

Permit Application No.: 15-675

Rules: Erosion Control, Stormwater Management, Wetland Protection, and Variance, after-the fact-permit Waterbody Crossings and Structures

Applicant: Hartman Communities, LLC

Project: Driveway

Location: 8135 Krey Lake Court, Victoria

Received: 5-5-15

Complete: 5-19-16

Noticed: 6-22-16

**Recommendation:**

Approval with conditions:

- Payment of engineering fees for District inspection and analysis of proposed project.
- Submission of financial assurance of \$374 for Stormwater Management and \$5000 for Buffer Disturbance.
- Amendment of declaration recorded under permit 13-387 to reflect revised wetland buffer and maintenance of additional stormwater BMPs and culvert on the U.S. Homes property. Permittee will need to secure cooperation of U.S. Homes property owner.
- Recording of declaration for Hartman property establishing wetland buffer with the stipulation that the buffer will need to be adjusted at the time the property is developed as necessary to ensure 20 feet of compensatory buffer is protected in addition to buffer required for development.
- Proof of recording of declaration amendment and new declaration. Permittee is to present draft documents to District before executing to confirm acceptability.
- Submission of signed easement on the Teller property to the west so that District staff can confirm adequate evidence of property interest.

**Summary:**

Hartman Communities, LLC, owns a 40-acre tract that includes a large part of Carl Krey Lake and riparian wetland, with about five acres of upland. Hartman is not proposing to develop the property at this time but is proposing to construct a driveway across adjacent property owned by U.S. Home (Lennar). The June 15, 2016 letter from the applicant's engineer advises of the intent later to develop the Hartman property with a single residence. The work on the Hartman and U.S. Home properties cumulatively triggers the District's Erosion Control, Stormwater Management, and Waterbody Crossings & Structures rules and the proposal meets the applicable requirements of the rules. The culvert that triggers Waterbody Crossings & Structures has been installed and the applicant is seeking an after-the-fact permit. The work also triggers the buffer requirement of the Wetland Protection Rule, and the applicant is seeking a variance from the buffer width requirement. Staff is recommending approval of this application and the variance with the conditions stated above.

**Background:**

Hartman Communities, Inc. has applied for a Minnehaha Creek Watershed District permit for Erosion Control, Stormwater Management, Wetland Protection, and Waterbody Crossings & Structures for a proposed driveway on the U.S. Home property leading to the Hartman property, located at 8135 Krey Lake Court in the City of Victoria (Attachment 2), with a very small portion of the driveway on the Hartman property. The Hartman property contains the south and west shoreline of Carl Krey Lake and is bordered on all other sides by private land owners. The applicant is proposing to build a driveway to access the property through an outlot of record within the U.S. Home Corporation Rhapsody North 2<sup>nd</sup> Addition, immediately to the south. (The Rhapsody North development was permitted under MCWD Permit # 13-387.) District rules require that the permit application must bear the signature of the landowner, so there is adequate demonstration that the applicant has the authority to perform the work. Here, the applicant has provided a copy of an executed and recorded easement that affords it the legal right to construct the driveway on the U.S.Homes property as proposed (Attachment 3). For the District's purposes, this is adequate evidence of the applicant's right to perform the proposed work. As the District's standard permit language states, it remains the applicant's legal responsibility to ensure that all work that it performs is within its legal rights. An easement evidencing a similar right to work on the Teller property is a recommended permit condition.

This permit is before the Board of Managers for determination because the proposed project requires a variance from the buffer provision of the Wetland Protection rule. The driveway is proposed to extend from a terminal cul de sac of Krey Lake Court on the U.S. Home property, extending onto the Hartman Property. A preserve wetland is located on the Hartman property and the U.S. Home property. Under permit 13-387, a 75-foot buffer was established

by U.S. Homes over the wetland located on the U.S. Homes Property; except that at the western edge of the wetland, buffer was limited to the extent of the U.S. Home property – approximately 25-feet in width at its narrowest point. In order to gain access to the property, the applicant is proposing to extend Krey Lake Court through this 25-foot portion of the preserve wetland buffer, reducing the width to 10-ft at the narrowest point. The applicant proposes to mitigate the shortfall from the buffer requirement with compensatory buffer on the Hartman property and stormwater-management facilities that exceed required performance standards, providing supplemental stormwater-management capacity and protection of the remaining wetland buffer and wetland.

**Erosion Control:**

The District’s Erosion Control rule is applicable for any project that proposes earth disturbance of 5,000 square feet or more. The project proposes approximately 56,638 square feet of earth disturbance, therefore the rule is triggered. Erosion and sediment control best management practices (BMPs) provided include: silt fence, double silt fence for protection of the wetland and wetland buffer, and 6 inches of topsoil for stabilization. The erosion control plan meets District rule requirements.

**Stormwater Management:**

The District’s Stormwater Management rule is applicable for any project proposing to increase the area of impervious surface of a parcel. The proposed driveway will increase impervious surface of a prior development by 0.22 acre. When the U.S. Homes property was developed, it was designed to treat phosphorus, rate, and volume control for the entire site’s impervious surface. This project is considered an extension of the U.S. Homes development and so the applicant is required to treat phosphorus, rate, and volume control for the new impervious surface that it is now proposing. To meet these requirements, the applicant is utilizing tree preservation, a swale side slope with soil amendments west of the driveway, and a roadside ditch. To meet the District’s volume control requirement, the project is required to provide 815 cubic feet of abstraction. Through the soil amendments and tree preservation, the project proposes 1,708 cubic feet of volume abstraction. The District’s rule requires a no net increase in the amount of phosphorus leaving the site. The applicant has modeled the current phosphorus load to be 0.1 lbs/yr. The project will increase phosphorus loading to 0.4 lbs/yr. The applicant proposes to treat for 0.3 lbs/yr. by providing the soil amendments and ditches, therefore there will be no net-increase in phosphorus loading. The applicant has submitted Minimal Impact Design Standards calculations showing conformance with the District’s phosphorus control requirements and hydroCAD calculations showing conformance with the District’s rate control requirements. Runoff from the proposed driveway that is not captured by the soil amendments will be routed to either the culvert to the south or the culvert to the northwest via a swale side slope and ultimately drain to Carl Krey Lake. There is not a substantial increase of flow at the property boundary for either point of discharge to create or exacerbate erosion or drainage problems. Post-construction run-off rates to the downstream receiving waterbody, Carl Krey Lake, have been decreased as shown in the table below:

Scenario	1-yr (cfs)	10-yr (cfs)	100-yr (cfs)
Pre-development	17.3	43.5	93.2
Post-development	16.6	40.8	81.2

**Wetland Protection & Variance:**

When work is subject to the District’s Stormwater Management Rule and/or the Waterbody Crossings & Structure Rule, the vegetated buffer requirement under the District’s Wetland Protection Rule requires that buffer be established on that part of any wetland downgradient from the land alteration. A preserve wetland is located on the Hartman property and the U.S. Homes property. Construction of the proposed driveway will not involve any impact to the wetland, however Section 5 of the rule applies to require a 75-foot buffer on the edge of the wetland downgradient from the proposed disturbance. Under permit 13-387, compliant buffer was established adjacent to the wetland located on the U.S. Homes property, and protected under a declaration recorded on the property. The buffer extends only to the western edge of the U.S. Homes property, resulting in a buffer of less than 75 feet along an approximately 50-foot section of the wetland; the buffer is only 25 feet at a pinch point along this edge (See attachment 4.) The applicant is seeking a variance to reduce the applied buffer width to 10-ft. at its narrowest point on the U.S. Homes Property. Per Section 6(c) of the Wetland Protection rule, buffer width may vary based on demonstrated site constraints, but may not be reduced to less than 50 percent of the applicable applied buffer width. The minimum buffer width for this wetland is 37.5’.

Approximately 3,000 square feet of wetland buffer will be lost due to the construction of the road and approximately 3,000 square feet disturbed. The applicant proposes to maintain the intended buffer function by canting the paved

surface to direct run-off away from the wetland and buffer and providing 17,059 square feet of amended soil area on that downgradient side which will increase infiltration and provide protection for the wetland that was provided by the original buffer. The applicant has also proposed additional wetland buffer on his property to make-up for the area of wetland buffer lost on the U.S. Homes property. The applicant is not proposing to build a single family home at this time, however, when the home is to be built, the new principal residential structure buffer width will apply, which under the present rule is 25% of the distance between the existing structure at the point that is nearest to the wetland and the wetland, or 25-feet, whichever is greater. Based on the City of Victoria's building set-back requirements, a single family home will not be built within approximately 120-ft of the wetland, thus requiring a 30-ft buffer. The applicant has proposed to add an additional 20-feet to this wetland buffer in order to make-up for buffer lost due to the road construction on the U.S. Homes property. The driveway will eliminate approximately 3,000 square feet of existing buffer, the buffer provided on the Hartman property will total 50-ft. in width and provide approximately 17,000 square feet of protection. This 50-foot buffer will be recorded on the Hartman property as a condition of this permit. The applicant has provided a 5 year maintenance and monitoring plan for the temporary impacted buffer area. Under the required buffer protection declaration as recommended, when the property is developed, the buffer area will be adjusted as needed so that there is a 20-foot width of buffer in addition to the buffer required by the development.

The applicant has requested the variance to reduce the applied buffer width of a Preserve Wetland to 10-feet. Under the District's variance rule, the applicant must demonstrate the following:

- (a) Because of special conditions inherent to the property that do not apply generally to other land or structures in the District, strict compliance with the buffer width requirement will cause undue hardship to the applicant;
- (b) The hardship was not created by the applicant, its owner or representative, or a contractor. Economic hardship is not grounds for issuing a variance;
- (c) Granting the variance will not serve merely as a convenience to the applicant;
- (d) There is no feasible and prudent alternative to the driveway; and
- (e) Granting the variance will not impair or be contrary to the intent of the rules.

In the June 15, 2016 letter included in the packet (Attachment 5), the applicant's engineer addresses each of these criteria. Staff concurs in the factual statements and technical justifications stated in the letter as to the site constraint, lack of alternatives in order to utilize the building site on the Hartman property, minimal impact design solution, proposed buffer and stormwater management elements to compensate for the buffer width shortfall in the indicated location, and proposed site conditions that will maintain the protective function of the remaining buffer. Accordingly, staff finds there is an adequate technical basis and justification to grant the requested variance.

**Waterbody Crossings & Structures – after-the-fact Permit:**

During the Fall of 2015 the applicant stock-piled soils under permit 13-387 on U.S. Homes property, maintaining compliance for erosion control. During this time applicant graded for the proposed driveway and an 18" High Density Polyethylene (HDPE) culvert was installed to maintain drainage under the driveway for surface flow from agricultural land to the south through a wooded ravine to the riparian wetland. These activities did not disturb the buffer established under permit 13-387 but the culvert was installed without a District waterbody crossings permit.

To meet the requirements of the waterbody crossings rule, the applicant has submitted a hydraulic analysis showing no negative upstream or downstream impacts. There is no navigational use of this channel that must be preserved. The applicant has submitted two design alternatives, demonstrating that the placement of the road and culvert represents the minimal impact solution. One alternative was to build the driveway approximately 1.5 miles across two adjacent properties to the West. The current landowners are unwilling to grant an easement to construct the driveway. The second alternative was to not build the driveway, this would deem the lot inaccessible and thus unbuildable. Due to site constraints and property line limitations, the proposed driveway has to cross the watercourse, requiring a culvert to maintain the natural hydrology of the area. The culvert will not increase the present pollutant load that the surface flow carries. Furthermore, the applicant is providing a pre-treatment sedimentation pool south of the culvert to aid in water quality by providing a pre-treatment prior to discharge to the wetland buffer to the north. The stormwater facility maintenance declaration required under this permit will include maintenance of this sedimentation pool.

The applicant is exempt from providing aquatic and upland wildlife passage per section 3(d)(4) for a low traffic private road serving a single parcel that does not exceed the design for 40 mph due to horizontal curves, vertical curves, and the grade of the proposed driveway.

Staff finds that the rule requirements for an after-the-fact waterbody crossings permit are met. The required maintenance declaration will include maintenance of the culvert to preserve its hydraulic capacity and address any future erosion or scour.

Attachments:

1. Permit Application
2. Site Location Map
3. U.S. Homes Easements
4. Site Plan
5. Variance Analysis
6. Inspection Report

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Heidi Quinn

Date: 6/30/2016

# Attachment 1

15-675

WATER RESOURCE PERMIT APPLICATION FORM	
Use this form to notify/apply to the Minnehaha Creek Watershed District (MCWD) of a proposed project or work which may fall within their jurisdiction. Fill out this form completely and submit with your site plan, maps, etc. to the MCWD at: 15320 Minnetonka Blvd. Minnetonka, MN 55345. Keep a copy for your records. <b>YOU MUST OBTAIN ALL REQUIRED AUTHORIZATIONS BEFORE BEGINNING WORK.</b>	
1. Name of each property owner: <u>Gerald Hartman / Hartman Communities LLC</u> Mailing Address: <u>1750 Tower Blvd PO 65</u> City: <u>Victoria</u> State: <u>MN</u> Zip: <u>55386</u> Email Address: <u>jerry@hartmandcommunities.com</u> Phone: <u>612-385-3959</u> Fax: <u>952-368-4596</u>	
2. Property Owner Representative Information (not required) (licensed contractor, architect, engineer, etc...) Business Name: _____ Representative Name: _____ Business Address: _____ City: _____ State: _____ Zip: _____ Email Address: _____ Phone: _____ Fax: _____	
3. Project Address: <u>8135 Krey Lake Court</u> City: <u>Victoria</u> State: <u>MN</u> Zip: <u>55386</u> Qtr Section(s): _____ Section(s): <u>15</u> Township(s): <u>116</u> Range(s): <u>024</u> Lot: _____ Block: _____ Subdivision: <u>Phayobady North</u> PID: <u>650150330</u>	
4. Size of project parcel (square feet or acres): <u>NA</u> <u>40 acres</u> Area of disturbance (square feet): <u>56,628</u> Volume of excavation/fill (cubic yards): _____ Area of existing impervious surface: <u>0</u> Area of proposed impervious surface: <u>0.22 acres</u> Length of shoreline affected (feet): <u>NA</u> Waterbody (& bay if applicable): _____	
5. Type of permit being applied for (Check all that apply): <input checked="" type="checkbox"/> EROSION CONTROL <input type="checkbox"/> WATERBODY CROSSINGS/STRUCTURES <input type="checkbox"/> FLOODPLAIN ALTERATION <input checked="" type="checkbox"/> STORMWATER MANAGEMENT <input type="checkbox"/> WETLAND PROTECTION <input type="checkbox"/> APPROPRIATIONS <input type="checkbox"/> DREDGING <input type="checkbox"/> ILLICIT DISCHARGE <input type="checkbox"/> SHORELINE/STREAMBANK STABILIZATION	
6. Project purpose (Check all that apply): <input type="checkbox"/> SINGLE FAMILY HOME <input type="checkbox"/> MULTI FAMILY RESIDENTIAL (apartments) <input type="checkbox"/> ROAD CONSTRUCTION - <u>Private Driveway</u> <input type="checkbox"/> COMMERCIAL or INSTITUTIONAL <input type="checkbox"/> UTILITIES <u>for single family home</u> <input type="checkbox"/> SUBDIVISIONS (include number of lots) <input type="checkbox"/> DREDGING <input type="checkbox"/> LANDSCAPING (pools, berms, etc.) <input type="checkbox"/> SHORELINE/STREAMBANK STABILIZATION <input type="checkbox"/> OTHER (DESCRIBE): _____	
7. NPDES/SDS General Stormwater Permit Number (if applicable): <u>000042166</u>	
8. Waterbody receiving runoff from site: <u>Krey Lake</u>	
9. Project Timeline: Start Date: <u>11-10-2015</u> Completion Date: <u>11-10-2016</u>	
Permits have been applied for: City <input checked="" type="checkbox"/> County _____ MN Pollution Control Agency <input checked="" type="checkbox"/> DNR _____ COE _____ Permits have been received: City <input checked="" type="checkbox"/> County _____ MN Pollution Control Agency <input checked="" type="checkbox"/> DNR _____ COE _____	
By signing below, I hereby request a permit to authorize the activities described herein. I certify that I am familiar with MCWD Rules and that the proposed activity will be conducted in compliance with these Rules. I am familiar with the information contained in this application and, to the best of my knowledge and belief, all information is true, complete and accurate. I understand that proceeding with work before all required authorizations are obtained may be subject to federal, state and/or local administrative, civil and/or criminal penalties.  <u>Gerald M. Hartman</u> Signature of Each Property Owner  Date: <u>12-7-15</u>	



Attachment A

250-21

**Erosion Control Supplemental Information**

Final Stabilization will be provided with (seed, sod, etc): Seed  
and 6 inches of topsoil will be added/replaced prior to final stabilization.

