



**CITY OF DULUTH**  
Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	PL 15-125	<b>Contact</b>	Steven Robertson, 218-730-5295	
<b>Application Type</b>	Amendment of Special Use Permit	<b>Planning Commission Date</b>	September 8, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	August 6, 2015	<b>60 Days</b>	October 5, 2015
	<b>Date Extension Letter Mailed</b>	August 25, 2015	<b>120 Days</b>	December 4, 2015
<b>Location of Subject</b>	1002 South Spring Street			
<b>Applicant</b>	Bill Stauduhar	<b>Contact</b>		
<b>Agent</b>	David Bolf - Northland Consulting Engineers	<b>Contact</b>	218-727-5995, david@nce-duluth.com	
<b>Legal Description</b>	PID 010-2710-02280			
<b>Site Visit Date</b>	August 22, 2015	<b>Sign Notice Date</b>	August 25, 2015	
<b>Neighbor Letter Date</b>	May 27, 2015	<b>Number of Letters Sent</b>	5	

**Proposal**

Applicant is proposing an amendment to a previously approved Special Use Permit (FN07155) and Variance (FN07089) for a Marina and Recreational Vehicle Park. The amendment is to: 1) change to layout of parking spaces, and 2) increase in the amount of allowed impervious surface (regulated under old Water Resources Management Ordinance).

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	I-G	Marina and RV Park	Commercial Waterfront
<b>North</b>	I-G	Industrial	Commercial Waterfront/Preservation
<b>South</b>	N/A	N/A	Commercial Waterfront
<b>East</b>	N/A	N/A	Commercial Waterfront
<b>West</b>	I-G	Storage	Commercial Waterfront

**Summary of Code Requirements (reference section with a brief description):**

UDC Section 50-37.10. Special Use Permits.

II.K-1

**Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):**

Principle #8 - Encourage mix of activities, uses and densities.

Future Land Use -Commercial Waterfront. Waterfront-dependent commercial uses, sometimes mixed with residential or adjacent to higher density residential. Includes tourist- or recreation-oriented uses. Commercial areas can be adjacent to industrial waterfront. Abuts other commercial uses and recreation areas, preservation areas. Access to regional arterial traffic and water access.

**Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):**

-Proposal: The applicant is proposing an amendment to a previously approved Special Use Permit and Variance for a Marina and Recreational Vehicle Park. The amendment is a change to the layout of parking spaces, and 2) an increase in the amount of allowed impervious surface (regulated under old Water Resources Management Ordinance).

-Issue/Item for Review: Amendments to major elements of approved special use permits and variances require an additional public hearing and approval from the Planning Commission.

- 1) The project consists of two phases: phase 1 is improvement of pier 1 (northeastern pier), and phase 2 is to improve the other pier in the future. The public hearing and discussion is for the entire project, but note that engineering has only reviewed and approved stormwater management plans of the Pier 1 at this time.
- 2) The Special Use Permit and Variance was approved on February 12, 2008 (attached at the end of this staff report). When the Planning Commission approved the requests in 2008, they removed the applicants request for a variance from the 30% impervious surface limit of the Water Resources Management Ordinances. The project was approved, but it was still expected to have more 30% of its surface impervious (paved surfaces, structures, gravel, etc.).
- 3) The applicant has been unable to move the project forward with the impervious surface limit. In the applicant's letter, the applicant's engineer states that pervious surfaces are not durable enough to withstand the weight of recreational vehicles (turning movements), and that of the 20 ton crane (boat lift). They are willing to comply with all the other conditions attached to the previous approval, but they are asking for an amendment to allow up to 46% impervious surface over the entire project area (both Piers).
- 4) The Water Resources Management Ordinance protected the water quality of Duluth, in part, by limiting the amount of impervious surface. The current UDC does not have that same specific limitation, but emphasizes buffering at the water line (such as naturally vegetative buffer).
- 5) Planning Staff believe that the applicant's proposal allows for development of this site will still maintaining some water quality protections.
- 6) UDC 50-37.1.N states than an approved amendment to the Special Use Permit and Variance will expire if the project or activity authorized by the permit is not begun within 1 year.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, staff recommends approval of the amendment to the Special Use Permit subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to plan submitted, dated 8/19/15.
- 2) The approved 2008 plans showed a landscape buffer along the NW boundary line. Applicant to ammend plans dated 8/19/15 to show a similar landscape buffer, to be installed with the Phase 1.
- 3) Applicant comply with all stormwater requirements of the City, including additional stormwater management best management practices as directed by the engineering department.
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

K-2

**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**



Legend

- Trout Stream (GPS)
- Other Stream (GPS)

Zoning Boundaries

- Zoning Boundaries
- Right-of-Way Type
- Road or Alley ROW
- Future Land Use

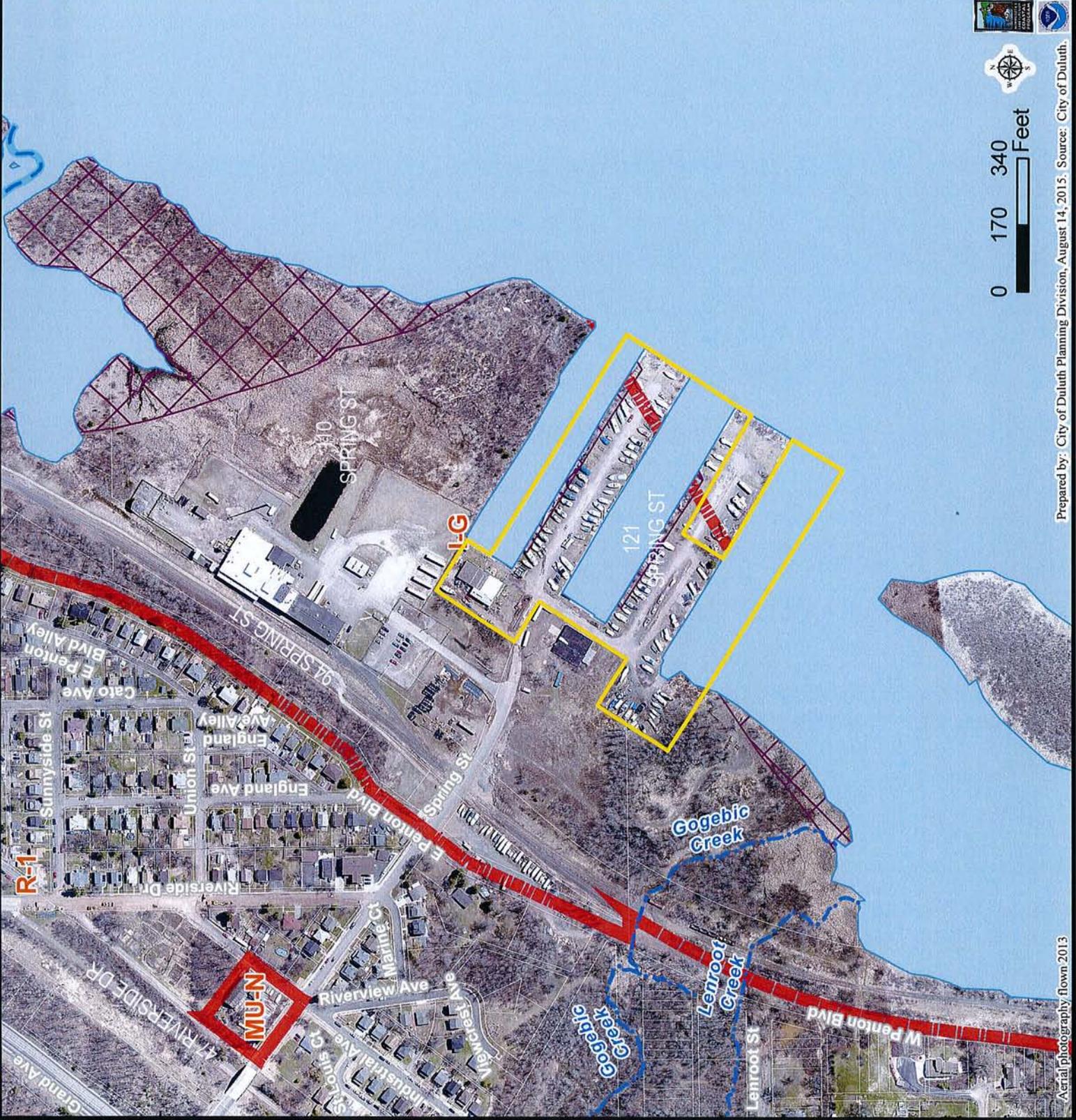
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County, and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





**City Planning**  
 PL 15-125  
 1002 S Spring St

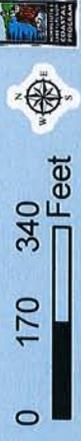


**Legend**

-  Trout Stream (GPS)
-  Other Stream (GPS)
-  Lake Superior
- Zoning Boundaries**
-  Zoning Boundaries
- Floodplain Type**
-  General Flood Plain
-  Flood Way
-  Flood Fringe

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*A-g*





City Planning

2001 Aerial



**Legend**

Trout Stream (GPS)

Other Stream (GPS)

Duluth Aerial 2001

RGB

Red: Band\_1

Green: Band\_2

Blue: Band\_3



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Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, August 14, 2013. Source: City of Duluth.

August 20, 2015

City of Duluth – Planning Commission  
411 W. 1<sup>st</sup> Street, Rm. 208  
Duluth, MN 55802

Re: Amendment to Special Use Permit for Spirit Lake Marina

Members of the Planning Commission:

Northland Consulting Engineers, LLP (NCE) has been assisting the owners of Spirit Lake Marina in developing a plan to improve one of the two piers that the marina owns. In 2008 this project was approved under a special use permit with design being contingent on multiple special requirements. At this point in time, NCE has worked with the owners to improve only "Pier 1". The Spirit Lake Marina ownership plans to develop "Pier 2" in the future as Phase 2 of construction, but needs to look at the overall site while determining requirements.

As the site sits today, the existing piers are primarily impervious. Vegetative greenspace is virtually non-existent with a small amount of sparse vegetation on the south end of each pier. Back in 2008, prior to the implementation of the UDC, the main requirement for this project to meet was an impervious site coverage percentage of less than 30% per the Water Resources Management Ordinance and supported by the MnDNR. Item #1 of the Approved Variance Request in 2008 suggests using pervious or porous surfaces to meet the 30% impervious requirement. In concept this idea works fine, but in reality these surfaces are not intended for 20 ton cranes and RVs making slow turning movements. These vehicles will be common as part of the Spirit Lake Marina and RV Park operations and the surfaces would move and break up relatively easy under these conditions.

The owner intends to improve the piers to create a RV park with 14 spaces on the east pier and 26 spaces on the west pier. This project was designed to create a vegetative perimeter around the pier to clean and slow storm water runoff flowing into the St. Louis River. This proposed design results in an impervious coverage of 46%, compared to the existing impervious coverage of 75% (see attached Area Breakdown Exhibits). This equates to a 39% reduction in impervious area. With sandy soils beneath the pier, slowing runoff will allow rainfall to infiltrate these quality soils. Furthermore, the marina operates in accordance to the Minnesota Clean Marina Best Management Practices Guidebook. Spirit Lake Marina is committed to not only installing sod and maintaining greenspace as depicted on the plan (see plan), but also protecting it from future vehicle traffic. Protective barriers, such as bollards, driven timbers, or large landscape rocks, will be installed in strategic locations to keep traffic on the gravel areas and protect these vegetated areas so they continue to function properly. Tom Johnson, the City of Duluth Storm Water Engineer, has reviewed the site design and issued an MS4 Permit for the project.

To summarize, the 30% impervious coverage condition from the 2008 approval does not meet the owner's vision for the property. By increasing the allowable percentage of impervious, these piers can be revitalized, enhancing the St. Louis River Water Front. Ultimately, the proposed improvements to the pier will be beneficial to the surrounding community and quality of the St. Louis River.

If you have any questions as you review the Special Use Permit Amendment Submittal, please call me at (218) 727-5995.

