



## CITY COUNCIL REGULAR MEETING AGENDA

FEBRUARY 14, 2023 – 7:00 pm

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. CONSENT AGENDA<sup>1</sup>
  - A. January 24, 2023 Work Session Minutes
  - B. January 24, 2023 Regular Meeting Minutes
5. MATTERS FROM THE FLOOR<sup>2</sup> (*maximum time of five minutes per person*)
6. SPECIAL BUSINESS
  - A. None
7. PUBLIC HEARING
  - A. 110 Interlachen Lane Variance Request
8. OLD BUSINESS
  - A. Resolution 23-05: Approving Setback Variance for 45 Arbor Court
9. NEW BUSINESS
  - A. Resolution 23-06: Approving Grant Agreement Between MCES and the City of Tonka Bay for a Partial Reimbursement of Funds Paid for Sanitary Sewer Rehabilitation
  - B. Resolution 23-07: Amending Annual Appointments to Include Ryan Nellis as the Designated Representative for the Lake Minnetonka Conservation District
10. MATTERS FROM THE FLOOR<sup>2</sup> (*maximum time of five minutes per person*)
11. REPORTS
  - A. Administrator's Report
  - B. Contract Staff Report(s)
  - C. Doug Eckland: Finance, Fire Lanes and Public Access, Technology
  - D. Kristin Viger: Parks and Docks, Sanitation and Recycling
  - E. Kelly Wischmeier: Building Inspection, Municipal Buildings and Grounds
  - F. Tim Connelly: EFD, Commercial Marinas, LMCD
  - G. Adam Jennings: SLMPD, Administration, Public Works, Employee Advisory Board
12. CLOSED MEETING TO CONDUCT A PERFORMANCE EVALUATION
13. ADJOURNMENT

All matters listed within the Consent Agenda are considered to be routine items to be enacted upon by one City Council motion. Items on the Consent Agenda are reviewed in total by the City Council and may be approved through one motion with no further discussion by the Council. Any item may be removed by any Council Member, staff member or person from the public for separate consideration.

<sup>2</sup>For individuals who wish to address the Council on subjects which are not a part of the meeting agenda. Typically, the Council will not take action on items presented at this time but will refer them to staff for review, action and/or recommendation for future Council action.

**DRAFT MINUTES  
TONKA BAY CITY COUNCIL  
WORK SESSION  
JANUARY 24, 2023**

**1. CALL TO ORDER**

The work session was called to order at 6:06 pm.

**2. ROLL CALL**

Members present: Mayor Jennings and Councilmembers Connelly, Eckland, Viger and Wischmeier. Also present were City Administrator Tolsma, City Engineer Adam Gadbois and City Attorney Jason Hill.

**3. DISCUSSION TOPICS**

Proposed Hardcover Ordinance Update & Discussion

City Administrator Tolsma said the feedback from the Minnesota Department of Natural Resources essentially states they are concerned about the increased expansion of properties that are not treating stormwater. Although it was not an outright denial, there needs to be amendments added for approval, such as a naturalized buffer strip or increased shade tree density. Mayor Jennings asked City Engineer Gadbois his ideas that they could provide to the DNR to get their approval. He replied they should respond by meeting them halfway with the higher standards they are referring to, such as the buffer option or any other ideas like the shade trees or rain gardens as an option. Once we get to the point where they are okay with the proposal on impervious surface, then these higher standards will need to be incorporated when a variance comes before council. Councilmember Viger asked what the shoreline buffer zone may look like. City Engineer Gadbois replied it might just be a stretch of native vegetation that would soak up or slow down runoff to the lake. Once they get it ironed out, we can get to the point where we have a guide like we currently have for rain gardens. Councilmember Viger said her concern about implementing new hardcover guidelines will cause drainage issues the city may become liable for by allowing new guidelines. She asked City Engineer Gadbois if he has a chance to look at the neighborhoods this may affect to make sure the city is in a good position to defend themselves. He replied one thing they always look at, regardless of the hardcover situation, when there is a new build they need to provide a grading plan to make sure they install swales along property lines down to the lake so there is no drainage directly to adjacent properties. In terms of impact to the streets, when street reconstructions happen, the hydrology modeling will account for potential runoff. City Administrator Tolsma said the next steps are to set up a meeting with the DNR and come up with a revised version of the ordinance they can submit for approval.

#### Council Work Sessions Discussion

Mayor Jennings asked council their opinion on the work sessions. Councilmember Viger replied if they were to continue them, she believes they should be recorded and published to help with transparency. She also thinks that one per month would be enough. Councilmember Connelly thinks they are good and perhaps one per month would be fine. He said there are too many items on the agenda and the discussions get bogged down. Often items are left hanging on the agenda without being discussed. Councilmember Wischmeier questioned the effectiveness of the work sessions as often times things are discussed and then not brought up again, such as chicken coops. Mayor Jennings replied there are always items that can be rediscussed if deemed necessary. City Administrator Tolsma replied there are quite a few items that are kept on the back burner and each work session typically one or two items are more critical to discuss than others. Councilmember Viger restated she believes they should be recorded for transparency reasons. City Administrator Tolsma replied that is the million-dollar question as they could go either way. Some cities do not record them at all as they are meant to be informal; however, there is no right or wrong way it is whatever the council feels is best. Meeting minutes are the only statutory requirement. Mayor Jennings said he thinks if you start including the greater community on work session items, it bogs down the conversation and you lose flexibility and the benefits of the work sessions themselves as they are a way to float ideas. Councilmember Wischmeier agreed the work sessions are meant for discussion purposes and not meant to be formal voting meetings. She wants to continue the work session meetings once per month, but they need to be more vigilant sticking to the agenda.