Concrete Washout: Location of concrete washout  
 Off site  Indicated on site plans  Other (description): NO concrete  Contained on truck:

Vegetation: Protective fencing will be installed as necessary so as to exclude all fill and equipment from the drip line or critical root zone, whichever is greater, of all vegetation to be retained.  
 Yes  Not Applicable  Other (description):

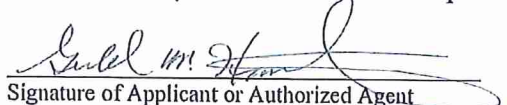
Inspections: An erosion control inspection plan is required for all projects disturbing 1/4 acre or greater. The inspection requirements are as follows:

- 1) The individual identified as being responsible for implementing the erosion control plan must routinely inspect the construction site once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours.
- 2) All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the erosion control plan and made available at the District's request within 24 hours. Records of each inspection and maintenance activity shall include:
  - i. Date and time of inspections;
  - ii. Name of person conducting inspections;
  - iii. Findings of inspections, including recommendations for corrective actions;
  - iv. Corrective actions taken (including dates, times and party completing maintenance activities); and
  - v. Date and amount of all rainfall events greater than 0.5 inches in 24 hours.

Provide the following information for the primary individual responsible for implementing the erosion control plan:

Name Gerald Hartman (Jerry)  
 Organization HARTMAN COMMUNITIES  
 Phone 752-368-4345 Alternate Phone 612-385-3459  
 Email jerry@hartmancommunities.com

I certify that I am familiar with the requirements of the MCWD Erosion Control Rule and that the proposed activity will be conducted in compliance with this rule.

  
Signature of Applicant or Authorized Agent

17-7-15  
Date

**Request for Variance  
And  
Statement of Hardship**

The Board of Managers may hear requests for variances from the literal provisions of these rules in instances where their strict enforcement would cause undue hardship because of circumstances unique to the property under consideration. The Board of Managers may grant variances where it is demonstrated that such action will be keeping with the spirit and intent of these rules. An applicant granted a variance from full compliance with a requirement of the rules would be required to meet the requirement to the degree feasible short of full compliance.

In order to grant a variance, the Board of Managers shall determine that:

- the special conditions which apply to the structure or land in question do not apply generally to other land or structures in the District
- the granting of such variance will not merely serve as a convenience to the applicant,
- the variance will not impair or be contrary to the intent of these rules.

A hardship cannot be created by the landowner, the landowner's agent or representative, or a contractor, and must be unique to the property. Economic hardship are not grounds for issuing a variance.

A variance shall become void one year after it is granted if not used.

A violation of any condition set forth in a variance shall be a violation of the District rules and shall automatically terminate the variance.

Date 6/23/16

Permit # 15-675

Applicant Hartman Communities, LLC.

Address 1750 Tower Blvd, PO Box 65, Suite 201, Victoria MN 55386

Telephone number (952) 368-4345

Property ID number 653890360

MCWD Rule (circle applicable rule(s)): A B C D E F G J K M N

Description of project:

construction of a 700 foot long driveway

**Requirements of rule(s)**

The Base Buffer Width shall be determined by the management class of the wetland as evaluated by the District's Functional Assessment of Wetlands or by the current version of the Minnesota Routine Assessment Method (MnRAM). The wetland in question is a Preserve Wetland with a 75 foot buffer.

**Requested Variance**

We are requesting to reduce the buffer from 75 feet to 10 feet for a very short distance.


**Statement of Hardship (include any mitigating circumstances).**

The only feasible access to the property is from the recently constructed Krey Lake Court in the Rhapsody North 2<sup>nd</sup> Addition constructed by Lennar Homes. The property is bound by the Krey Lake to the East, Wetlands to the North, and property we do not have control over to the West. The possible access to the West is approximately one half mile across two adjacent properties where the current land owners are unwilling to grant an easement to construct the lengthy driveway around the existing wetlands and through their property.



How do you propose to meet the requirements of the applicable MCWD rules?

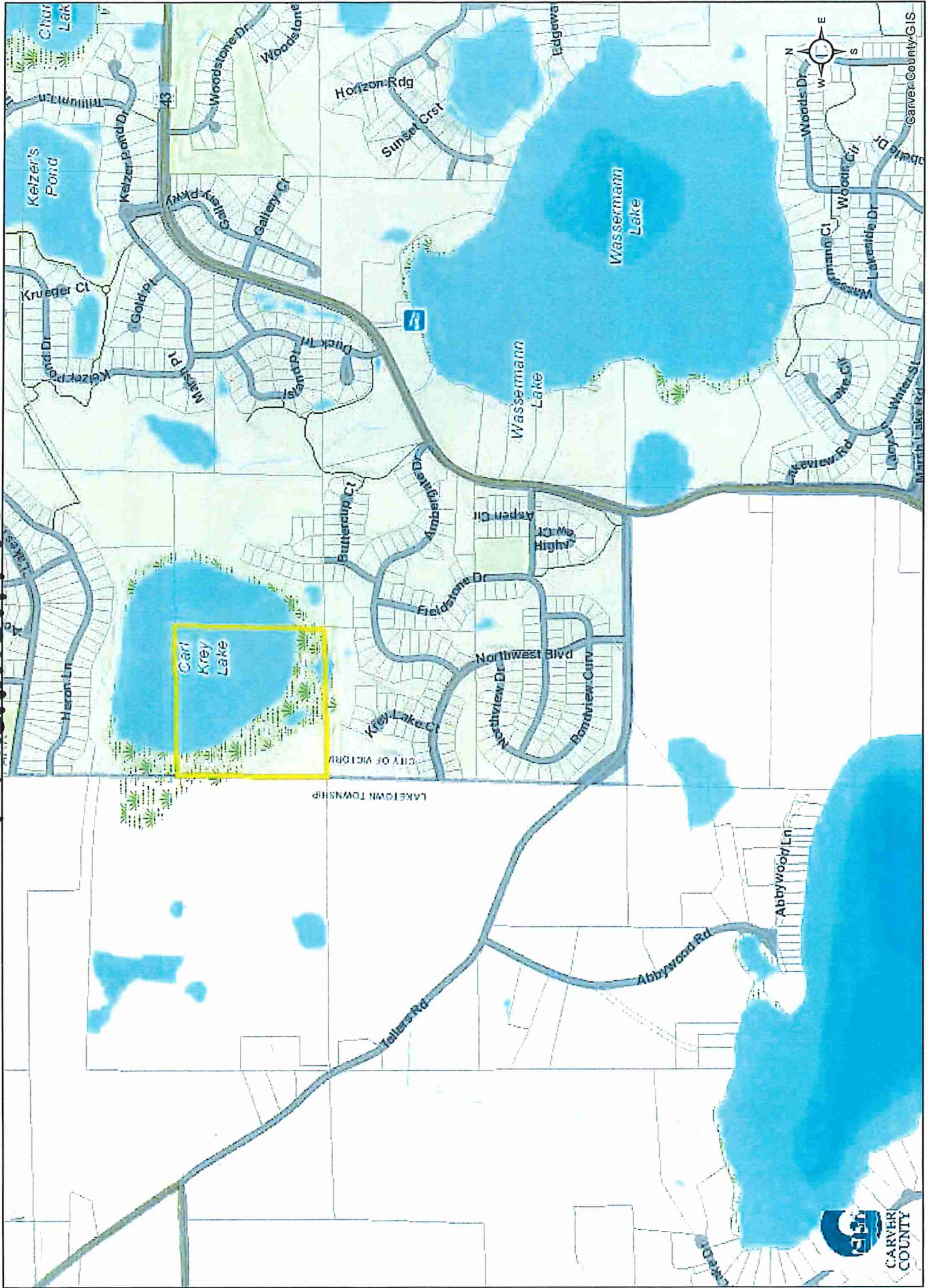
Applicant name: Gerald Hartman Date: 6/23/2016

Applicant signature: 

Staff Recommendation (For staff use only) Approve

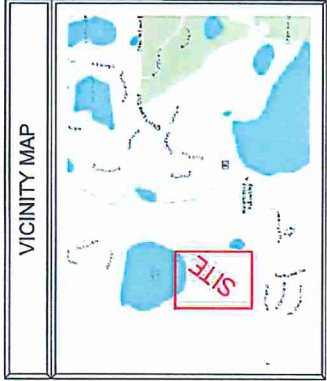


# Attachment 2



This map was created using Carver County's Geographic Information Systems (GIS), it is a compilation of information and data from various City, County, State, and Federal offices. This map is not a surveyed or legally recorded map and is intended to be used as a reference. Carver County is not responsible for any inaccuracies contained herein.

Map Date: 6/27/2016

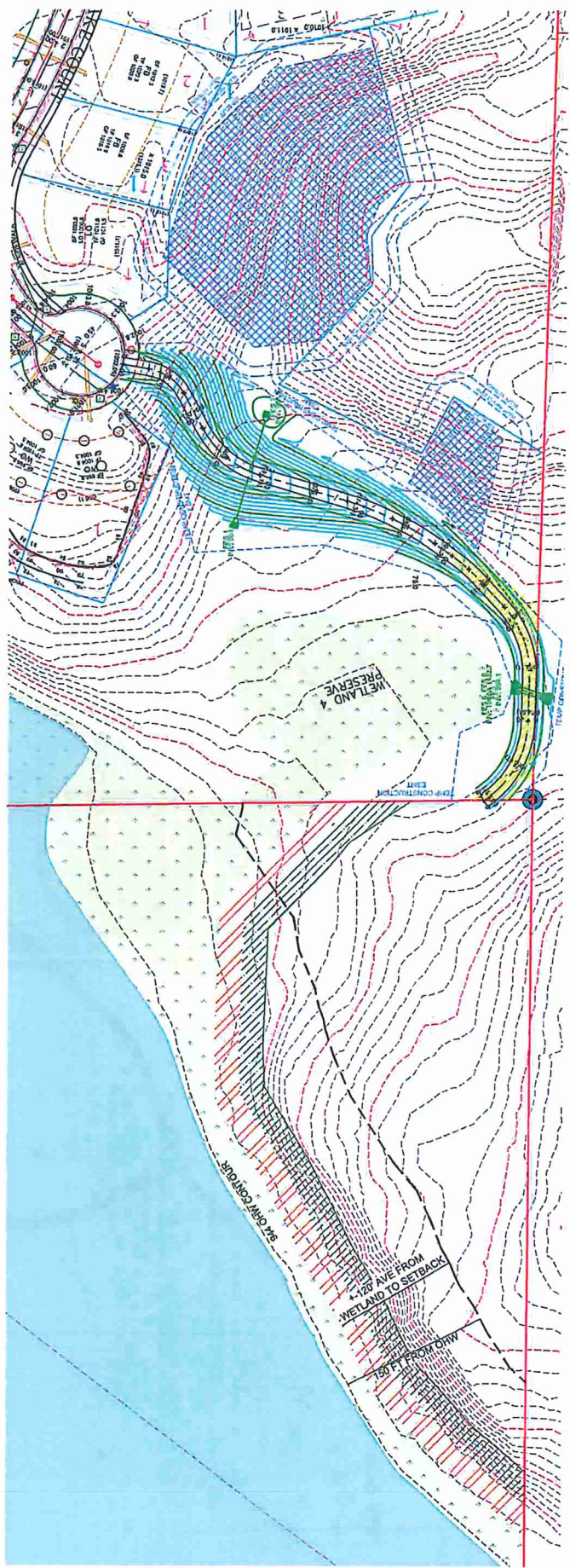


**CLIENT/DEVELOPER**

HARTMAN COMMUNITIES  
 1750 Tower Boulevard Suite 201  
 Victoria, MN 55386  
 Attn: Terry Hartman 952-368-4545

**LAND SURVEYOR/CIVIL ENGINEER**

SATHRE-BERGQUIST INC.  
 150 S. Broadway Ave.  
 Wayzata, MN 55391  
 Contact 1: Dan Schmidt  
 Contact 2: Chadler Wiemerlage  
 T-952-476-6000  
 F-952-476-0104



DATE OF SURVEY: 02/27/15  
 PROJECT NO.: 20034002  
 SHEET NO.: 1 OF 10

DESCRIPTION	DATE	BY	DATE
DESIGNED	01/15/15	DLB	01/15/15
DRAWN BY	01/15/15	DLB	01/15/15
CHECKED BY	02/11/15	DLB	02/11/15
DATE	02/11/15		

THE USER OF THIS PRODUCT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE USER OF THIS PRODUCT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE USER OF THIS PRODUCT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES.

USE OF THIS PRODUCT SHALL BE LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE TITLE OF THIS PRODUCT. THE USER OF THIS PRODUCT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES. THE USER OF THIS PRODUCT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES.

SATHRE-BERGQUIST, INC.  
 150 SOUTH BROADWAY WAYZATA, MN 55391 (651) 766-0000

CITY PROJECT NO.:  
 VICTORIA,  
 MINNESOTA

FILE NO.:  
 20034002  
 1  
 10  
 CONCEPT SKETCH  
 HARTMAN COMMUNITIES

Wetland 4

# Attachment 3

## PRIVATE DRIVEWAY, DRAINAGE AND UTILITY EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

This Private Driveway, Drainage and Utility Easement, and Temporary Construction Easement Agreement (the "Agreement") is entered into \_\_\_\_\_, 2015, between U.S. Home Corporation, a Delaware corporation ("**U.S. Home**"), and Hartman Communities LLC, a Minnesota limited liability company ("**Hartman**").

WHEREAS, U.S. Home is the owner of that certain tract of land located in Carver County, Minnesota, which is legally described as Outlot C, Rhapsody North 2<sup>nd</sup> Addition, and is hereafter referred to as "**Parcel A**"; and

WHEREAS, Hartman is the owner of that certain tract of land located in Carver County, Minnesota, which is legally described on **Exhibit 1** attached hereto and incorporated herein by reference, and which is hereafter referred to as "**Parcel B**" (Parcel A and Parcel B are sometimes collectively referred to herein as the "**Parcels**"); and,

WHEREAS, U.S. Home and Hartman desire to establish a private driveway easement, and a utility and drainage easement over, under, upon and across parts of Parcel A, for the exclusive benefit of Parcel B, together with a temporary construction easement to construct said improvements, in order to establish a single means of ingress and egress to Parcel B from the public street Krey Lake Ct, in the City of Victoria, State of Minnesota, as well as to create and declare certain utility and drainage easements, together with agreements, covenants and restrictions with respect to the use and maintenance thereof.