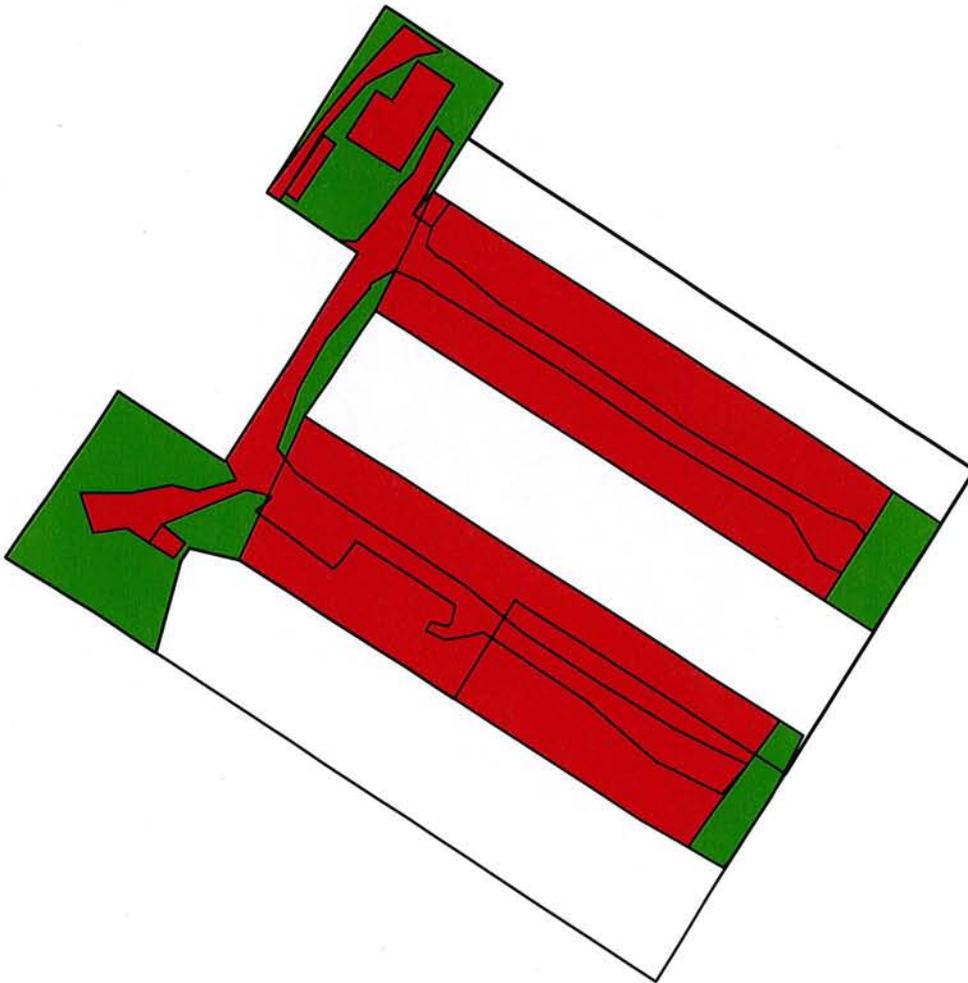
Sincerely,



David Bolf, Partner - P.E.  
Northland Consulting Engineers LLP

cc: Bill Stauduhar, Charlie Stauduhar

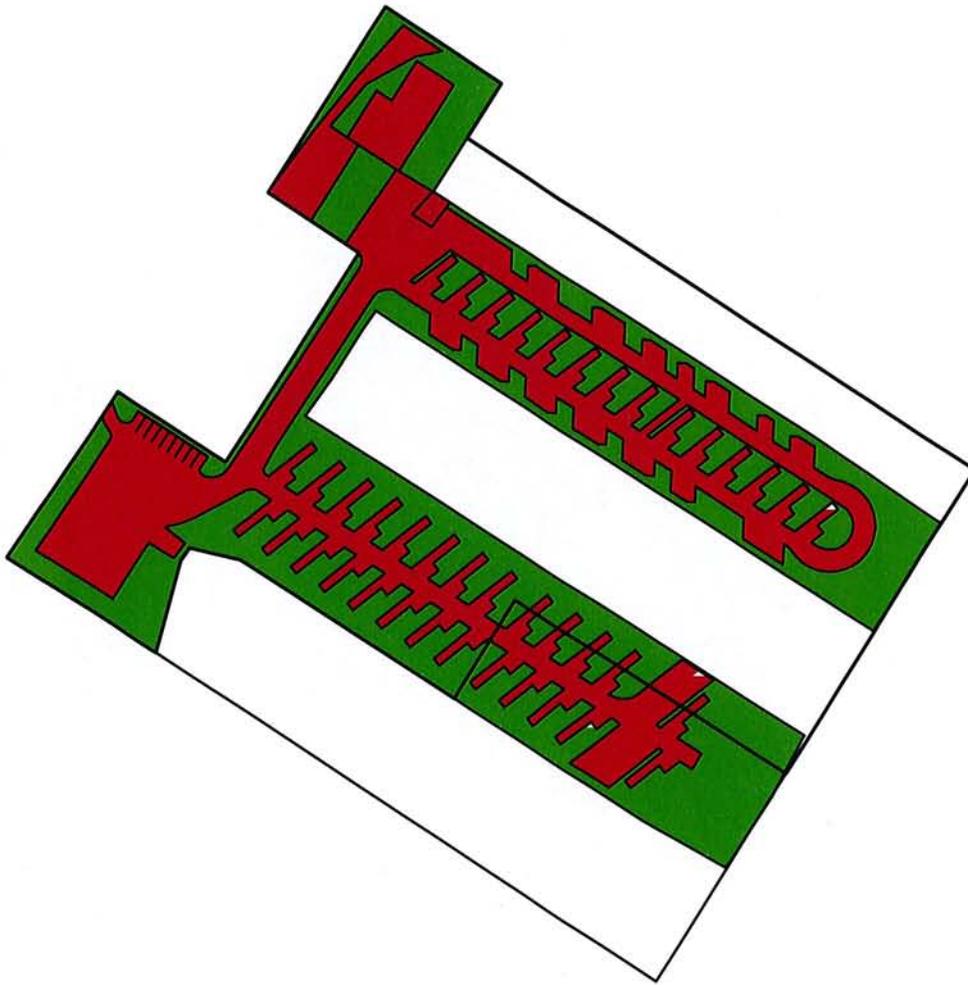
K-6



IMPERVIOUS   
 PERVIOUS 

TOTAL AREA: 292,522 SF  
 IMPERVIOUS AREA: 220,205 SF  
 IMPERVIOUS PERCENTAGE: 75%

K-7

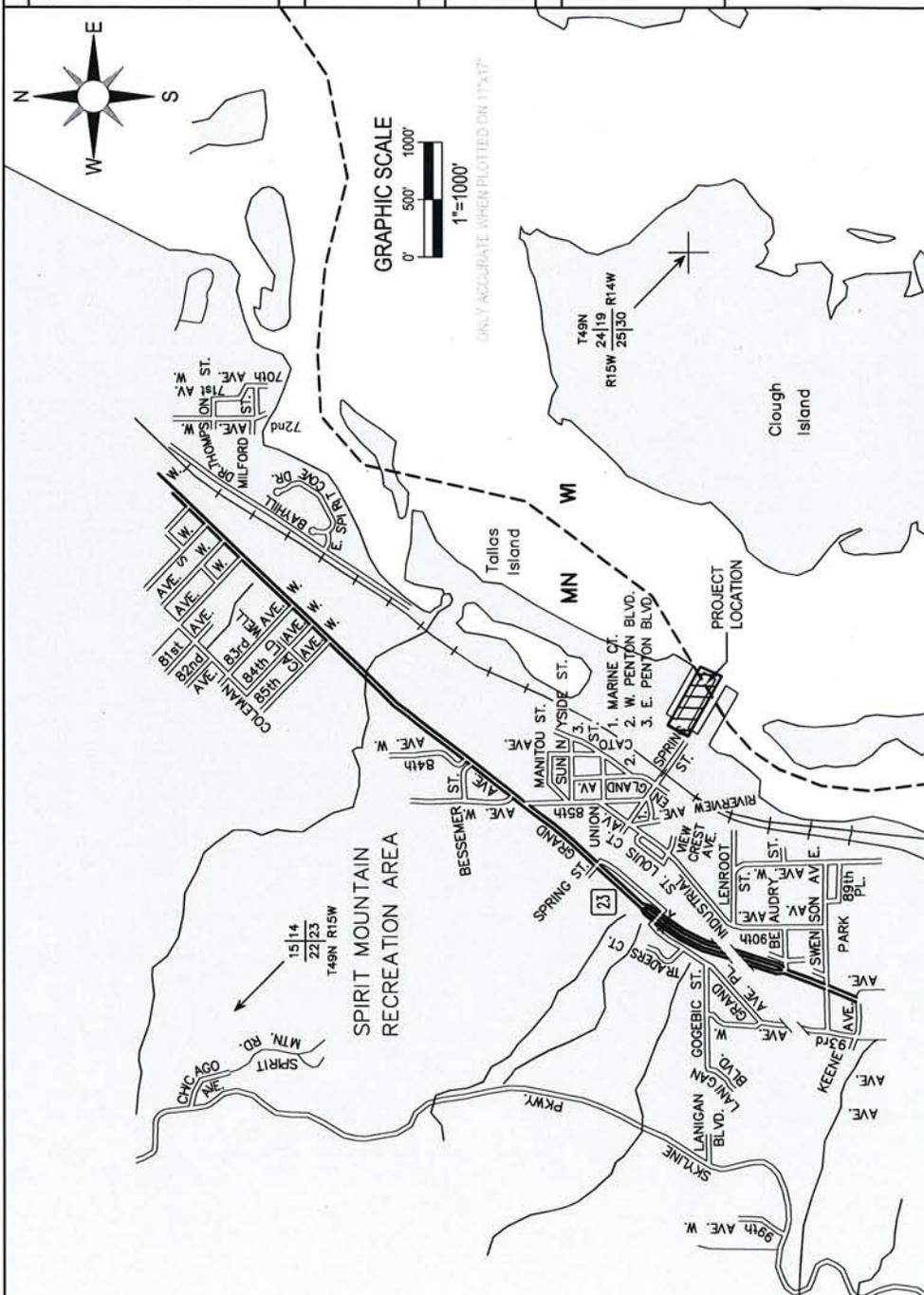
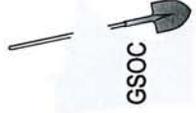
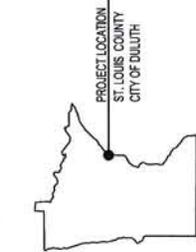


IMPERVIOUS   
 PERVIOUS

TOTAL AREA: 292,522 SF  
 IMPERVIOUS AREA: 133,935 SF  
 IMPERVIOUS PERCENTAGE: 46%

K-8

# SPIRIT LAKE RV & MARINA RESORT UTILITY PLAN

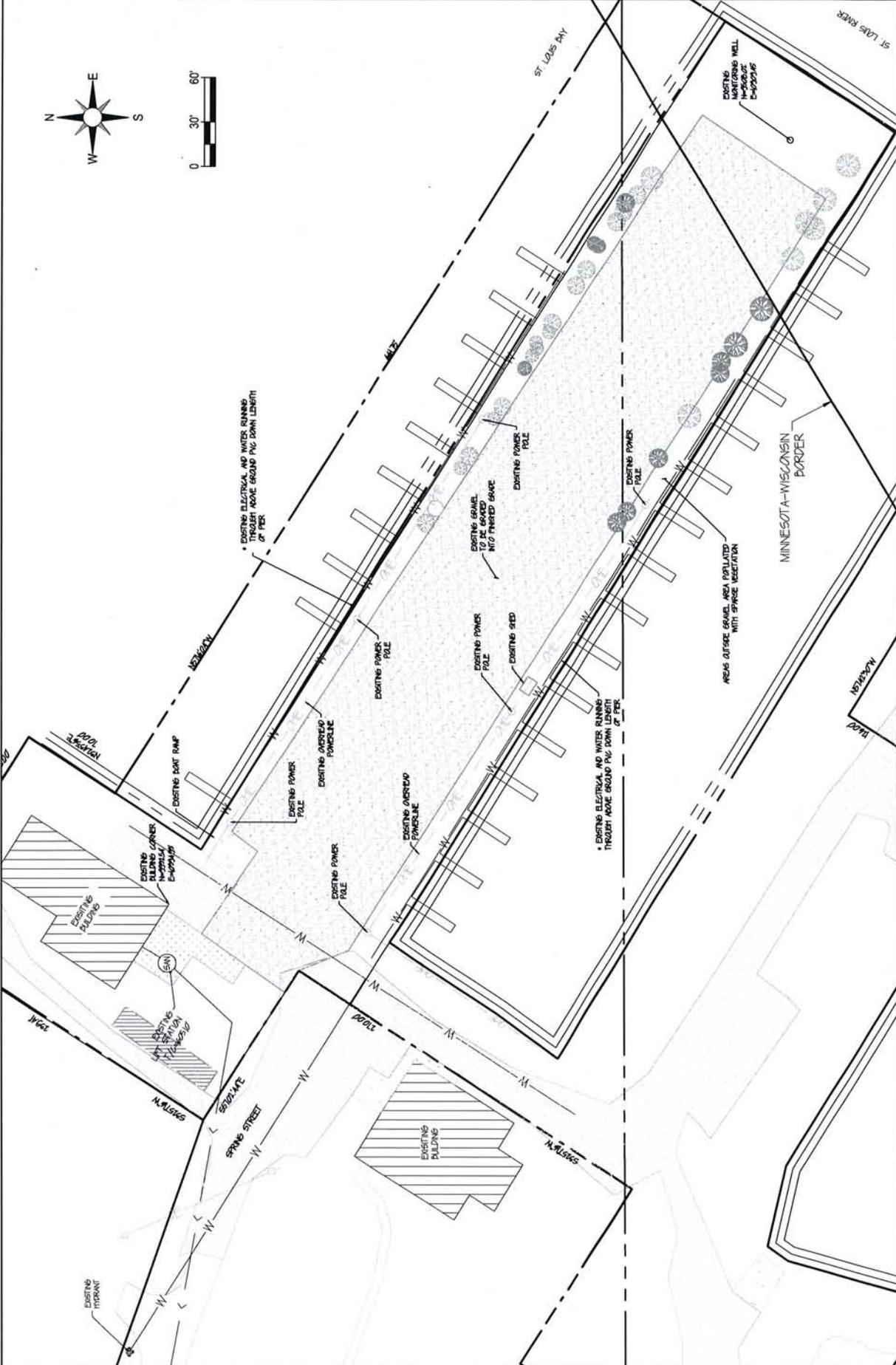


<p><b>GOVERNING SPECIFICATIONS</b></p> <p>THE 2014 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR CONSTRUCTION AND THE 14TH EDITION OF THE MATERIALS LAB SUPPLEMENTAL SPECIFICATIONS FOR CONSTRUCTION SHALL GOVERN.</p> <p>AVAILABLE AT: (<a href="http://www.dot.state.mn.us/grp-letting/spec/index.html">http://www.dot.state.mn.us/grp-letting/spec/index.html</a>)</p> <p>ALL TRAFFIC CONTROL DEVICES AND SIGNING SHALL CONFORM TO THE MN MUTCD, INCLUDING THE FIELD MANUAL DATED FEBRUARY 2011. (AVAILABLE AT: <a href="http://www.dot.state.mn.us/trafficeng/otepub/fieldmanua2011/index.html">http://www.dot.state.mn.us/trafficeng/otepub/fieldmanua2011/index.html</a>)</p> <p>THE CURRENT EDITION OF THE CITY OF DULUTH PUBLIC WORKS AND UTILITIES DEPARTMENT STANDARD CONSTRUCTION SPECIFICATIONS AND SUPPLEMENTS OR ADDENDUMS SHALL APPLY.</p>	
<p><b>BASIS OF BEARING / CONTROL</b></p> <p>POINT NAME: NORTHING: EASTING: ELEVATION: DESCRIPTION: CONTROL #1 8981.9470' 10044.6014' 606.72' PROPERTY LINE CONTROL #2 8934.1130' 10355.4300' 605.10' TOP OF LIFT STATION</p>	
<p><b>UTILITY DETAIL LEVEL</b></p> <p>THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CHASCE 38-02 ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA".</p>	
<p><b>SHEET NAME:</b></p> <p>C1.0 TITLE SHEET C2.0 EXISTING CONDITIONS / REMOVALS C3.0 OVERALL SITE-KEY PLAN C4.0 PIER 1 SITE PLAN / PROFILE C5.0 PIER 2 SITE LAYOUT C6.1 DETAILS / TYPICAL SECTIONS C6.2 DETAILS / TYPICAL SECTIONS C7.0 EROSION CONTROL PLAN C8.0 SWPPP</p>	<p><b>SHEET INDEX</b></p> <p>DESCRIPTION:</p>

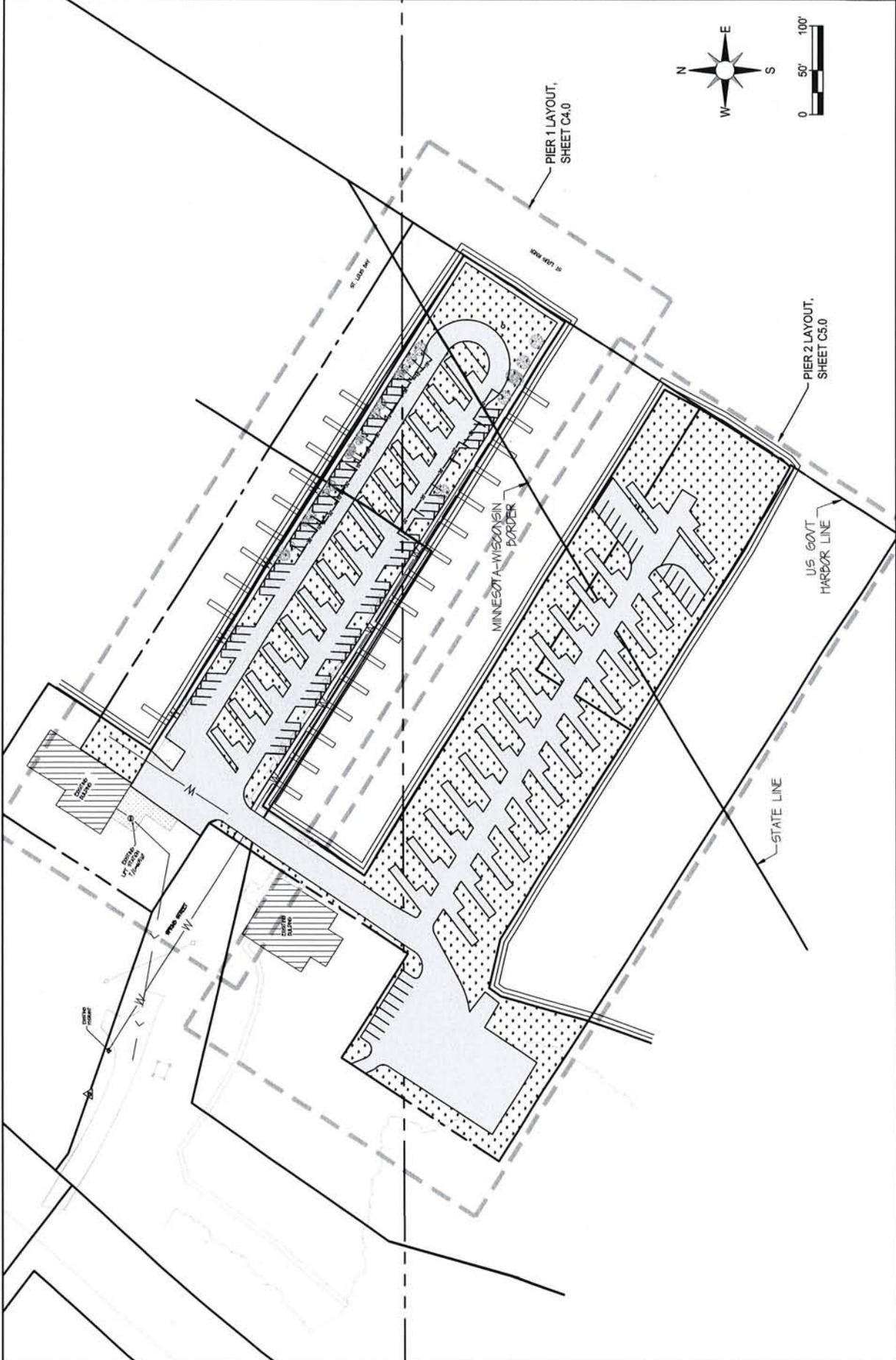
**Northland** Consulting Engineers L.L.P. Structural, Civil and Forensic Engineering Services  
121 SPRING ST. DULUTH, MN 55808  
8/19/15  
Signature: David G. Bohl, Engineer, License # 40926  
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.  
NICE Proj# 13-307-C  
Date: 8/19/15  
Drawn By: REM  
Checked By: DGB  
Revisions:

**Northland** Consulting Engineers L.L.P. Structural, Civil and Forensic Engineering Services  
121 SPRING ST. DULUTH, MN 55808  
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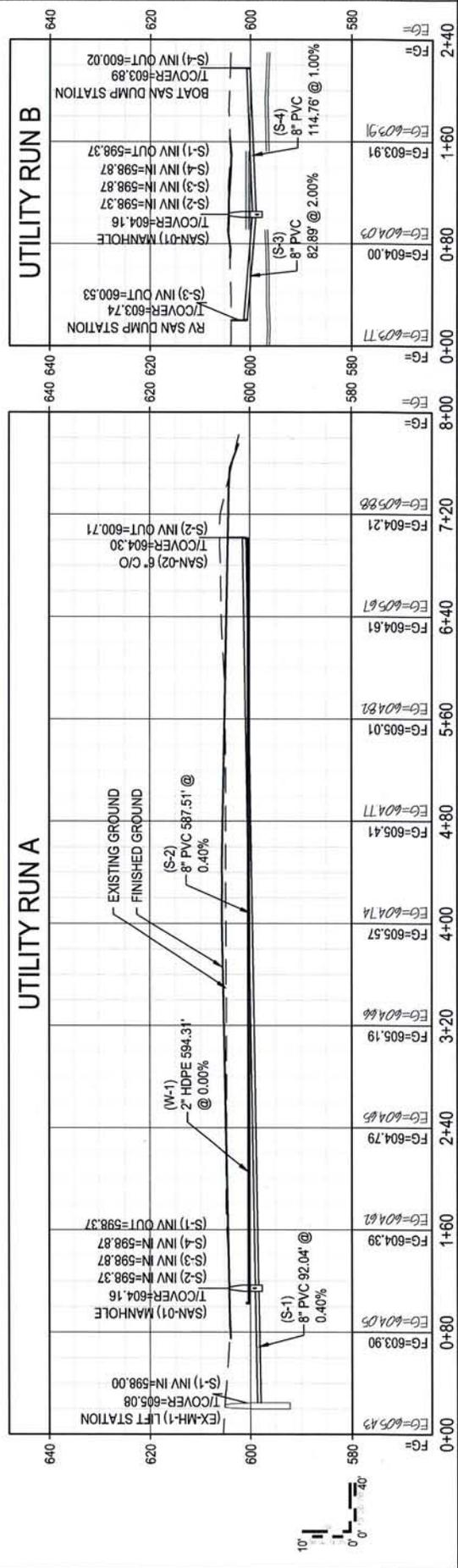
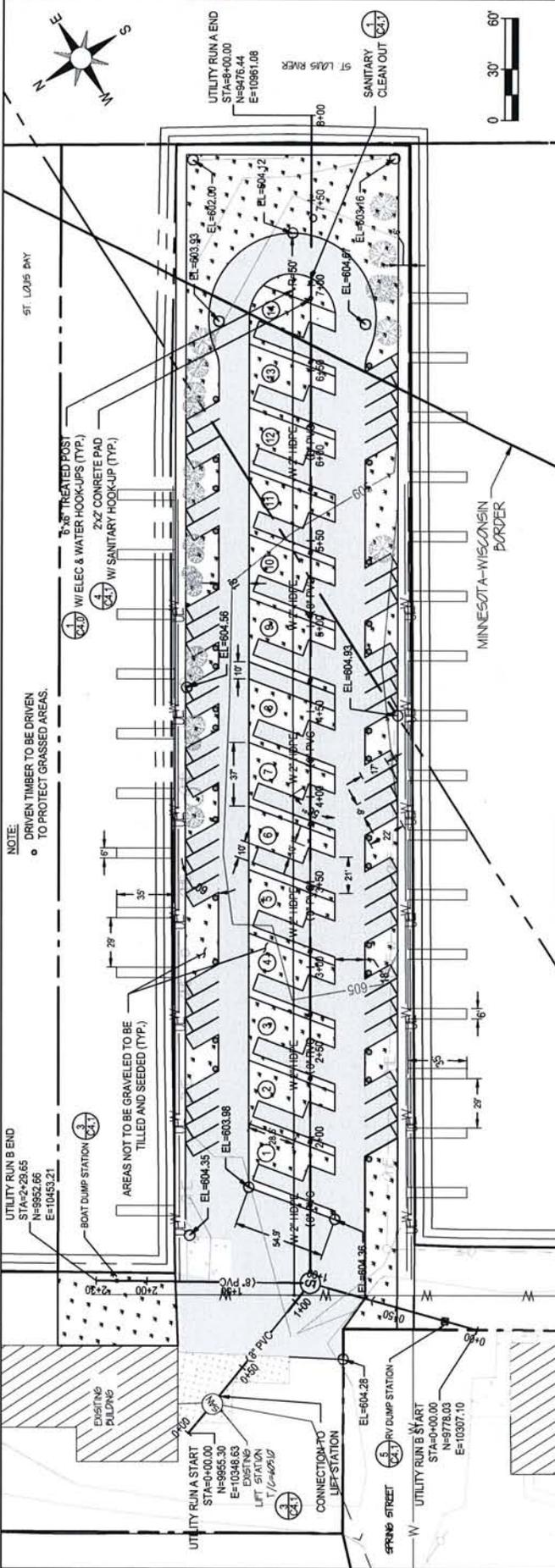
K-9



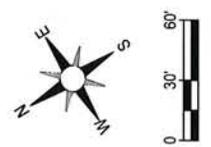
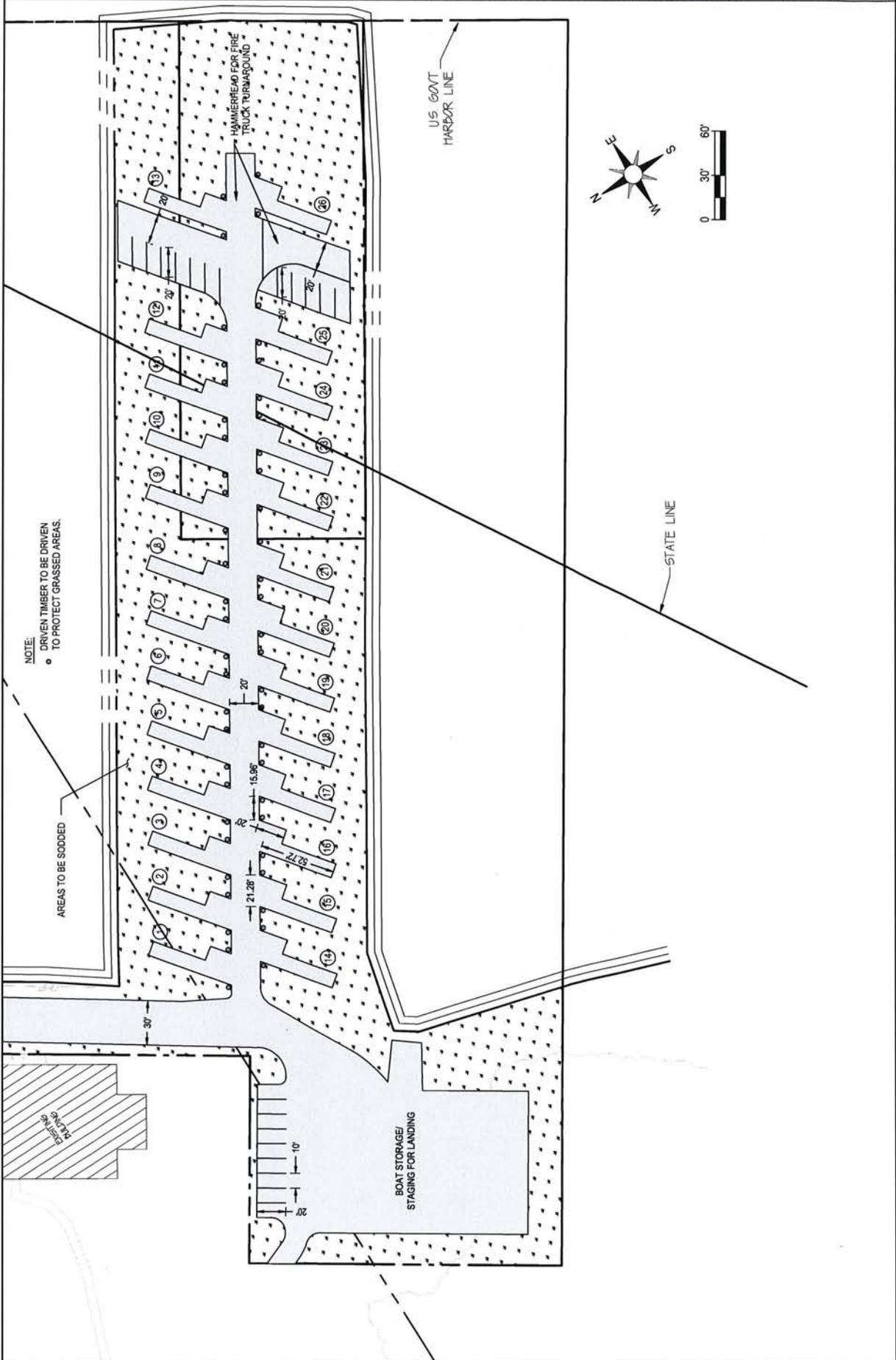
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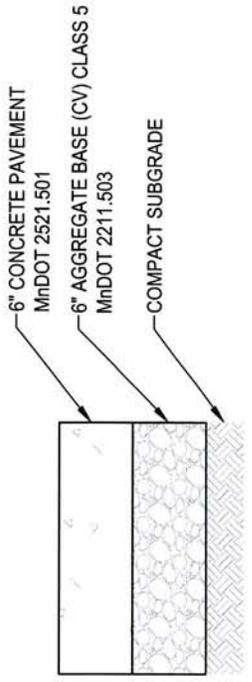
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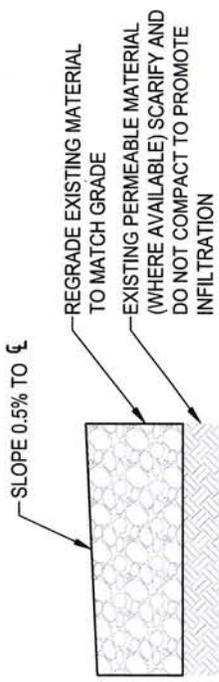
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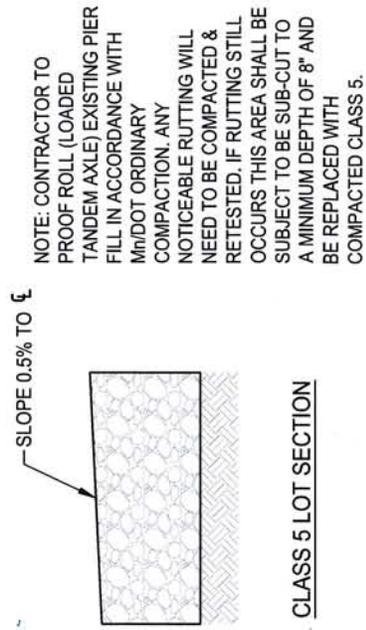
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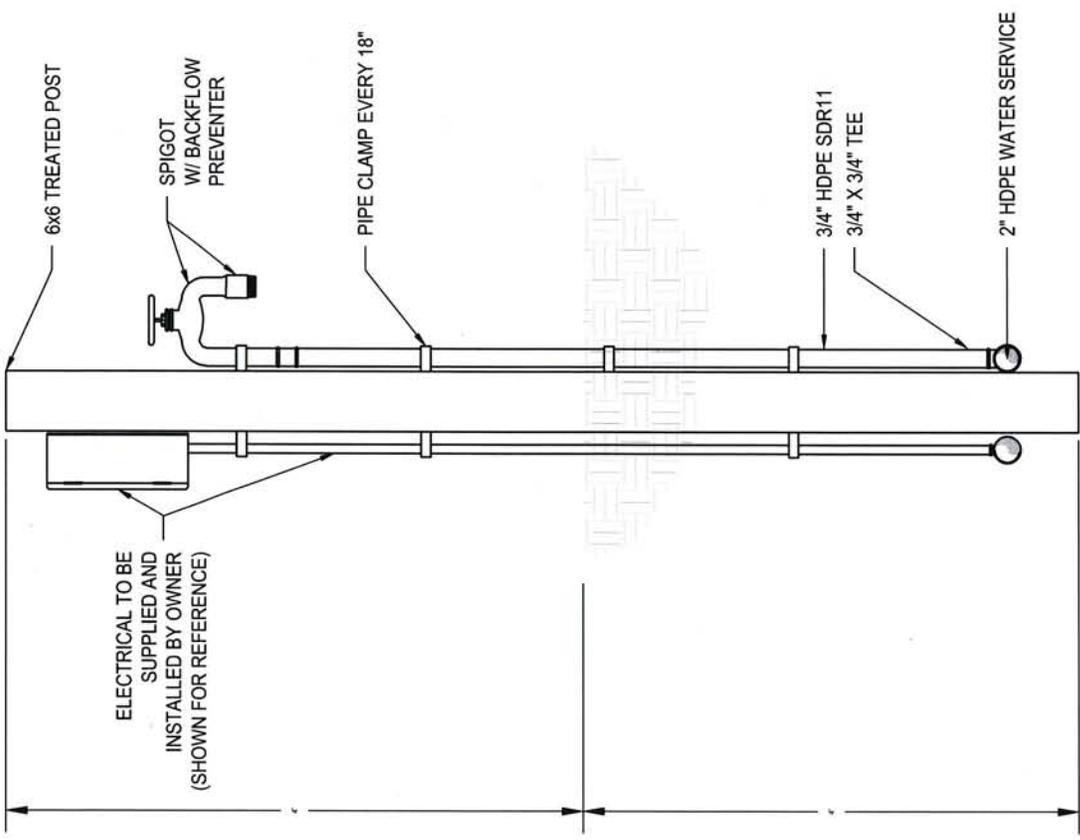
**6" CONCRETE SIDEWALK**  
 NTS



