



PERMIT REPORT

To: Board of Managers

From: Elizabeth Showalter, Permitting Technician

Date: August 20, 2018

Re: Permit 18-153: Life Time Fitness (5525 Cedar Lake Road, St. Louis Park)

Recommendation:

The Board of Managers may approve the variance on the following conditions:

1. Execution of an Alternative Stormwater Management Agreement materially similar to Attachment 5.

If the Board of Managers finds grants the variance, staff recommends approval of the permit subject to the following conditions:

1. Identification of the contractor responsible for implementing the erosion control plan;
2. Submission for MCWD approval of draft declaration for the maintenance of stormwater management facilities then recordation;
3. Reimbursement of MCWD costs.

Background:

Life Time Fitness has applied for a Minnehaha Creek Watershed District permit under the Stormwater Management Rule for the construction of a 5,300 square foot addition to the existing building. The Erosion Control Rule is triggered, but the City of St. Louis Park exercises regulatory authority for that rule. The applicant has also applied for a variance from compliance with the stormwater-treatment requirements applicable to the project under the common scheme of development framework in the Stormwater Management Rule and rather provide only treatment for the proposed new impervious on the site.

The St. Louis Park Life Time Fitness has previously held three District permits. Under those permits, they have disturbed approximately 6.6 acres, or 64% of the site. The most recent permit involved the construction of a parking ramp which involved 23% site disturbance. The first two permits involved reductions in impervious surface, which only required that a BMP be implemented. Those BMPs were a filtration basin and an area of permeable pavement. Under permit 13-041, the applicant should have been required to treat the entire site's impervious surface through the common scheme of development framework of the Stormwater Management Rule, which requires all development that has occurred since January 2005 be considered in aggregate when determining treatment scope. District staff only required the applicants to treat

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the additional impervious surface proposed to be created at that time, and permit 13-041 was issued for that work on a demonstration by the applicant that stormwater-management requirements for the work proposed would be met. The applicant provided stormwater treatment through a series of raingardens.

Table 1: Summary of Previous Permits

Permit Number	Project Description	Approximate Site Disturbance
08-054	Tennis building and parking lot reconstruction	3.1 acres (30%)
09-317	Parking lot reconstruction	3.5 acres (34%)
13-041	Parking ramp	2.35 acres (23%)
Approximate Total		6.6 acres (64%)

Under the current rule, on sites greater than 5 acres with proposed (and cumulative) disturbance greater than 40 percent but resulting in a decrease in impervious surface, volume control is required for all impervious surface.

District Rule Analysis:

Stormwater Management Rule

The Stormwater Management Rule is triggered by the creation of new or replacement of existing impervious surface. The proposed project is a 5,300 building addition and outdoor play area, which triggers the Stormwater Management Rule. Since over 40% of the site has been disturbed since January of 2005, volume control is required for the entire site’s impervious surface, despite the reduction in impervious surface. If the project was reviewed as an isolated project, the applicant would be required to provide 1 inch of abstraction over the new impervious surface and demonstrate no increase in runoff rates for the 1, 10, and 100 year storm events.

Table 2: Comparison of Rule Requirements

	Common Scheme	Individual Project
Volume Control	1 inch of abstraction over the entire site’s impervious surface	1 inch of abstraction over the new impervious surface
Phosphorus Control	Not required	Met if volume control is met
Rate Control	Not required	No increase in runoff rates for the 1, 10, and 100-year storm events

To meet the District’s requirements the applicant would need to provide 28,734 cubic feet of abstraction, which would remove approximately 7.2 pounds of phosphorus per year. If the Stormwater Management Rule was applied as though the previous disturbance had not taken

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place, phosphorus, rate, and volume and volume controls would need to be provided for the 5,627 square feet of additional impervious surface, which would require 468.9 cubic feet of abstraction. The applicant submitted plans for a stormwater management system that provided the 720 cubic feet of abstraction through an infiltration basin, meeting the volume control requirement. The provided abstraction would remove approximately 0.2 pounds of phosphorus per year.

The applicant provided run off rate calculations for the drainage area with work proposed demonstrating reductions in runoff rates for the 1, 10, and 100-year storm events.

Table 3: Existing and Proposed Runoff Rates (cfs)

	1-Year	10-Year	100-Year
Existing	0.13	0.58	1.61
Proposed	0.06	0.22	1.36

The proposed infiltration basin has been designed to meet generally accepted engineering standards and the standards of the Minnesota Stormwater Manual.

The rule requires at least 2 feet of freeboard between the 100 year high water elevation and the low opening to structures. The 100-year high water elevation of the basin is 893.6, and the low opening to the structure is 894.6. While two feet of free board is not present, the basin’s overflow weir is location on the south side of the basin and directs water downhill to the south, therefore, water levels in excess of the 100 year elevation will not reach the low openings.

The downstream waterbody section of the rule regulates the bounce and inundation of downstream waterbodies. The total run off volume from the area of the project is being reduced from 0.086 to 0.073 acre-feet, and therefore the bounce and inundation will be unchanged or lowered.

Upon satisfaction of the recommended conditions and approval of the variance, the applicant meets the criteria of the Stormwater Management Rule.

Variance:

The applicant has submitted a variance request form (attachment 2). The applicant is requesting a variance from application of the common scheme of development framework of the Stormwater Management Rule which requires volume control be provided for the entire site’s impervious surface, due to the scale of previously permitted work, to allow the construction of the proposed building addition.

At the July 26, 2018 meeting the Board of Managers tabled the request and directed staff to explore potentially collaborative solutions. At the August 9, 2018 meeting, staff presented an analysis of the subwatershed and potential regional treatment options. Staff identified several

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regional treatment options that warranted further investigation and several upcoming projects in the City's capital improvement plan, that have opportunities for regional stormwater treatment. Staff presented a draft partnership framework between Life Time and the District that would establish a \$490,000 escrow with funds contributed by Life Time to be used for a future stormwater improvement project.