NOW, THEREFORE, in consideration of the agreements and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, U.S. Home and Hartman agree as follows:

1. Recitals. The recitals set forth above are incorporated into the body of this Agreement.
2. Grant of Driveway Easement. U.S. Home, its heirs, administrators, executors, successors and assigns (collectively referred to herein as the "**Parcel A Owner**") grants and

E. K. Kumbhakar

conveys to Hartman, its heirs, administrators, executors, successors and assigns (collectively referred to herein as the "**Parcel B Owner**") a perpetual, exclusive private driveway easement for ingress and egress purposes, and an associated utility easement for the purpose of locating underground utilities beneath the driveway, all for the benefit of, and as an appurtenance to, Parcel B, over, across, upon and beneath that portion of Parcel A, as legally described on **Exhibit 2**, and as depicted on **Exhibit 3**, both attached hereto and incorporated herein by reference (collectively the "**Driveway Easement**").

3. Grant of Utility and Drainage Easements. The Parcel A Owner also grants and conveys to the Parcel B Owner, perpetual utility and drainage easements for the benefit of, and as an appurtenance to, Parcel B and the Driveway Easement, over, across, upon and beneath those portions of Parcel A as legally described on **Exhibit 4**, and as depicted on **Exhibit 5**, both attached hereto and incorporated herein by reference (collectively the "**Utility and Drainage Easement**") (the Driveway Easement and Utility and Drainage Easement are sometimes collectively referenced herein as the "**Easements**").

4. Rain Gardens/Drainage Ponds. The Parcel B Owner is further granted an easement to access the rain gardens/drainage ponds located at the terminus of each of the ends of the Utility and Drainage Easement as the Parcel B Owner is obligated to maintain such rain gardens/drainage ponds.

5. Temporary Construction Easement. The Parcel A Owner also grants and conveys to the Parcel B Owner, a temporary construction easement under, over, across, upon and beneath that portion of Parcel A as legally described on **Exhibit 6**, and as depicted on **Exhibit 7**, both attached hereto and incorporated herein by reference (the "**Temporary Construction Easement**"). The rights granted pursuant to the Temporary Construction Easement shall terminate upon completion of construction of the improvements contained within the Easements, the construction of which shall be in compliance with all applicable statutes, codes, ordinances, rules and regulations, and in a good and workmanlike manner.

6. Negative Covenants. The Parcel A Owner shall not: (i) interfere with Parcel B Owner's use of the Easements or Temporary Construction Easement; (ii) obstruct the entry or exit of vehicles, pedestrians or utilities of whatever nature, over or under the Easements or Temporary Construction Easement; or (iii) interfere in any manner with the use of the Easements or Temporary Construction Easement benefiting the Parcel B.

7. Repairs and Maintenance. The Parcel B Owner will be responsible for the entire cost of any repair or maintenance to the Easements, including but not limited to: (i) snow plowing and snow removal from the Driveway Easement, (ii) patchwork, seal coating, grading and any other necessary surface repair of the Driveway Easement, (iii) any structural or foundational reinforcement required to maintain the Easements' integrity; and (iv) trimming, removing or otherwise maintaining landscaping and vegetation in and around the Easements.

8. Entry. The Easements created and granted in this Agreement shall and do include the right of the Parcel B Owner, and its respective contractors, agents, representatives, successors and assigns to enter upon the adjacent portion of Parcel A to the Easements as may be reasonably necessary in the future for the purpose of doing any construction, installation, repair or replacement work necessary to enable the use, enjoyment and benefit of the Easements to the Parcel B Owner (the "**Easement Work**").

9. Quality of the Work. All Easement Work shall be completed: (i) in such manner as to not unreasonably interfere with the normal use and enjoyment of the Easements; (ii) in full compliance with all applicable statutes, codes, ordinances, rules and regulations; (iii) with materials, equipment and design and engineering standards, equal to or better than those originally used; and (iv) in a good and workmanlike manner. .

10. Damage to Easements. Notwithstanding that which is set forth in paragraph 7 above, if the Parcel A Owner is responsible for willfully or negligently damaging the Easements, or the damage is solely caused by the Parcel A Owner or its permittee, contractor, employee, agent, invitee or licensee, the Parcel A Owner will be fully responsible (i.e. 100%) for the cost of repairing such damage.

11. Default. Failure of an Owner to comply with any of the terms and conditions of this Agreement shall be considered a default hereunder. Notice of any default may be given in writing from one Owner to the other. If any such default is not cured, or commenced to be cured to the reasonable satisfaction of the other Owner, within thirty (30) days of delivery of a notice of default, the complaining Owner shall have all of the rights and remedies available at law and in equity, including injunctive rights, as well as the right to an award of reasonable attorneys' fees and costs incurred in enforcing this Agreement by judicial action.

12. Binding Effect. The terms of this Agreement shall run with the Parcels, and this Agreement shall be binding upon and inure to the benefit of the Owners and their respective heirs, successors and assigns.

13. Captions; Exhibits. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

14. Entire Agreement/Amendments. This Agreement contains the entire agreement and understanding with reference to the easements, covenants and restrictions created hereby, and no amendment or termination hereof shall be effective unless the amendment or termination is set forth in a writing executed by both Owners of the Parcels.

15. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the day and year first written above.

U.S. HOME CORPORATION

[Signature]  
By: J. Aune  
Its: VP

HARTMAN COMMUNITIES, LLC

[Signature]  
By: TERRANCE J HARTMAN  
Its: CHIEF MGR

STATE OF Minnesota )  
                                      ) ss.  
COUNTY OF Hennepin )

The foregoing instrument was acknowledged before me November 18<sup>th</sup>  
[Signature]  
2015, by Jon Aune, the vice president of U.S. Home Corporation, a  
Delaware corporation, on behalf of the corporation.

[Signature]  
Notary Public

STATE OF Minnesota )  
                                      ) ss.  
COUNTY OF Carver )

 CAROLE TOOHEY  
Notary Public  
State of Minnesota  
My Commission Expires  
January 31, 2017

The foregoing instrument was acknowledged before me November 10<sup>th</sup>  
2015, by Terrance J Hartman, the Chief Manager of Hartman Communities, LLC, a  
Minnesota limited liability company, on behalf of the company.

[Signature]  
Notary Public

 BRADLEY R. STORMS  
NOTARY PUBLIC - MINNESOTA  
My Commission Expires Jan. 31, 2018



This instrument was drafted by/return to:  
Melchert Hubert Sjodin, PLLP  
121 West Main Street, Suite 200  
Waconia, MN 55387  
(rmh)

**EXHIBIT 1**  
**Legal Description of Parcel B**

That part of the South-half of the Southeast Quarter of Section 15, Township 116, Range 24,  
Carver County, Minnesota, lying West of the East 1354.73 feet thereof.

## EXHIBIT 2

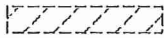
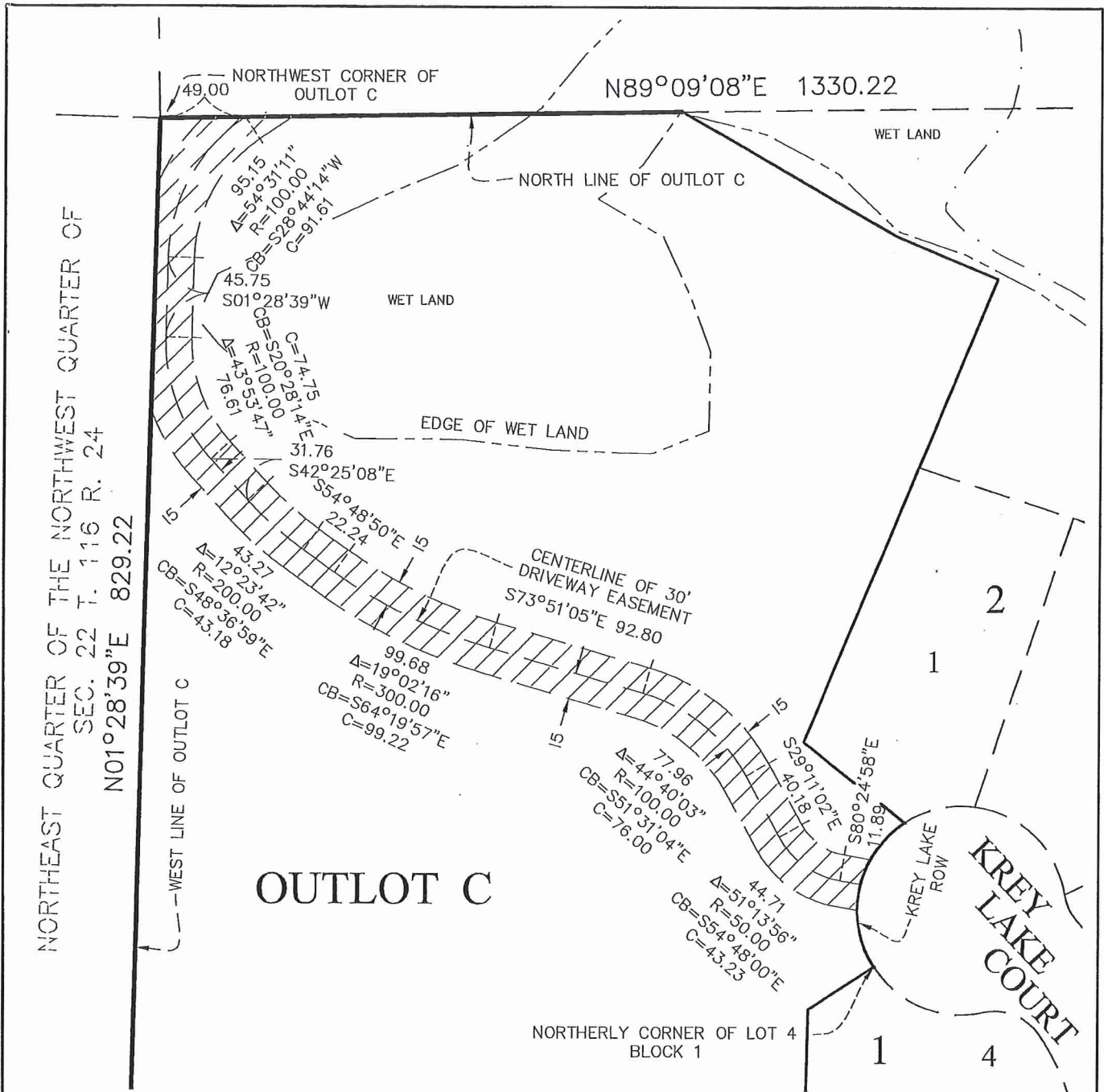
### Legal Description of Driveway and Utility Easement

A 30.00 foot wide driveway and utility easement over, under, and across that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof Carver County, Minnesota, described as follows:

The centerline of said driveway easement is described as commencing at the northwest corner of said Outlot C; thence on an assumed bearing North 89 degrees 09 minutes 08 seconds East along the north line of said Outlot C, a distance of 49.00 feet to the point of beginning; thence southerly a distance of 95.15 feet along a non-tangential curve, concave to the east, having a radius of 100.00 feet and a central angle of 54 degrees 31 minutes 11 seconds that has a chord bearing of South 28 degrees 44 minutes 14 seconds West for 91.61 feet; thence South 01 degrees 28 minutes 39 seconds West, tangent to said curve, a distance of 45.75 feet; thence southeasterly a distance of 76.61 feet along a tangential curve, concave to the northeast, having a radius of 100.00 feet and a central angle of 43 degrees 53 minutes 47 seconds; thence South 42 degrees 25 minutes 08 seconds East, tangent to said curve, a distance of 31.76 feet; thence southeasterly a distance of 43.27 feet along a tangential curve, concave to northeast, having a radius of 200.00 feet and a central angle 12 degrees 23 minutes 42 seconds; thence South 54 degrees 48 minutes 50 seconds East, tangent to said curve, a distance of 22.24 feet; thence easterly a distance of 99.68 feet along a tangential curve, concave to the north, having a radius 300.00 feet and a central angle of 19 degrees 02 minutes 16 seconds; thence South 73 degrees 51 minutes 05 seconds East, tangent to said curve, a distance of 92.80 feet; thence southeasterly a distance of 77.96 feet along a tangential curve, concave to the southwest, having a radius of 100.00 feet and a central angle of 44 degrees 40 minutes 03 seconds; thence South 29 degrees 11 minutes 02 seconds East, tangent to said curve, a distance of 40.18 feet; thence easterly a distance of 44.71 feet along a tangential curve, concave to the northeast, having a radius of 50.00 feet and a central angle of 51 degrees 13 minutes 56 seconds; thence South 80 degrees 24 minutes 58 seconds East, tangent to said curve, a distance of 11.89 feet to the right of way of Krey Lake Court and there terminating.

The side lines of said easement are to be shortened or prolonged to terminate at the north line of said Outlot C and the westerly line of the Right of Way of Krey Lake Court.

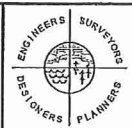
# EXHIBIT 3



Proposed Easement Area



SCALE IN FEET



**SATHRE-BERGQUIST, INC.**

150 South Broadway Ave.  
Wayzata, MN. 55391  
(952) 476-6000 www.sathre.com

**Easement Exhibit A**

Prepared For  
Jerry Hartman

Date: 09-14-15	Revision Date: 10-12-15
Prepared By: EMW	Check By: DBP
Layout Sheet: Drive Esmt	1 3
Project Number: 5401-660	

## EXHIBIT 4

### Legal Description of Utility and Drainage Easements

#### EASEMENT "A":

A 20.00 foot wide utility easement over, under, and across that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof Carver County, Minnesota, described as follows;

The centerline of said utility easement is described as commencing at the northwest corner of said Outlot C; thence on an assumed bearing South 01 degrees 28 minutes 39 seconds West along the west line of said Outlot C, a distance of 106.89 feet to the point of beginning; thence South 72 degrees 51 minutes 00 seconds East, a distance of 29.03 feet and there terminating.