**RV PAD SECTION**  
 NTS

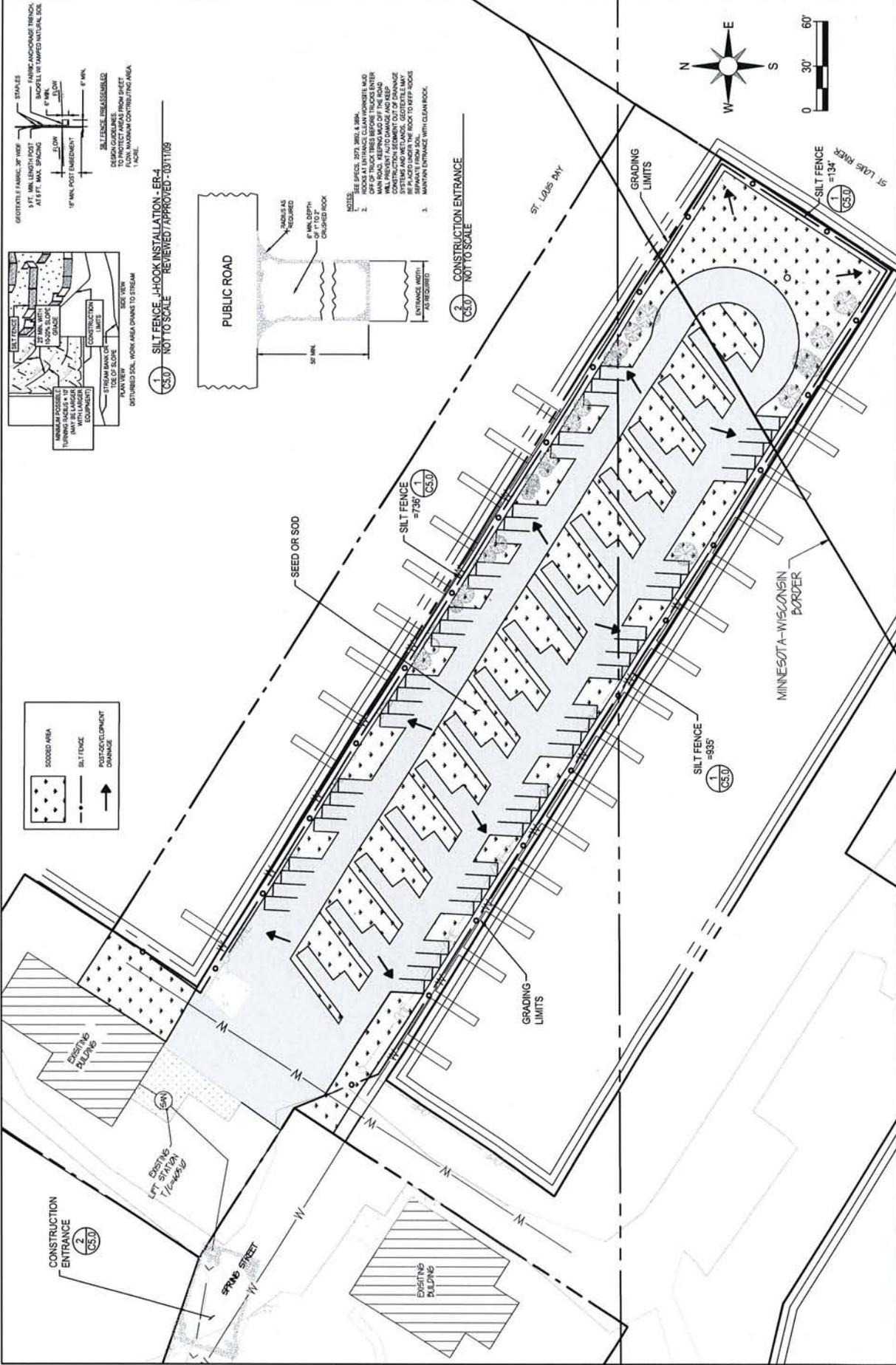


**CLASS 5 LOT SECTION**



**SPIGOT / ELECTRICAL HOOK-UP DETAIL**  
 NTS

*K-14*



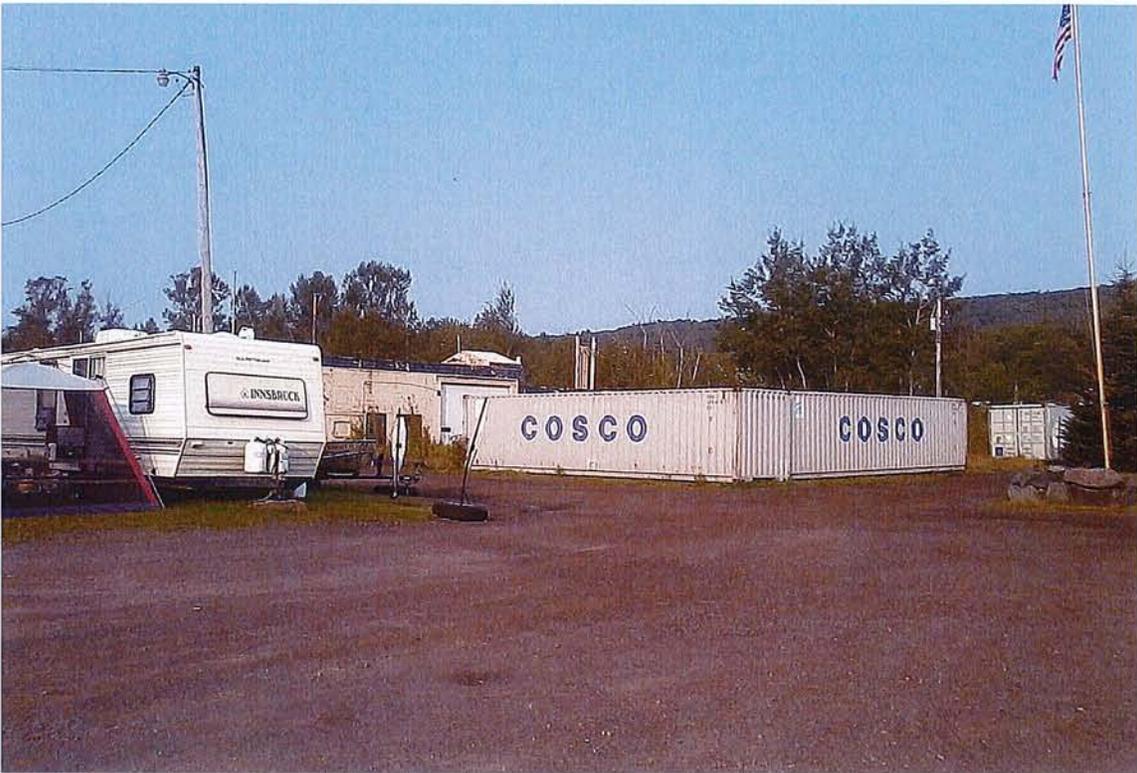
K-15



K-16



K-17



81-4



K-19



K-20

## Language from UDC: Special Use Permits

### 50-37.10 SUP

#### B. Procedure.

1. The planning commission shall review the application, shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H. In the case of a special use permit, planning commission shall make, and in the case of an interim use permit, council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The commission or council may impose appropriate conditions and safe-guards, including but not limited to financial security pursuant to Section 50-37.2.P, a development agreement regarding the design, construction, and operation of the special use, to protect the comprehensive land use plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met;

2. If the permit is approved or approved with modifications, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions. The city may require that some or all of the documents presented by the applicant in support of the application, including without limitation any site plan, landscape plan, building elevation drawings, or development agreement, be recorded as a city public document prior to the issuance of any building permit. A decision not to require recording of some or all of those documents shall not relieve the applicant or any successors or assigns in title to the property from the duty to comply with all terms and conditions of the permit. Constructing any improvement or beginning any activity authorized by the permit shall constitute the applicant's agreement to conform to all terms and conditions of the permit;

3. The city may approve an application or approve it with modifications, with a condition that if a structure authorized by the permit is not constructed by a specified date, or if an activity authorized by the permit is not begun by a specified date, the permit shall terminate. If that condition is attached, the city shall notify the applicant and the property owner when a permit has lapsed, and that decision may be appealed pursuant to Section 50-37.1.O;

4. The city may approve an application or approve it with modifications, with a condition that abandonment of an activity authorized by a permit longer than a stated period terminates the permit, and any future reactivation of the use will require the filing and approval of a new permit application;

5. The commission may not approve or approve with modifications, a special use permit valid only for a specific period of time, but must instead recommend to council an interim use permit pursuant to subsection D below for that purpose;

6. Any approved permit shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city;

#### C. Criteria for special use permits.

The planning commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

1. The application is consistent with the comprehensive land use plan;

2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area;

K-21

Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community;

K-22

Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community;

K-2.3







**BOCHT ENGINEERING, PLLC**  
 408 KIRKWOOD STREET  
 SUITE 100  
 PLEASANTON, CA 94566  
 (925) 461-1100

WE HEREBY CERTIFY THAT THIS PLAN AND ALL INFORMATION CONTAINED HEREON WAS PREPARED BY A REGISTERED PROFESSIONAL ENGINEER UNDER THE SEAL AND SIGNATURE OF THE ENGINEER.

**BRYAN BOCHT**

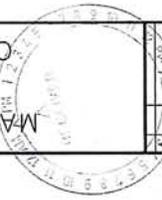
REGISTERED ENGINEER

DATE: 2/23/24

PROJECT: RV RESORT

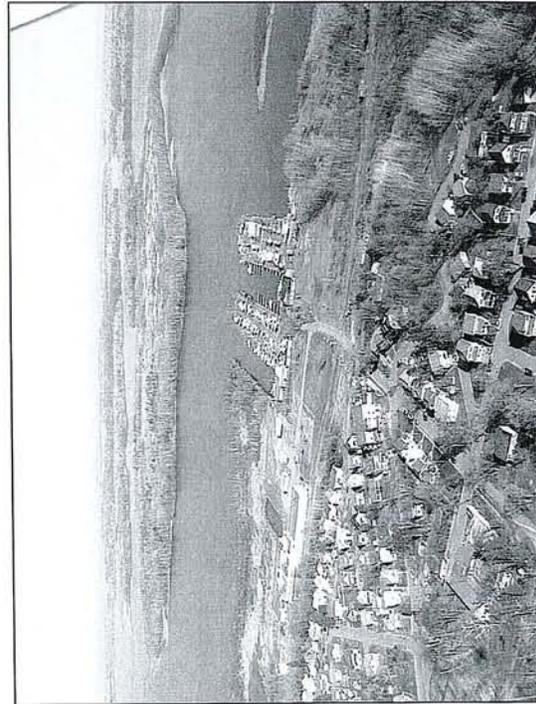
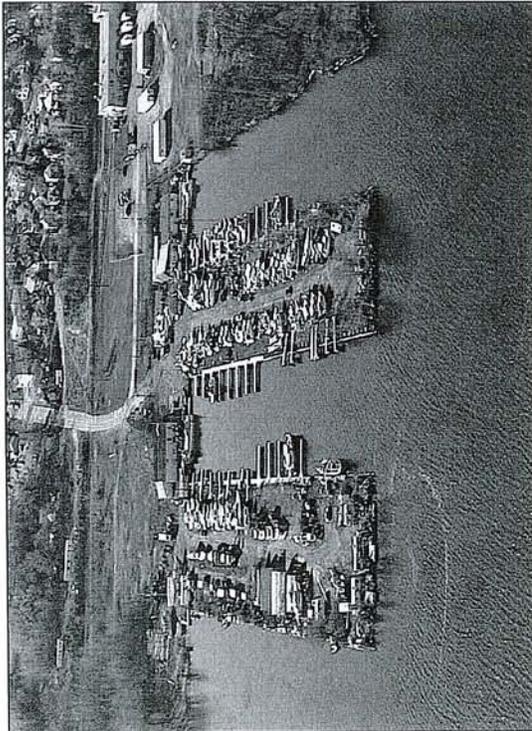
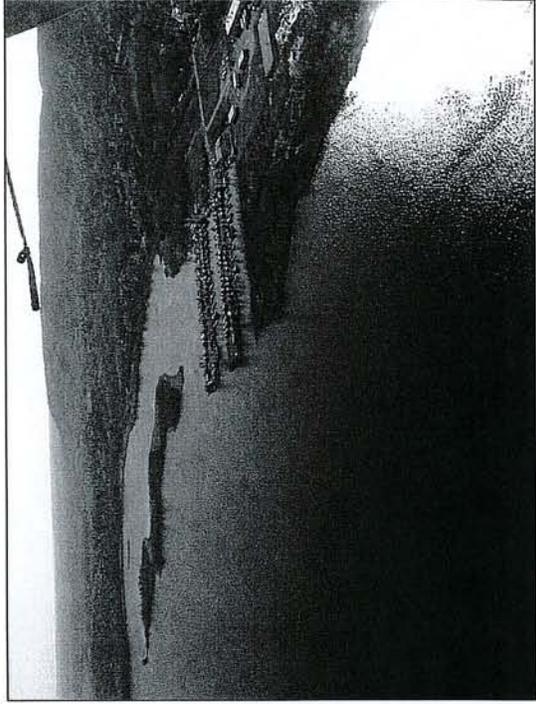
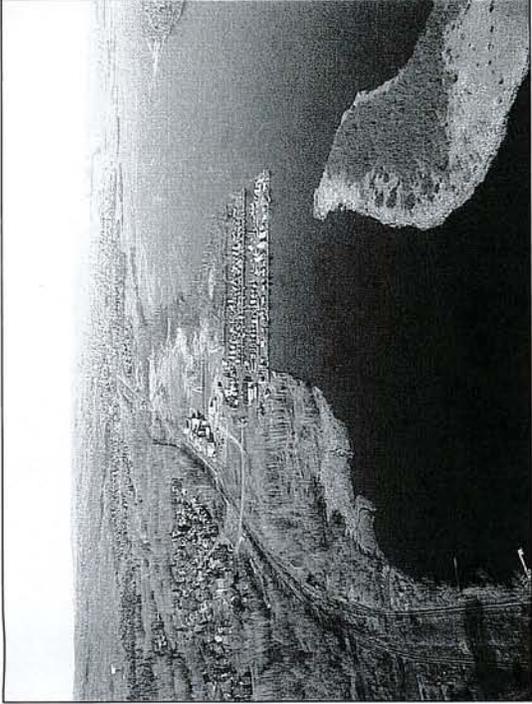
SIGNATURE

MARINA / RV RESORT  
 SITE PHOTOS  
 CONCEPTUAL PLAN



NO.	DATE	DESCRIPTION
1	2/23/24	ISSUED SHEET
2		
3		
4		
5		
6		
7		
8		

SHEET  
 3/9



15-26



**B. BECHTOLD ENGINEERING, P.L.L.C.**  
 1000 W. WISCONSIN AVENUE  
 SUITE 200  
 MILWAUKEE, WI 53233

THIS SHEET IS TO BE USED IN CONNECTION WITH THE CONCEPTUAL PLAN FOR THE MARINA / RV RESORT PROJECT AS SHOWN ON SHEET 1 OF THIS SET OF PLANS.

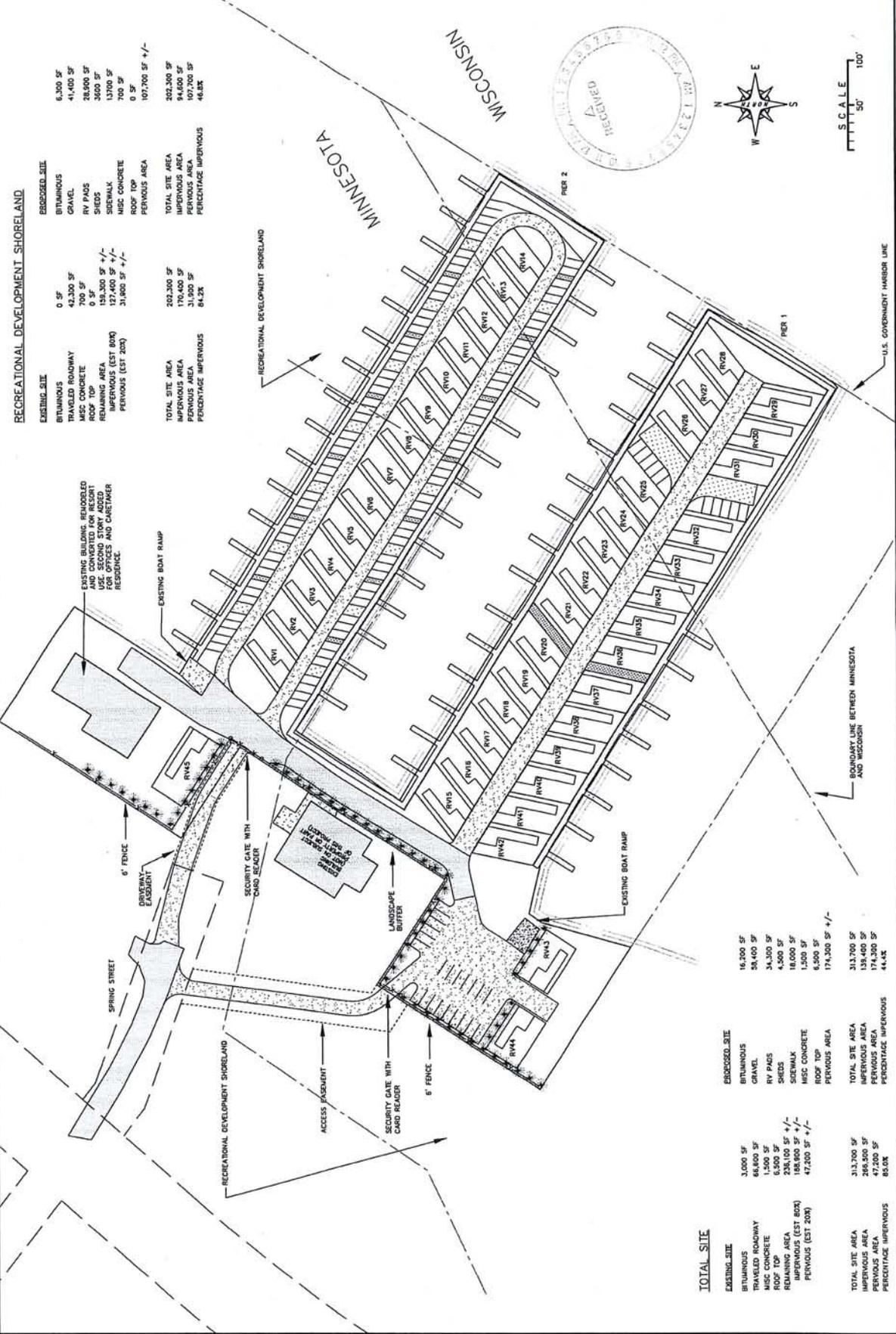
DATE: 2/12/14  
 REVISIONS:  
 1. 2/12/14