The District's Variance and Exception Rules states that to grant a variance the Board of Managers must determine:

1. That because of special conditions inherent to the property, strict compliance with the rule will cause an undue hardship to the applicant of property owner.
2. The hardship was not created by the landowner, the land owner's agent or representative, or a contractor. Economic hardship is not grounds for a variance
3. That granting a variance will not merely serve as a convenience to the applicant
4. That there is no feasible or prudent alternative to the proposed activity requiring the variance, and
5. That granting the variance is not contrary to the intent of the rules

In the attached variance request, the applicant argues that compliance with the MCWD stormwater management treatment requirements for the entire site now would cause an undue hardship for several reasons. First, retrofitting the site to provide the required volume control would involve at least 2 acres of site disturbance and reconfiguration of the drainage on the site including existing utility lines and the drainage from the building, which is currently drained to the railroad tracks on the south side of the building. The disturbance area is larger than typical, because the soils on the majority of the site are not conducive to infiltration due to anticipated contamination and the high clay content. The applicants further argue that the large amount of disturbance would significantly impact usage of the club. The applicants also contend that had they been made aware of the requirement to treat the entire site when previous projects were permitted, compliance with the full scope of the rule would have been more feasible. In addition to the previously outlined regional treatment options, the applicants also explored adding above ground treatment, which would involve less impacts to club usage. The applicants inquired with St. Louis Park about the elimination of parking spaces, but were informed that they could not eliminate parking spaces.

Upon direction of the Board of Managers, staff developed a draft agreement that will establish a \$490,000 escrow to be used for treatment project or projects in the subwatershed or downgradient of the subwatershed that achieves the required 7.2 pounds of phosphorus reduction and 28,734 cubic feet of volume abstraction. See attached Request for Board Action and Draft Agreement (Attachments 4 and 5).

The original variance request included construction of two SAFL baffles and improvements to an existing basin. The District's technical staff and engineers and Life Time representatives mutually agreed to remove those improvements due to the limited benefits provided.

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As outlined in the attached resolutions and agreement, approval of the variance and execution of the agreement will deem the site to be in compliance with the Stormwater Management Rule with respect to the presently proposed work and all preexisting improvements on the site.

Conclusion:

Life Time Fitness has applied for an MCWD permit for Stormwater Management and applied for a variance from the common scheme of development framework of the Stormwater Management Rule for the construction of a building addition. A resolution approving the variance and authorizing the Administrator to execute the agreement is attached. If the variance is approved, staff recommends approval of the permit subject to the conditions listed above.

Attachments:

1. Application Form
2. Variance Request
3. Site Plan
4. Request for Board Action: Approval of Variance and Authorization of Administrator to Execute Agreement
5. Draft Alternative Stormwater Management Agreement

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18-153

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.

YOU MUST OBTAIN ALL REQUIRED AUTHORIZATIONS BEFORE BEGINNING WORK.

1. Name of each property owner: Life Time
Mailing Address: 2902 Corporate Place City: Chanhassen State: MN Zip: 55317
Email Address: JSchmidt@lt.life Phone: 952-229-7862 Fax: 952-947-0797

2. Property Owner Representative Information (not required) (licensed contractor, architect, engineer, etc...)
Business Name: Elfering & Associates Representative Name: Kristie Elfering
Business Address: 10062 Flanders Court NE City: Blaine State: MN Zip: 55449
Email Address: KElfering@elferingeng.com Phone: 763-780-0450 Ext 2 Fax: 763-780-0452

3. Project Address: 5525 Cedar Lake Road City: St. Louis Park
State: MN Zip: 55416 Qtr Section(s): Section(s): 9 Township(s): 117N Range(s): 21W
Lot: Block: Subdivision: Unplatted PID: 09-117-21-21-0204

4. Size of project parcel (square feet or acres): 10.44 acres
Area of disturbance (square feet): 12,310 sf Volume of excavation/fill (cubic yards): 1,500 cy
Area of existing impervious surface: 2,470 sf - Project Area of proposed impervious surface: 8,097 sf - Project Area
Length of shoreline affected (feet): N/A Waterbody (& bay if applicable): N/A

5. Type of permit being applied for (Check all that apply):
[X] EROSION CONTROL [] WATERBODY CROSSINGS/STRUCTURES
[] FLOODPLAIN ALTERATION [X] STORMWATER MANAGEMENT
[] WETLAND PROTECTION [] APPROPRIATIONS
[] DREDGING [X] ILLICIT DISCHARGE
[] SHORELINE/STREAMBANK STABILIZATION

6. Project purpose (Check all that apply):
[] SINGLE FAMILY HOME [] MULTI FAMILY RESIDENTIAL (apartments)
[] ROAD CONSTRUCTION [X] COMMERCIAL or INSTITUTIONAL
[] UTILITIES [] SUBDIVISIONS (include number of lots)
[] DREDGING [] LANDSCAPING (pools, berms, etc.)
[] SHORELINE/STREAMBANK STABILIZATION [] OTHER (DESCRIBE):

7. NPDES/SDS General Stormwater Permit Number (if applicable): N/A

8. Waterbody receiving runoff from site: Ditch along railroad property

9. Project Timeline: Start Date: May 2018 Completion Date: October 2018

Permits have been applied for: City [X] County [] MN Pollution Control Agency [] DNR [] COE []
Permits have been received: City [] County [] MN Pollution Control Agency [] 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.

Signature of Each Property Owner [Handwritten Signature] Date: 3/8/18



March 22, 2018
File No. 190032E-0060

Minnehaha Creek Watershed District
Regulatory Department
15320 Minnetonka Boulevard
Minnetonka, MN 55345

RE: Life Time Fitness; 5525 Cedar Lake Road
Water Resource Permit Application Form

To Whom It May Concern:

Life Time is proposing a building addition at their site located at 5525 Cedar Lake Road. The building addition is proposed in the rear of the building in the location of an existing turf area. The building addition will require relocating the turf pad and a bituminous trail will be extended to the east at the request of the City.

Plans and a storm water report are attached to this submittal. Existing drainage patterns will remain largely unchanged and drainage area maps are included. The infiltration requirements are being met through an infiltration basin to the south of the building addition. Rate control will partially be met through the infiltration basin and also through rate control on the building roof. For this reason the building roof is modeled as a pervious grass area in the proposed HydroCAD calculations.

The plans and report have been submitted to the City of St. Louis Park and have been approved. Final building plans are still being developed and as such a Contractor for the project has not yet been determined. FCA Construction operates under the Life Time brand and may act as the general contractor for the purpose of permitting.

After reviewing the attached please let me know if any additional information is required or if the Watershed would like to meet to discuss the improvements. I can be reached at (763) 780-0450 ext. 2.

Sincerely,

ELFERING & ASSOCIATES


Kristie Elfering, P.E.