#### Minnehaha Discussion

Mayor Jennings said the Minnehaha boat is looking for a place to store and launch their boat. There is a private parcel off Brentwood Avenue and Bay Street that could accommodate their needs; however, it would entail using the Bay Street fire lane, twice a year to launch the boat in the spring and put it away in the fall. He purposes selling a portion of the end of the Bay Street fire lane so they could construction a building to house the boat, adjacent to the parking lot that already exists on private land. Councilmember Viger said there are potential zoning and classification issues they would face. Mayor Jennings said the thought is he is just throwing it out to see if there is any interest or all opposition to the idea. Councilmember Viger said there are zoning and classification issues and she is a no as it would create a lot of public pushback. Councilmember Wischmeier said she would rather see what the pushback is before saying no. Mayor Jennings asked if the city could sell the fire lane property. City Attorney Hill replied that it cannot be sold, only vacated to the adjacent property owner. Councilmember Wischmeier said let them look into it and do all of the leg work and incur the expenses, rather

than city staff, and then bring it back to council. Councilmember Connelly said he is willing to learn more and see where it goes. Councilmember Eckland said he is a soft yes on moving forward. Mayor Jennings said he would let them know.

Street Sign Design Discussion

City Administrator said he just recently learned that they had just gone through the process of updating all the street signs so no need to discuss.

Dog Licensing Discussion

City Administrator Tolsma said he spoke with Police Chief Tholen and he said it did not make a difference either way to the SLMPD as most dogs they pick up these days are microchipped. The council unanimously decided to update the ordinance to reflect annual dog licenses were no longer necessary.

Miscellaneous

**4. ADJOURNMENT**

**There being no further business, Council moved on to the City Council meeting.**

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Adam Jennings, Mayor

Attest:

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Rachel Myskevitz, City Clerk

## ITEM 4B

### DRAFT MINUTES TONKA BAY CITY COUNCIL JANUARY 24, 2023

1. **CALL TO ORDER**

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:02pm.

2. **ROLL CALL**

Members present: Mayor Jennings, Councilmembers Connelly, Eckland, Viger and Wischmeier. Also present were City Administrator Dan Tolsma, City Engineer Adam Gadbois, City Planner Lori Johnson and City Attorney Jason Hill.

3. **APPROVAL OF AGENDA**

City Administrator Tolsma asked to amend the agenda to include the Parks and Docks Commissions five-year CIP under Item 9F.

**Connelly moved to approve the amend the agenda to include the Parks and Docks Commissions five-year CIP under Item 9F. Viger seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

4. **CONSENT AGENDA**

- A. January 10, 2023 Work Session Minutes**
- B. January 10, 2023 Regular Meeting Minutes**
- C. Approve Southwest Assessing Proposal**
- D. Financial Report**

Mayor Jennings pulled Items 4B and 4D from the consent agenda for further discussion.

**Viger moved to approve the Consent Agenda, removing Items 4B and 4D for further discussion. Connelly seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

Mayor Jennings said he would like to amend the January 10, 2023 Regular Meeting Minutes on page 2, at the end of the first paragraph to add "And in conjunction with Councilmember Connelly to address this topic further at an upcoming work session". He would also like to change on page one under Item 5, the second paragraph to read "Mayor Jennings wanted to ensure his previously stated amendment on the first page of the December 13, 2022 Regular Meeting Minutes states" and then go from there.

Mayor Jennings pulled the Financial Report under Item 4D to discuss several items.

On page one of the financial report, Mayor Jennings asked about the negative balance under fund 412, Water Treatment Plant Fund. City Administrator Tolsma responded it is not a fund in the traditional sense, rather a revolving line of credit through the state PFA. We just need to pull the \$1940 out of it and close the account.

On page two of the investment report, Mayor Jennings noticed that a US Treasury note for \$118,020.55 was maturing soon and for budgeting purposes wants to reinvest that money as he is seeing CD's paying out at upwards of 4.25 percent. City Administrator Tolsma agreed that they are seeing short-term rates in the four percent range for future investment into.

On page three of the accounts payable, Mayor Jennings pointed out that we paid \$2,640.33 for salt and winter road mix. He said to City Engineer Gadbois he has heard in the past that there is a way to better manage how we treat our roads each year and would like to explore those ideas to see if we should move in that direction in the future.

On page seven of the accounts payable, Mayor Jennings saw the line item for the \$303,156.21 payment to Odessa II LLC for the Manitou Park improvements and he wanted to confirm where we are at for the county reimbursing us for the \$300,000. City Administrator Tolsma said we have not received that yet but will be getting the reimbursement once the project is finalized, then we can apply for that reimbursement.

On page 2 of the expenditure guideline report, Mayor Jennings said the first line item of health/life/dental under the planning/zoning department is significantly over budget so he wants to make sure that is baked into the 2023 budget. Similarly, more funds should be set aside for electric utilities as we are way over budget on that too.

On page 4 of the expenditure guideline report, at the top under department 49300, there is a transfer out of \$37,000. Mayor Jennings said he is assuming that represented the cost of the interim city administrator. City Administrator Tolsma confirmed that it was.

Lastly, Mayor Jennings stated we need to be sure not to overuse the reserves if we are over on our enterprise funds because that is not a good operating practice and we need to keep an eye on this year in the event we need to update rates to safe guard us.

**Viger moved to approve the Consent Agenda Item 4B, with the amended changes to the minutes and Item 4D. Connelly seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

**5. MATTERS FROM THE FLOOR**

Joshua Bopp of 4737 County Road 101, Apartment 167 of Minnetonka spoke regarding being the former tenant at Tom Sims' carriage house at 74 Birch Bluff Road. He raised concerns with the city's handling of the complaints regarding the property he lived at.

**6. SPECIAL BUSINESS**

None.

**7. PUBLIC HEARINGS**

A. 45 Arbor Court Variance Request

City Planner Johnson gave an overview of the variance request for 45 Arbor Court. The applicant is requesting approval for a variance that would allow for a covered front entry to be constructed at a 46.7-foot front yard setback, which does not meet the required 50-foot front yard setback required by ordinance. The existing entry way for the home has a front yard setback of 51.6 feet. The applicant is seeking a 3.3-foot variance to the 50-foot front yard setback for the new front entry. The proposed addition would not increase the impervious surface coverage from its current number of 25.3% due to the fact that the applicant is proposing to take out some of the existing front sidewalk. In review of zoning and statutory criteria, the information provided concludes that the practical difficulty test is not met with this variance request, as there are no unique circumstances to the property not created by the landowner. All other criterion were met as outlined in the staff memo to council. Council asked various questions regarding explaining the survey that was submitted and City Planner Johnson answered each of them.