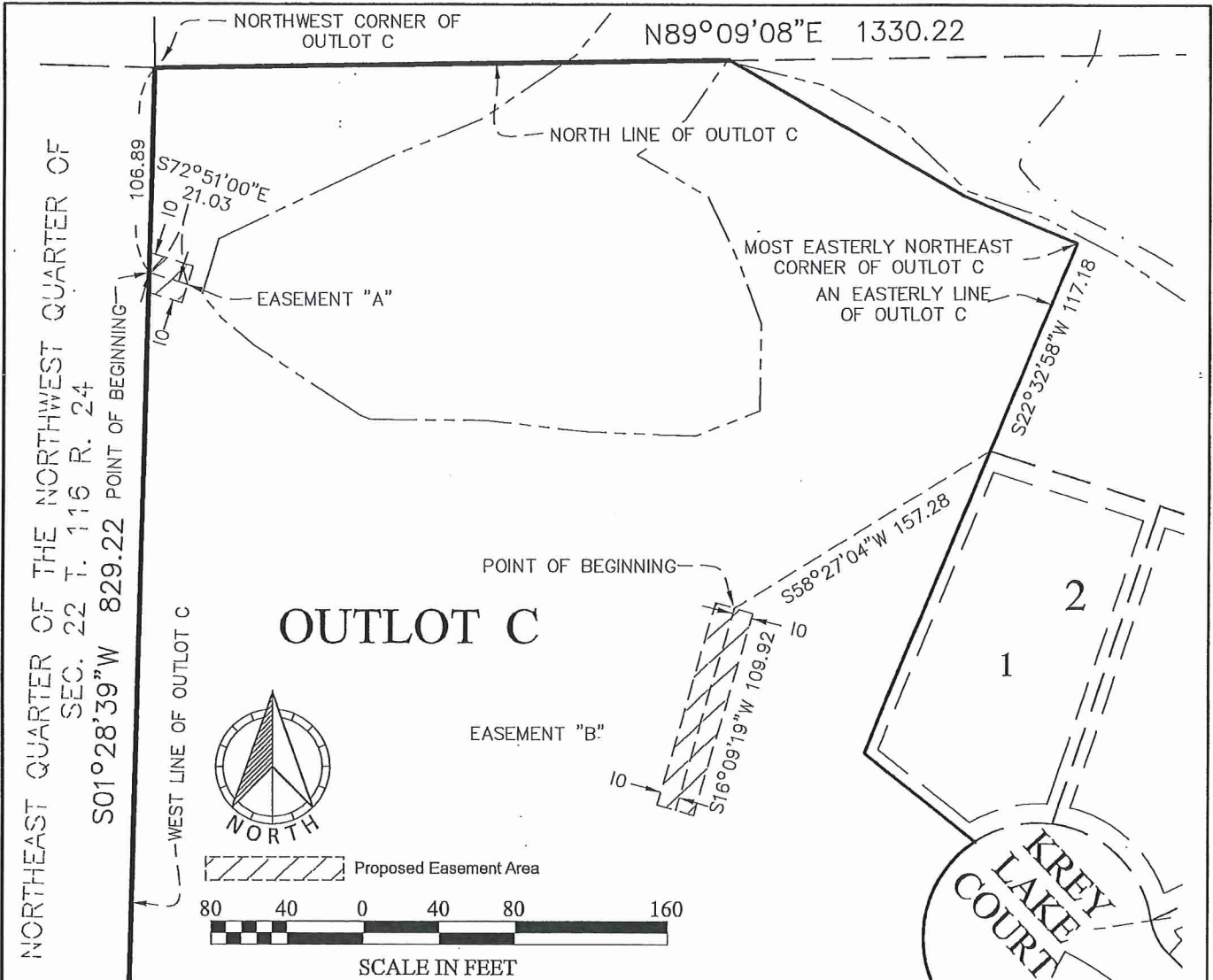
The side lines of said easement are to be shortened or prolonged to terminate at the west line of said Outlot C.

#### EASEMENT "B":

A 20.00 foot wide utility easement over, under, and across that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof Carver County, Minnesota, described as follows;

The centerline of said utility easement is described as commencing at the most easterly north east corner of said Outlot C; thence on an assumed bearing South 22 degrees 32 minutes 58 seconds West along an easterly line of said Outlot C, a distance of 117.18 feet; thence South 58 degrees 27 minutes 04 seconds West, a distance of 157.28 feet to the point of beginning; thence South 16 degrees 09 minutes 19 seconds West, a distance of 109.92 feet and there terminating.

# EXHIBIT 5



**EASEMENT "A": PROPOSED UTILITY EASEMENT DESCRIPTION**

A 20.00 foot wide utility easement over, under, and across that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof Carver County, Minnesota, described as follows;

The centerline of said utility easement is described as commencing at the northwest corner of said Outlot C; thence on an assumed bearing South 01 degrees 28 minutes 39 seconds West along the west line of said Outlot C, a distance of 106.89 feet to the point of beginning; thence South 72 degrees 51 minutes 00 seconds East, a distance of 29.03 feet and there terminating.

The side lines of said easement are to be shortened or prolonged to terminate at the west line of said Outlot C.

Proposed Easement Area: 421 Sq. Ft.

**EASEMENT "B": PROPOSED UTILITY EASEMENT DESCRIPTION**

A 20.00 foot wide utility easement over, under, and across that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof Carver County, Minnesota, described as follows;

The centerline of said utility easement is described as commencing at the most easterly north east corner of said Outlot C; thence on an assumed bearing South 22 degrees 32 minutes 58 seconds West along an easterly line of said Outlot C, a distance of 117.18 feet; thence South 58 degrees 27 minutes 04 seconds West, a distance of 157.28 feet to the point of beginning; thence South 16 degrees 09 minutes 19 seconds West, a distance of 109.92 feet and there terminating.

Proposed Easement Area: 972 Sq. Ft.

**TOTAL EASEMENT AREA; 1,393 Sq Ft.**

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Dated this 28th day of October, 2015.

SATHRE-BERGQUIST, INC.

*David B. Pemberton*  
 David B. Pemberton, PLS  
 Minnesota License No. 40344  
 pemberton@sathre.com



**SATHRE-BERGQUIST, INC.**

150 South Broadway Ave.  
 Wayzata, MN. 55391  
 (952) 476-6000 www.sathre.com

**Easement Exhibit**

Prepared For  
 Jerry Hartman

Date: 10-28-15	Revision Date:
Prepared By: EMW	Check By: DBP
Layout Sheet: S1rm Esmt	1/1
Project Number: 5401-660	

# EXHIBIT 6

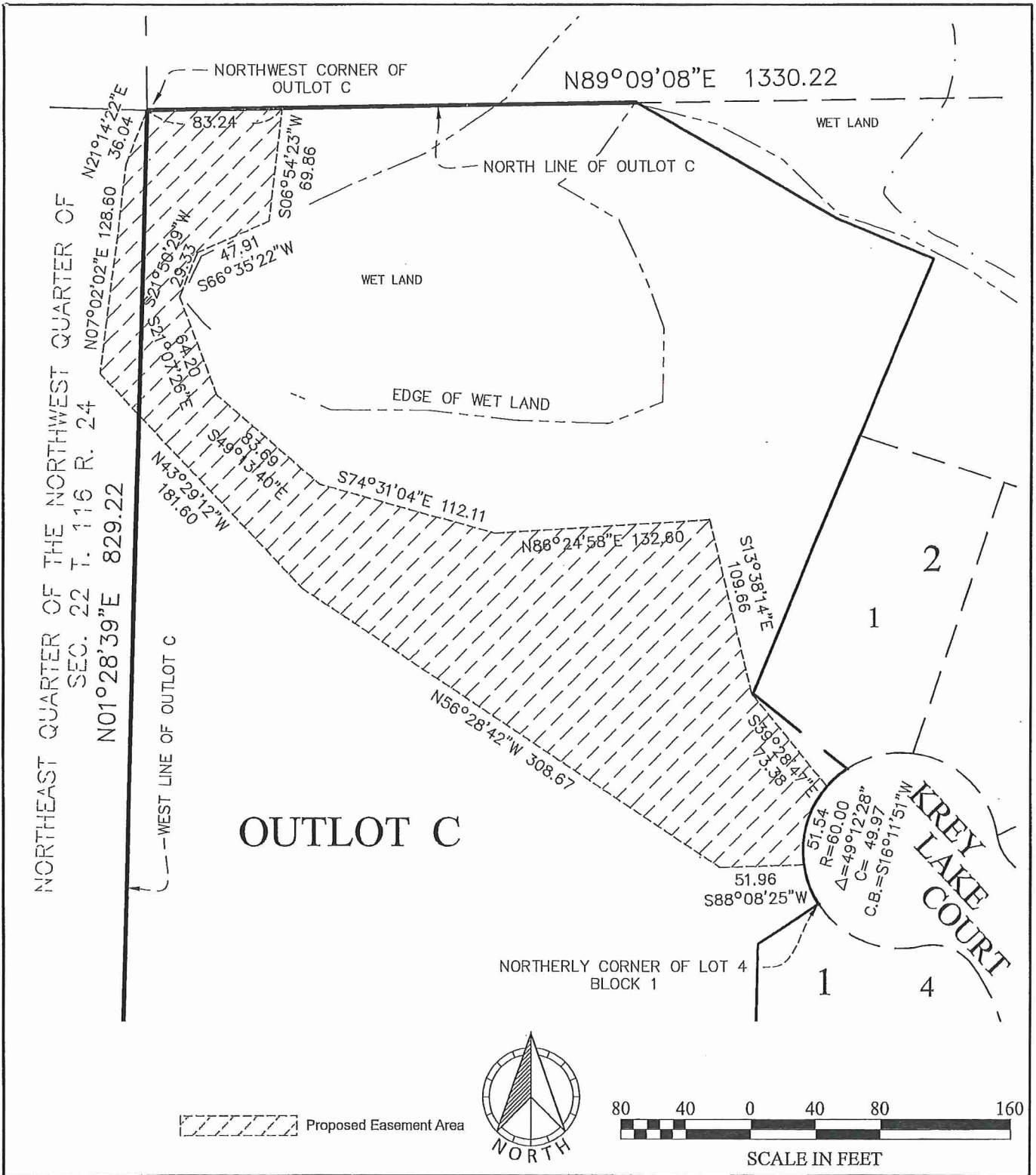
## EXHIBIT B: PROPOSED TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION

A temporary construction easement over that part of Outlot C, RHAPSODY NORTH 2ND ADDITION, according to the recorded plat thereof, Carver County, Minnesota; and that part of the Northeast Quarter of the Northwest Quarter of Section 22, Township 116, Range 24, Carver County, Minnesota described as follows;

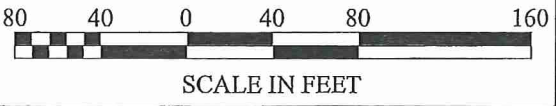
Beginning at the northwest corner of said Outlot C; thence on an assumed bearing North 89 degrees 09 minutes 08 seconds East, along the north line of Outlot C, a distance of 83.24 feet; thence South 06 degrees 54 minutes 23 seconds West, a distance of 69.86 feet; thence South 66 degrees 35 minutes 22 seconds West, a distance of 47.91 feet; thence South 21 degrees 50 minutes 29 seconds West, a distance of 29.33 feet; thence South 21 degrees 07 minutes 26 seconds East, a distance of 64.20 feet; thence South 49 degrees 13 minutes 40 seconds East, a distance of 83.96 feet; thence South 74 degrees 31 minutes 04 seconds East, a distance of 112.11 feet; thence South 13 degrees 38 minutes 14 seconds East, a distance of 109.66 feet; thence South 39 degrees 28 minutes 47 seconds East, a distance of 73.38 feet to the right of way of Krey Lake Court; thence southerly a distance of 51.54 feet along said right of way being a non-tangential curve, concave to the east, having a radius of 60.00 feet and a central angle of 49 degrees 12 minutes 28 seconds, and a chord which bears South 16 degrees 11 minutes 51 seconds East, a distance of 49.97 feet; thence South 88 degrees 08 minutes 25 seconds West, a distance of 51.96 feet; thence North 56 degrees 28 minutes 42 seconds West, a distance of 308.67 feet; thence North 43 degrees 29 minutes 12 seconds West, a distance of 181.60 feet; thence North 07 degrees 02 minutes 02 seconds East, a distance of 128.60 feet; thence North 21 degrees 14 minutes 22 seconds East, a distance of 36.04 feet to the point of beginning.

Proposed Easement Area: 56,726 Sq. Ft.

EXHIBIT 7



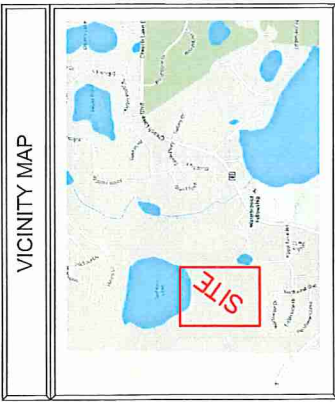
Proposed Easement Area



 <b>SATHRE-BERGQUIST, INC.</b> 150 South Broadway Ave. Wayzata, MN. 55391 (952) 476-6000 www.sathre.com	<b>Easement Exhibit B</b> Prepared For Jerry Hartman		Date: 09-14-15 Prepared By: EMW Layout Sheet: Grd Esmt Project Number: 5401-660	Revision Date: 10-12-15 Check By: DBP
			<table border="1"> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> </table>	2
2	3			

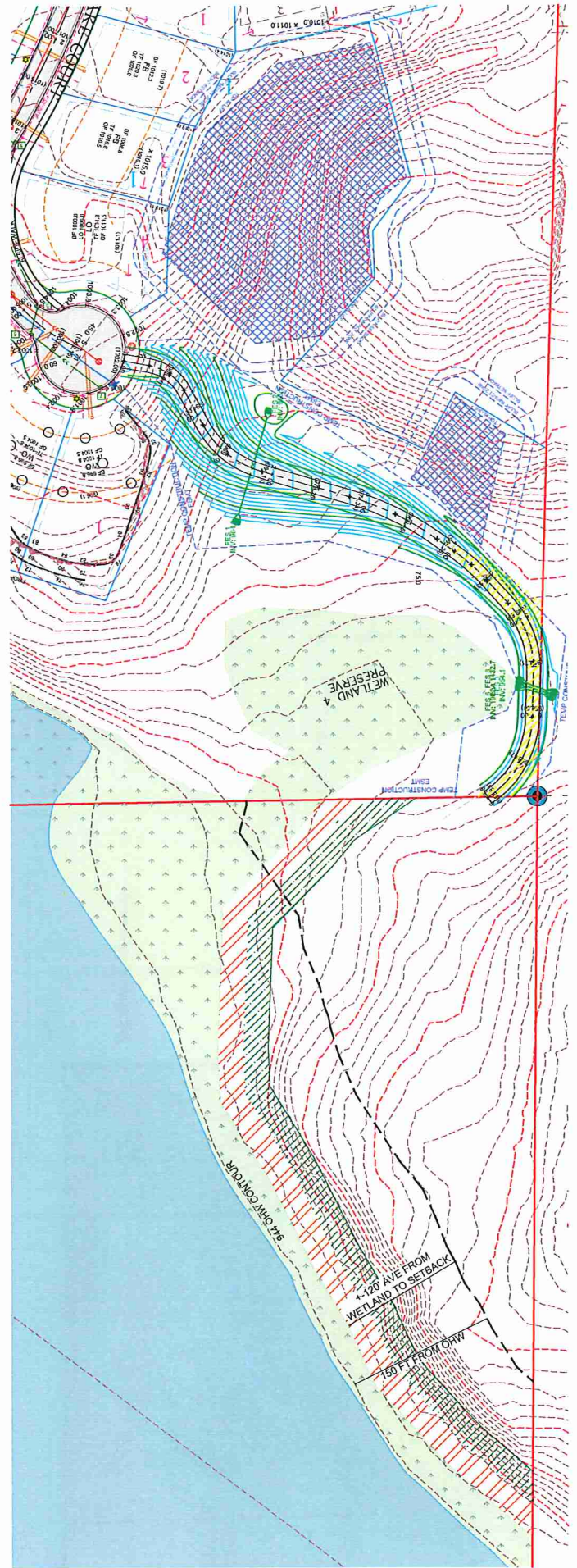
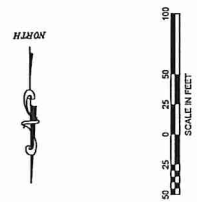