Attachments

Storm water Project Narrative
~~February 28, 2018~~
 March 20, 2018



Life Time Fitness – St. Louis Park Building Expansion

PID: 09-117-21-21-0204

Address: 5525 Cedar Lake Road, St. Louis Park, MN

Life Time Fitness is proposing an approximately 5,320 square foot building addition at their facility located at 5525 Cedar Lake Road. The project is located within the City of St. Louis Park and the Minnehaha Creek Watershed District (MCWD). The disturbance area is 12,310 square feet with a newly created or fully disturbed impervious surface area of 8,097 square feet. This area is over the threshold of 10,000 square feet, which triggers the regulatory requirements of the both the City of St. Louis Park and the MCWD.

Stormwater Rate and Volume Control

As noted above the project will create or fully disturb 8,097 square feet of impervious surface. The project will occur on a site with an existing building and parking lot. The project includes the expansion of the building on the south side and as such only a portion of the site will be impacted. Within the project limits the existing impervious surface is 2,170 square feet. The project will increase the amount of existing impervious, however the direction of the stormwater runoff within the project area will remain unchanged. An infiltration basin is being added to address the abstraction requirements. This basin will partially serve as rate control for the site. The remaining rate control will come from limiting the rate of discharge from the new building roof to that of existing conditions. As a result of the new roof area discharge being controlled to that of pervious grass it is shown as such in the proposed HydroCAD calculations.

HydroCAD documents are attached and rainfall precipitation frequencies are based on Atlas 14. The results are summarized as follows:

	1-Year (2.49 in)	10-Year (4.29 in)	100-Year (7.46 in)
Existing	0.13 cfs	0.58	1.61
Proposed	0.06	0.22	1.36

As shown above the proposed rates are equal to or less than the existing discharge rates. In addition, the City of St. Louis Park has a requirement that the runoff from a 6.0-inch, 24-hour storm event for the proposed conditions must be equal to or less than the runoff from a 4.2-inch, 24-hour storm event for the existing conditions. This additional requirement is also met as documented in the HydroCAD report.

	4.2-inch Event	6.0-inch Event
Existing	0.55 cfs	
Proposed		0.55 cfs

Stormwater Infiltration

The project must provide for the abstraction on-site of 1.0 inches of runoff from the newly created or fully disturbed impervious surface. The area of impervious surface disturbed to native soils or created as part of the project is 8,097 square feet. A soil boring report is attached that indicates the existing soils in the vicinity of the infiltration basin (B-2). The bottom of the basin will be at an elevation of 891.6. The report indicates that the existing soils at this elevation will be Hydrologic Soil Group B (SM Soils). There is a layer of sandy lean clay above the silty sand (SM) layer and if a portion of this clay layer remains after initial excavation of the basin over excavation will be completed to reach the silty sand layer.

As noted in the report these soils are representative of Hydrologic Soil Group B and a design infiltration rate of 0.30 inches/hour is utilized. This will allow drawdown of the basin within 48-hours. After excavation the plans note that verification of this rate is required. If the rate is not achieved soil modifications in the basin will be made.

The required volume is $8,097 \text{ sf} \times (1.0''/12) = 675$ cubic feet of storage. With an infiltration rate of 0.3 inches per hour the maximum depth of the infiltration areas that is allowed is 1.2-feet, which would allow drawdown within 48 hours. The proposed depth of the basin is 1.2-feet. *A rock layer is proposed in the area between the turf pad area and retaining wall. Due to the limited width in this area a rock trench is proposed the width of the basin from an elevation of 892.1 to 892.6.* The total volume of the infiltration areas created is 720 cubic feet, which is greater than the required.

Summary

The proposed project includes a building expansion in the rear of the building. The improvements will impact an existing turf pad area that will be reconfigured as part of the improvements. Stormwater facilities are being proposed to meet the requirement of infiltrating 1.0-inches over the newly created or fully disturbed impervious surface. The infiltration basin with rate control on the proposed roof building will allow for the project to meet the rate control requirements.

Erosion control items will consist of a rock construction entrance and silt fence and biolog around the perimeter of the improvements.

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

Permit #

Applicant

Address

Telephone number

Property ID number

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

Description of project:

Requirements of rule(s)

Requested Variance

Statement of Hardship (include any mitigating circumstances).

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

Applicant name: _____ **Date:** _____

Applicant signature: _____

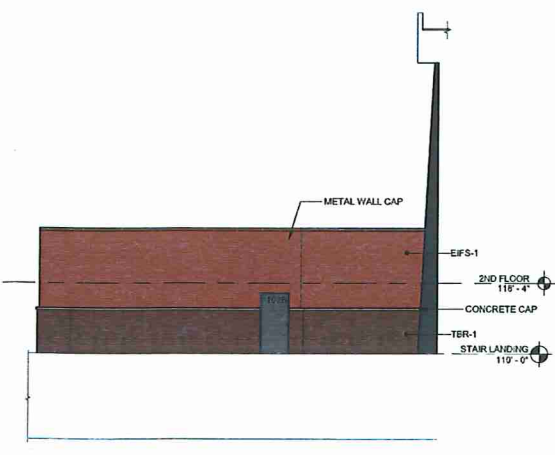
Staff Recommendation (For staff use only) Approve

MATERIAL PERCENTAGES

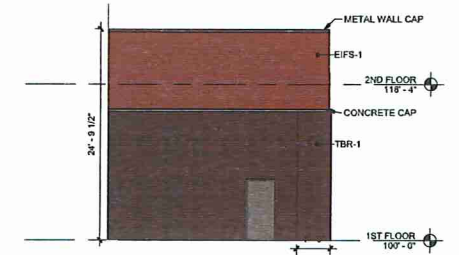
SOUTH ELEVATION		
BRICK	1,224 SF	43%
EIFS	814 SF	29%
GLAZING	776 SF	28%
TOTAL	2,814 SF	100%
EAST ELEVATION		
BRICK	254 SF	37%
EIFS	440 SF	63%
GLAZING	0 SF	0%
TOTAL	694 SF	100%
WEST ELEVATION		
BRICK	408 SF	62%
EIFS	245 SF	38%
GLAZING	0 SF	0%
TOTAL	653 SF	100%

MATERIAL SCHEDULE:

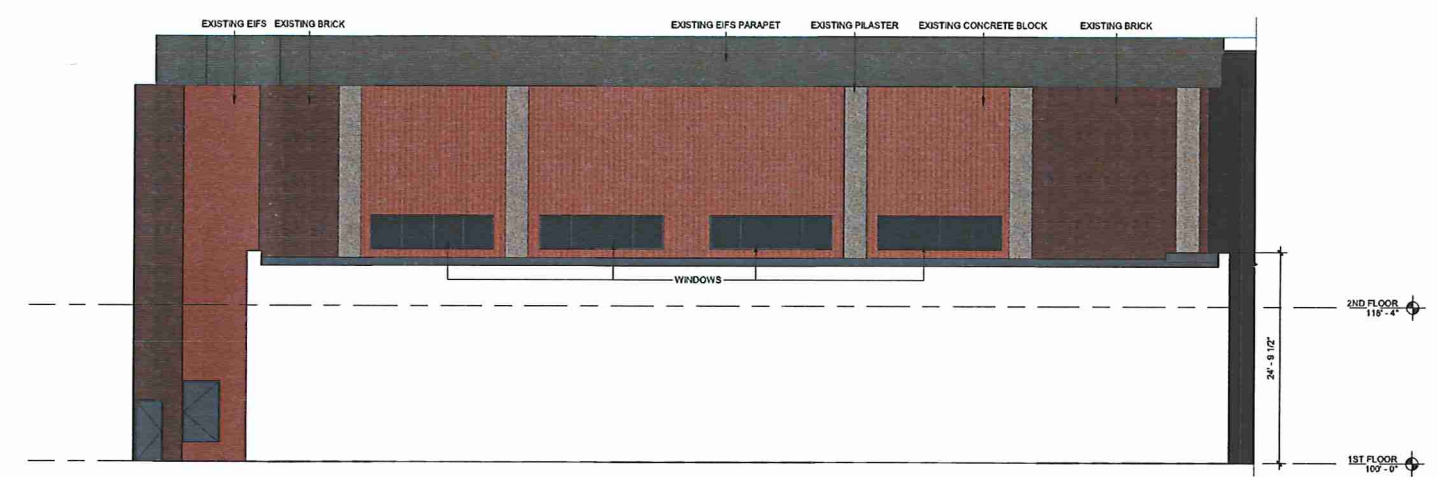
EIFS-1	PAINTED EIFS TO MATCH EXISTING BUILDING EIFS COLOR
TBR-1	BRICK TO MATCH EXISTING ADJACENT BRICK
G3	TINTED GLAZING



4 EXTERIOR ELEVATION - EAST
1/8" = 1'-0"



3 EXTERIOR ELEVATION - WEST
1/8" = 1'-0"



2 EXTERIOR ELEVATION - SOUTH AT EXISTING WALL
1/8" = 1'-0"



1 EXTERIOR ELEVATION - SOUTH
1/8" = 1'-0"

PROJECT INFORMATION
ALPHA ADDITION - ST. LOUIS PARK, MN
5525 CEDAR LAKE ROAD
ST. LOUIS PARK, MN 55416

DRAWING LOG

REV	DATE	DESCRIPTION

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NAME REG. NO.
EXP. DATE
STAMP