Mayor Jennings opened the public hearing.

Andy Johnsrud of Lecy Brothers Homes and Remodeling at 15012 Highway 7 in Minnetonka addressed the council regarding the narrative and why they are seeking the variance. He showed existing pictures of the front entry to council and explained why they it was necessary to redesign it in the way they did.

Mayor Jennings closed the public hearing.

Mayor Jennings explained to the council as a city, decisions made cannot be arbitrary or capricious. There needs to be a stated rationale that meets the city's policy.

City Administrator Tolsma said as staff, the application is reviewed and compared to the existing ordinances and anything beyond the standards is flagged as red flag. Once those are identified, it is council's responsibility to look at those and decide whether or not they agree.

It was discussed by council and determined the majority were in favor of approval of the setback variance.

**Connelly moved to direct staff to prepare a resolution of approval of the requested 3.3-foot front yard setback variance based on the findings of fact, which are listed in items A through F in the staff memo. Wischmeier seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

**8. OLD BUSINESS**

None.

**9. NEW BUSINESS**

A. Ordinance 23-01: Fee Schedule

City Administrator Tolsma outlined the red-lined changes in the proposed 2023 fee schedule as found in the council packet. The maintenance credit for the fields was discussed at length. City Attorney Hill pointed out two large red flags. One being the insurance liability of having a third party maintaining the fields, the other being having an indemnification agreement making the city not liable if someone were to get injured due to the third party maintenance. Councilmember Viger asked Hill if he has a contract he could provide to the city. Hill replied that he did. He said the other nice thing about written contracts is you can write in what the maintenance standards should be. Councilmember Viger suggested taking out the maintenance credit all together and that can be negotiated separately as a part of the contract. Field rental details were discussed further.

**Connelly moved to approve Ordinance 23-01, an ordinance amending Section 402., Fees with the fee changes as outlined. Wischmeier seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

B. Resolution 23-03: Authorizing Summary Publication of Ordinance 23-01: Fee Schedule

**Connelly moved to approve the Resolution 23-03, authorizing the summary publication of Ordinance 23-01. Viger seconded the motion. Ayes: Connelly,**



**Eckland, Viger, Wischmeier, Jennings. Motion carried.**

C. Ordinance 23-02: Amending Parks and Docks Commission Size

**Wischmeier moved to approve agenda item 9C, Ordinance 23-02, amending the Parks and Docks Commission size. Connelly seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

D. Resolution 23-04: Appointing Parks and Docks Commission Members

**Viger moved to approve the Resolution 23-04, appointing the Parks and Docks Commission members and establishing the terms as laid out in agenda item 9D. Connelly seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

E. 2023 Bonding Priorities for Upcoming Legislative Session

Mayor Jennings said Representative Myers reached out to the city to provide a list of project funding priorities for bonding requests as shown in the packet memo.

**Connelly moved to approve the 2023 Bonding Priorities for the upcoming legislative session as outlined in the memo. Viger seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

F. Parks and Docks CIP

Councilmember Viger explained the Parks and Docks Commission's five-year Capital Improvement Plan for the parks and docks within the city.

**Wischmeier moved to approve the Item 9F the Parks and Docks Five-year Capital Improvement Plan. Eckland seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

**10. MATTERS FROM THE FLOOR**

None.

**11. REPORTS**

A. Administrator's Report

No report.

B. Contract Staff Report(s)

No report.

C. Doug Eckland – Finance, Fire Lanes and Public Access, Technology  
No report.

D. Kristin Viger – Parks and Docks, Sanitation and Recycling  
Councilmember Viger wanted to thank City Deputy Clerk Rachel Myskevitz and the Public Works Department for all of their efforts in the planning and execution of the Arctic Fever Celebration on January 21, 2023.

E. Kelly Wischmeier – Building Inspection, Municipal Building and Grounds  
No report.

F. Tim Connelly – EFD, Commercial Marinas, LMCD  
No report.

G. Adam Jennings – SLMPD, Administration, Public Works, Employee Advisory Board  
Mayor Jennings wanted to clarify who the back-up appointee for the LMCD on council is and if the newly elected councilmembers are registered for the LMC's orientation.

**12. ADJOURNMENT**

**There being no further business, Connelly moved to adjourn the meeting at 9:00 pm. Eckland seconded the motion. Ayes: Connelly, Eckland, Viger, Wischmeier, Jennings. Motion carried.**

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Adam Jennings, Mayor

Attest:

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Rachel Myskevitz, Deputy City Clerk



## City of Tonka Bay Memorandum

**To:** City Council Members  
Dan Tolsma, City Administrator

**From:** Lori Johnson, City Planner  
Adam Gadbois, City Engineer

**Date:** February 9, 2023  
City Council Regular Meeting February 14, 2023

**Project:** 021191-000, Phase 03

**Request:** The applicant is requesting a .7% variance to the required impervious surface coverage of 32.7%. The total impervious surface on the lot is proposed to be 33.4%.

**PID:** 21-117-23-14-0004

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### RECOMMENDATION

Based on the information provided, staff finds that the request does not meet the practical difficulty test outlined by the City's Zoning Ordinance or State Law.