# Attachment 4

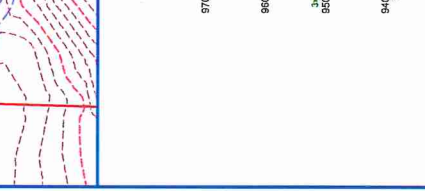
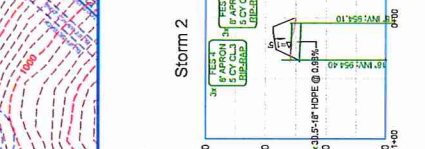
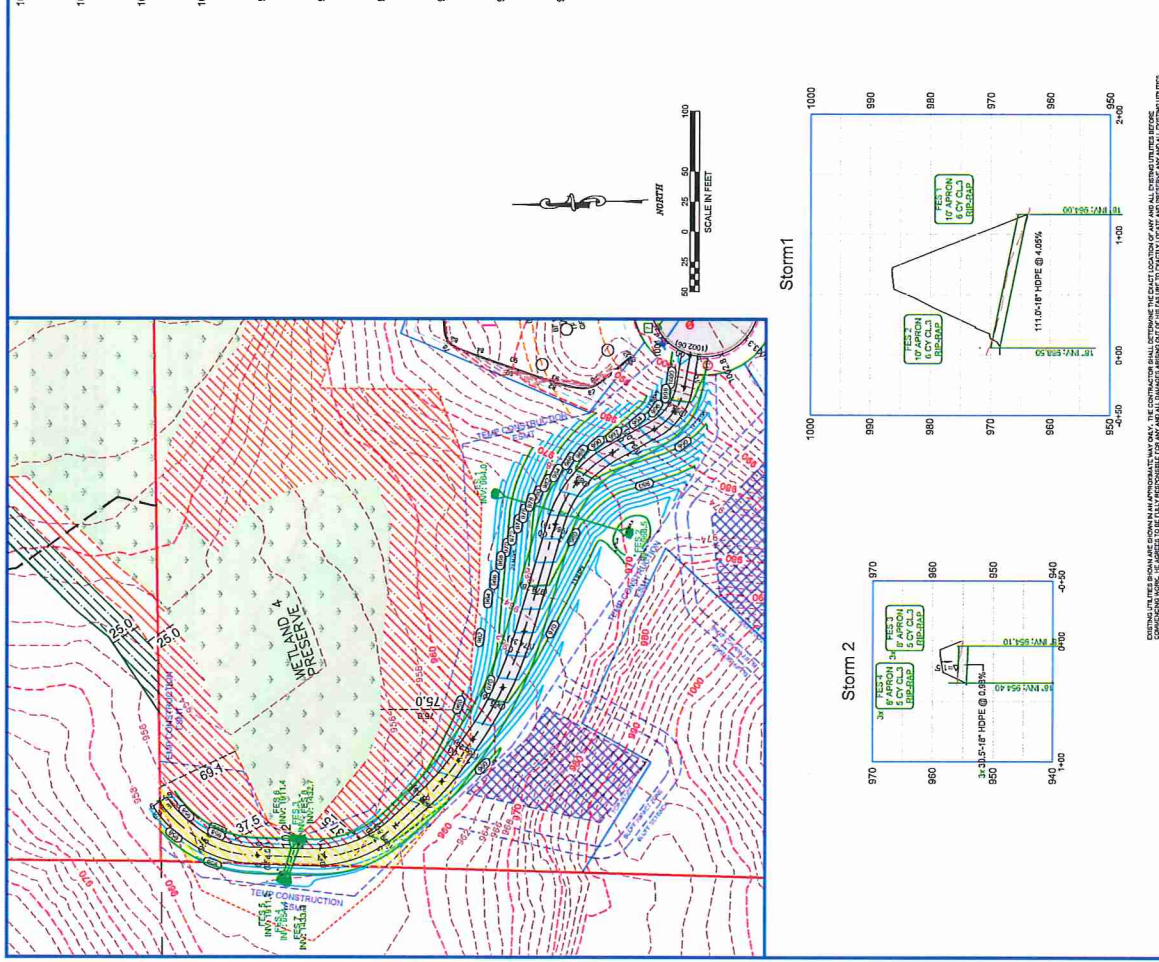
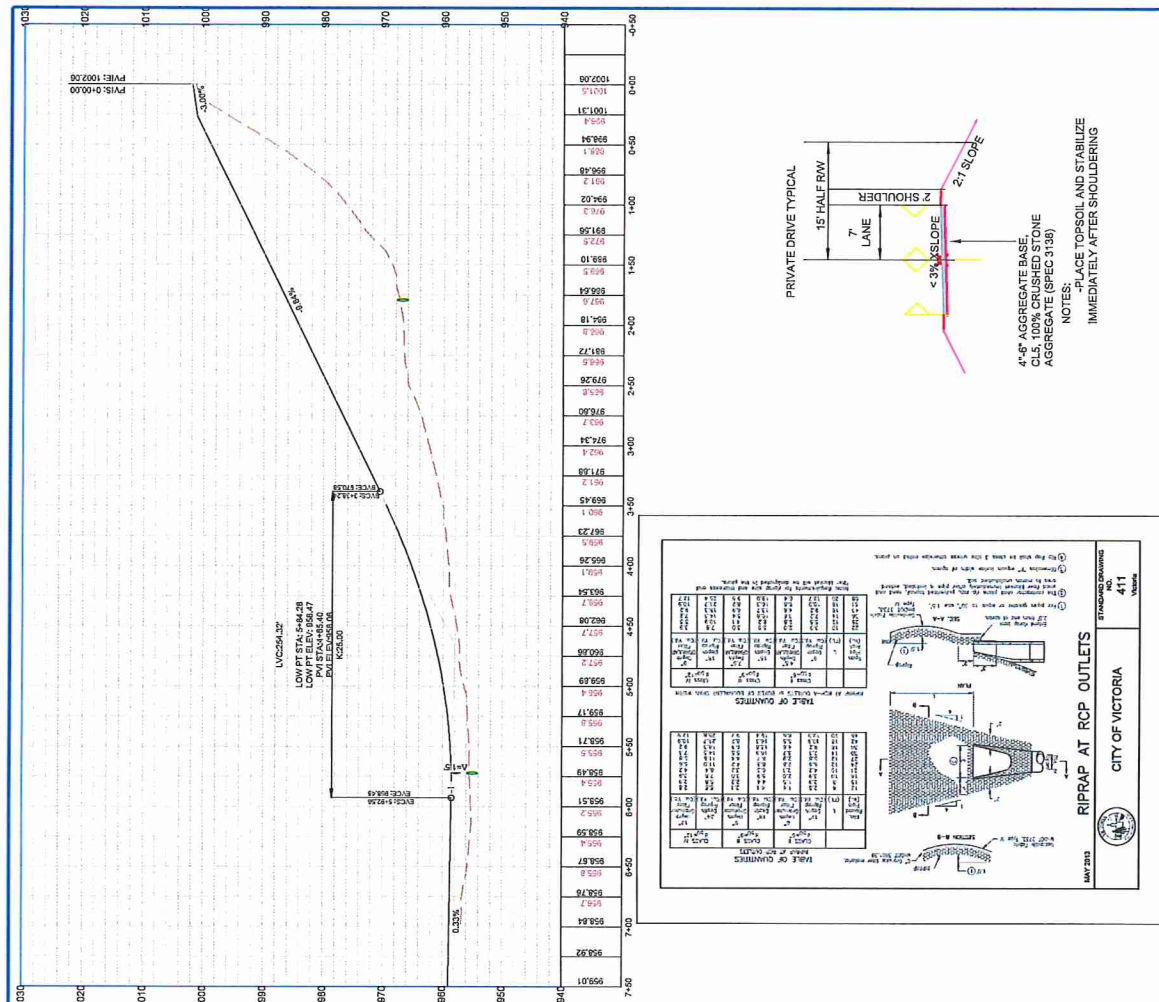


**CLIENT/DEVELOPER**  
**HARTMAN COMMUNITIES**  
 1750 Tower Boulevard Suite 201  
 Victoria, MN 55386  
 Attn: Terry Hartman 952-368-4545

**LAND SURVEYOR/CIVIL ENGINEER**  
**SATHRE-BERGQUIST INC.**  
 150 S. Broadway Ave.  
 Wayzata, MN 55391  
 Contact 1: Dan Schmidt  
 Contact 2: Charlie Wiemerslage  
 T-952-476-6000  
 F-952-476-0104



DESIGNER NO. BY DATE 01 DSG 11/18/15		REVISIONS	
DRAWN BY 01 DSG 11/18/15		PIPE MATERIALS	
CHECKED BY 01 DSG 12/01/15		ADDED SOIL CONDITIONING DETAIL	
DATE 12/01/15		REVISIONS	
DATE 02/25/15		FROM ALLEGATE USE	
USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF THIS DOCUMENT) IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. NO PART OF THIS DOCUMENT SHALL BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF SATHRE-BERGQUIST, INC.			
I HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. Daniel L. Schmidt P.E. License No. 02250215			
CITY PROJECT NO. VICTORIA, MINNESOTA		SATHRE-BERGQUIST, INC. 150 SOUTH BROADWAY WAYZATA, MN 55391 (651) 476-6000	
FILE NO. 3005502		CONCEPT SKETCH HARTMAN COMMUNITIES	
SHEET NO. 1		TOTAL SHEETS 10	



CITY PROJECT NO. 10

VICTORIA, MINNESOTA

SATHRE-BERGQUIST, INC. 160 SOUTH BROADWAY WAYATA, MN 55001 (855) 478-6000

CITY OF VICTORIA PROJECT NO. 411

DATE: 10/25/2015

DRAWN BY: J. SATHRE

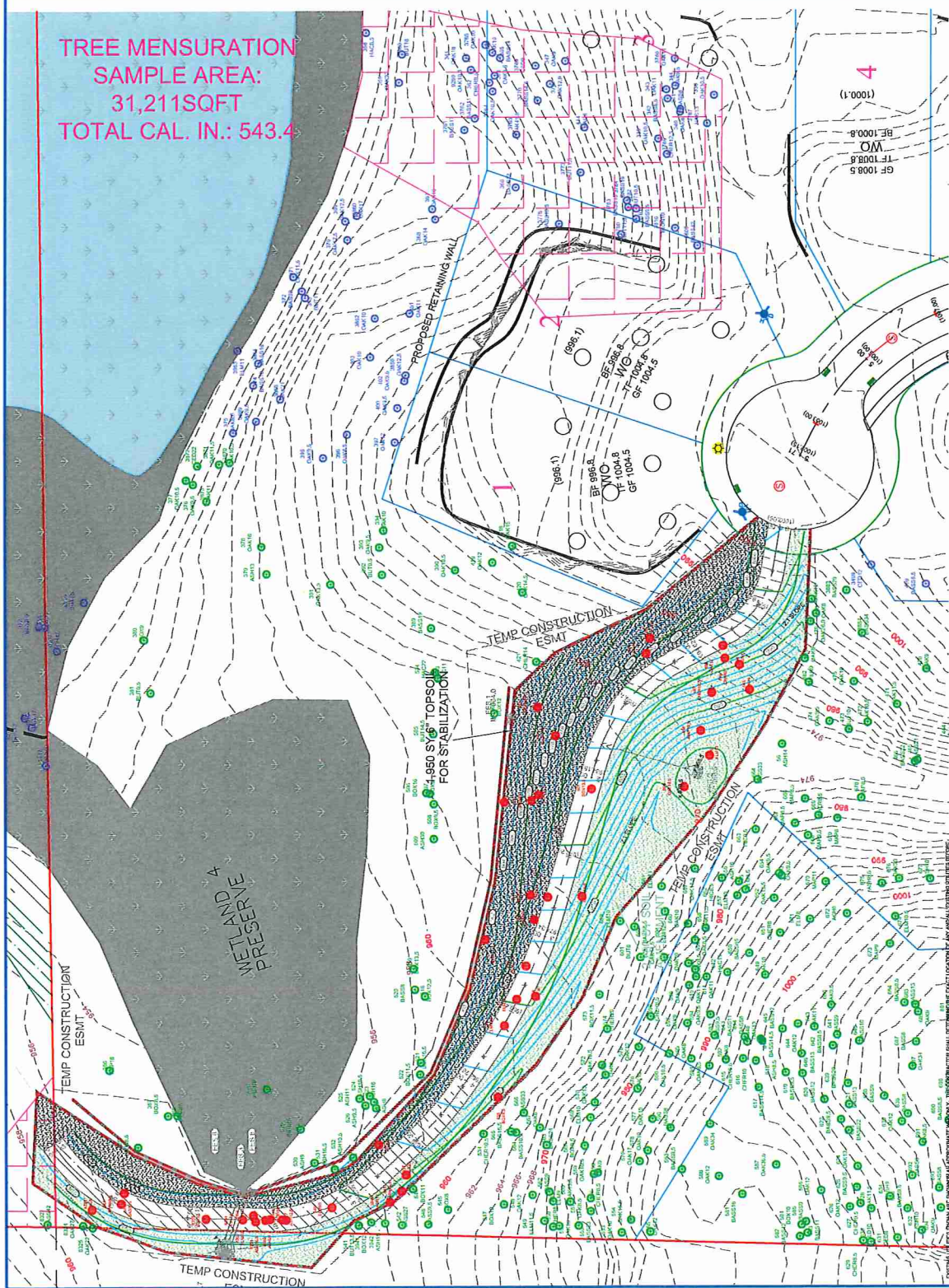
CHECKED BY: J. SATHRE

DATE: 10/25/2015

DESIGNER: J. SATHRE

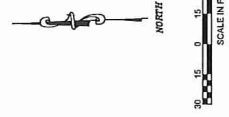
DATE: 10/25/2015

SATHRE-BERGQUIST, INC.



**TREE PRESERVATION NOTES:**

- BEFORE ANY CONSTRUCTION OR GRADING OF PROJECT IS TO OCCUR, A TREE PROTECTION FENCE (AT LEAST 4 FEET IN HEIGHT) SHALL BE INSTALLED WITH POSTS NO LESS THAN EVERY 5 FEET) SHALL BE INSTALLED AROUND THE DRIP LINE OF EVERY TREE TO BE PRESERVED. THE FENCE SHALL BE PLACED ALONG THE CRITICAL ROOT ZONE. SIGNS SHALL BE PLACED ALONG THIS FENCE LINE IDENTIFYING THE AREA AS A TREE PROTECTION AREA AND PROHIBITING GRADING BEYOND THE PROTECTION AREA. ALL GRADING AND CONSTRUCTION ACTIVITY IS TERMINATED.
- NO EQUIPMENT, CONSTRUCTION MATERIALS, OR SOIL MAY BE STORED WITHIN THE DRIP LINE OF ANY SIGNIFICANT TREES TO BE PRESERVED.
- NO ENCROACHMENT, LAND DISTURBANCE, GRADE CHANGE, TRENCHING, FILLING, COMPACTION OF CHANGE IN SOIL CHEMISTRY, SHALL OCCUR WITHIN FENCED AREAS PROTECTING SIGNIFICANT TREES.
- CONTRACTOR TO PREVENT THE CHANGE IN SOIL CHEMISTRY DUE TO CONCRETE WASHOUT AND LEAKAGE OR SPILLAGE OF TOXIC MATERIALS, SUCH AS FUELS OR PAINT.
- DRAINAGE PATTERNS ON THE SITE SHALL NOT CHANGE CONSIDERABLY CAUSING DRASTIC ENVIRONMENTAL CHANGES IN THE SOIL MOISTURE CONTENT WHERE TREES ARE INTENDED TO BE PRESERVED.
- DEAD, DISEASED OR DYING SIGNIFICANT TREES WERE NOT INCLUDED AS PART OF THE EXISTING TREE INVENTORY.