EXTERIOR ELEVATIONS



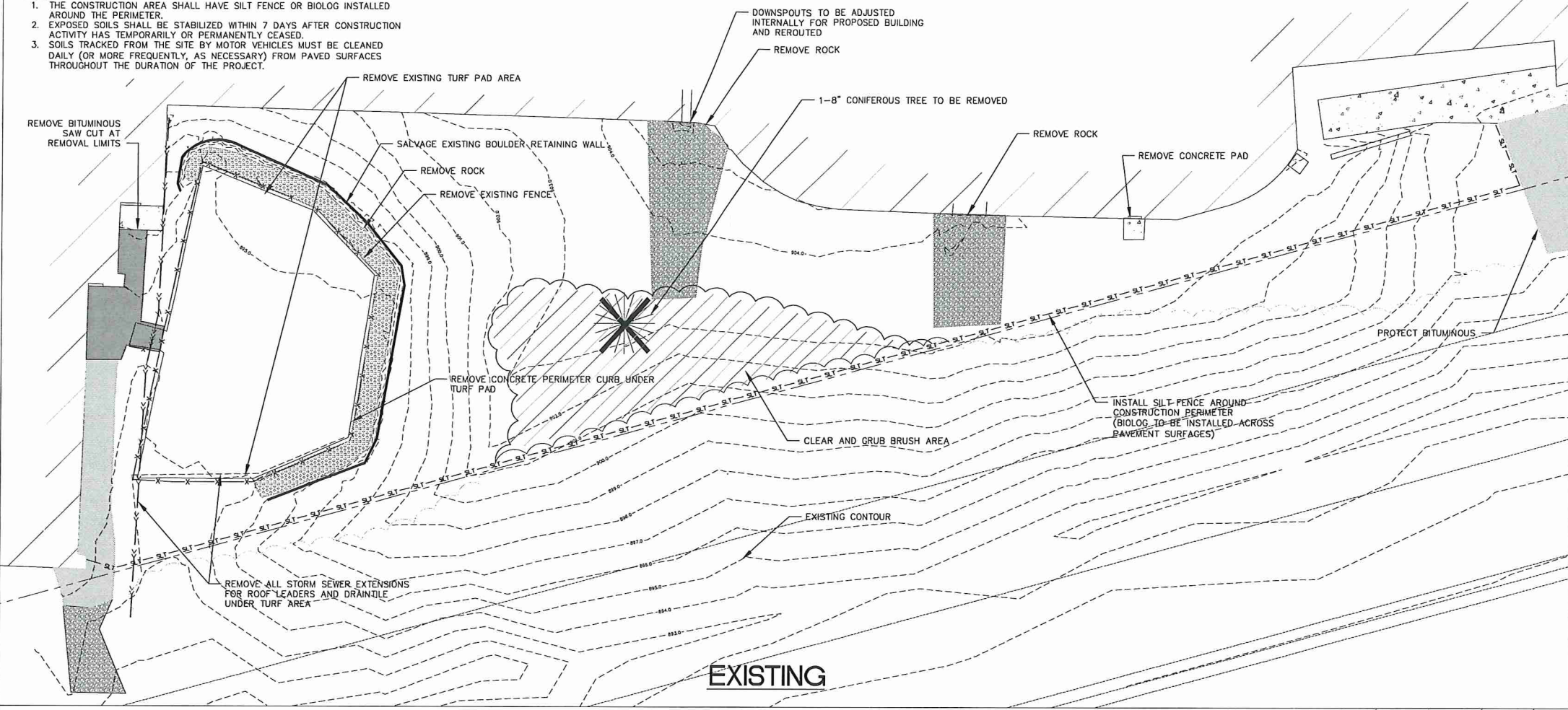
PLAN SYMBOLS

EXISTING RIGHT OF WAY LINE
PROPOSED SETBACK

UTILITIES SYMBOLS

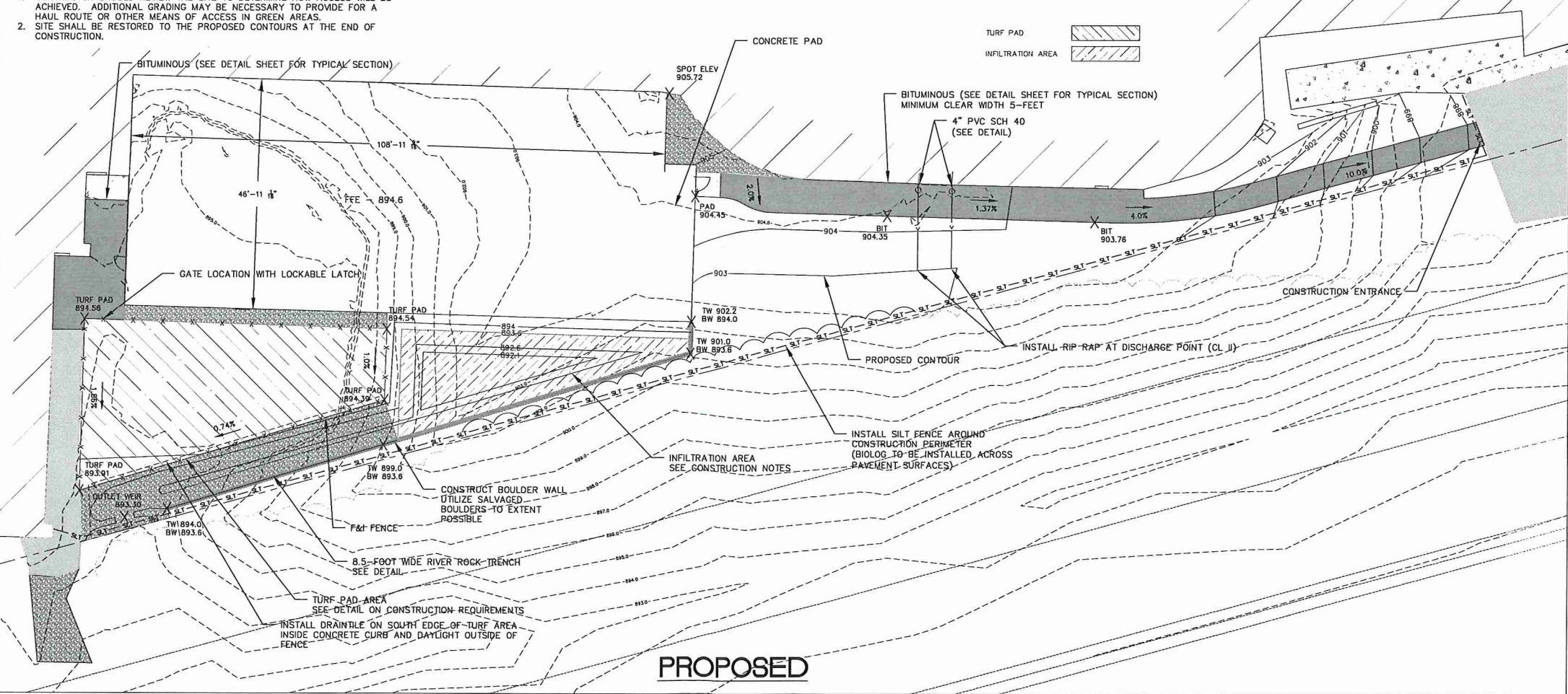
- UTILITY POLE
- GUY OR ANCHOR
- STREET LIGHT
- TELEPHONE PEDESTAL
- GAS MAIN
- EXISTING WATER MAIN
- ELECTRIC BOX
- TELEPHONE CABLE
- ELECTRIC CABLE
- EXISTING STORM SEWER
- EXISTING STORM MANHOLE
- EXISTING SANITARY SEWER
- EXISTING SANITARY MANHOLE
- GATE VALVE
- PROPOSED GATE VALVE
- EXISTING HYDRANT
- CABLE TELEVISION BURIED
- FIBER OPTIC CABLE
- MAILBOX
- TRAFFIC SIGNAL LINE
- TRAFFIC SIGNAL HAND HOLE
- EXISTING CATCH BASIN
- PROPOSED WATERMAIN
- PROPOSED HYDRANT
- PROPOSED STORM MANHOLE
- PROPOSED CATCH BASIN
- BITUMINOUS
- CONCRETE
- GUTTER OUT CURB

- NOTE:**
1. THE CONSTRUCTION AREA SHALL HAVE SILT FENCE OR BIOLOG INSTALLED AROUND THE PERIMETER.
 2. EXPOSED SOILS SHALL BE STABILIZED WITHIN 7 DAYS AFTER CONSTRUCTION ACTIVITY HAS TEMPORARILY OR PERMANENTLY CEASED.
 3. SOILS TRACKED FROM THE SITE BY MOTOR VEHICLES MUST BE CLEANED DAILY (OR MORE FREQUENTLY, AS NECESSARY) FROM PAVED SURFACES THROUGHOUT THE DURATION OF THE PROJECT.



EXISTING

- NOTE:**
1. CONTRACTOR SHOULD REVIEW THE SITE TO DETERMINE HOW ACCESS WILL BE ACHIEVED. ADDITIONAL GRADING MAY BE NECESSARY TO PROVIDE FOR A HAUL ROUTE OR OTHER MEANS OF ACCESS IN GREEN AREAS.
 2. SITE SHALL BE RESTORED TO THE PROPOSED CONTOURS AT THE END OF CONSTRUCTION.