SCALE: AS SHOWN

MARINA / RV RESORT  
 ENTIRE SITE  
 CONCEPTUAL PLAN

NO.	DATE	DESCRIPTION
1	2/12/14	ISSUE FOR PER 1
2	2/12/14	ISSUE FOR PER 2
3	2/12/14	MISC CHANGES
4	2/12/14	ADDITIONS

SHEET 4/9



**RECREATIONAL DEVELOPMENT SHORELAND**

EXISTING SITE	PROPOSED SITE
BITUMINOUS	BITUMINOUS
TRAVELLED ROADWAY	GRAVEL
CONCRETE	RV PADS
ROOF TOP	SEEDS
REMAINING AREA	SIDEWALK
IMPERVIOUS AREA	MISC CONCRETE
PERVIOUS (EST 20%)	ROOF TOP
0 SF	PERVIOUS AREA
42,300 SF	202,300 SF
0 SF	IMPERVIOUS AREA
158,300 SF +/-	94,600 SF
127,400 SF +/-	PERVIOUS AREA
31,800 SF +/-	PERVIOUS (EST 20%)
	107,700 SF +/-
	TOTAL SITE AREA
	170,400 SF
	PERVIOUS AREA
	31,800 SF
	PERCENTAGE IMPERVIOUS
	18.6%

**EXISTING SITE**

BITUMINOUS	0 SF
TRAVELLED ROADWAY	42,300 SF
CONCRETE	0 SF
ROOF TOP	0 SF
REMAINING AREA	158,300 SF +/-
IMPERVIOUS AREA	127,400 SF +/-
PERVIOUS (EST 20%)	31,800 SF +/-

**PROPOSED SITE**

BITUMINOUS	202,300 SF
GRAVEL	170,400 SF
RV PADS	94,600 SF
SEEDS	0 SF
SIDEWALK	0 SF
MISC CONCRETE	0 SF
ROOF TOP	0 SF
PERVIOUS AREA	107,700 SF +/-

**TOTAL SITE**

BITUMINOUS	202,300 SF
TRAVELLED ROADWAY	42,300 SF
CONCRETE	0 SF
ROOF TOP	0 SF
REMAINING AREA	158,300 SF +/-
IMPERVIOUS AREA	127,400 SF +/-
PERVIOUS (EST 20%)	31,800 SF +/-

**TOTAL SITE AREA**

TOTAL SITE AREA	313,700 SF
IMPERVIOUS AREA	159,200 SF
PERVIOUS AREA	174,500 SF
PERCENTAGE IMPERVIOUS	49.2%

**EXISTING SITE**

BITUMINOUS	16,200 SF
GRAVEL	58,100 SF
RV PADS	34,300 SF
SEEDS	4,500 SF
SIDEWALK	18,000 SF
MISC CONCRETE	1,500 SF
ROOF TOP	0 SF
PERVIOUS AREA	174,300 SF +/-

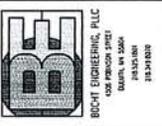
**TOTAL SITE AREA**

TOTAL SITE AREA	313,700 SF
IMPERVIOUS AREA	159,200 SF
PERVIOUS AREA	174,500 SF
PERCENTAGE IMPERVIOUS	49.2%



SCALE: 1" = 50'  
 1" = 100'

K-27



**BOCKT ENGINEERING, PLLC**  
 ONE PARKSON STREET  
 SUITE 100  
 WASHINGTON  
 DISTRICT OF COLUMBIA

WE HEREBY CERTIFY THAT THIS PLAN WAS  
 PREPARED BY AN ENGINEER REGISTERED  
 IN THE DISTRICT OF COLUMBIA AND THAT I  
 AM A duly Licensed Professional Engineer under  
 the State of Virginia.

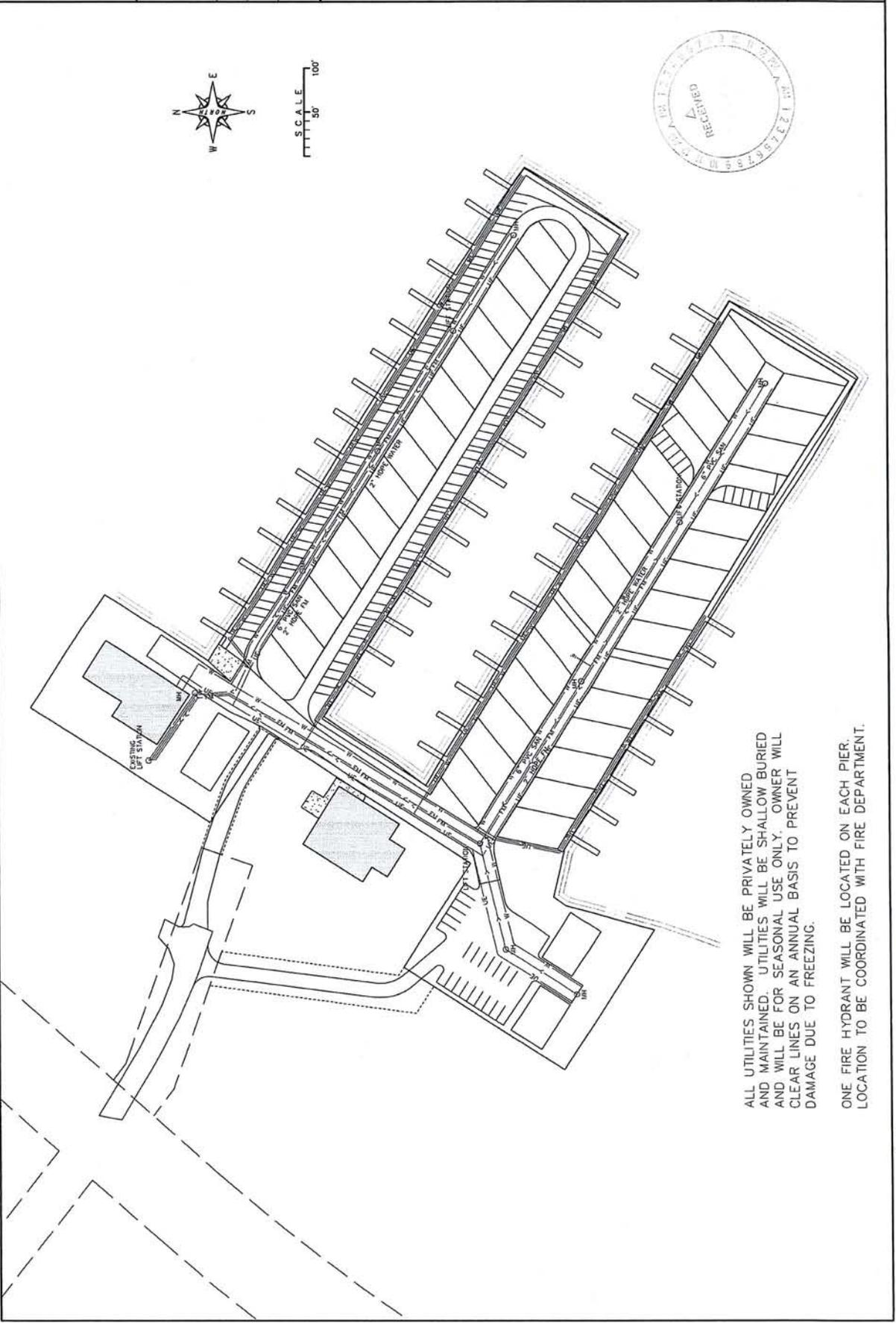
**BRYAN BOCKT**  
 REGISTERED ENGINEER

DATE: 2/21/24  
 REV: 01  
 SHEET NO. 5/9

**MARINA / RV RESORT  
 SITE UTILITIES  
 CONCEPTUAL PLAN**

NO.	DATE	DESCRIPTION
1	2/21/24	ISSUED FOR PERMIT
2		
3		
4		
5		

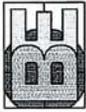
**SHEET 5/9**



ALL UTILITIES SHOWN WILL BE PRIVATELY OWNED AND MAINTAINED. UTILITIES WILL BE SHALLOW BURIED AND WILL BE FOR SEASONAL USE ONLY. OWNER WILL CLEAR LINES ON AN ANNUAL BASIS TO PREVENT DAMAGE DUE TO FREEZING.

ONE FIRE HYDRANT WILL BE LOCATED ON EACH PIER. LOCATION TO BE COORDINATED WITH FIRE DEPARTMENT.

*K-28*



BOOTH ENGINEERING, P.L.C.  
 1000 WILSON AVENUE  
 SUITE 100  
 28101  
 28101

DESIGNED BY BOOTH ENGINEERING, P.L.C.  
 DRAWN BY BOOTH ENGINEERING, P.L.C.  
 CHECKED BY BOOTH ENGINEERING, P.L.C.  
 DATE 28/12/14

PROJECT NAME  
 BOOTH ENGINEERING, P.L.C.

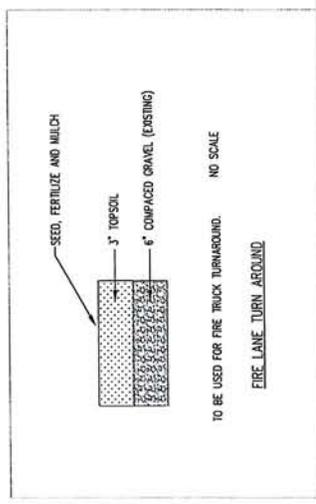
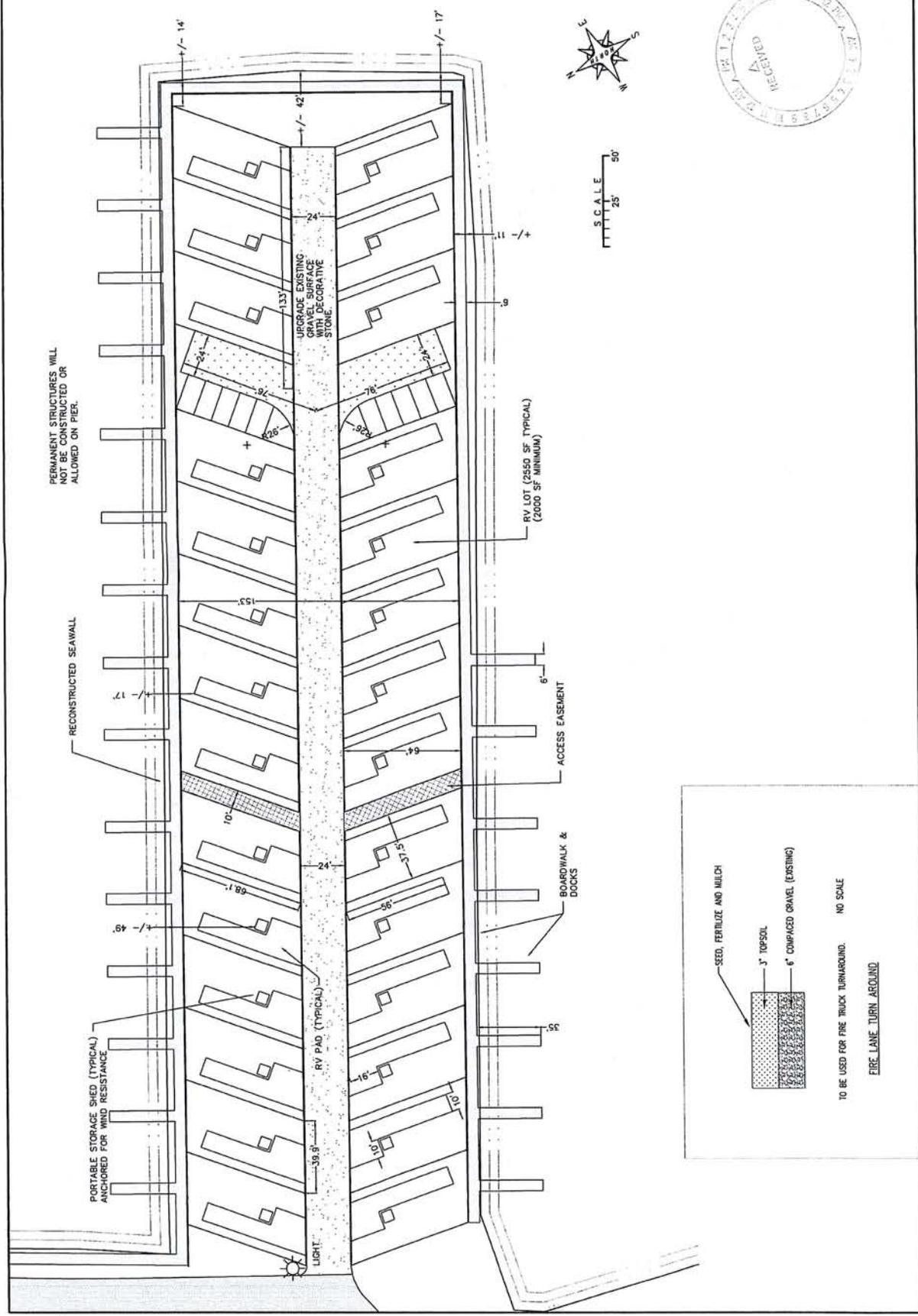
DATE 28/12/14

SCALE

MARINA / RV RESORT  
 PIER 1  
 CONCEPTUAL PLAN

1	DATE	28/12/14
2	BY	BOOTH ENGINEERING, P.L.C.
3	FOR	BOOTH ENGINEERING, P.L.C.
4	REVISED	
5	BY	BOOTH ENGINEERING, P.L.C.
6	FOR	BOOTH ENGINEERING, P.L.C.

SHEET  
 6/9



*K-29*



**BRYAN BOOTH ENGINEERING, P.L.C.**  
 100 WILSON STREET  
 BIRMINGHAM, B15 2JF  
 0121 717 1000  
 0121 717 1001

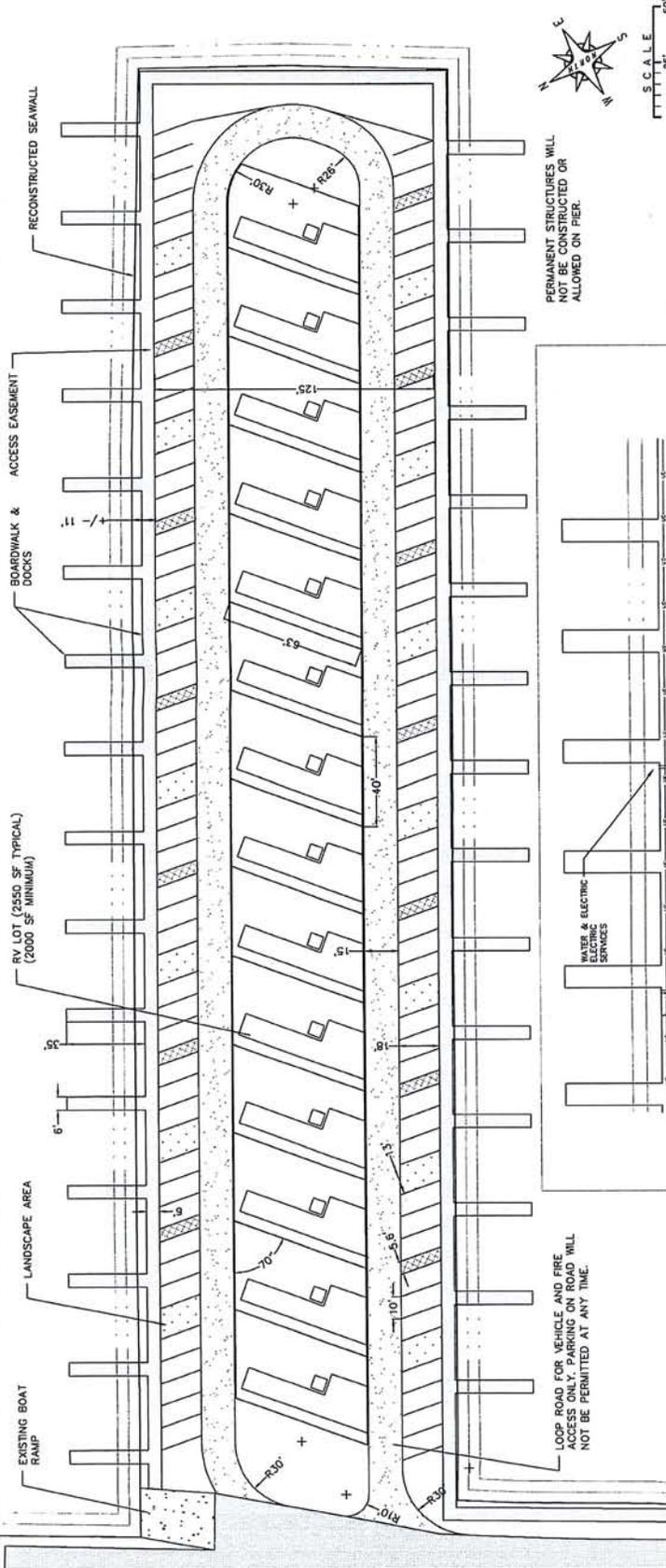
WEED COSTS THAT ARE NOT PROVIDED BY THE CLIENT WILL BE CHARGED TO THE CLIENT. WEED CONTROL WILL BE PROVIDED BY THE CLIENT. WEED CONTROL WILL BE PROVIDED BY THE CLIENT.