**TREE MENSURATION SAMPLE AREA:**  
 31,211 SQFT  
 TOTAL CAL. IN.: 543.4

FILE NO.  
 33055002

**TREE PLAN**  
**PRIVATE DRIVE**  
**HARTMAN COMMUNITIES**

CITY PROJECT NO.  
 VICTORIA,  
 MINNESOTA

**SATHRE-BERGQUIST, INC.**  
 155 SOUTH BROADWAY WAYZATA, MN 55391 (651) 475-6020

DATE: 02/25/15  
 Lic. No.: 21157

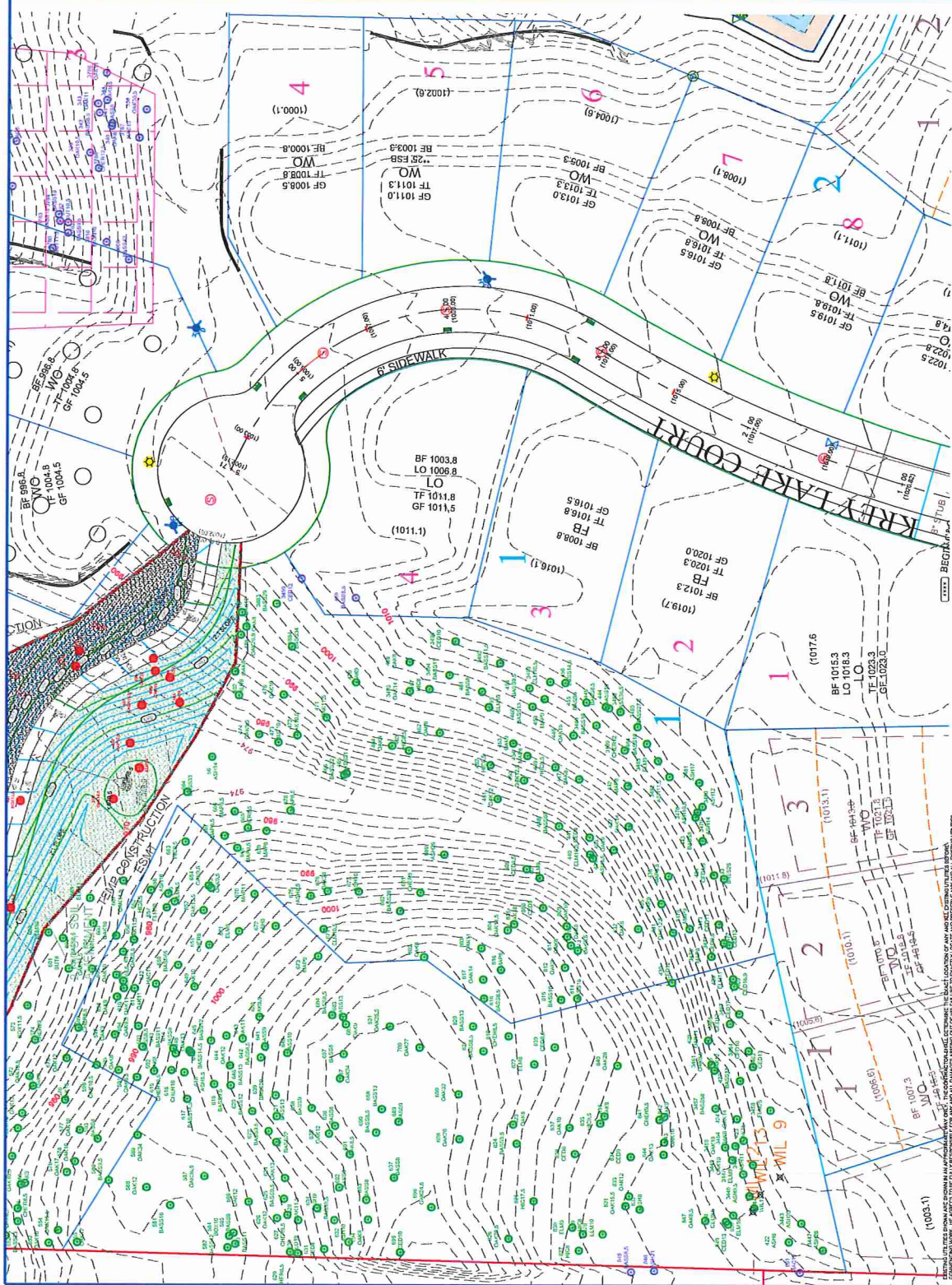
HEREBY CERTIFY THAT THIS PLAN OR SPECIFICATION WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A DAILY REGISTERED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Daniel L. Schmidt*  
 Daniel L. Schmidt P.E.

NO.	BY	DATE	REVISIONS
01	DLS	11/19/15	PIPE MATERIALS
02	DLS	11/23/15	ADDED SOIL CONDITIONING DETAIL
03	DLS	02/05/16	REVISIONS
04	DLS	02/05/16	REVISIONS

DESIGNER: DLS  
 DRAWN BY: DLS  
 CHECKED BY: DLS  
 DATE: 02/25/15

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF THIS PLAN OR SPECIFICATION) WITHOUT THE WRITTEN AUTHORIZATION OF SATHRE-BERGQUIST, INC. IS EXPRESSLY PROHIBITED. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.



FILE NO.  
2025002

CITY PROJECT NO.  
VICTORIA,  
MINNESOTA

TREE PLAN  
PRIVATE DRIVE  
HARTMAN COMMUNITIES

4

10

SATHRE-BERGQUIST, INC.  
155 SOUTH BROADWAY WAYZATA, MN 55391 (952) 474-6200

DATE: 10/25/2015

Drawn by: *David J. Bergquist*

Li. No. 20157

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

*David J. Bergquist*

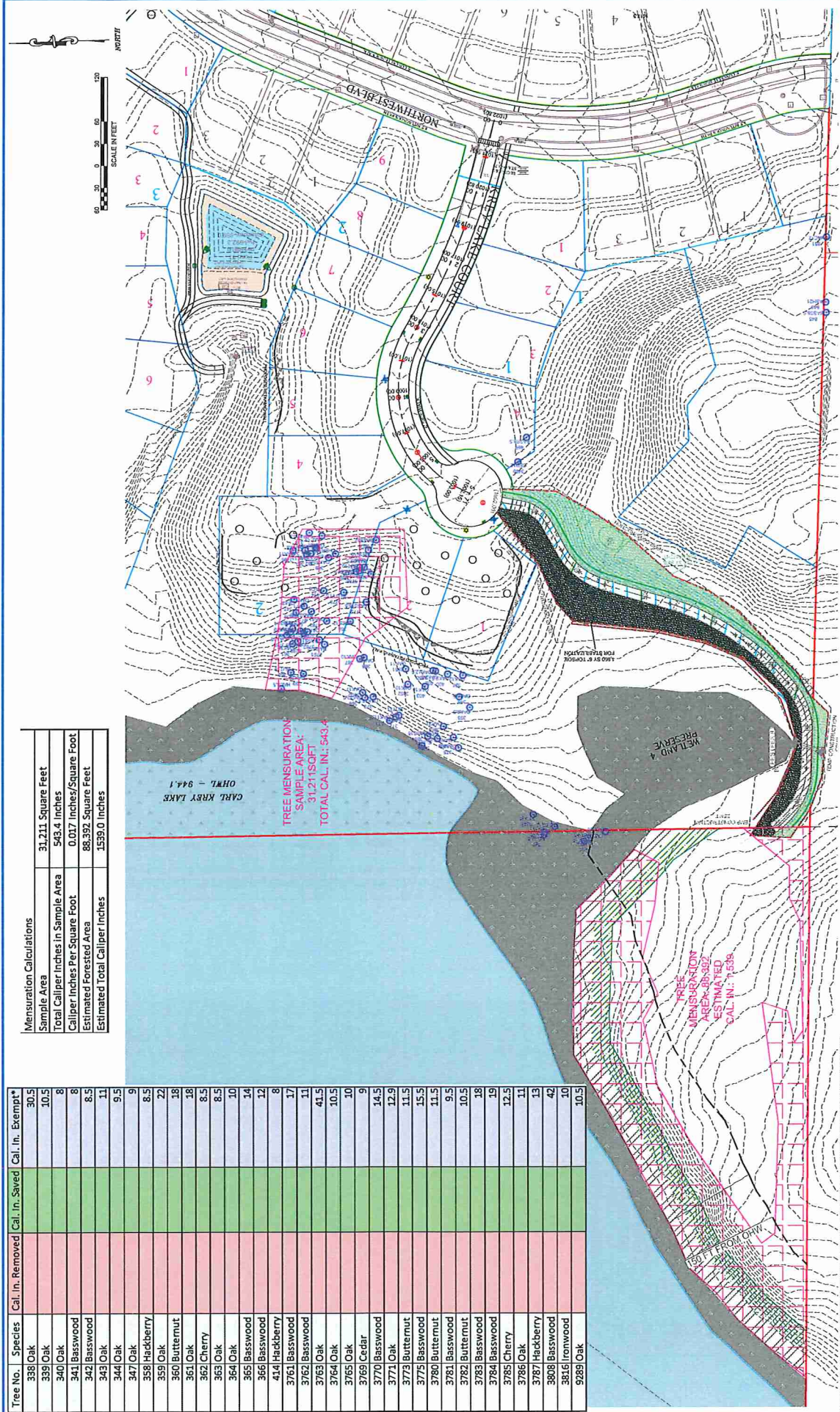
00250015

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR COMMERCE) OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT THE WRITTEN AUTHORIZATION OF SATHRE-BERGQUIST, INC. ANY UNAUTHORIZED REPRODUCTION OR DISTRIBUTION OF THIS PRODUCT IS ILLEGAL. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

NO.	DATE	BY	REVISIONS
01	10/15/15	DSB	PLANNING
02	10/15/15	DSB	ADDED SOIL CONDITIONING DETAIL
03	10/15/15	DSB	REVISIONS
04	10/15/15	DSB	REVISIONS
05	10/15/15	DSB	REVISIONS
06	10/15/15	DSB	REVISIONS
07	10/15/15	DSB	REVISIONS
08	10/15/15	DSB	REVISIONS
09	10/15/15	DSB	REVISIONS
10	10/15/15	DSB	REVISIONS

Tree No.	Species	Cal. in. Removed	Cal. in. Saved	Cal. in. Exempt*
338	Oak			30.5
339	Oak			10.5
340	Oak			8
341	Basswood			8.5
342	Basswood			8.5
343	Oak			11
344	Oak			9.5
347	Oak			9
358	Hackberry			8.5
359	Oak			22
360	Butternut			18
361	Oak			18
362	Cherry			8.5
363	Oak			8.5
364	Oak			10
365	Basswood			14
366	Basswood			12
414	Hackberry			8
3761	Basswood			17
3762	Basswood			11
3763	Oak			41.5
3764	Oak			10.5
3765	Oak			10
3769	Cedar			9
3770	Basswood			14.5
3771	Oak			12.9
3773	Butternut			11.5
3775	Basswood			15.5
3780	Butternut			11.5
3781	Basswood			9.5
3782	Butternut			10.5
3783	Basswood			18
3784	Basswood			19
3785	Cherry			12.5
3786	Oak			11
3787	Hackberry			13
3808	Basswood			42
3816	Ironwood			10
9289	Oak			10.5

Measurement Calculations	
Sample Area	31,211 Square Feet
Total Calliper Inches in Sample Area	543.4 Inches
Calliper Inches Per Square Foot	0.017 Inches/Square Foot
Estimated Forested Area	88,392 Square Feet
Estimated Total Calliper Inches	1,539.0 Inches



THESE PLANS AND SPECIFICATIONS SHALL BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY OTHER USE OF THESE PLANS AND SPECIFICATIONS WITHOUT THE WRITTEN AUTHORIZATION OF SATHRE-BERGQUIST, INC. IS STRICTLY PROHIBITED. SATHRE-BERGQUIST, INC. EXPRESSLY DISCLAIMS ANY LIABILITY FOR DAMAGES OR LOSSES RESULTING FROM ILLICIT USE OF THESE PLANS AND SPECIFICATIONS. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLICIT USER RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLICIT USE.

I, **Donald L. Schmidt**, a duly registered professional engineer under the laws of the State of Minnesota, hereby certify that these plans and specifications were prepared by me or under my direct supervision and that I am a duly registered professional engineer under the laws of the State of Minnesota.

Date: 02/25/2015 Lic. No.: 96127

**SATHRE-BERGQUIST, INC.**  
 181 SOUTH BROADWAY WAYZATA, MN 55091 (651) 716-6800  
 CITY PROJECT NO.: VICTORIA, MINNESOTA  
 TREE PLAN  
 PRIVATE DRIVE  
 HARTMAN COMMUNITIES

FILE NO.: 20055002  
 5  
 10

Tree No.	Species	Cal. in. Removed	Cal. in. Saved	Cal. in. Exempt*
56	Ash		14	
386	Oak			30.5
399	Oak			10.5
340	Oak			8
341	Basswood			8
342	Basswood			8.5
343	Oak			11
344	Oak			9.5
347	Oak			9
358	Hackberry			8.5
359	Oak			22
360	Butternut			18
361	Oak			18
362	Cherry			8.5
363	Oak			8.5
364	Oak			10
365	Basswood			14
366	Basswood			12
367	Oak			10
368	Oak			14
369	Oak			12.5
370	Oak			12.5
371	Oak			11.5
372	Basswood			9
373	Butternut			11
374	Basswood			10
375	Oak			8.5
376	Oak	9.5		
377	Oak	10.5		
378	Oak	16		
379	Ash	13		
380	Boxelder	9		
381	Butternut	9.5		
382	Boxelder	13		
383	Basswood	8.5		
384	Basswood			
385	Elm	8.5		
386	Aspen	18		
387	Boxelder	8.5		
388	Elm	8.5		
389	Basswood	19		
390	Oak	10.5		
391	Oak	13.5		
392	Butternut	9.5		
393	Oak	9.5		
394	Oak	10		
395	Oak			9.5
396	Oak			8.5
397	Oak			12
400	Oak			9.5
402	Oak			9.5
403	Oak			10
414	Hackberry			8
418	Oak		15	

419	Oak	12		
420	Oak	14.5		
421	Cherry	14		
422	Ash	8		
423	Oak	15		
424	Oak	14		
425	Oak	12		
427	Basswood	11		
428	Oak	11		
429	Elm	11		
430	Cedar	12		
431	Oak	12.5		
432	Oak	8		
433	Basswood	25		
434	Cedar	8.5		
435	Oak	9		
436	Maple	8.5		
437	Oak	14		
438	Oak	9		
439	Ash	9.5		
440	Elm	10.5		
441	Cedar	8		
442	Maple	8		
443	Basswood	8		
444	Basswood	10		
445	Basswood	8.5		
446	Oak	15		
447	Oak	8		
448	Basswood	60		
449	Hickory	8.5		
450	Oak	12.5		
451	Oak	12		
452	Hickory	9.5		
453	Oak	9		
454	Maple	8		
455	Basswood	9		
456	Basswood	14.5		
458	Basswood	9.5		
459	Maple	9		
460	Basswood	13		
461	Basswood	8		
462	Oak	8		
463	Hickory	8.5		
464	Oak	9		
465	Basswood	21		
466	Basswood	22		
467	Hickory	8		
468	Oak	8		
469	Basswood	8.5		
470	Oak	9		
471	Oak	11.5		
472	Oak	10.5		
473	Butternut	10		
474	Oak	9.5		