PROPOSED

LIFETIME
HEALTHY WAY OF LIFE
2520 CORPORATE PLACE, DAVENPORT, MN 55917
CONSULTANT
CLEVERING & ASSOCIATES
10002 PLANNERS CT NE
BLAINE, MN 55419
DATE: 2/28/18

PROJECT INFORMATION
ST. LOUIS PARK, MN
ALPHA ADDITION
5525 CEDAR LAKE ROAD
ST. LOUIS PARK, MN

DRAWING LOG

REV	DATE	DESCRIPTION
1	2/28/18	CITY COMMENTS

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NAME: [Signature]
EXP. DATE: 12/31/17
STAMP

ISSUE DATE: 3/29/18
SHEET NO:
C1.00
PUBLICATIONS
Issued for Permit

REMOVALS AND SITE PLAN

DRAWING LOG

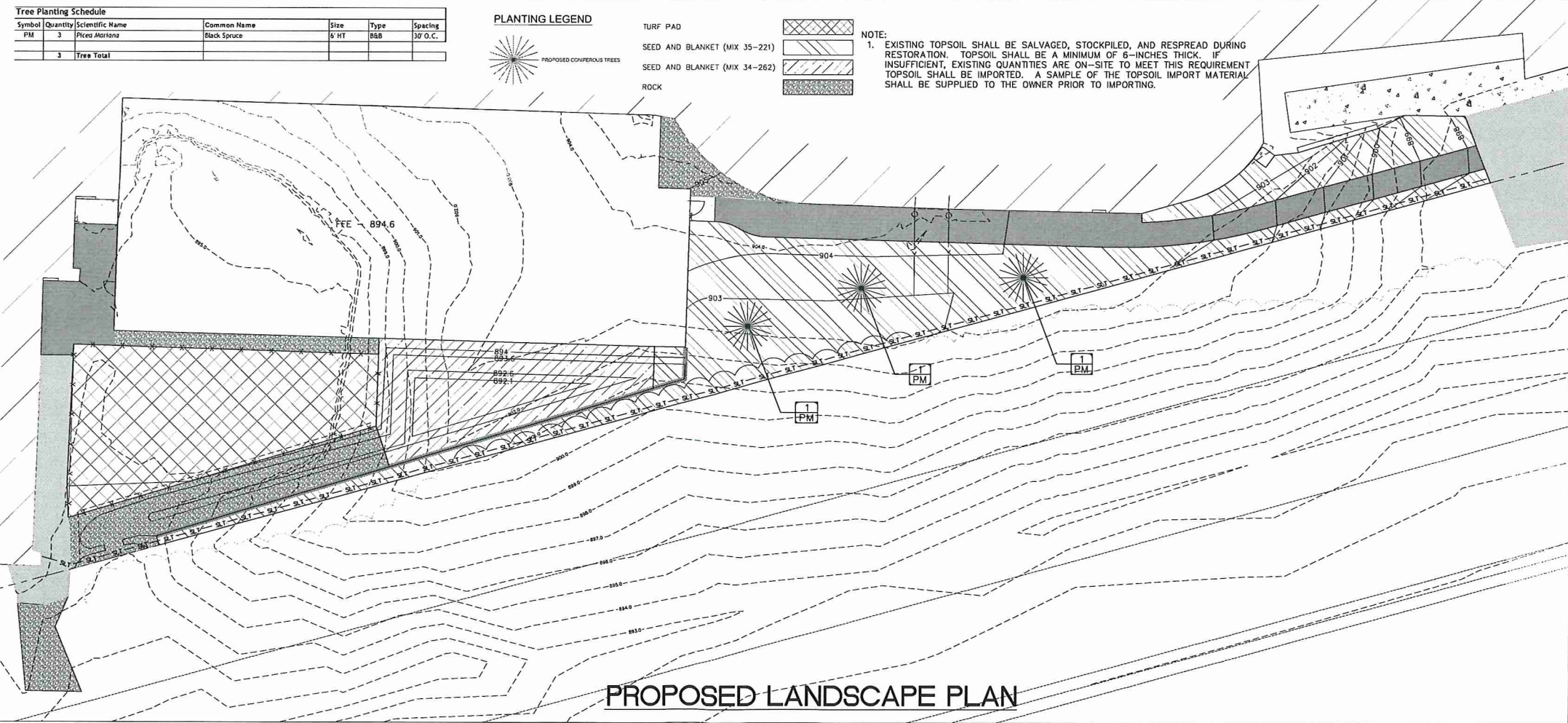
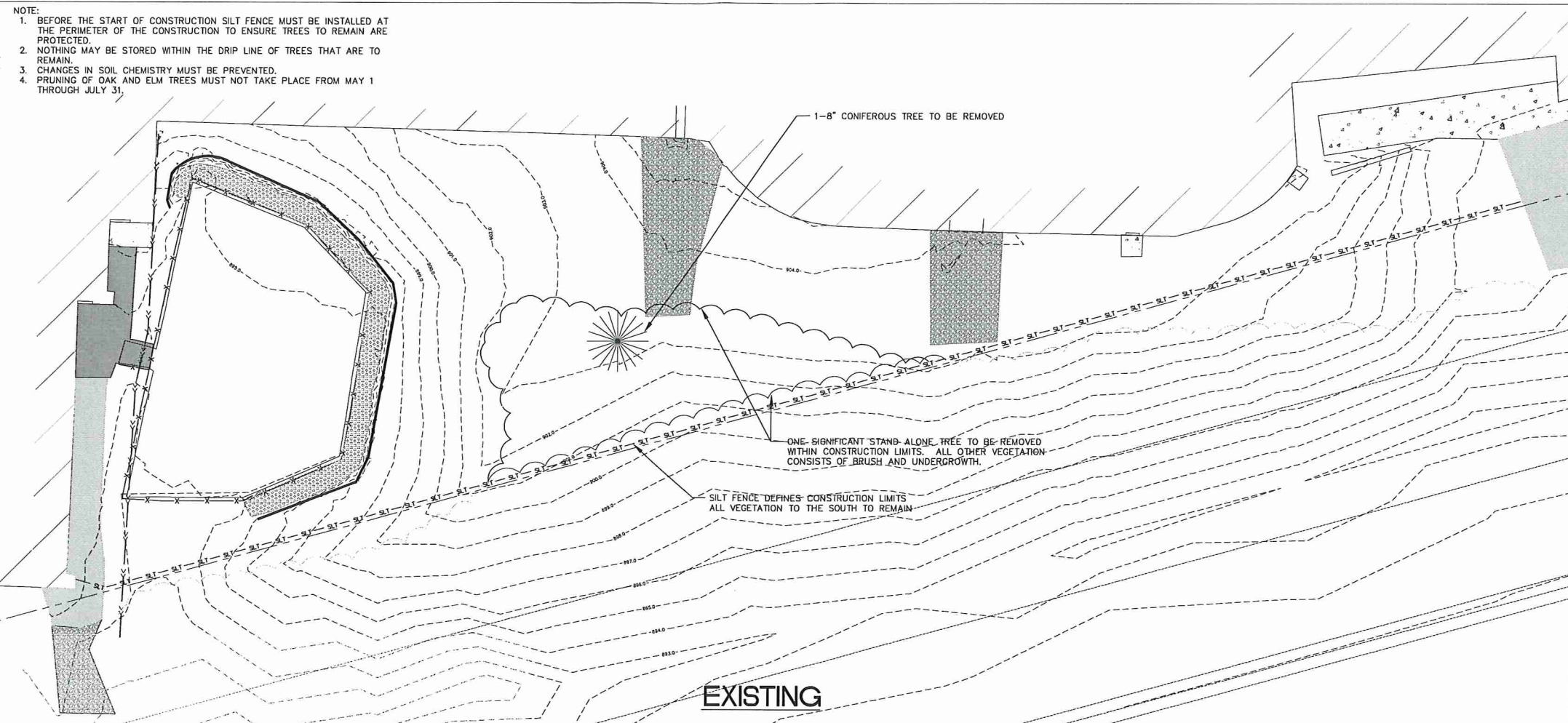
REV	DATE	DESCRIPTION
1	2/28/15	CITY COMMENTS