### GENERAL INFORMATION

Applicant(s)/Owner(s):	Owner: SENDEN Development, LLC Applicant: Mike Pahl, Pristine Custom Homes
Subject Property:	110 Interlachen Lane
Existing Land Use / Zoning:	Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
Surrounding Land Use / Zoning:	North: Detached, Single-family Residential; zoned R-1A, Shoreland Overlay West: Detached, Single-family Residential; zoned R-1A, Shoreland Overlay South: Detached, Single-family Residential; zoned R-1A, Shoreland Overlay East: Detached, Single-family Residential; zoned R-1A, Shoreland Overlay
Comprehensive Plan:	The Tonka Bay 2018-2040 Comprehensive Plan guides this lot for Single-family Residential use.
Deadline for Agency Action:	Application Complete Date: January 18, 2022 60 Days: March 19, 2023 Extension Letter Mailed: N/A 120 Days: N/A
Attachments:	Location Map Final As-Built Survey Applicant Narrative

### CONSIDERATIONS RELATED TO THE REQUEST

- 1. Overview.** The applicant constructed a new home at 110 Interlachen Lane and an as-built survey has been submitted that indicates the new home/site improvements have created an impervious surface percentage that is over the required percentage for this site. The zoning ordinance requires a maximum impervious surface percentage on site of 25%. In November 2021, the applicant received a variance

that would allow for an impervious surface coverage on this lot of 32.7%. The Council approved the variance with the following rationale:

- The applicant is proposing a new home, a permitted use in the R-1A district and consistent with the guided land use in the Comprehensive Plan.
- The new home complies with the height and structure setbacks for the R-1A district and the Shoreland Overlay District.
- The lot at the subject property is substandard in area and width.
- The new home and site plan is an improvement compared to existing conditions.
- The stormwater treatment system is adequately located and sized to treat the stormwater generated from the excessive amount of impervious cover to reduce the effective cover amount to 25 percent.

The as-built survey that has been provided indicates that the impervious surface coverage on this lot is .7% over the 32.7% allowed with the previous variance. Since the final impervious surface coverage does not comply with the amount allowed by the previous variance, another variance is required.

On November 23, 2021, the applicant also received a variance to the required floor area ratio that allowed for a 30.5% FAR on site. The applicant has confirmed via the as-built survey that the site meets this requirement.

For the initial impervious surface coverage variance, the applicant worked with an engineer to prepare a Stormwater Treatment Plan. Their engineer provided a solution in the form of an infiltration swale that will act to filter excess stormwater runoff. This swale was initially designed to treat 1,391.25 square feet of impervious area (the amount exceeding 25% of the lot area), or 120 cubic feet. The as-built impervious surface coverage exceeds 25% of the lot area by 1,506.25, which requires 126 cubic feet of storage.

The contractor that constructed the infiltration swale provided a letter on January 3, 2022, to the City of Tonka Bay, stating that they over-excavated the infiltration swale to accommodate 182 cubic feet of storage. This amount exceeds the required amount for the increased impervious surface coverage, so the increased impervious surface is adequately addressed.

## 2. Ordinance Authority

*SECTION 1070.11(1)(a)1* states that the maximum impervious surface coverage for lots in all zoning districts with the Shoreland Overlay District is 25 percent of the lot area.

*SECTION 1070.11(1)(2)* states that no person may be eligible for a variance from impervious surface coverage unless they submit a Stormwater Treatment Plan, which shall be reviewed by the City Engineer.

*Resolution 21.31* allows an impervious surface coverage on site of 32.7%.

## 3. Variance Review Criteria

When reviewing variance applications and request, it is important to adhere to ordinance requirements, which are based on current state law, and to determine if a practical difficulty exists in each case. State law is written as such that a practical difficulty only exists when three statutory factors are met:

- Will the property owner use the property in a reasonable manner?
- Is the circumstance unique to the property, and is it caused by the homeowner?
- Will the essential character of the area be altered by the variance?

Staff's conclusions on the practical difficulty test, and the ordinance requirements are outlined below  
Statutory Criteria/1004.02 Subd. 4

1. *The request is in harmony with the general purpose and intent of this Ordinance.*

The request for a variance from the requirement for impervious surface coverage, while not in compliance with the ordinance, does not distract from the harmony that a single-family home would normally create in the area. **Criterion met.**

2. *The variances are consistent with the comprehensive plan.*

The requested variance would not bring the property into conflict with the comprehensive plan, which guides the property for Low Density Residential. **Criterion met.**

3. *The property in question meets the "practical difficulties" test:*

a. *The property owner proposes to use the property in a reasonable manner. Criterion met.*

The use of the property for a single-family home is no unreasonable in any manner, as it is guided and zoned for such land use. **Criterion met.**

b. *There are unique circumstances to the property not created by the landowner.*

Given that there are many nonconforming lots within the City of Tonka Bay, it is sometimes argued that there is a practical difficulty in meeting ordinance requirements when constructing on substandard lots that are smaller than the minimum lot size. This lot is 17,975 square feet and the required lot size is 20,000 sf in the R-1A zoning district. In this case, staff has determined that there are other lots within the city of this size, and the homes on the other lots are able to meet impervious surface requirements. In this case, when the applicant has already received a variance to the impervious surface coverage on site, it is hard to make the determination that this circumstance was not created by the applicant.

In addition, the applicant could comply with the required 32.7% impervious surface coverage requirement by removing some of the concrete driveway on site. The total impervious surface square footage on site is 6,000 square feet. To remove .7% of this square footage would involve removing 43 square feet of the driveway or other hard surface on site. **Criterion not met.**

c. *The variance will maintain the essential character of the locality. Criterion met.*

The requested variance will maintain the essential character of the locality.

City Tests/1004.02 Subd.3

1. *Will the variance impair an adequate supply of light and air to adjacent property?*

The variance will not create circumstances that impair the supply of light and air to surrounding properties. **Criterion met.**

2. *Will the variance unreasonably increase the congestion in the public street?*

The variance will not have an unreasonable, if any, impact on traffic along Interlachen Lane. **Criterion met**

3. *Will the variance increase the danger of fire or endanger the public safety?*

The requested variance would not increase the danger of fire or endanger public safety. **Criterion met.**

4. *Will the variance unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the zoning ordinance?*

No information has been provided that the established property values have been negatively impacted by the current conditions on the Subject Property. And as noted above, they are not contrary to the intent of the zoning ordinance as the Subject Property will continue its existing low-density, single-family use. **Criterion met.**

**POTENTIAL ACTION**

- A) DIRECT STAFF TO PREPARE A RESOLUTION APPROVING THE REQUEST based on the Applicant's submittals and findings of fact.
- B) DIRECT STAFF TO PREPARE A RESOLUTION DENYING THE REQUEST based on the Applicant's submittals and findings of fact.
- C) TABLE THE ITEM and request additional information.