475	Oak	10		
476	Oak	12		
479	Oak	26.9		
480	Oak	8		
481	Oak	8		
482	Cherry	9		
483	Oak	16		
484	Basswood	9		
495	Oak	17		
496	Cherry	9		
497	Cherry	15.5		
498	Maple	10.5		
499	Cherry	9		
500	Basswood	11.5		
501	Boxelder	13.5		
502	Cherry	14.5		
503	Boxelder	12		
504	Hackberry	22		
505	Butternut	14.5		
506	Boxelder	16		
507	Boxelder	9		
508	Boxelder	9.5		
509	Ash	30		
510	Boxelder	13		
511	Butternut	13.5		
512	Boxelder	24		
513	Boxelder	12		
514	Boxelder	9		
517	Boxelder	17.9		
518	Boxelder	12.5		
519	Boxelder	13.5		
520	Basswood	8		
521	Boxelder	15.5		
522	Boxelder	11.5		
523	Ash	16		
524	Ash	10.5		
525	Ash	11		
526	Ash	9.5		
527	Ash	8		
528	Ash	19		
529	Ash	8.5		
530	Ash	9		
531	Ash	16.5		
532	Ash	10.5		
533	Ash	8		
534	Cherry	10.5		
535	Boxelder	8.5		
536	Elm	13.5		
537	Elm	13		
538	Boxelder	30		
539	Elm	13.5		
540	Elm	10		
541	Butternut	13.5		
542	Basswood	27		

DESIGNER: DLS BY: DATE: 02/24/16  
 CHECKED BY: DLS BY: DATE: 02/24/16  
 ROUTING: 01 - 02/24/16  
 02 - 02/24/16  
 03 - 02/24/16  
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 100 - 02/24/16

I HEREBY CERTIFY THAT THIS PLAN OR SPECIFICATION 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.  
 Daniel J. Schmidt  
 Lic. No. 28147  
 Date: 02/25/2016

SATHRE-BERGQUIST, INC.  
 100 SOUTH BROADWAY WYCATZ, MN 55071 (651) 794-0000  
 FAX: (651) 794-0015

CITY PROJECT NO. \_\_\_\_\_  
 TREE PLAN  
 PRIVATE DRIVE  
 HARTMAN COMMUNITIES



NO.	DATE	BY	REVISIONS	DESCRIPTION
3461				Oak
3463				Cedar
3464				Oak
3465				Cedar
3467				Cedar
3469				Cedar
3470				Maple
3471				Cedar
3472				Cedar
3473				Cedar
3476				Maple
3478				Ash
3479				Ash
3480				Ash
3481				Ash
3482				Ash
3483				Elm
3484				Basswood
3485				Basswood
3486				Basswood
3488				Basswood
3489				Cherry
3490				Elm
3492				Basswood
3493				Elm
3494				Basswood
3495				Oak
3496				Cedar
3499				Cedar
3761				Basswood
3762				Basswood
3763				Oak
3764				Oak
3765				Oak
3769				Cedar
3770				Basswood
3771				Oak
3773				Butternut
3775				Basswood
3780				Butternut
3781				Basswood
3782				Butternut
3783				Basswood
3784				Basswood
3785				Cherry
3786				Oak
3787				Hackberry
3808				Basswood
3816				Ironwood
3850				Oak
3851				Oak
3852				Oak
3860				Oak
3863				Elm
3864				Basswood

NO.	DATE	BY	REVISIONS	DESCRIPTION
3868				Oak
3869				Oak
3870				Oak
3871				Oak
3872				Cedar
3873				Oak
3883				Basswood
3884				Basswood
3901				Basswood
3903				Hackberry
3920				Basswood
3923				Basswood
3937				Basswood
3940				Ash
3941				Boxelder
3942				Ash
8225				Boxelder
8227				Boxelder
8228				Boxelder
8232				Ash
8233				Boxelder
8243				Boxelder
8321				Basswood
8324				Oak
8325				Oak
8347				Hackberry
8348				Ash
8350				Ash
8351				Ash
8352				Elm
8353				Ash
8354				Ash
8355				Boxelder
9289				Oak

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

*Spencer J. Schmitt*  
 Date: 11/25/2015 Lic. No. 28147

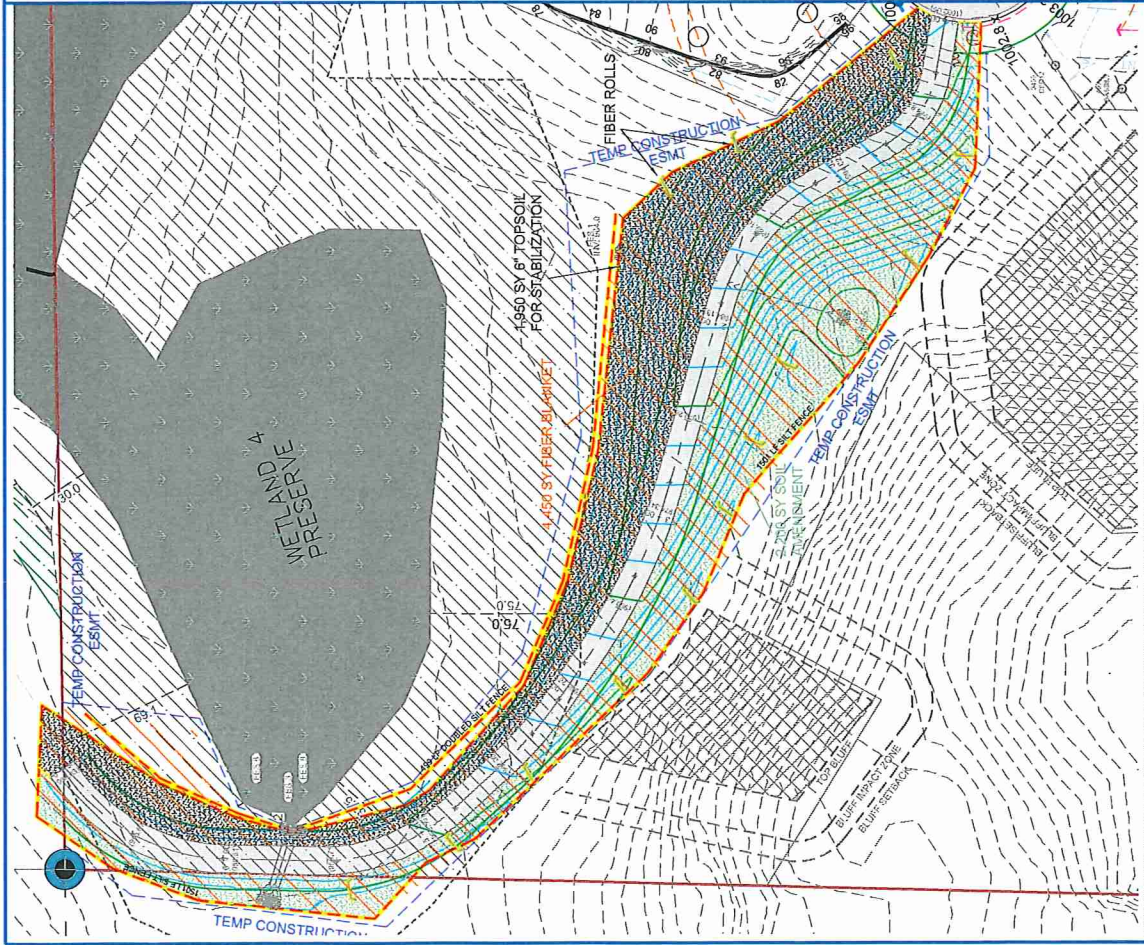
**SATHRE-BERGQUIST, INC.**  
 100 SOUTH BROADWAY WYCATIA, MN 55071 (852) 716-8000

**CITY PROJECT NO.** \_\_\_\_\_  
**VICTORIA, MINNESOTA**

**TREE PLAN**  
**PRIVATE DRIVE**  
**HARTMAN COMMUNITIES**

Total Removed Caliper Inches:	618.4
Total Saved Caliper Inches:	4553.8
Estimated Caliper Inches from Mensuration:	1539.0
Total Caliper Inches:	6711.2
Percentage Removed:	9.2%
Site Area [Square Feet]	466,875
Caliper Inches Per Thousand Square Feet	14.37
Site Tree Density	High
Replacement Rate for High Density	0.0%-9.9% Removal
Required Replacement in Caliper Inches	0
*Offsite trees are considered exempt. No offsite trees are to be removed.	





DESIGNER	NO	D56	10/20/15
DRAWN BY	D56	11/18/15	
CHECKED BY	D56	12/03/15	
DATE	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	
	03	12/03/15	

USE THESE NOTES ONLY AS A GUIDE TO THE SPECIFICATIONS AND NOT AS A SUBSTITUTE THEREFOR. THE CONTRACTOR SHALL EXAMINE THE EXACT LOCATION OF ANY AND ALL UTILITIES AND RECORDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY AND ALL DAMAGES RESULTING FROM THE FAILURE TO LOCATE AND PRESERVE ANY AND ALL UTILITIES.

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Daniel L. Sammel P.E.  
Date: 02/25/2015  
Lic. No.: 28147

**SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN 55081 (651) 476-6000

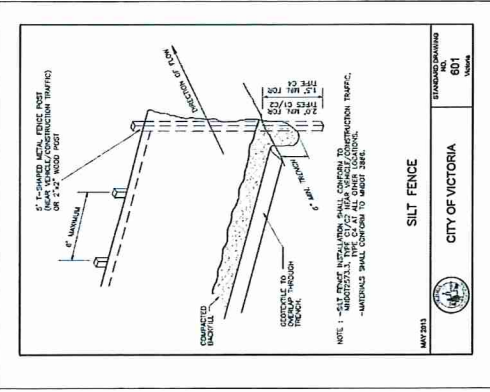
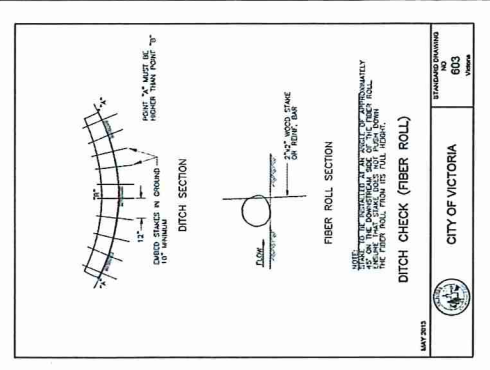
CITY PROJECT NO. \_\_\_\_\_  
**VICTORIA, MINNESOTA**

**EROSION CONTROL**  
**PRIVATE DRIVE**  
**HARTMAN COMMUNITIES**

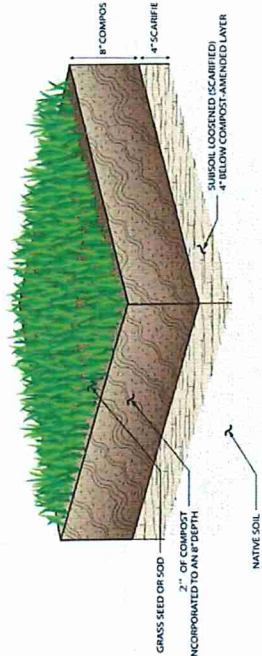
FILE NO.  
 33035002

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10



- EROSION CONTROL NOTES:**
- 2:1 SLOPES APPROVED BY CITY ENGINEER TO BE IMMEDIATELY STABILIZED BY PLACEMENT OF CAT. 3 EROSION CONTROL BLANKET PRIOR TO BLANKET PLACEMENT. SOIL ON SOUTH SLOPE TO BE AMENDED BY LOOSENING THE SOILS AS SHOWN IN THE DETAIL BELOW. THE NORTH SLOPE TO BE STABILIZED WITH 6" TOPSOIL
  - 4,450 SY FIBER BLANKET
  - 2,200 SY SOIL AMENDMENT
  - 1,950 SY TOPSOIL STABILIZATION
  - 2,000 LF SILT FENCE
  - SILT FENCE TO BE DOUBLED NEAR WETLAND FOR EXTRA SEDIMENT PROTECTION
  - THE SLOPES ARE TO BE SEEDED WITH SEED MIX 33-261





**MAINTENANCE**

**YEAR 1**  
 DURING THE FIRST SEASON, THE SEEDED ARE SHALL BE CUT BACK APPROXIMATELY ONCE EACH MONTH TO PREVENT THE PRODUCTION OF WEEK SEEDS AND TO REDUCE SHADE ON THE MATURING NATIVE PLANTINGS. WHEN THE SEEDED ARE HAS REACHED A HEIGHT OF 8-10 INCHES, A FLAIL-TYPE MOWER SHALL BE USED TO CUT WEEDS AND NATIVE PLANTINGS TO A HEIGHT OF 4-6 INCHES. ROTARY MOWERS AND SICKLE BAR MOWERS ARE NOT ACCEPTABLE. IN NO CASE SHALL THE SEEDED AREA BE ALLOWED TO EXCEED 10 INCHES IN HEIGHT DURING THE FIRST SEASON.

PULLING WEEDS IS NOT RECOMMENDED AS THIS CAN UPROOT SMALL, UNDEVELOPED NATIVE SEEDLINGS. SPOT SPRAY THISTLE, REED CANARY GRASS AND ANY OTHER PROBLEMATIC WEEDS.

**YEAR 2**  
 IN THE SPRING OF THE SECOND SEASON, THE PLANTING SHOULD BE MOWED AGAIN. MOWING SHOULD OCCUR APPROXIMATELY 3-4 TIMES DURING THE SECOND SEASON. IF WEEDS CONTINUE TO PERSIST DURING THE SECOND YEAR ADDITIONAL MOWINGS MA BE REQUIRED. DO NOT LET WEEDS GO TO SEED. SEEDED AREAS SHALL NOT BE BURNED DURING THE SECOND YEAR.

**YEAR 3**  
 SPOT SPRAY PERENNIAL WEEDS IF NECESSARY.

**YEAR 4-5**  
 CONTINUE SPOT TREATMENT SPRAY OF WEEDS AND CONDUCT BURNING (3-5 YEAR ROTATION) ALTERNATE SPRING AND FALL.

AN ANNUAL REPORT WILL BE PROVIDED TO MCWD THAT SHALL INCLUDE THE FOLLOWING:

- (1) SITE PLAN SHOWING:
  - i. LOCATION OF PERMITTED BUFFER AREA;
  - ii. AREAS OF BARE SOIL OR EROSION;
  - iii. AREAS OF INVASIVE VEGETATION; AND
  - iv. LOCATION AND TYPE OF ANY ENCROACHMENTS ON THE BUFFER (STRUCTURES, UNAPPROVED MOWING, TRAILS, ETC.)
- (2) COLOR PHOTOS OF THE WETLAND BUFFER TAKEN DURING THE GROWING SEASON.
- (3) DESCRIPTION OF BUFFER VEGETATION INCLUDING:
  - i. LIST OF DOMINANT PLANT SPECIES AND THEIR ESTIMATED PERCENT COVER.
  - ii. COMPARISON OF THE SPECIES PRESENT TO THE APPROVED PLANTING/SEEDING PLAN.

