing your options of maintaining a shared dock on Lake Minnetonka:

Any dock or mooring area constructed or maintained for the storage of five or more restricted watercraft is defined as a "Multiple dock or mooring area." The LMCD recognizes the ecological benefits of a shared dock; however, once a dock maintains five or more restricted watercraft, a multiple dock license is required. To further explain options available for maintaining a shared or individual dock on Lake Minnetonka, the following is offered:

**Shared Dock without a Multiple/Non-Commercial Dock License**

Attached please find an excerpt from LMCD Code Section 2.01, subd. 3., which provides the ability to adjust dock use areas and have a shared dock. In summary, two adjoining properties may store up to four restricted watercraft on one single dock without a multiple dock license, subject to the provisions listed within.

**Shared Dock with a Multiple/Non-Commercial Dock License**

In order to legally store the same number of restricted watercraft on the shared dock that you had in 2010, a multiple dock license would be required. Watercraft storage density is based on each individual site's continuous shoreline measurements (see "How many boats can I store?" below). Additionally, Code Section 2.01, subd. 3 (above) would apply, as well. To obtain a multiple dock license, the following two options are offered:

- Multiple Dock License via LMCD Code Section 2.03, subd. 1-18: This is a more formal process in obtaining a multiple dock license for two or more adjoining sites that would like to store five or more restricted watercraft that are not all owned and registered to individuals at the site(s). This process would be reviewed by staff and would incorporate more stringent guidelines, i.e., an application/annual renewal fee, constructed dock and boat storage based on an approved scaled site plan, etc.
- Multiple Dock/Non-Commercial License via LMCD Code 2.03, subd. 19 (attached): This is a more simplified process in obtaining a multiple dock license for two or more adjoining sites to store five or more restricted watercraft that are all owned by and

registered to persons who live in the single family residential structures on the combined sites.

### Individual Dock Use for a Single Site

Each site has the ability to maintain an individual dock structure for watercraft storage. To assess your storage options under this provision, please see "How many boats can I store?" outlined below.

### What is a restricted watercraft?

A restricted watercraft is defined as any boat or vessel for use on or stored on the public waters on the lake except for unrestricted watercraft. An unrestricted watercraft is defined as a boat or vessel that is:

- 1) 16' or less in length and unmotorized; or
- 2) 16' or less in length and which uses a motor of 10 horsepower or less; or
- 3) 20' or less in length and unmotorized, and propelled solely by human power. Most personal watercraft (Jet Ski, Wave Runner, or similar) would qualify as a restricted watercraft (due to horsepower). A sailboat longer than 16' (motorized or unmotorized) would also qualify as a restricted watercraft.

### How many boats can I store?

LMCD ordinances regulate the number of restricted watercraft that may be moored or docked within a Dock Use Area (Section 2.01) at a residential site. In summary, Section 2.02 (attached) provides for:

- The General Rule is one restricted watercraft for each 50' (1:50') of continuous shoreline; without reference to the owners of the watercraft being residents of the site (Subd.1); or
- Unless a greater number is allowed by the 1:50' General Rule, up to two restricted watercraft may be moored or docked at a dock or mooring facility on a residential site in existence on August 30, 1978; without regard to the owners of the watercraft being residents of the site (Subd 2); or
- If the 1:50' General Rule cannot be met, up to four restricted watercraft may be moored or docked at a site, provided a number of conditions are followed. One of these conditions includes all restricted watercraft must be owned and registered to the residents who live in the one, single-family residential structure on the site (Subd 3; a-c).

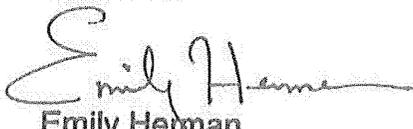
**Residents should check with their city and review any housing covenants that may dictate your watercraft storage rights, as the most restrictive rule applies.**

Mr. Mark Niforopulos and Mr. Howard Root  
March 25, 2011  
Page 3

Once you have had an opportunity to better understand your options, please give me a call and I will set up an appointment, any time starting the week of April 11<sup>th</sup> for Judd Harper (LMCD Administrative Technician) and myself to sit down and meet with you. However, I can be available via phone next week to answer general questions you may have.

We look forward to your call.

Sincerely,

A handwritten signature in cursive script that reads "Emily Herman". The signature is written in black ink and is positioned above the printed name.