**RECOMMENDATION**

The information provided in this staff report concludes that the practical difficulty test is not met with this variance request. The City Council, based on the information in this report and public testimony, will need to make a motion to approve or deny the variance. Two motions are provided below for consideration.

Motion of Approval:

"I move that we direct staff to prepare a resolution of approval of the requested .7% variance to the impervious surface requirement of 32.7% for this lot based on the following findings of fact:

- a. The request is in harmony with the general purpose and intent of this Ordinance.
- b. The variances are consistent with the comprehensive plan.
- c. The variance will not impair an adequate supply of light and air to adjacent property.
- d. The variance will not unreasonably increase the congestion in the public street.
- e. The variance will not increase the danger of fire or endanger the public safety.
- f. The variance will not unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the zoning ordinance.

Motion of Denial:

"I move that we direct staff to prepare a resolution of denial of the requested .7% variance to the impervious surface requirement of 32.7% for this lot based on the following findings of fact:

- a. Pursuant to state law, variances may only be granted where the Applicant establishes that there are practical difficulties in complying with the zoning ordinance.
- b. The Applicant has failed to establish any practical difficulties with complying with the required impervious surface coverage of 32.7%.
- c. The shape of the property is not unique in that there are other lots within the city that have a similar size and shape.
- d. The variance request is due to the actions of the applicant and not due to the uniqueness of the property or circumstance.
- e. The applicant could remove .7% of the impervious surface coverage on site to meet the impervious surface requirements for this lot.



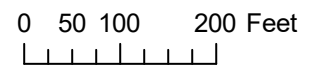


# Hennepin County Locate & Notify Map

Date: 2/9/2023



**Buffer Size:**  
**Map Comments:**



This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

For more information, contact Hennepin County GIS Office  
300 6th Street South, Minneapolis, MN 55487 / [gis.info@hennepin.us](mailto:gis.info@hennepin.us)



**LEGAL DESCRIPTION:**  
 Lots 3 and 4 and that parts of Lots 1 and 2 lying west of a line beginning at the northeasterly corner of said Lot 3 and running in a straight line to the southeasterly corner of said Lot 1, all in Interlachen, EXCEPT that part thereof lying east of a line beginning at the southeasterly corner of Lot 2 Interlachen and running in a straight line 254 feet to a point on the shore of Lake Minnetonka which is 35 feet westerly measured along said shore line from the northeasterly corner of Lot 3 Interlachen; with the right to use for boating privileges, and/or ingress or egress to the main lower lake the canal across the highway in the rear of said premises, together with all rights, privileges, easements and appurtenances thereunto attached or belonging.

**ALSO EXCEPTING THEREFROM:**

All that parts of Lots 1, 2 and 3, Interlachen, Hennepin County, Minnesota described as follows: Beginning at the Southeast corner of Lot 1, Interlachen; thence in a Northerly direction along a straight line 248.4 feet to the Northeast corner of Lot 3 in said Interlachen; thence Westerly along the shore of Lake Minnetonka 55 feet more or less to a point 10 feet easterly of the Northwest corner of Lot 3 in said Interlachen; thence in a Southerly direction along a straight line 254 feet more or less to a point 20 feet Easterly of the Southwest corner of Lot 2, Interlachen; thence Easterly along the South line of Lot 2, Interlachen and Lot 1, Interlachen. 40 feet to the point of beginning, together with all riparian rights pertaining thereto for the use of boating purposes, and for ingress and egress to the main lower lake, the canal across the highway in the rear of above described property.

PARCEL SIZE = 17,975 SF OR 0.412 ACRES

**SCOPE OF WORK & LIMITATIONS:**

- Showing the length and direction of boundary lines of the legal description listed above. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct and that any matters of record, such as easements, that you wish to be included on the survey have been shown.
- Showing the location of observed existing improvements we deem necessary for the survey.
- Setting survey markers or verifying existing survey markers to establish the corners of the property.
- Building dimensions and setbacks measured to outside of siding or stucco.
- Showing and tabulating impervious surface coverage of the lot for your review and for the review of such governmental agencies that may have jurisdiction over these requirements to verify they are correctly shown before proceeding with construction.
- Showing elevations on the site at selected locations to give some indication of the topography of the site. We have also provided a benchmark for your use in determining elevations for construction on this site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the survey when determining other elevations for use on this site or before beginning construction.
- This survey has been completed without the benefit of a current title commitment. There may be existing easements or other encumbrances that would be revealed by a current title commitment. Therefore, this survey does not purport to show any easements or encumbrances other than the ones shown hereon.

**STANDARD SYMBOLS & CONVENTIONS:**

● " Denotes iron survey marker, found, unless otherwise noted.

PROPOSED HARDCOVER	
House	3,351 Sq. Ft.
Front Porch	241 Sq. Ft.
Rear Patio	264 Sq. Ft.
Driveway	1,878 Sq. Ft.
Retaining Wall	135 Sq. Ft.
AC PAD	16 Sq. Ft.
<b>TOTAL PROPOSED HARDCOVER</b>	<b>5,885 Sq. Ft.</b>
AREA OF LOT TO OHW	17,975 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	32.7%
AS-BUILT HARDCOVER	
House	3,351 Sq. Ft.
Front Porch	241 Sq. Ft.
Rear Patio	264 Sq. Ft.
Driveway	1,888 Sq. Ft.
Boulder Walls (227 l.f.)	188 Sq. Ft.
AC PAD	16 Sq. Ft.
Stone Steps	35 Sq. Ft.
Concrete Header	17 Sq. Ft.
<b>TOTAL AS-BUILT HARDCOVER</b>	<b>6,000 Sq. Ft.</b>
AREA OF LOT TO OHW	17,975 Sq. Ft.
PERCENTAGE OF HARDCOVER TO LOT	33.4%