**INVASIVE SPECIES CONTROL**

CERTAIN SPECIES OF PERENNIAL WEEDS MAY NEED TO BE CONTROLLED BY SPOT TREATING WITH A HERBICIDE FOR SUFFICIENT CONTROL. PERENNIAL WEEDS MAY BE CANARY GRASS, SMOOTH BROME, QUACK GRASS, PURPLE LOOSESTRIPE AND CANADA THISTLE. CANADA THISTLE SHOULD BE SPOT TREATED AS SOON AS CLUMPS APPEAR TO AVOID THE NEED TO SPOT SPRAY LARGE AREAS.

GRASS-SPECIFIC HERBICIDES SHALL BE USED TO CONTROL REED CANARY GRASS; HOWEVER THEY ARE NOT TO BE USED NEAR OPEN WATER.

NO.	BY	DATE	REVISIONS
01	DSG	07/27/15	ROUTING
02	DSG	08/11/15	REVISED PER COMMENTS
03	DSG	09/01/15	ADDED SOIL CONDITIONING DETAIL
04	JLS	09/01/15	REVISED PER COMMENTS
05	JLS	09/01/15	REVISED PER COMMENTS

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

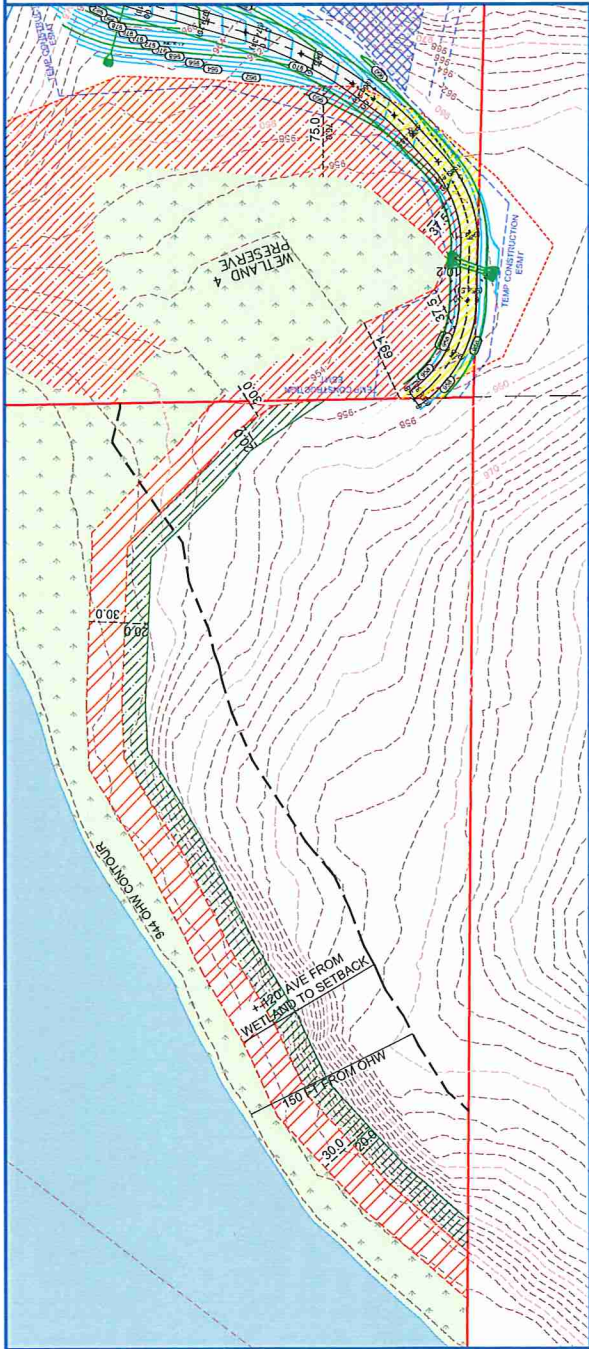
*Donald J. Schmitt*  
 Donald J. Schmitt  
 License No. 281647  
 Date: 02/25/2016

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DESIGNER	NO.	BY	DATE	REVISIONS
DSG	01	DSG	07/27/15	ROUTING
DSG	02	DSG	08/11/15	REVISED PER COMMENTS
DSG	03	DSG	09/01/15	ADDED SOIL CONDITIONING DETAIL
JLS	04	JLS	09/01/15	REVISED PER COMMENTS
JLS	05	JLS	09/01/15	REVISED PER COMMENTS

02/25/16





REQUIRED WETLAND BUFFER = 25% OF WETLAND SETBACK  
 REQUIRED WETLAND BUFFER = 30'



- PRESERVE WETLAND BUFFER STANDARDS:**
- 75' BASE
  - 37.5' MINIMUM
- SINGLE LOT BUFFER STANDARD**
- 25' BASE

CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ANY AND ALL UTILITIES BEFORE COMMENCING WORK. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES. THE CONTRACTOR SHALL VERIFY THE EXACT LOCATION OF ANY AND ALL UTILITIES BEFORE COMMENCING WORK. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES.

REVISIONS	NO.	BY	DATE
REVISIONS			
PIPE MATERIALS	01	DSG	11/18/15
ADDED SOIL CONDITIONING DETAIL	02	DSG	12/03/15
REVISIONS	03	DSG	02/18/16
REVISIONS	04	DSG	02/18/16
DATE			

I HEREBY CERTIFY THAT I AM A LICENSED PROFESSIONAL ENGINEER UNDER THE PROVISIONS OF THE ENGINEERING ACT OF 1907 AND THE ENGINEERING BOARD OF THE STATE OF MINNESOTA. I AM A DULY REGISTERED PROFESSIONAL ENGINEER UNDER THE PROVISIONS OF THE ENGINEERING ACT OF 1907 AND THE ENGINEERING BOARD OF THE STATE OF MINNESOTA.

*Samuel J. Ahrens*  
 Daniel L. Schmidt P.E.  
 Date: 02/25/2016 U.E. No. 21147

**SATHRE-BERGQUIST, INC.**  
 150 SOUTH BROADWAY WAYZATA, MN 55391 (651) 476-6000

CITY PROJECT NO. \_\_\_\_\_  
 VICTORIA,  
 MINNESOTA

FILE NO. 30386402  
 10  
 10  
 BUFFER AVERAGING  
 PRIVATE DRIVE  
 HARTMAN COMMUNITIES





## SATHRE-BERGQUIST, INC.

150 SOUTH BROADWAY, WAYZATA, MINNESOTA, 55391

TEL:(952)476-6000

FAX:(952)476-0104

WEB:WWW.SATHRE.COM

Katherine Sylvia  
Permitting Program Lead

Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard  
Minnetonka, MN 55345  
Direct: (952) 473-2855  
Main Office: (952) 471-0590  
Fax: 952-471-0682

Date: June 15, 2016

Dear Katherine

We have prepared a line by line response to your email dated June 10, 2016. We believe we meet the intent of the Minnehaha Creek Watershed District rules and qualify for special consideration.

### Variance Analysis

To grant a Variance, the Board of Managers must determine, based on a showing by the applicant that:

1. Because of special conditions inherent to the property, which do not apply generally to other land or structures in the District, strict compliance with a provision of a District rule will cause undue hardship to the applicant or property owner
  - a. Strict adherence to the wetland buffer rule will prohibit the applicant from accessing their property using the U.S. Home Outlot.

**Response:** The only feasible access to the property is from the recently constructed Krey Lake Court in the Rhapsody North 2<sup>nd</sup> Addition constructed by Lennar Homes. The property is bound by the Krey Lake to the East, Wetlands to the North, and property we do not have control over to the West. The possible access to the West is approximately one half mile across two adjacent properties where the current land owners are unwilling to grant an easement to construct the lengthy driveway around the existing wetlands and through their property.

2. That the hardship was not created by the landowner, agent, or contractor- Economic hardship is not grounds for a variance.
  - a. Please demonstrate that the limited access to the property is not of the fault of the applicant.

**Response:** The property was originally part of the property that became the Rhapsody North development. During the negotiations of the sale, both parties agreed that an easement would be granted to access this property from the end of Krey Lake Court because this was the most practical way to access this property. At the time of the sale, it was known that the adjacent property owners to the west would not grant an easement for access to this property. The property is surrounded by slopes, woods, and wetlands, thus the route that has been chosen is the least impact / practical route. The developer could have expanded the property into as many as Three lots but has also chosen the least impact/practical scenario with one lot. There is no vault here, but simply a parcel of land that is only accessible with geographically landlocked challenges.

3. Granting the variance does not merely serve as a convenience to the applicant.
  - a. Please demonstrate that granting this variance for the driveway construction does not serve as a convenience.  
**Response:** See response to Item 1.
  
4. There is no feasible and prudent alternative to the proposed activity requiring the variance.
  - a. The applicant states in a resubmittal letter that the alternative would require the driveway to be one half mile long and cross through two properties. Since economic hardship is not grounds for variance, please provide a statement on why this route is unfeasible (i.e. Tellers and other property owners have refused easement, route is not feasibly constructible (active farmland, soils, slopes.)etc.).  
**Response:** See response to Item 1.
  
5. Granting the variance will not impair or be contrary to the intent of these rules.
  - a. Wetland buffers are intended to reduce polluted runoff from entering wetlands and keep the wetlands healthy. A good wetland buffer contains deep-rooted plants, decrease runoff by infiltrating water, intercepts nutrients and sediment, and provides conservation and wildlife habitat. The project proposes to address the intent of the buffer rule by sloping the driveway so that surface water from the new hardcover is directed away from the wetland and towards proposed ditch and amended soils. The driveway will eliminate approximately 1750 square feet of required wetland buffer. The applicant is providing 2,741 square feet of amended soils on the downgradient side of this eliminated buffer area. These soil amendments will provide 114 cubic feet of abstraction for runoff directed from the driveway. Directing the runoff away from the wetland towards an area that provides increased infiltration meets the intent of the buffer rule in reducing pollution and sediment that reaches the wetland.

Response: We are providing 1,822 c.f. of abstraction for this project with tree preservation and soil conditioning. We are required to provide 815 c.f. of abstraction for this project thus leaving a surplus of 1,007 c.f. of abstraction. The area in the temporary construction easement is 2,741 sf and provides 114 c.f. of abstraction. If this area is impacted, we would still have a surplus of 892 c.f. of abstraction.

Due to the remote location of this private driveway, we feel it is extremely unlikely that this area is impacted by development. If it is impacted by development, we are still providing a surplus of 895 c.f. of abstraction.

Further elements to address in the permit:

1.) Mitigation Wetland Buffer:

- a. The New Principal Structure rule requires that the applied buffer width for new principal structures be limited to 25% of the distance between the structure at the point nearest to the wetland, or 25 feet, whichever is greater. Since there is not currently a house proposed on the plans, the required buffer width is unable to be determined. That being said, while the applicant has proposed buffer past 25', it is not necessarily able to be determined "mitigation" or "extra" buffer. According to past concept plans submitted to the District, it has been shown that a 75-foot wetland buffer would be feasible on a 3-lot subdivision. In order to present a robust showing of natural resource conservation, Staff recommends that the 75-foot buffer be applied to the preserve wetland on the Hartman property and the declaration be recorded over it at this time. When a Single Family Home application comes in, it will just require an erosion control permit. If the lot is to be subdivided, it would require an erosion control and stormwater management permit.

Response: We are proposing only one home for this property. The city of Victoria has a setback of 150 feet from the OHW. The wetland is located approximately 30 feet southwest from the OHW leaving a 120 feet of wetland setback. The new principal structure rule limits the wetland buffer to 25% of the wetland setback – 120 feet x 25% = 30 feet. We are providing a wetland buffer of 50 feet (20 additional feet) so we feel this is a robust showing of natural resource conservation.

- b. A Maintenance and Monitoring plan that satisfies Section 7(c) of the Wetland Protection rule should be submitted for the areas of the wetland buffer that are going to be temporarily disturbed due to road construction.

Response: We have added page 9A that addresses the monitoring plan.

2.) Soil amendments

- a. Amended soil areas should be seeded with a seed mix that consists of a deep root system and promotes infiltration. Recommended seed mixes are 33-261 or 33-262. Seed mix 33-262 contains species that are more drought tolerant and seed mix 33-

262 contains more wetland species, based on soil moisture conditions, please choose the appropriate mix and reflect on the site plans.

**Response: We have specified on Page 9 that the slopes are to be seeded with Seed Mix 33-261.**

3.) Permit for work that is already underway

- a. During a site visit, staff found that the road has been started and that a culvert has been installed. The culvert was observed to be not functioning properly as the water was pooling before reaching the culvert (see attached photos). An after the fact waterbody crossings and structures permit will need to be incorporated into this approval. In order to meet this requirement, please provide information sufficient to satisfy Sections 3 and 5 of the Waterbody Crossings and Structures Rule, including an analysis of existing conditions and a plan for correcting the culvert. Please also provide evidence showing that this driveway meets the wildlife passage exemption (Section 3 (d)(4)).

**Response: As per our conversation with Eric Megow on June 15, 2016, we plan to leave the small sedimentation pool south of the culvert to act as a BMP to help treat runoff prior to the discharge through the culvert and into the wetland.**

**The capacity of the 18" Culvert was calculated in our Storm Water Quality and Quantity Management Plan dated November 18, 2015.**

**We qualify for the wildlife passage exemption (Section 3(d)(4) because the private driveway serving one home does not exceed the design for a 40 mph because of the horizontal curves, vertical curves, and the grade of the proposed driveway.**

If you have any questions or comments, please call me at 952-476-6000.

Sincerely,



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Dan Schmidt

Sathre Bergquist, Inc.



MINNEHAHA CREEK  
QUALITY OF WATER



WATERSHED DISTRICT  
QUALITY OF LIFE

INSPECTION REPORT

DATE: June 20<sup>th</sup>, 2016  
TO: Jerry Hartmen  
FROM: Heidi Quinn, Permitting Technician  
RE: MCWD Permit #15-675: 8135 Krey Lake Court, Victoria

Dear Mr. Hartman,

The Minnehaha Creek Watershed District (MCWD) has inspected your site for compliance with the MCWD permit requirements. Based on our inspection at the above mentioned location, the following was observed and recorded on June 9<sup>th</sup>, 2016:

- Installation of a culvert coming into contact with the bank or bed of a watercourse without an issued MCWD permit.

This work will be presented as an after-the-fact permit for Waterbody Crossings & Structures before the Board of Managers in addition to the request for a Variance for the Wetland Protection Rule on June 30<sup>th</sup>, 2016.

Please be advised that:

- The Board of Managers will determine whether the work is authorized and under what conditions;
- The fact that MCWD has not taken action to stop work is not in any respect a representation that the work presently being done will be approved by the board; and
- Any work that occurs in advance of a permit is entirely at the applicant's own risk and is subject to being removed or modified if the permit or variance is denied or if the work does not conform to the approved conditions.

If you have any questions, please contact me at 952-641-4504 or [hquinn@minnehahacreek.org](mailto:hquinn@minnehahacreek.org)

Respectfully,

Heidi Quinn  
Permitting Technician

*We collaborate with public and private partners to protect and improve land and water for current and future generations.*