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NAME: *[Signature]* REG. NO. 4253
EXP. DATE: 02/28/15
STAMP

ISSUE DATE: 10/14
SHEET NO. **C2.00**
PUBLICATIONS
Issued for Permit

LANDSCAPE PLAN



- NOTE:
- BEFORE THE START OF CONSTRUCTION SILT FENCE MUST BE INSTALLED AT THE PERIMETER OF THE CONSTRUCTION TO ENSURE TREES TO REMAIN ARE PROTECTED.
 - NOTHING MAY BE STORED WITHIN THE DRIP LINE OF TREES THAT ARE TO REMAIN.
 - CHANGES IN SOIL CHEMISTRY MUST BE PREVENTED.
 - PRUNING OF OAK AND ELM TREES MUST NOT TAKE PLACE FROM MAY 1 THROUGH JULY 31.

- PLAN SYMBOLS
- EXISTING RIGHT OF WAY LINE
 - PROPOSED SETBACK
- UTILITIES SYMBOLS
- UTILITY POLE
 - GUY OR ANCHOR
 - STREET LIGHT
 - TELEPHONE PEDESTAL
 - GAS MAIN
 - EXISTING WATER MAIN
 - ELECTRIC BOX
 - TELEPHONE CABLE
 - ELECTRIC CABLE
 - EXISTING STORM SEWER
 - EXISTING STORM MANHOLE
 - EXISTING SANITARY SEWER
 - EXISTING SANITARY MANHOLE
 - GATE VALVE
 - PROPOSED GATE VALVE
 - EXISTING HYDRANT
 - CABLE TELEVISION BURIED
 - FIBER OPTIC CABLE
 - MAILBOX
 - TRAFFIC SIGNAL LINE
 - TRAFFIC SIGNAL HAND HOLE
 - EXISTING CATCH BASIN
 - PROPOSED WATERMAIN
 - PROPOSED HYDRANT
 - PROPOSED STORM MANHOLE
 - PROPOSED CATCH BASIN
 - BITUMINOUS
 - CONCRETE
 - GUTTER OUT CURB



Tree Planting Schedule

Symbol	Quantity	Scientific Name	Common Name	Size	Type	Spacing	
PM	3	Picea Mariana	Black Spruce	6 HT	B&B	30' O.C.	
	3	Tree Total					

- PLANTING LEGEND
- TURF PAD
 - SEED AND BLANKET (MIX 35-221)
 - SEED AND BLANKET (MIX 34-262)
 - ROCK
 - PROPOSED CONIFEROUS TREES

NOTE:
1. EXISTING TOPSOIL SHALL BE SALVAGED, STOCKPILED, AND RESPREAD DURING RESTORATION. TOPSOIL SHALL BE A MINIMUM OF 6-INCHES THICK. IF INSUFFICIENT, EXISTING QUANTITIES ARE ON-SITE TO MEET THIS REQUIREMENT TOPSOIL SHALL BE IMPORTED. A SAMPLE OF THE TOPSOIL IMPORT MATERIAL SHALL BE SUPPLIED TO THE OWNER PRIOR TO IMPORTING.

PROPOSED LANDSCAPE PLAN



Proposed Building Addition - St. Louis Park Location
 Project Site Address:
 5525 Cedar Lake Road
 St. Louis Park, MN

Project Owner: Life Time Fitness
 2902 Corporate Place
 Chanhassen, MN 55317

I. Introduction
 The purpose of this project is to build on approximately 5,115 square foot building expansion on the south side of the existing building. Modifications will be made to the existing turf pad to accommodate the proposed building expansion. In addition, a pedestrian route will be provided to the east.

The site drains to a ditch just south of the property.

Project Area:
 Total Project Size (Disturbed Area) - 12,310 square feet
 Existing Area of Impervious Surface - 2,170 square feet (Within Project Area)
 Post-Construction Area of Impervious Surface - 7,605 square feet (Within Project Area)
 Total New Impervious Surface Area Created - 5,435 square feet

Responsible Parties

- Owner - Contact: Life Time Fitness, 2902 Corporate Place, Chanhassen, MN 55317
- Civil Engineer - Contact: Kristie Elfering, P.E., Elfering & Associates, 10062 Flanders Court NE, Blaine, MN 55449, Ph: (763) 780-0450 Ext. 2, keller@elfering.com, Design of Construction SWPPP - University of Minnesota (Expires May 31, 2019)
- Site Manager - To be determined
- Responsible Party for Long Term O&M - Life Time Fitness

II. Potential Areas for Storm Water Contamination

The following potential areas were identified as possible storm water contamination areas:
 • Areas of vegetation disturbance for building and turf pad construction

III. Storm Water Management Controls

The controls will provide soil stabilization for disturbed areas and structural controls to divert runoff and remove sediment. Currently the site drains to the south and east. Care will be taken to provide restoration as soon as grading operations cease.