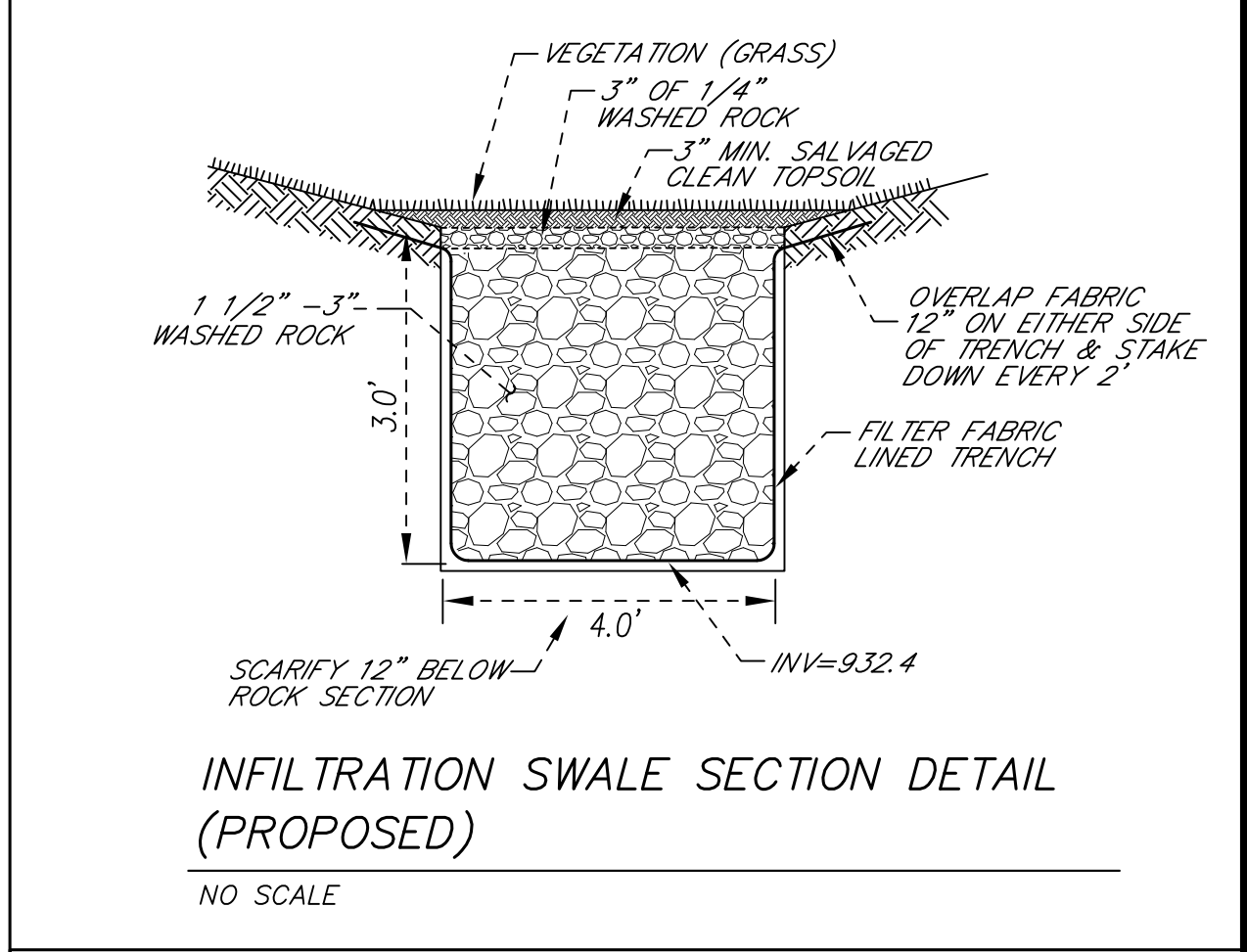
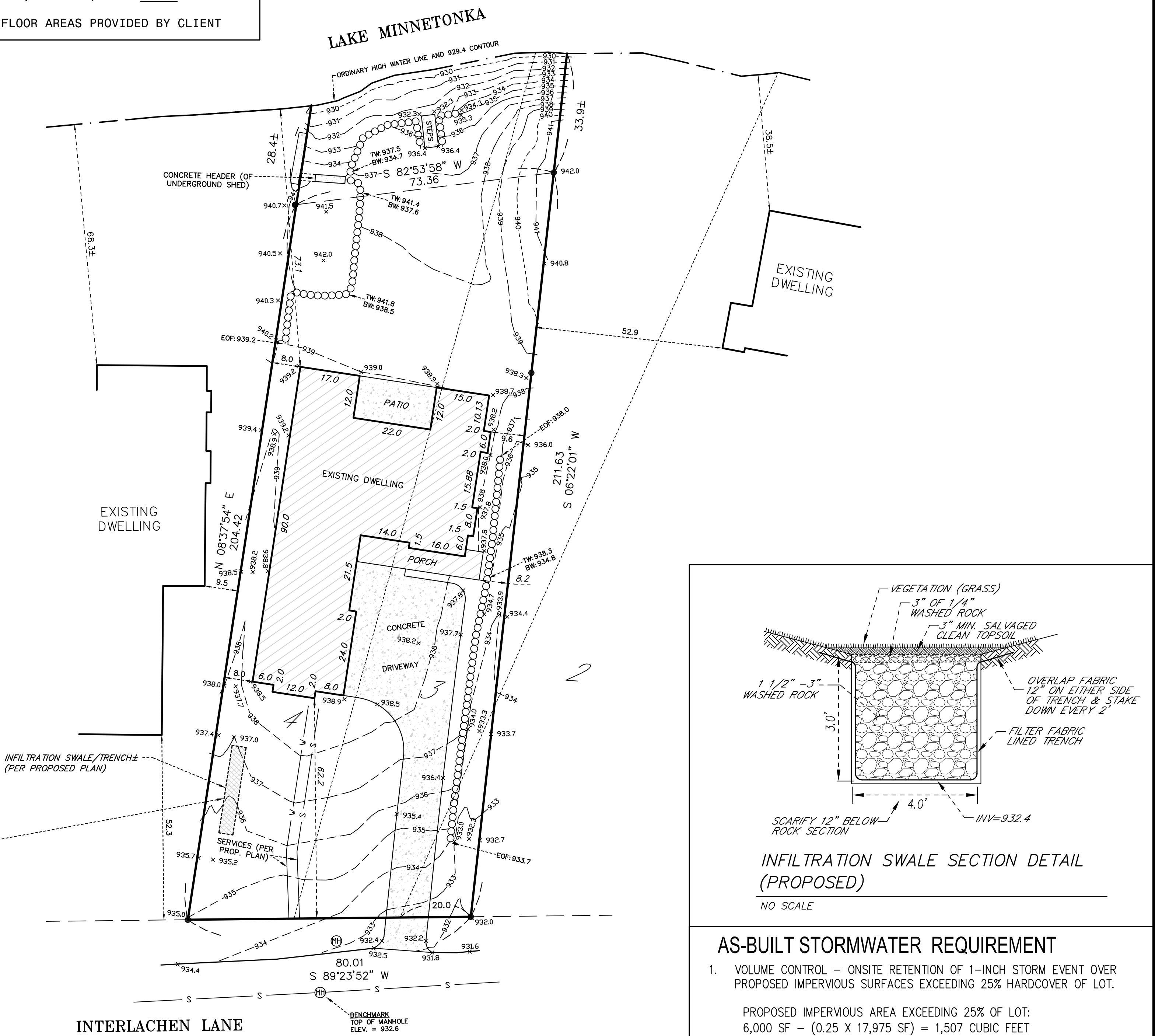
NOTE: Boulder wall area computed at 10" wide (per client) for 227 linear feet.