Emily Herman  
Administrative Assistant/Code Enforcement

Enclosures: LMCD Code Excerpts

**STORM WATER FACILITIES MAINTENANCE AGREEMENT  
AND RESTRICTIVE COVENANT**

This Storm Water Facilities Maintenance Agreement and Restrictive Covenant is made this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between the City of Tonka Bay, a Minnesota municipal corporation (hereinafter the "City"), and Howard Root and Beth Heinemann, owners of the property located at 25 Fairhope Ave (hereinafter "Owner").

**R E C I T A L S**

WHEREAS, Owner is the owner of fee title or a substantial beneficial interest in certain real property located in Tonka Bay, Minnesota, commonly described as 25 Fairhope Ave, (hereinafter the "Property") and legally described in **Exhibit A**, which is attached hereto and incorporated herein by this reference; and

WHEREAS, in connection with the Owner's proposed development of the Property, the City has required and the Owner has agreed to construct a storm water collection and detention system; and

WHEREAS, such drainage system is described and shown on a construction drawing prepared by the engineering firm of Acre Land Surveying and Charles Cudd / DeNovo (hereinafter the "Drainage System Drawing"), for the Owner's Property, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference; and

WHEREAS, as a condition of project approval and/or as a condition of the City's utilization of the Owner's storm drainage system, the parties have entered into this Maintenance Agreement and Restrictive Covenant, in order to ensure that the drainage system will be constructed and maintained in accordance with the approved plans and the City's development standards;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the City hereby agree as follows:

## T E R M S

Section 1. Construction and Maintenance. Owner agrees to construct and maintain a drainage system on its Property, as shown on the Drainage System Drawing, **Exhibit B**. The drainage system shall be maintained and preserved by the Owner until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.

Section 2. No Removal. No part of the drainage system shall be dismantled, revised, altered or removed, except as necessary for maintenance, repair or replacement.

Section 3. Access. The City shall have the right to ingress and egress over those portions of the Property described in **Exhibit A** in order to access the drainage system for inspection and to reasonably monitor the system for performance, operational flows or defects.

Section 4. Reporting. The Property Owner shall be responsible for inspecting and maintaining the storm water treatment and conveyance system, at minimum, on an annual basis. The Property Owner shall be responsible for providing a letter to the City Engineer, by September 1<sup>st</sup> of each year, stating that inspection and maintenance have been completed.

Section 5. Repairs, Failure of Owner to Maintain. If at any time the City Engineer does not receive this inspection and maintenance report and the City determines that maintenance or repair work is required to be performed on the system, the City Engineer or his/her designee shall give notice to the Owner of the noted deficiency. The Engineer shall also set a reasonable time in which the Owner shall perform such work. If the repair or maintenance required by the Engineer is not completed within the time set by the Engineer, the City may perform the required maintenance and/or repair. Written notice will be sent to the Owner, stating the City's intention to perform such repair or maintenance, and such work will not commence until at least 15 days after such notice is mailed, except in situations of emergency. If, within the sole discretion of the Engineer, there exists an imminent or present danger to the system, the City's facilities or the public health and safety, such 15-day period will be waived and maintenance and/or repair work will begin immediately.

Section 6. Cost of Repairs and/or Maintenance. The Owner shall assume all responsibility for the cost of any maintenance and repairs to the drainage system including all associated engineer's fees, attorney's fees, and administrative costs. Such responsibility shall include reimbursement to the City within 30 days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.

Section 7. Notice to City of Repairs and/or Maintenance. The Owner is hereby required to obtain written approval from the City Engineer prior to filling, piping, cutting or removing vegetation (except in routine landscape maintenance) in open vegetated drainage facilities (such as swales, channels, ditches, ponds, etc.), or performing any alterations or modifications to the drainage system.

Section 8. Rights Subject to Permits and Approvals. The rights granted herein are subject to permits and approvals granted by the City affecting the Property subject to this Maintenance Agreement and Covenant.

Section 9. Terms Run with the Property. The terms of this Maintenance Agreement and Covenant are intended to be and shall constitute a covenant running with the Property and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

Section 10. Notice. All notices required or permitted hereunder shall be in writing and shall either be delivered in person or sent by certified U.S. Mail, return-receipt requested, and shall be deemed delivered on the sooner of actual receipt of three (3) days after deposit in the mail, postage prepaid, addressed to the City or the Owner at the addresses set forth below:

To the City:  
City Engineer  
City of Tonka bay  
4901 Manitou Road  
Tonka Bay, MN 55331

To the Owner:  
Howard Root and Beth Heinemann  
25 Fairhope Ave  
Tonka Bay, MN 55331

Section 11. Severability. Any invalidity, in whole or in part, of any provision of this Maintenance Agreement and Covenant shall not affect the validity of any other provision.

Section 12. Waiver. No term or provision herein shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented.