**BRYAN BOOTH**  
 DRAWING NO. 20/24  
 DATE 12/19  
 SHEET NO. 7/9

MARINA / RV RESORT  
 PIER 2  
 CONCEPTUAL PLAN

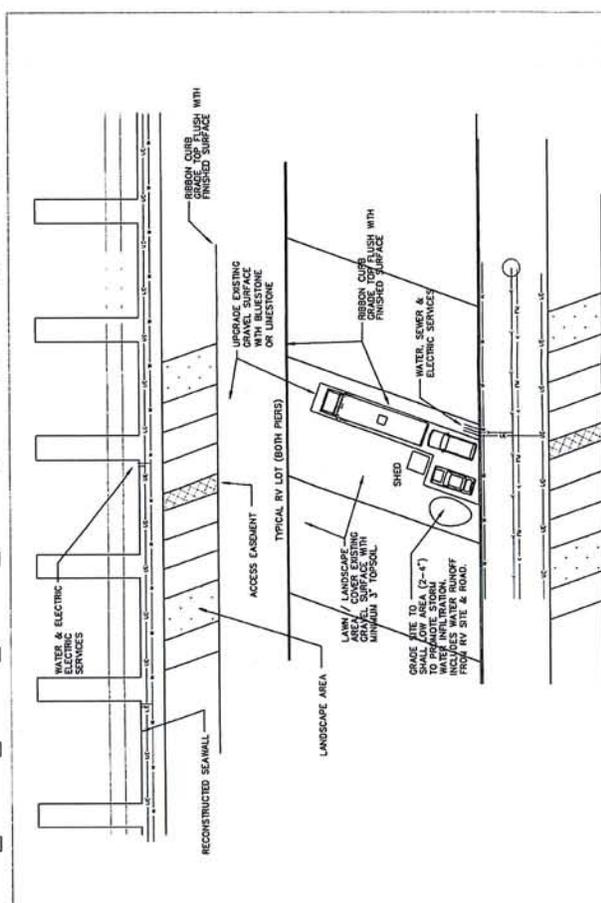
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14	1/27/20	REVISED
15	1/27/20	REVISED

SHEET  
 7/9



PERMANENT STRUCTURES WILL NOT BE CONSTRUCTED OR ALLOWED ON PIER.

LOOP ROAD FOR VEHICLE AND FIRE ACCESS ONLY. PARKING ON ROAD WILL NOT BE PERMITTED AT ANY TIME.



K-30



**BOCHT ENGINEERING, P.L.C.**  
 100 HARRISON STREET  
 DUBLIN 4, IRELAND  
 TEL: 01 454 4000  
 FAX: 01 454 4001

I HEREBY CERTIFY THAT THIS PLAN HAS  
 BEEN PREPARED BY ME OR UNDER MY DIRECT  
 SUPERVISION AND THAT I AM A REGISTERED  
 CIVIL ENGINEER IN THE STATE OF IRELAND.

**BOCHT ENGINEERING**  
 PROJECT NAME:

DATE: 20/12/14

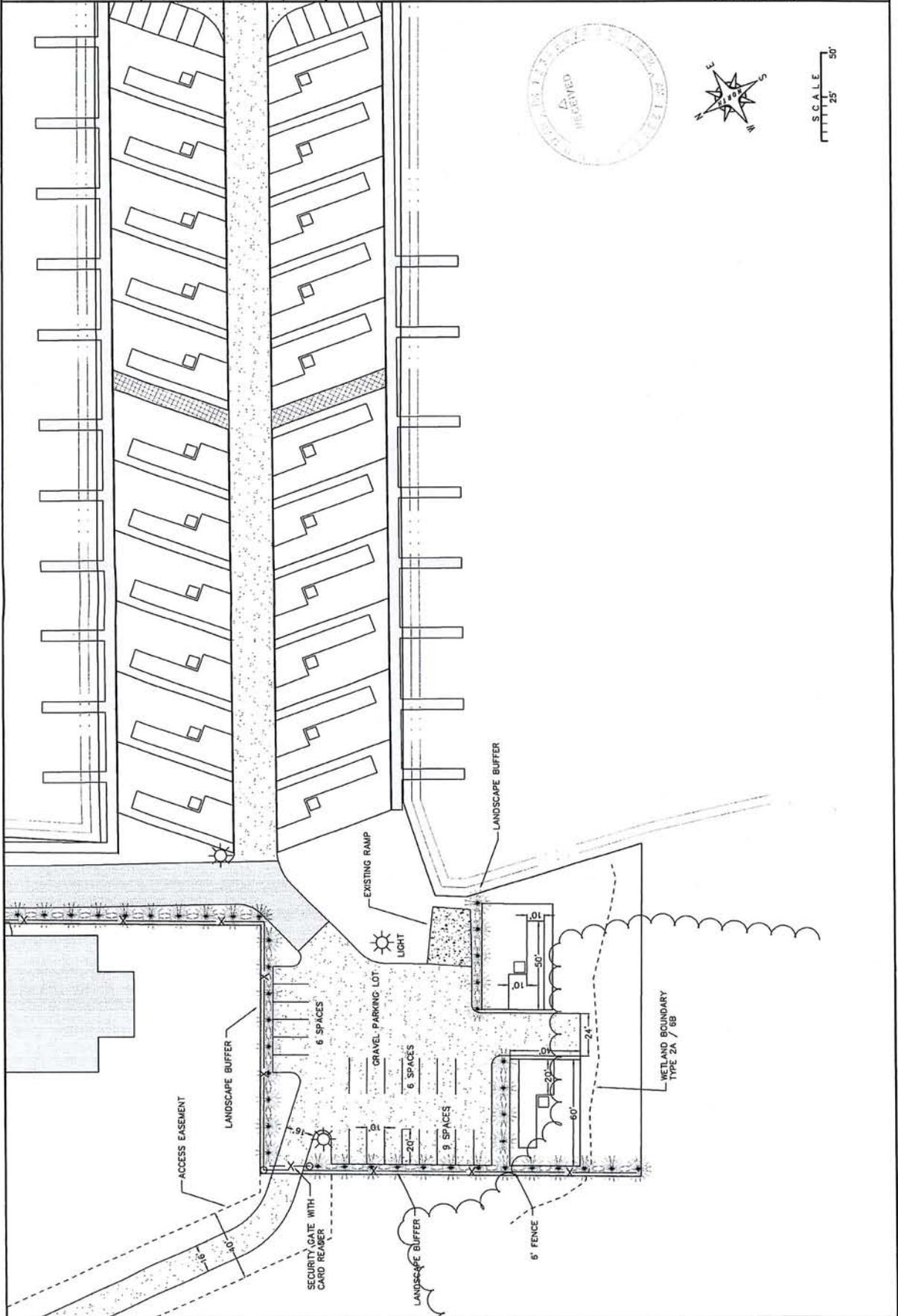
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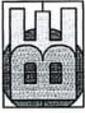
MARINA / RV RESORT  
 PARKING / BOAT RAMP  
 CONCEPTUAL PLAN

NO.	DATE	BY	REVISED
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9			
10			

SHEET  
 8/9



K-31



BEECH ENGINEERING, PLLC  
 4300 HARRISON STREET  
 SUITE 100  
 GREENSBORO, NC 27409  
 TEL: 336.833.4000  
 FAX: 336.833.4005

I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATIONS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A duly LICENSED PROFESSIONAL ENGINEER UNDER THE STATE OF NORTH CAROLINA.

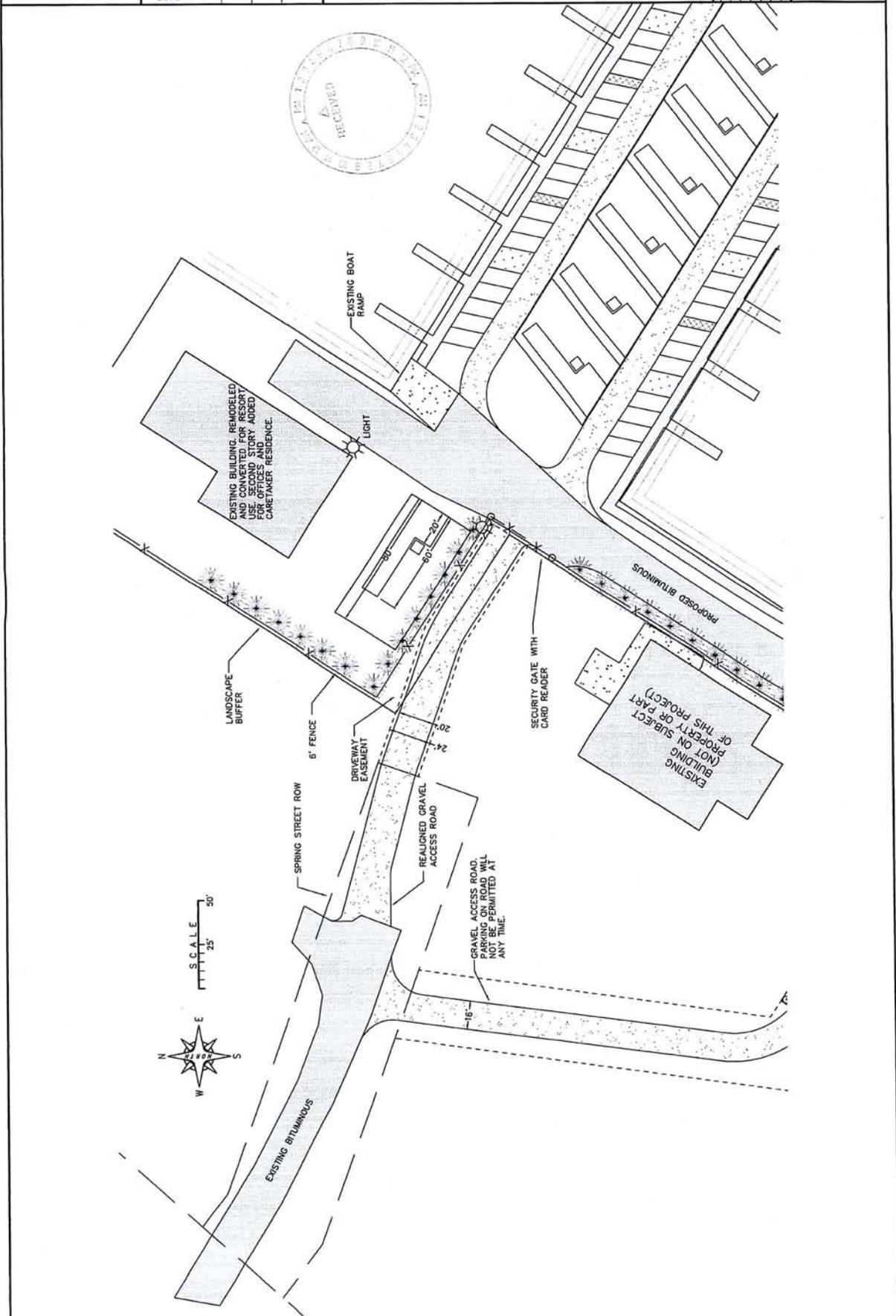
BRYAN BOCHT  
 LICENSED P.E.  
 25324  
 DATE: 05.14.10

SPONSOR:

MARINA / RV RESORT  
 ENTRANCE ROAD & COMMON AREA  
 CONCEPTUAL PLAN

NO.	DATE	DESCRIPTION
1		
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SHEET  
 9/9



K-32

City of Duluth  
Planning Commission  
**Minutes of Tuesday, February 12, 2008**  
City Council Chambers

**I. Call to Order:** President Harries called the meeting of the Planning Commission to order at 5:03 p.m., **Tuesday, February 12, 2008**, in the third floor Council Chambers of Duluth City Hall and explained the procedure to the audience.

**II. Roll Call:**

Members Present: Mike Akervik (departed meeting at 7:50 p.m.), Henry Banks, Joan Barrett, Ruth Ann Eaton, Mindy Granley, Joan Morrison, David Sarvela, Jim Stebe  
John Vigen (11/2) (7:50 p.m. 10/2)

Members Absent Excused: Mindy Appold, Roger Wedin

Staff Present: Bob Bruce, Kyle Deming, Chuck Froseth, Lynn Ann Hollatz, Alison Lutterman

**III. Public Hearings** (staff reports of matters are on file in the Planning & Development Department)

A. **FN07158** - Decision on Negative Declaration for EIS on Lake Avenue Skywalk Project (LAH) (ND 5)

**Staff report by Lynn Ann Hollatz:** Hollatz said an updated and revised report was put on the dais tonight. The State Preservation Office has given input that Hollatz thought too valuable to not include.

<p><b>MOTION/Second:</b> Rand /Sarvela- Based on all of the information contained in the record for this project, the Commission finds that there is no potential for significant environmental effects to be caused by the Lake Avenue Skywalk Project and that there is no need for an environmental impact statement on said project. <span style="float:right">Unanimous</span></p>
---

B. **FN07169** - Code Amendment to Section 29A-32 of the Legislative Code repealing the 300 foot separation distance for rental housing. Referred to the Planning Commission by City Council on December 3, 2007. (CF)

**Staff report by Charles Froseth:** This was referred to the Planning Commission by City Council. The Commission is not required to make a recommendation as it is not part of the zoning code.

**Public Input:**

Pete Handberg, 1722 Dunedin Avenue, (Opposed to repealing) - Handberg said he is one of many residents who fought for the 300 foot separation distance. To repeal the ordinance without having a replacement ready to replace the existing would be like going backwards. Retain the 300' foot rental

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housing rule.

Allen Kehr, 12 S. 66<sup>th</sup> Ave E., Arrowhead Multi-Housing Assn. (In Favor of repealing) - They have been following the matter for years. The problem is behavior. Police need to ticket the noise problems, parking issues, and littering. The Universities should be a part of the resolution. Landlords won't buy run down properties and sink money into them.

Bob Collison, 1799 Wildwood Rd., Arrowhead Multi-Housing Assn. (In Favor of repealing) - Agreed with Kehr's comments. Would like the rental ordinance gone through entirely and include interested groups.

Colin Campbell, 2001 E 6<sup>th</sup> St. (Opposed to repealing) - Lives in the heart of a rental district. He has 25 students within 150 feet either side and gets along with them. Not a perfect ordinance, would encourage Planning Commission to take some time, look at issues overall and involve all interested parties during the process. He thinks the ordinance is a step in the right direction.

Gary Kalligher, 3400 London Road, (Neutral) - He is a member of DARR (Duluth Association for Responsible Rentals). DARR's position is any changes are be made they would request grandfathering of current rentals. Supports repeal of ordinance. Universities across the United States are dealing with the same situation. Duluth should start looking at alternatives. Maybe an overlay or special zoning district. We need rentals in the community for families as well as students. DARR feels it needs to be put back on the table and reviewed.

Sandy Robinson, 723 E 7<sup>th</sup> Street, (Neutral/In Favor of keeping) - Her neighborhood has many rental properties. If the current ordinance is repealed before something else is in place the situation would be back to the way it was. She doesn't believe it is just a behavior problem. She also thinks it is a density problem. She likens the current situation to a warehouse type with activity all hours of the day and night. First time home buyers often can't compete because they don't have the monies to compete with an established buyer.

Susan Schumacher, 1021 Grandview Ave, (Neutral/In Favor of keeping) - She said she loves the neighborhood she lives in as it had a mix of older and younger residents Now there are too many rentals with too much density. The college students are at an age where their behavior doesn't fit into a standard neighborhood. They don't understand laws and regulations. In the past homes were well maintained but now there is garbage and trash. People did have 30 days to go in and obtain a temporary rental license.