FAR TABULATION  
 AS-BUILT HOME 1ST & 2ND FLOOR AREAS = \*5,486 SF  
 TOTAL AREA OF LOT = 17,975 SF  
 FAR = 5,486 / 17,975 = 30.5%  
 \*AS-BUILT FLOOR AREAS PROVIDED BY CLIENT

PROPOSED ELEVATIONS	
FIRST FLOOR:	939.6
GARAGE FLOOR:	939.1
AS-BUILT ELEVATIONS	
FIRST FLOOR:	939.7
GARAGE FLOOR:	939.1



NOTE: UNKNOWN DIMENSIONS AND VOLUME OF AS-BUILT INFILTRATION TRENCH AT TIME OF SURVEY.



**AS-BUILT STORMWATER REQUIREMENT**

- VOLUME CONTROL – ONSITE RETENTION OF 1-INCH STORM EVENT OVER PROPOSED IMPERVIOUS SURFACES EXCEEDING 25% HARDCOVER OF LOT.  
 PROPOSED IMPERVIOUS AREA EXCEEDING 25% OF LOT:  
 6,000 SF - (0.25 X 17,975 SF) = 1,507 CUBIC FEET  
 REQUIRED VOLUME TO RETAIN = 1,507 X (1/12) = 126 CUBIC FEET  
 VOLUME OF RETENTION PROVIDED (AS-BUILT INFL. SWALE):  
 \*3.5 FT X 5 FT X 26 FT = 455 CUBIC FEET X 0.4 = 182 CUBIC FEET

\* TRENCH AS-BUILT INFORMATION PROVIDED BY GRADING CONTRACTOR (NORTH STAR EXCAVATING). TRENCH AS-BUILT INFORMATION WAS NOT FIELD VERIFIED BY ADVANCE SURVEYING & ENGINEERING. ADDITIONAL QUESTIONS ON TRENCH INSTALLATION WILL BE DIFFERED TO NORTH STAR EXCAVATING.

DATE	REVISION DESCRIPTION	DRAWING ORIENTATION & SCALE	CLIENT/JOB ADDRESS	 17917 Highway No. 7 Minnetonka, Minnesota 55345 Phone (952) 474-7964 Web: www.advsur.com	I HEREBY CERTIFY THAT THIS PLAN, SURVEY OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.  Wayne W. Prehns #43503 LICENSE NO. OCTOBER 1, 2022 DATE	SURVEYED DATE:	SHEET TITLE	SHEET NO. <b>S1</b>
10/6/22	UPDATED BOULDER WALLS & SHOW PROP. STORMWATER REQ.	 0 10' 20'	<b>PRISTINE CUSTOM HOMES</b>  110 INTERLACHEN LANE TONKA BAY, MN			SEPTEMBER 22, 2022	AS-BUILT SURVEY	
1/11/22	UPDATED STORMWATER MANAGEMENT INFORMATION			DRAFTED DATE:	SEPTEMBER 30, 2022	SHEET SIZE: 22 X 34		
					DRAWING NUMBER	221861 WP		



December 12, 2022

The City of Tonka Bay,

Pristine Custom Homes has completed the construction of the home on 110 Interlachen Lane, to the specifications of the AS Built survey from Advance Surveying and Engineering Co. provided to the City of Tonka Bay with the original variation permit dated 11/21/2021.

The purpose of this variance application is to cover an overage in the As Built Hardcover ratio of 0.7% created from the landscape design not the construction of the home. The use of boulder walls to manage and facilitate efficient water runoff and homogeneous interface with the adjacent neighbors, created a slight overage in the overall hardcover percentage of seven tenths of one percent.

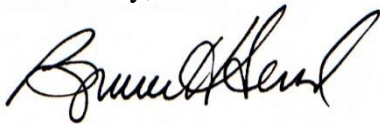
Note that we provided a larger than proposed infiltration swale constructed in the front of the house per survey. We constructed an infiltration swale of 120 cubic feet which exceeded the required 116 cubic feet of the original approved As Built survey. This infiltration swale was constructed to manage the excess water runoff created by the impervious area that exceeded the 25% impervious area goal. The larger volume of the swale created will handle the excess runoff created by the 0.7% overage of the finished build.

We have consulted with WSB during the building process and believe we have provided a total solution that meets and/or exceeds the objectives and intent of the Hardcover percentage requirements of the City.

We respectfully request the variance of 0.7% to the currently approved 32.7%. Total As-Built Hardcover percentage to lot will be at 33.4%.