Section 13. Integration. This Maintenance Agreement and Covenant constitutes the entire agreement between the parties on this subject matter, and supersedes all prior discussions, negotiations, and all other agreements on the same subject matter, whether oral or written.

Section 14. Modification. This Agreement may be terminated, amended or modified only by registering with the Registrar of Titles for Hennepin County, Minnesota, a document executed by the parties (or their respective successors and assigns) representing their unanimous consent to such amendment or modification. This consent may require City Council action.

IN WITNESS WHEREOF, the parties have caused this Maintenance Agreement and Covenant to be executed this \_\_\_\_ day of \_\_\_\_\_, 2012.

OWNER:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OWNER:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

STATE OF MINNESOTA)

) ss.

COUNTY OF HENNEPIN)

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of \_\_\_\_\_, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_

Notary Public, State of \_\_\_\_\_

My Commission Expires \_\_\_\_\_

CITY OF TONKA BAY  
A Minnesota municipal corporation

By: \_\_\_\_\_  
William LaBelle  
Its: Mayor

CITY OF TONKA BAY  
A Minnesota municipal corporation

By: \_\_\_\_\_  
Joe Kohlman  
Its: City Administrator

STATE OF MINNESOTA)  
) ss.  
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by William LaBelle, Mayor of the City of Tonka Bay, a Minnesota municipal corporation, on behalf of the corporation.

By: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

STATE OF MINNESOTA)  
) ss.  
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by Joe Kohlman, City Administrator of the City of Tonka Bay, a Minnesota municipal corporation, on behalf of the corporation.

By: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

## EXHIBIT A – LEGAL DESCRIPTION

Street Address: 25 Fairhope Ave

PID: 21-117-23-41-0035

Municipality: Tonka Bay

Addition: Tonka Fairhope

Legal Description: THAT PART OF LOT 3 LYING SELY OF A LINE DRAWN PAR WITH AND DIS 89 FT NWLY FROM SELY LINE THOF EX THAT PART OF SELY 25 FT OF LOT 3 LYING NELY OF A LINE DRAWN AT RT ANGLES TO SELY LINE THOF AT A PT 200 FT NELY FROM MOST SLY COR OF LOT 3 ALSO THAT PART OF LOT 7 LYING SELY OF A LINE DESC AS COM AT SELY TERMINUS OF THAT CERTAIN STRAIGHT PORTION OF NELY LINE OF LOT 7 HAVING A LENGTH OF 52.4 FT TH NWLY ALONG SAID NELY LINE DIS 15 FT TO ACTUAL PT OF BEG OF LINE BEING DESC TH DEF LEFT 91 DEG TO SWLY LINE OF LOT 7 AND THERE TERMINATING.