George Hanson, 615 Snively Road, (In Favor of repealing) - A lot of people may think the ordinance impacts one City block only but 9 city blocks could possibly be affected by the ordinance. Hanson is on the Executive Committee of DARR. They have set up a complaint committee, a hot line, and will keep callers' identities confidential as they on resolution. Citizens should call 911 during the occurrence rather than waiting until Monday morning to email or call a Councilor or the property owner. He feels the 300' rule severely affects the economy of the city and should be done as an overlay.

**Discussion:**

Barrett said she understands this is an emotional issue for many, there hasn't been enough discussion and debate. An overlay could push the issue into other neighborhoods and agrees different groups should get together to discuss options, but felt the City should keep the 300' rule as a stop gap. City Council should set a task force with all interested parties.

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Vigen noted that some Commissioners have been involved for the past 10-15 years concerning housing issues. The Duluth News Tribune called for a charrette in 2000. Presentations were made to every planning district, all associations were asked to come to public forums. Now in 2008 the same proposal is here again. Maybe the current ordinance change isn't the best but the attention associations has been caught, and they have gotten involved. Since 2000, 800 rental licenses have been issued, not counting the 300 happened with the 300' rule. When Building Safety decided not to enforce rental housing for a family occupied dwelling, many parents purchased dwellings and filled them with their children. A lot of the problems are these properties that don't need to be licensed. Now that it's out in the open maybe groups will meet and actually move forward.

Speaking as an appraiser Vigen said there is not value loss in Duluth, and homes often do sell to homeowners. In his neighborhood investors haven't been able buy homes because of the 300' rule and it's a great neighborhood. He is of the opinion there should be a mix in all neighborhoods but neighborhoods should not be destroyed with too many rentals. He and the Planning Commission would like to see some resolution to the problem, not by throwing out the rule, but getting back into brainstorming. Maybe having Brown Bag type meetings.

Rand said Vigen covered much of she would have stated. When the Commission first heard the 300' rule they realized it was a stop gap and thought the Comprehensive Plan would provide guidance. Enforcement, code compliance, family homestead matter, all these truly are rental issues and should be addressed by Building Safety. The City should try to move forward with a higher education overlay and, not wait for a zoning code rewrite.

Akervik said a number of people are parking in front yards and how does one add 6 cars to an infrastructure that isn't built to handle that kind of situation. Doesn't think it's focused just on university areas. Part of what needs to be studied is how to enforce the rules without always going to the Police. He likes the idea of posting the contact person on the rental unit.

Morrison said she is not going to vote to repeal the 300' rule. Not because it is a perfect end but it is something. A mechanism needs to be put in place for change and several great suggestions have been put out.

Harries stated his personal view is that if the 300' rule goes away all of the agencies now concerned will go away also. No Planning Commission member is against change. All issues and solutions should be looked at. Right now it is better to keep what we have and keep the focus on other solutions.

Vigen suggested Brown Bag meetings, sooner than later. It would be a public meeting, with the hope open discussion and including councilors, universities, commissioners, and planning.

**MOTION/SECOND:** Vigen/Rand - Recommend to City Council the 300' Ordinance be retained. It was also recommended City Council consider having the Planning Commission initiate meetings with the stake holders on how to develop a workable solution to the problem in a short period of time. The meetings could include reviewing zoning and rental licensing. Unanimous

K-35

- C. **FN07174** - Zoning Code Text Amendment to Section 44-14 of the Legislative Code imposing brightness standards on and off premise signs. Referred to the Planning Commission by City Council on December 3, 2007. (CF)

**Staff report by Charles Froseth:** This was referred to the Planning Commission by City Council. City Councilor Krause requested the City Attorney's Office develop amendments to the sign code to regulate illumination of signs for both on and off premises signs. Changes to Chapter 44, the Sign Code, does require a Planning Commission public hearing. Froseth added he hasn't heard from the public on the matter and will recommend approval.

**Discussion:**

Lutterman said the City Zoning Coordinator enforces sign code while the Planning Commission is charged with amending the code.

Rand questioned what is industry lighting standard? Froseth said the original ordinance was borrowed from the City of Bloomington.

**Public Input:**

Todd Johnson, Todd Signs, 5147 Miller Trunk Hwy (Neutral) - Johnson said they would like to help write an ordinance. One has to remember to distinguish between off premise and on premise signs. Off premises sign companies have a powerful lobby. He noted the updated code is not available. Froseth said he did check the city log, the code changes were passed October 12<sup>th</sup> effective of December 7, 2007 and it was published.

**MOTION/Second:** Vigen/Akervik - (FN 07174) to recommend to City Council that the Amendment to Section 44-14 of the Legislative Code, imposing brightness standards, be accepted, with a function to create a uniformity of off premise and on premise signs. Unanimous

- D. **FN 08003** - Request for Special Use Permit for low density planned development at Coffee Creek Blvd. in the Coffee Creek Division, by Trinity Development Group. (KD) (ND 4)

*Joan Barrett excused herself and abstained from the matter.*

**Staff report by Kyle Deming:** Deming said the only change before the Commission is to change the number of stories of the homes and the footprint. Staff recommends approval.

**Applicant:** Ted Stocke, Trinity Development - Stocke said he was there to answer any questions of the Commissioners. Vigen asked if there was a specific reason for the change. Stocke said the purchaser who was to build two story units is no longer involved and the new buyer would like to build one story dwellings with walk-out basements, slab on grade, or daylight basement.

**MOTION/Second:** Eaton/Rand - to approve the amended Low Density Planned Development Special Use permit for the Coffee Creek Division subject to the following conditions:  
1) That the project be limited to, developed, and maintained according to the submitted plans titled "Coffee Creek Park Development, LDPD Site Plan," and typical lot plans illustrated with the following documents "Coffee Creek Park Development, Block 7 - Lots 1 & 2 - Grading Plan," "Coffee Creek Park Development, Block 9, Lots 5 & 6 - Grading Plan," "Coffee Creek Park Development, Block 10 - Lots

K-36

13 & 14 - Grading Plan" all as submitted by MSA Professional Services, dated January 11, 2008;  
2) That the project secure necessary building, grading, erosion control, and storm water management permits from the City and MPCA. Vote: 8-0-1 (Barrett abstained)

- IV. Consideration of minutes - January 8, 2008 - Accepted unanimously
- V. Communications
- VI. Old Business
- A. **FN07089** - Water Resource Management Ordinance (WRMO) permit for Spirit Lake Marina and Recreational Vehicle Park located at Spirit Lake Marina, 121 Spring Street, by William Stauduhar for Spirit Lake Marina/Judy King. (CF) (ND 1) (Tabled at the 12/11/07 meeting)

*President Harries stepped down, Past President Vigen presided.*

FN 07155 and FN 07089 were heard and discussed together but voted on separately.

**MOTIONS/SECOND:** Rand/Barrett

**MOTION** - Recommend the Planning Commission remove FN 07155 from the table - Unanimous

**MOTION** - Recommend the Planning Commission removed FN 07089 from the table- Unanimous

**MOTION** - Recommend opening the matters up as a public hearing to gather additional public input - Unanimous

- A. **FN07089** - Water Resource Management Ordinance (WRMO) permit for Spirit Lake Marina and Recreational Vehicle Park located at Spirit Lake Marina, 121 Spring Street, by William Stauduhar for Spirit Lake Marina/Judy King. (CF) (ND 1) (Tabled at the 12/11/07 meeting)

**Updated staff report by Charles Froseth:** The first request (FN 07155) is a Special Use Permit for a marina and recreational vehicle park. The second request (FN 07089) is a Water Resource Management Ordinance (WRMO) variance(s). The applicant requested staying the matter to the current meeting. A meeting was with the Minnesota DNR, Wisconsin DNR, and the Corp of Engineers resulted in additional conditions. Although the City of Superior abdicated rights, the Wisconsin DNR has control of riparian rights on the Wisconsin side of the site. Froseth will recommend approval with conditions on both requests.

The Minnesota DNR sent emailed correspondence that they would not object the Planning Commissions decision but asked that certain concerns be addressed in a final decision.

**Discussion:**

Granley wondered about impervious surface percentages. Sarvela asked how the MNDNR comments on the PUD's. Froseth said the short answer is that the zoning code needs updating and we have no PUD in the code. .

Lutterman reminded the Planning Commission that this is a special use permit. If the Planning Commission should approve it they can always add reasonable conditions.

K-37

**Applicant:** Bill Burns, legal representative; Brian Bocht, Bocht Engineering; Sandy Hoff, FI Salter; Leonard Simich, development partner with William Stauduhar. Burns said the applicant must meet all conditions, including those in the MNDNR's letter. It is an aging facility, the sea walls are in dire need of repair, with an estimated cost of \$3 million to repair. Although the developer has met with the neighborhood to address concern, some are still not happy and are concerned. The last minute note from the MN DNR shows the complexity of the issue.

Leonard Simich: He and Stauduhar are both Duluth natives and they are very excited about the development. Due diligence showed it the cost to update the marina very expensive and without adding a development to the marina such as the condominiumized RV park, it couldn't support itself with the expense needed to repair and renovate it.

Sandy Hoff of F.I. Salter: He feels the best idea is to let someone reinvest and make something of it rather than let the marina deteriorate further. The project will be a top of the line facility, something we can all be proud of.

Brian Bocht, Bocht Engineering: Bocht stated in approximately 85% is currently impervious and the development will reach the City's requirement of 30%.

**Discussion:** Eaton asked if lots will be sold as a condominium and added she would assume a person could own an RV pad and a boat slip. If someone doesn't own a pad, only the boat slip, what about winter storage. Simich responded the lots will be sold condominium units, and assuming those people would want the docks also. Storage for boats and RV could be on-site.

Granley said she is not comfortable with approving a site plan that is not complete and there are no required screenings. She is concerned about of how infiltration of green areas will work.

Brian Bocht answered that a lot of the very fine details haven't been determined yet. Stormwater is washing away the piers and sea walls. The idea is to rebuild piers and sea walls so that water be would infiltrate on site.

Burns added a storm water permit is required, and there will be full protection to the community including landscaping as per the requirements of the Minnesota DNR. Assuming approval, including by Council, along the many other agencies involved, they feel they are in a proactive mode. They fully plan on doing all necessary work to make it environmentally friendly.

Vigen asked about the existing impervious surface being about 84%. In looking at the plan as proposed how do they feel they will get down to 30%? Bocht said they would use pervious surface throughout the site. Vigen then asked if concrete pads will be used and Bocht said yes. They will reach the 30% standard requirement.

Vigen asked Hoff if the number of sites could be changed. Hoff said yes. At this time they are looking at the layout and costs.

Eaton said reference was made to a gated community. Simich said the intention was not to say gated but rather to have security measures. They have spoken with the neighborhood. People have used the marina in the past and still will be allowed to.

K-38

Applicant - Judy King (In Favor) - King said she and her family have tried to keep the marina going since the death of her husband but they haven't been able to meet upkeep. If this proposal doesn't go forward, she'd be forced to sell to someone who may not have the best interests of the neighborhood.

**Public Input:** Dale Lewis, Park State Bank, (In Favor) - Lewis said she is intimately familiar with the neighborhoods along the river front. The property is in great disrepair, needs rejuvenation, and will bring development to the area. The site is dangerous and wide open to children and increased traffic would be negligible. This would be a small step for the river side communities.

Bill Tusken, 3010 North 87<sup>th</sup> Avenue West (In Favor) - Tusken read a letter into record. He said he would like to see something built that would beautify the area and enhance real estate values, without rerouting streets and utilities.

Patty Nadeau, 5 Spring Street, (Neutral) - Nadeau had questions regarding the Comprehensive Plan. She has reservations due to distrust of the development group because some things the community were told she felt were untrue. She stated she doesn't know how many tunnels from the original ship company are still in the area. She wonders if the M-2 zone will be changed to commercial water front. She would like to make sure all governmental agency information gets back to the community.

Mike Asmus, 110 Spring Street, (Neutral) - Asmus said he was present representing the industrial plant adjacent to the Marina. They make food ingredients and which entails large trucks coming and going at different times of day. They are concerned with an increase in the amount of summer residents. If there was an issue in the middle of the night will this cause a problem for the marina? Contractors come in day and night, they are not loud but do make noise and may disturb people sleeping in RV's.

Vigen asked Asmus if there is excessive noise or environmental concerns. Asmus said nothing over any allowed limits.

Charlie Stauduhar, 2104 Ponderosa Avenue, (In Favor) - Stauduhar said he is the brother of one of the developers, a Duluth resident, a business owner, and has used Spirit Lake Marina as a tenant. He had spoken with Bill King before he passed away. King told him at that time he was in the process of repairing the sea walls and the current developers are proposing the same. The current development seems not that different from what exists.

Bill Fleischmann, 5402 Avondale Avenue, (Opposed) - Fleischmann provided comments in a letter that is on file. Concern with on impact of use, not on land use itself. Quality of water in estuary is of concern and hoping for lower development density. It may be a necessity to do an EAW on the project.

James and Cathy Essen: 2 England Avenue (In Favor) - Essen said she and her husband have a perfect view of the bay and are in support of the development. They have seen the current facility deteriorating and feel it is becoming a hazard. She asks the Commission to please go forward so that the current marina becomes a viable recreational use.

Carol Newkumet, 11 St. Louis Court, Community Club President, (In Favor) - Newkumet said initially people thought the community in Riverside was opposed to the marina. Concerns do exist and they are happy to hear staff recommendation is bringing into play standards of agencies. Traffic is an issue and it is recognized any business would add traffic to the area with only one way in and out of Riverside. The Community Club would request research into ways to keep children and residents safe.

66-39

*Commissioner Akervik left the meeting at 7:58 p.m. There will be 9 voting/1 abstaining.*

Huck Andresen, Andresen and Butterworth, (Opposed) - He feels the need to address legal issues. A variance cannot be granted without a true hardship. Commissioners have to address the hardship issue, and a hardship cannot be self made. They can't grant a variance if there is reasonable use of the property. The marina in place is a reasonable use.

Bob Fierek, 312 Harbor Pine Circle, (Opposed) - Fierek said his family has been in the neighborhood for three generations and, although he likes the idea presented, doesn't think it an appropriate location and doesn't see a reason to dislocate locals already using it. In a petition he found; 3 neutral, 3 in favor and 64 opposed to the project. If the request doesn't pass, there are other parties interested in keeping it going as a marina. Fierek added he thinks there are contaminated soil issues also.

Michael Mancini, 203 E. Superior Street, (Opposed) - Mancini said he doesn't live in the Riverside community. Riverside would be a wonderful place to live, but he is afraid such a dream will be a high density RV park.

Janet Draper, 1825 Dunedin Avenue, (Neutral) - Draper said there must be a reason some things have been outlawed and reminding the Planning Commission we all drink the water.

Burns/Applicant Rebuttal: Burns said he is respectful of Mr. Fierek, the next door neighbor. The petition Fierek mentions was circulated directly after the first meeting and not after the meetings that have happened since. As to Mr. Andresen's reference to a hardship issue, Lutterman will advise the Planning Commissioners, neither myself or Andresen are your Counsel.

**Discussion:** Granley asked if the developers would be open to EAW to show harm wouldn't happen to the river. Burns said and EAW wouldn't be looked into at this time. After substantial discussions with planning staff and after consulting with Alison Lutterman, the developers scaled back the project so that they are not required to prepare an EAW. Burns said, it seems as though any information that would be garnered through an EAW has come to the Commissioners through other agencies.

Banks asked Lutterman the legal definition of hardship. Lutterman responded that in Chapter 51, Water Resource and Management Ordinance, the definition is "the property in question cannot be put to reasonable use under the conditions allowed by the regulations set forth in this Chapter; the plight of the landowner is due to circumstances unique to his property, not created by the landowner. Economic considerations alone shall not constitute a hardship". Lutterman said Minnesota Appellate courts have interpreted hardship is whether the proposer is proposing a reasonable use. A marina currently exists and the RV use is allowed by special use. She added the question is whether there is a reasonable use being proposed.

Vigen questioned if land use changes the dynamics of the pervious surface. Bocht said surface type is not relevant to what is on the surface, like a garage. Granley said she is trying to consider the cumulative impacts to the river. Burns said, they must comply with all laws, rules, and regulations. Simich added that the bottom line is that all environmental requirements will be met. There will be an emergency plan. Granley hesitated to move on the WRMO because of possible contamination and clean up issues. The public needs to be aware of future possible issues.