If you have any questions, please feel free to call me at 612-810-4722.

Sincerely,



Bruce H. Senske

**SENDEN Development, LLC**

**RESOLUTION NO. 23-05**

**A RESOLUTION APPROVING  
A VARIANCE AT 45 ARBOR COURT  
PID: 2811723120044**

WHEREAS, the City of Tonka Bay is a municipal corporation, organized and existing under the laws of the State of Minnesota; and

WHEREAS, the City Council of the City of Tonka Bay (“City”) has adopted zoning regulations in the Tonka Bay City Code (“City Code”) to promote orderly development and utilization of land within the city; and

WHEREAS, LECY BROS. HOMES & REMODELING (“Applicants”) applied for the following variance at 45 Arbor Court which is legally described as follows; and

*Lot 006, Block 001, Arbor Shores*

WHEREAS, the Property is located within the R-1A zoning district and within the Shoreland Overlay District; and

WHEREAS, the Applicants are requesting the following:

- A 3.3-foot variance to the 50-foot front yard building setback.

WHEREAS, Lori Johnson, City Planner, issued a report to City Council dated January 19, 2023, that analyzed the request against the Comprehensive Plan and City Code; and

WHEREAS, the City Council held a public hearing and considered the application on January 19, 2023, and in consideration of the above-described request, makes the following findings of fact:

1. The request is in harmony with the general purpose and intent of this Ordinance.
2. The variances are consistent with the comprehensive plan.
3. The variance will not impair an adequate supply of light and air to adjacent property.
4. The variance will not unreasonably increase the congestion in the public street.
5. The variance will not increase the danger of fire or endanger the public safety.
6. The variance will not unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby approve the following request as shown on the plans provided by the Applicant:

- A 3.3-foot variance to the 50-foot front yard building setback.

PASSED AT A REGULAR MEETING of the Tonka Bay City Council this 19<sup>th</sup> day of January 2023.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll call vote:

Councilmember Wischmeier \_\_\_\_\_  
Councilmember Connelly \_\_\_\_\_  
Councilmember Eckland \_\_\_\_\_  
Councilmember Viger \_\_\_\_\_  
Mayor Jennings \_\_\_\_\_

\_\_\_\_\_  
Adam Jennings, Mayor

ATTEST:

\_\_\_\_\_  
Rachel Myskevitz, City Clerk

**CITY OF TONKA BAY**

**RESOLUTION 23-06**

**A RESOLUTION APPROVING GRANT AGREEMENT BETWEEN THE METROPOLITAN COUNCIL AND THE CITY OF TONKA BAY FOR THE 2022 SANITARY SEWER REHABILITATION PROJECT, SUBJECT TO MINOR MODIFICATIONS AND FINAL REVIEW BY CITY ATTORNEY**

**WHEREAS,** The Minnesota State Legislature has appropriated \$5,000,000 in general obligation bond funds for grants to municipalities to reduce inflow and infiltration in their public system infrastructure, administered by Metropolitan Council Environmental Services (MCES); and

**WHEREAS,** application to participate in the MCES 2020 Municipal Grant Program (Grant Program) was made on April 14, 2021, for reimbursement of a percentage of the construction costs of the 2022 Sanitary Sewer Rehabilitation Project (Project); and

**WHEREAS,** The City of Tonka Bay was notified by MCES Letter of Intent dated April 29, 2021, of approval to participate in the Grant Program and of estimated Final Reimbursement Amount (FRA) of \$21,107; and

**WHEREAS,** The City of Tonka Bay awarded bid for the Project on August 16, 2022, and approved final acceptance of the work on November 15, 2022; and

**WHEREAS,** Grant Agreement between the Metropolitan Council and the City of Tonka Bay has been drafted by MCES; and

**WHEREAS,** The City of Tonka Bay has completed \$48,369.10 of work eligible for funding, and desires to enter into Grant Agreement to finalize the reimbursement process.

**NOW, THEREFORE, BE IT RESOLVED,** by the City Council of the City of Tonka Bay:

- 1) The City Council hereby approves application for MCES 2020 Municipal Inflow & Infiltration Grant Program; and
- 2) The City Council hereby approves the Grant Agreement between Metropolitan Council and City of Tonka Bay and authorizes the City Engineer to execute Grant Agreement, subject to minor modifications and final review by City Attorney.

**PASSED AT A REGULAR MEETING** of the Tonka Bay City Council this 14<sup>th</sup> day of February 2023.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll call vote:

Councilmember Wischmeier \_\_\_\_\_  
 Councilmember Connelly \_\_\_\_\_  
 Councilmember Eckland \_\_\_\_\_  
 Councilmember Viger \_\_\_\_\_  
 Mayor Jennings \_\_\_\_\_

\_\_\_\_\_  
Adam Jennings, Mayor

ATTEST: \_\_\_\_\_  
Rachel Myskevitz, City Clerk

**ITEM 9B**

**CITY OF TONKA BAY**

**RESOLUTION NO. 23-07**

**A RESOLUTION AMENDING  
OFFICIAL CITY APPOINTMENTS**

WHEREAS, the City of Tonka Bay was notified by Greg Thomas that he was resigning as the City’s LMCD representative effective December 31, 2022; and

WHEREAS, the City has notified the public of the vacancy, solicited applications, and conducted interviews with interested parties; and

WHEREAS, Tonka Bay resident Ryan Nellis has offered to serve as the City’s LMCD representative.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Tonka Bay hereby amend the official 2023 City appointments by designating Ryan Nellis as the LMCD representative.

**PASSED AT A REGULAR MEETING** of the Tonka Bay City Council this 14<sup>th</sup> day of February, 2023.

Motion introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_.

Roll call vote:

- Councilmember Wischmeier \_\_\_\_\_
- Councilmember Connelly \_\_\_\_\_
- Councilmember Eckland \_\_\_\_\_
- Councilmember Viger \_\_\_\_\_
- Mayor Jennings \_\_\_\_\_

\_\_\_\_\_  
Adam Jennings, Mayor

ATTEST: \_\_\_\_\_  
Rachel Myskevitz, City Clerk