**EXHIBIT B – APPROVED DRAINAGE SYSTEM PLAN**



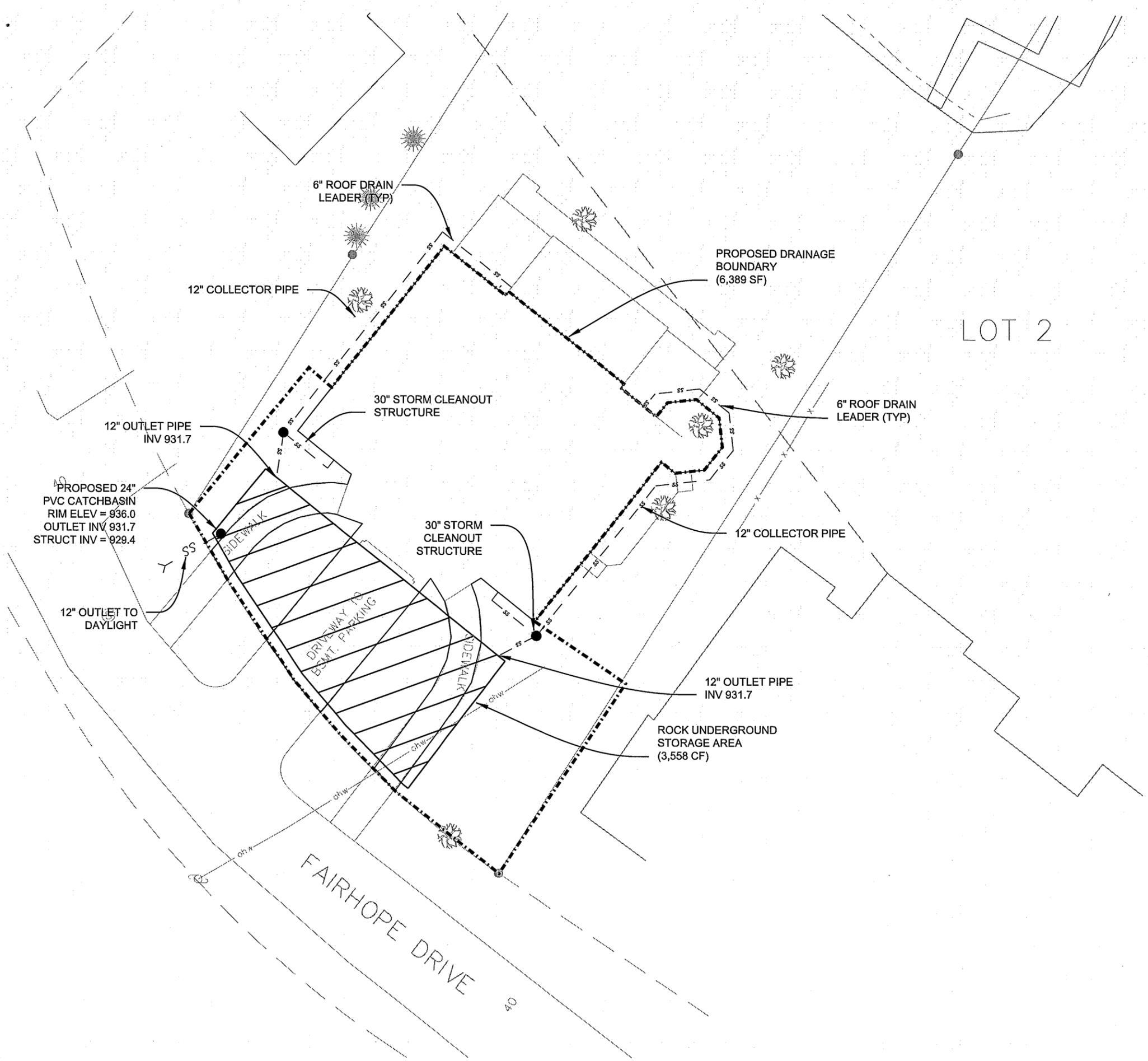
ENGINEERING  
SURVEYING  
ENVIRONMENTAL  
PLANNING

EVS, INC.  
10250 Valley View Road, Suite 123  
Eden Prairie, Minnesota 55344  
Phone: 952-646-0236  
Fax: 952-646-0290  
www.evs-eng.com

AREA SUMMARY

TOTAL AREA 6,389 ft  
IMPERVIOUS AREA 4,070 ft

AREA OF ROCK  
UNDERGROUND  
STORAGE 1,547 sf



PROJECT  
TONKA BAY RESIDENTIAL

CLIENT  
Charles Cudd DeNovo LLC

LOCATION

SHEET  
PROPOSED DRAINAGE MAP  
STORMWATER AND IMPERVIOUS

#	DATE	REVISION
A		REVISED SITE PLAN

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 MINNESOTA.

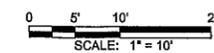
XXX  
DATE XX/XX/XX  
REGISTRATION NUMBER XXXXX