Granley requested adding three more conditions to be included with staff's recommended conditions. They are included in the motion as stated.

07-K

Lutterman said part of the variance under Chapter 51 is impervious surface and is being withdrawn. This should be noted for the record.

**MOTION/Second:** Granley/Sarvela - to deny impervious surface request portion of FN 07089.  
Vote: 9-0-1 (Harries abstained)

**MOTION/Second:** Rand/Morrison - to approve the remainder of FN07089 with the hardship noted that this property cannot be put to reasonable use as an RV park/marina without approval of the Water Resource Management Ordinance (WRMO) variance. The following conditions apply: 1) Use of pervious or porous surfaces to meet the 30 percent impervious surface coverage; 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Director of Planning and Development without further Planning Commission or City Council action - however, no such administrative approval shall constitute a variance from the provisions fo Chapter 51; 3) Approvals and permits which are under the jurisdiction of the U.S. Army Corps of Engineers are to be secured prior to start of the project and submitted to the Planning and Development Department; 4) Approvals and permits which are under the jurisdiction of the Minnesota Department of Natural Resources are to be secured prior to the start of the project and submitted to the Planning and Development Department; 5) Approvals and permits which are under the jurisdiction of the Wisconsin Department of Natural Resources are to be secured prior to the start of the project and submitted to the Planning and Development Department. 6) Best Management Practices (same language as #4 from the special use request conditions on page VI-4 of the staff report); 7) A final storm water plan that accounts for a) during-construction pollution prevention (restoring piers) and b) post-construction storm water treatment, submitted to the Planning Director for approval; and, 8) A detailed landscaping plan that takes into account screening, both from land and from the river, to screen and break-up the view of the marina/park, submitted to the Planning Director for approval. Vote: 9-0-1 Harries

*Vice President Vigen stepped down and President Harries took the Chair.*

B. **FN07155** - Special Use Permit for a Marina and Recreational Vehicle Park in an M-1 Zone for 121 Spring Street, by William Stauduhar for Spirit Lake Marina/ Judy King. (CF) (ND 1) (Tabled at the 12/11/07 meeting)

**MOTION/Second:** Rand/Barrett - to approve FN 07155 with the hardship noted that this property cannot be put to reasonable use as an RV park/marina without approval of the Special Use Permit. The following conditions apply: 1) A scaled site plan showing setbacks for each pad, road, buildings, parking areas, and other development is to be submitted prior to issuance of permits with subsequent approval by the Planning Director 2) Written approval from the Fire Department that the roads on the piers and throughout the proposed development are adequate for fire truck access; 3) A wetland delineation is to be submitted for the wetland on the far southern edge of the development and adherence to applicable wetlands regulations; 4) Best Management Practices for the marina are to be developed as part of the management of the RV Park and Marina. These are to be submitted to the Planning Director for approval; 5) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Director of Planning and Development without further Planning Commission or City Council action: however, no such administrative approval shall constitute a variance from the provisions fo Chapter 50; 6) Approvals and permits which are under the jurisdiction of the U.S. Army Corps of Engineers are to be secured prior to start of the project and submitted to the Planning and Development Department; 7) Approvals and permits which are under the jurisdiction of the Minnesota Department of

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Natural Resources are to be secured prior to the start of the project and submitted to the Planning and Development Department; 8) Approvals and permits which are under the jurisdiction of the Wisconsin Department of Natural Resources are to be secured prior to the start of the project and submitted to the Planning and Development Department; 9) Best Management Practices (same language as #4 from the special use request conditions on page VI-4 of the staff report); 10) A final storm water plan that accounts for a) during-construction pollution prevention (restoring piers) and b) post-construction storm water treatment, submitted to the Planning Director for approval; and, 11) A detailed landscaping plan that takes into account screening, both from land and from the river, to screen and break-up the view of the marina/park, submitted to the Planning Director for approval. Vote: 9-0-1 (Harries abstained)

VI. Reports of Officers and Committees:

Morrison (DWMX-D) - signage was not approved for the Waterfront Suites, Meierhoff 's building.

VII. New Business

A. **FN08001 - Review of an ordinance amending Sections 45-103 and 8-54 of the Duluth City Code pertaining to Concurrent Use Permits for Expansion of Alcoholic Beverage Serving Areas (CF)**

**Staff report by Charles Froseth:** The Planning Commission looks at concurrent use permits. In this particular case they are looking at serving of alcohol in public places. Froseth added he was recommending the Planning Commission recommend approval to Council.

**Discussion:**

Harries questioned 500' versus 50' wording in the proposal. Lutterman mentioned Chapter 8 is part of the approval process which means conditions can be set for licensed premises on a public or private property. She said 500' wording is for those concurrent use permits on public land.

Eaton asked why the differences. Bruce explained the Administration is desirous of having the activity on private land, and not as a concurrent use permit. Barrett asked if there is there language to speak to upper floors. Lutterman said it is addressed as concurrent use permit with specified separation distances.. Bruce added a deliberate point of discussion is what people will subject themselves to by living in a particular neighborhood.

Vigen about the denial of Mitch's in the fall of 2007. Froseth said the Planning Commission voted to deny the permit and the City Council reversed that decision, allowing the concurrent use permit. Once a concurrent use permit is approved a person must go to the liquor board and get permit for the licensed premise

Mike Tusken, Deputy Chief Patrol Region - Tusken said the Police wants to stop this trend. There is a concern that we will have a continuous street dance throughout the warm weather season. With little or no regulation there is a possibility of every bar having people outside drinking with no incentive to move back inside when done smoking. By virtue of having to walk along the sidewalk you are within that behavior. Police are of the opinion citizens would find it intimidating. Mayor Ness has requested follow through, with Planning, Police, Attorney's office involved and contributing input.

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# Minnesota Department of Natural Resources

## DNR WATERS

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1568 Highway 2, Two Harbors, MN 55616  
218-834-6621

February 12, 2008

Charles Froseth, Senior Planner  
City of Duluth, Department of Planning & Development  
411 W 1<sup>st</sup> Street, Room 402  
Duluth, MN 55802-1197



Dear Mr. Froseth:

### **Proposed Spirit Lake Marina/RV Resort Concept Plan, St. Louis River, City of Duluth, St. Louis County**

The Department of Natural Resources (Department) has reviewed the above-mentioned proposal, which first came before the City of Duluth Planning Commission on December 3, 2007, when it was tabled from further review until the Planning Commission's upcoming meeting on February 12, 2008. Based on the Department's review of the plans dated 10/29/07 (updated 1/15/08); the City's staff report dated December 11, 2007; the January 29, 2008 meeting between the City, the Developer's representatives, the US Army COE, Wisconsin DNR and MNDNR; and conversations with City staff, including you; we offer the following comments for the planning commissions meeting record:

The applicant has submitted two requests: 1.) A special use permit for a marina and recreational vehicle park, and 2.) Several variances from the City's Water Resources Management Ordinance (WRMO – Chapter 51), including reduced setbacks for parking pads for RV units, roads and other parking, and a proposed impervious surfaces exceeding the 30 % requirement. It is understood that the proposed project includes 45 RV parking areas with storage sheds and 108 boat slips.

The site of the proposed development is currently operating as a marina. Almost the entire site is used as part of the marina operation, including the landward extent of the property and the two piers that extend waterward into the St. Louis River. Characteristics of the site present some unique challenges, one of which is that Pier 2 is approximately only 125' wide, making it impossible to accommodate any development consistent with the 75' setback requirement without a variance.

Recognizing the challenges of the site, the Department agrees with the plan in concept, and will not object to the City's decision to grant the requested variances from the WRMO code, provided the findings or conditions of the Planning Commission address the following issues:

- Clear demonstration that this will be a commercial facility. The Shoreland Rules (MN Rules 6120) define a “commercial” use as one that is transient in nature and is service oriented. The newly created alternative shoreland standards (available on the Department's website) defines “transient” as no more than 30 days of use in a calendar year.
- Accurate identification of the shoreland district, which extends landward from the ordinary high water level by 300 feet (we have discussed the inaccuracy of the City's Map No. 10).
- Identification of impervious areas and calculations indicating mitigation of impacts associated with

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exceeding the City's 30% impervious standard. The Department estimates the impervious area within the shoreland district to be approximately 48% (Impervious area is represented on the plans as 139,400 sq. ft and the total project area within the shoreland – not including the access road easement area - is 293,000 sq. ft).

- Require vegetative screening of the facilities on shore, including the office/caretakers building and all parking facilities as viewed from the St. Louis River. Also, the structures on the piers should be screened to the extent possible.
- Identification of hardship, consistent with the definition found in MN Statute 394.

A planned unit development (PUD) as defined by MN Rules 6120 identifies both commercial and residential development to include hotels, resorts, *recreational vehicle and camping parks*, condominiums, townhouses, apartments, time-share condominiums or any combination of these. In accordance with MN Rules 6120 the proposed Spirit Cove Marina is a planned unit development and should be identified as such by the City's code.

It is important to note that the current proposal highlight's the need to address the issue of Planned Unit Developments in the short-term, and before future similar developments occur.

As you are aware, the developer will be required to obtain a DNR public waters permit for the dockwall reconstruction and marina, as well as the potential for other federal, state and local entities (part of the site is within the state of Wisconsin),

Thank you for providing me the opportunity to review the Spirit Lake Marina/RV Resort proposed concept plan. I look forward to working with the City regarding the short-term PUD issue as well as long-term work as the city moves forward with its effort to overhaul its entire existing code.

If you have any question please contact me at the number given above. Please provide the Department a copy of the decision record within seven days of action on this project in accordance with Section 51-12 of the WRMO code.

Sincerely,

DNR WATERS



Patricia Fowler  
Area Hydrologist

cc: Mike Peloquin, DNR Northeast Regional Manager  
Mike Mueller, DNR Shoreland Hydrologist  
R.C. Boheim, S. St. Louis SWCD  
Scott Smith, St. Louis County P&Z  
Steve LaVally, Wisconsin DNR  
Daryl Weirzbinski, USCOE  
Alison Lutterman, Deputy City Attorney  
Bryan Bocht, Bocht Engineering  
Chad Scott, AMI Consulting Engineers P.A.

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CERTIFIED COPY OF RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

RESOLUTION 08-0149

ADOPTED: FEBRUARY 26, 2008

The city council finds as follows:

(a) An application was filed with the city clerk requesting a special use permit for a RV park for property legally described as:

A parcel of land located in Government Lot 2, Section 26, and Government Lot 3, Section 23, Township 49 North, Range 15 West, of the Fourth Principal Meridian, St. Louis County, Minnesota, and in Douglas County, Wisconsin, and described as follows, to wit: commencing at a point in said Government Lot 3, where the established U.S. Government Harbor Line intersects the boundary line of the states of Minnesota and Wisconsin; thence southwesterly along said established Harbor Line 89.30 feet to the extended north boundary line of Rearrangement of Lenroot's Addition to Ironton, which point is the place of beginning; thence North 57 degrees 16 minutes 4 seconds west a distance of 44.28 feet to the boundary line between the states of Minnesota and Wisconsin as determined and marked by a survey made by a boundary commission appointed by the United States Supreme Court in Minnesota vs. Wisconsin, 258 U.S. 149, a map of which survey is on file in the office of the clerk of said court; thence continuing north 57 degrees 16 minutes 4 seconds west a distance of 617.47 feet to a point; thence north 32 degrees 43 minutes 56 seconds east a distance of 70.00 feet to a point; thence north 57 degrees 2 minutes 44 seconds west 152.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 239.41 feet to a point; thence south 57 degrees 2 minutes 44 seconds east a distance of 120.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 270.00 feet to a point; thence north 57 degrees 2 minutes 44 seconds west a distance of 140.00 feet to a point; thence south 32 degrees 57 minutes 16 seconds west a distance of 214.00 feet to a point; thence south 57 degrees 2 minutes 44 seconds east to the established U.S. Government Harbor Line; thence northeasterly along said Harbor Line to the point of beginning.

The foregoing description is based upon a drawing dated February 24, 1978, over the signature of T. M. Black, which drawing is made a part hereof by reference (Public Document No. 08-0226-26).

EXCEPTING THEREFROM a parcel of land described as follows, to wit: commencing at a point in said Government Lot 3 where the established U.S. Government Harbor Line intersects the boundary line of the states of Minnesota and Wisconsin; thence southwesterly along said established Harbor Line 89.30 feet to the extended north boundary line of Lenroot's Addition; thence continuing southwesterly along said established Harbor Line 400 feet, more or less, to a point which is 122.00 feet northeasterly of the extended southwesterly pier facing the southwesterly most pier of Spirit Lake Marine, Inc., which point of beginning; thence northwesterly on a line perpendicular to the said established Harbor Line 350.00 feet to a point on said pier; thence southwesterly on a line parallel with said established Harbor Line 122 feet, more or less, to the point where said pier and the waters of the St. Louis River meet; thence southeasterly along the southwesterly edge of said pier to the said established Harbor Line; thence northwesterly along said established Harbor Line to the point of beginning; and

(b) Pursuant to Section 50-35(n) and Section 50-35(bb) of Article IV of the Duluth City Code, 1959 as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing; and

(c) The planning commission, at its February 12, 2008, regular meeting, recommended approval of the requests with conditions; and

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(d) The approval was made because of the city planning commission findings that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed.

FURTHER RESOLVED THAT, the city council of the city of Duluth approves a special use permit for a RV park and marina (FN 07155), subject to the following conditions:

(a) A scaled site plan showing setbacks for each pad, road, building, parking area and other development is to be submitted prior to issuance of permits with subsequent approval by the planning director;

(b) Written approval from the fire department that the roads on the piers and throughout the proposed development are adequate for fire truck access;

(c) A wetland delineation is to be submitted for the wetland on the far southern edge of the development and adherence to applicable wetlands regulations prior to issuance of permits;

(d) Best management practices for the marina are to be developed as part of the management of the RV park and marina. These are to be submitted to the planning director for approval;

(e) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the planning director without further planning commission or city council action; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50;

(f) Approvals and permits which are under the jurisdiction of the United States army corps of engineers are to be secured prior to start of the project and submitted to the city of Duluth planning and development department;

(g) Approvals and permits which are under the jurisdiction of the Minnesota department of natural resources are to be secured prior to the start of the project and submitted to the city of Duluth planning and development department;

(h) Approvals and permits which are under the jurisdiction of the Wisconsin department of natural resources are to be secured prior to the start of the project and submitted to the city of Duluth planning and development department;

(i) Project is to be constructed according to drawings titled "marina/RV resort conceptual plan" date stamped February 5, 2008, by the planning and development department and includes the following:

(1) Conceptual plan - sheet 1/9 dated 1/15/08 miscellaneous plan changes prepared by Bocht Engineering;

(2) Boundary topography survey - sheet 2/9 dated 5/23/07 prepared by Alta Survey Company;

(3) Site photos - sheet 3/9 dated 10/29/07 added sheet prepared by Bocht Engineering;

(4) Entire conceptual plan - sheet 4/9 dated 1/21/08 modify pier one prepared by Bocht Engineering;

(5) Site utilities - sheet 5/9 dated 1/15/08 revised pier two utilities prepared by Bocht Engineering;

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(6) Pier one conceptual plan - sheet 6/9 dated 1/21/08 revised layout prepared by Bocht Engineering;

(7) Pier two conceptual plan - sheet 7/9 dated 1/21/08 revised detail prepared by Bocht Engineering;

(8) Parking / boat ramp conceptual plan - sheet 8/9 dated 10/29/07 miscellaneous changes prepared by Bocht Engineering; and

(9) Entrance road and common area conceptual plan - sheet 9/9 dated 10/29/07 miscellaneous changes prepared by Bocht Engineering;

(j) Approvals and permits which are under the jurisdiction of the St. Louis County health department are to be secured prior to start of the project and submitted to the planning and development department;

(k) Conditions as outlined by the Minnesota department of natural resources letter of February 12, 2008, are to be met.

Resolution 08-0149 was unanimously adopted.

Approved February 26, 2008

DON NESS, Mayor

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I, JEFFREY J. COX, city clerk of the city of Duluth, Minnesota, do hereby certify that I have compared the foregoing resolution passed by the city council on the 26th day of February, 2008, with the original in my custody as city clerk of said city, and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth, this 29th day of February, 2008.

JEFFREY J. COX  
City Clerk

by Maasha Adswale  
Assistant  
CITY OF DULUTH, MINNESOTA

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