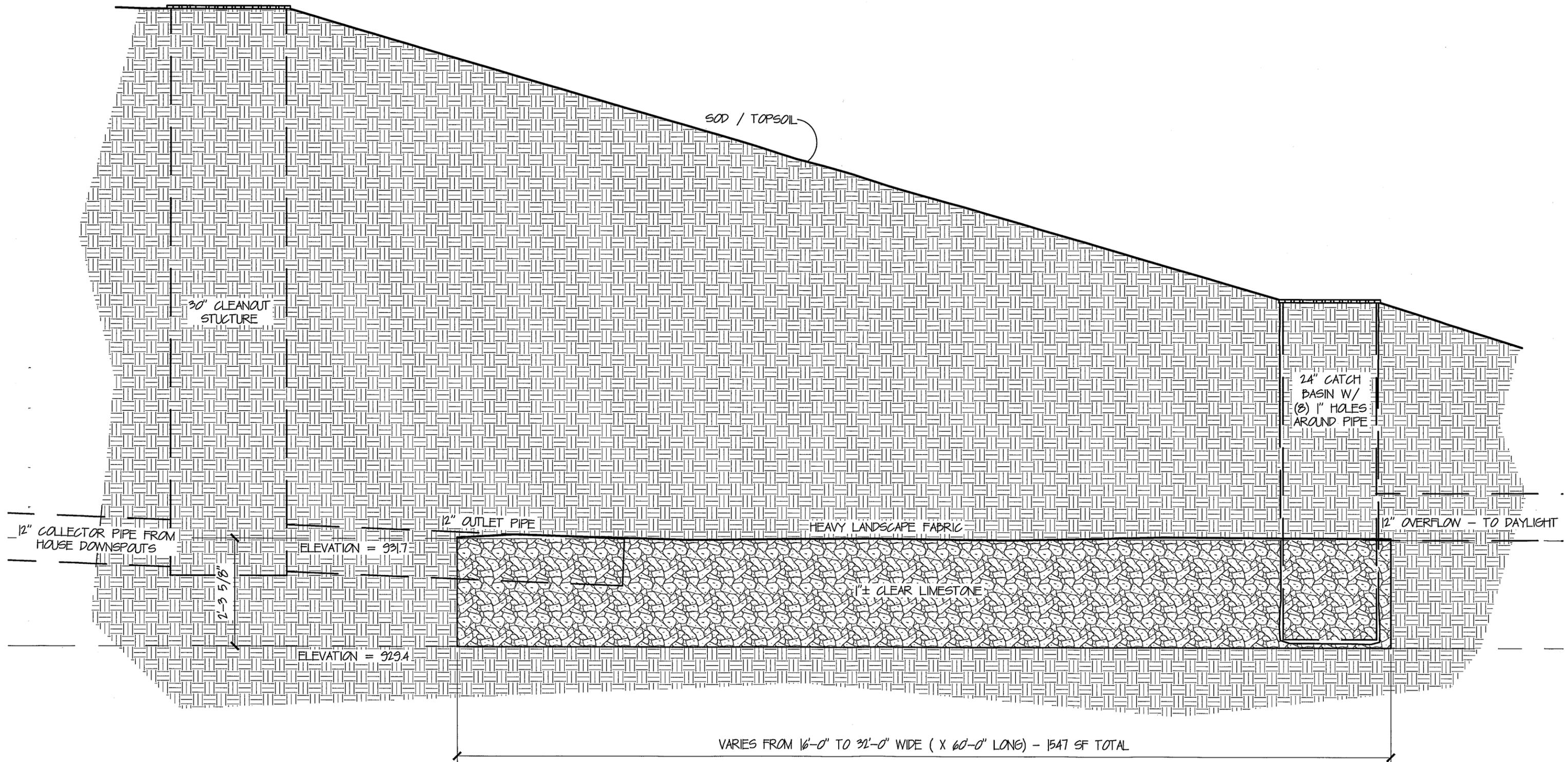
DRAWN BY CHECKED BY

DATE PROJECT #  
2012-006.1

SHEET NUMBER

Ex. B





**3 WATER RETENTION AREA CROSS SECTION**  
 WRI SCALE: 1/2" = 1'-0"

Exhibit H: Letters  
of Support

**From:** [Joe Kohlmann](mailto:Joe.Kohlmann)  
**To:** [Jack Corkle](mailto:Jack.Corkle); [Justin Messner](mailto:Justin.Messner); [iimpenberthy@msn.com](mailto:iimpenberthy@msn.com)  
**Subject:** FW: Howard Root and Beth Heinemann Variance  
**Date:** Wednesday, May 30, 2012 1:40:51 PM

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FYI- attachment for the report

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**From:** Dolly Steichen Lowery [<mailto:lowerymn@yahoo.com>]  
**Sent:** Saturday, May 26, 2012 11:50 AM  
**To:** [jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)  
**Subject:** Howard Root and Beth Heinemann Variance

Hi Joe,

I wanted to let you know that we are neighbors of Howard and Beth. We live two doors down at 100 West Point Road. We are in full support of all of the requested variances and we hope the City Council will approve that evening. We can be reached at (952) 474 – 3765, if you have any questions. Thank you.

Best,

Dolly and Rich Lowery

**From:** [Joe Kohlmann](#)  
**To:** [Jack Corkle](#); [jimpenberthy@msn.com](mailto:jimpenberthy@msn.com); [Justin Messner](#)  
**Subject:** FW: PID #21-117-23-41-0035, Howard Root and Beth Heinemann  
**Date:** Wednesday, May 30, 2012 1:41:22 PM

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FYI - attachment for the report

-----Original Message-----

**From:** Peggy Brettingen [<mailto:peggybrettingen@msn.com>]  
**Sent:** Wednesday, May 30, 2012 6:28 AM  
**To:** [jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)  
**Subject:** PID #21-117-23-41-0035, Howard Root and Beth Heinemann

We have reviewed the plans for the new home at 25 Fairhope Ave. and have no objections to any of the requested variances.