Vegetation in areas not needed for construction shall be preserved. The allowable amount of time a site can remain without stabilization when not being worked on is 7 days.

In the case where construction activity temporarily ceases for the amount of time listed above, stockpiles and disturbed portions of the site will be stabilized with temporary seed and mulch. The temporary seed shall be Mn/DOT Mixture 21-113 for seeding between May 1 and August 1 and Mn/DOT Mixture 100 after August 1. The Contractor will prepare each area for permanent restoration as soon as construction in that area is completed.

All disturbed pervious areas shall be restored with seed and blanket.

IV. Best Management Practices

A. Site Wide Control Measures

- To prevent soil from being transported off site, for both the undisturbed and disturbed areas of the site, the following BMPs will be implemented onsite:
 • Construction sequencing will allow areas to be undisturbed until necessary for construction.
 • The smallest vegetated area possible will be disturbed during construction.
 • After construction in an area is completed, the Contractor shall immediately restore that area to its existing condition.

- Topsoil stockpiles will be stabilized with temporary seed and mulch no later than 3 days from the last construction activities that formed the stockpiles. The Rapid Stabilization Method 3 will be used to stabilize the topsoil. The Rapid Stabilization method includes quick temporary seed and quick release fertilizer. If necessary, this work shall be incidental to the project.
- A construction entrance shall be installed at the existing parking lot on the east edge of the project.
- Install silt fence and biologs around the disturbed area to prevent the migration of sediment.
- Remove all soils and sediments tracked or otherwise deposited outside of the project area. If tracking occurs the Project Owner may order sweeping to be completed at no cost with a pick-up broom sweep.
- All measures contained in this document shall be completed by the Contractor at no cost.

V. General Notes

- Construction site waste must be properly managed, such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site.
- All temporary erosion and sediment control BMPs must be maintained until completion of construction and vegetation is established sufficiently to ensure stability of the site, as determined by the City and Watershed District.
- All temporary erosion and sediment control BMPs must be removed upon final stabilization.
- The permittee must, at a minimum, inspect, maintain and repair all disturbed surfaces and all erosion and sediment control facilities and soil stabilization measures every day work is performed on the site and at least weekly until land disturbing activity has ceased. Thereafter, the permittee must perform these responsibilities at least weekly until vegetative cover is established. The permittee will maintain a log of activities under this section for inspection by the City within 24 hours of request. The log shall keep at a minimum:
 ••• Date and time of inspection
 ••• Name of person conducting inspections
 ••• Findings of inspection, including recommendations for corrective actions, corrective actions taken including dates, times, party completing maintenance activities
 ••• Date and amount of rainfall events greater than 0.5 inches within 24-hours.

VI. Infiltration Basin Grading Notes:

- Prior to excavation of the infiltration basin, the Contractor shall provide 24-hour notice to arrange inspection for compliance prior to completion of any final grading activity.
- No excavation/grading equipment shall travel within the infiltration basin area once construction of the basin begins.
- Sub-soils of all infiltration basin bottoms shall be ripped with a frost ripping tooth to a minimum depth of 18-inches and a maximum spacing of 18-inches across the entirety of the basin bottom.
- Excavator shall use a toothed bucket (no smooth edge buckets) when excavating and grading the infiltration basin to reduce soil smearing.
- Excavation of the infiltration basin shall only occur in dry soil conditions to prevent unnecessary compaction impacts.
- If the sub-soil of the basin bottom will prevent infiltration of a rate of 0.60-inches per hour or greater in saturated conditions, over excavation to suitable sub-soils shall be provided with verification to the Engineer and any additional backfill needed for this over excavation shall consist of clean, washed sand.
- Infiltration basin side slopes shall be stabilized within 24-hours of final grading of the infiltration basin.

VII. Special Waters

Within 1-mile of the site there is an impaired water body. Twin Lake is impaired for nutrient/eutrophication biological indicators. As such the Contractor shall be required to follow Appendix A C.1 during Construction.

VIII. Wetlands

There are no wetlands within the project area.

IX. Dewatering

Groundwater was not encountered in the soil borings taken (terminated at a depth of 878.7). If groundwater is encountered during construction an individual site plan must be submitted to the City Engineer for review and approval.

X. Management of Solid and Hazardous Waste

The Contractor shall comply with the following to minimize the exposure to stormwater of any of the products, materials, or wastes. Products or wastes which are either not a source of contamination to stormwater or are designed to be exposed to stormwater are not held to this requirement:

- Building products that have the potential to leach pollutants must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by a similarly effective means designed to minimize contact with stormwater.
- Pesticides, herbicides, insecticides, fertilizers, treatment chemicals, and landscape materials must be under cover (e.g., plastic sheeting or temporary roofs) to prevent the discharge of pollutants or protected by similarly effective means designed to minimize contact with stormwater.
- Hazardous materials, toxic waste, (including oil, diesel fuel, gasoline, hydraulic fluids, paint solvents, petroleum-based products, wood preservatives, additives, curing compounds, and acids) must be properly stored in sealed containers to prevent spills, leaks or other discharge. Restricted access storage areas must be provided to prevent vandalism. Storage and disposal of hazardous waste or hazardous materials must be in compliance with Minn. R. ch 7045 including secondary containment as applicable.
- Solid waste must be stored, collected and disposed of properly in compliance with Minn. R. ch. 7035.e. Portable toilets must be positioned so that they are secure and will not be tipped or knocked over. Sanitary waste must be disposed of properly in accordance with Minn. R. ch. 7041.

Fueling and Maintenance of Equipment or Vehicles: Spill Prevention and Response: The Contractor shall take reasonable steps to prevent the discharge of spilled or leaked chemicals, including fuel, from any area where chemicals or fuel will be loaded or unloaded including the use of drip pans or absorbents unless infeasible. The Contractor must conduct fueling in a contained area unless infeasible. The contractor must ensure adequate supplies are available at all times to clean up discharged materials and that an appropriate disposal method is available for recovered spilled materials. The Contractor must report and clean up spills immediately as required by Minn. Stat. 115.061, using dry clean up measures where possible.

Vehicle and equipment washing: If the Contractor washes the exterior of vehicles or equipment on the project site, washing must be limited to a defined area of the site. Runoff from the washing area must be contained in a sediment basin or other similarly effective controls and waste from the washing activity must be properly disposed of. The Contractor must properly use and store soaps, detergents, or solvents. No engine degreasing is allowed on site.

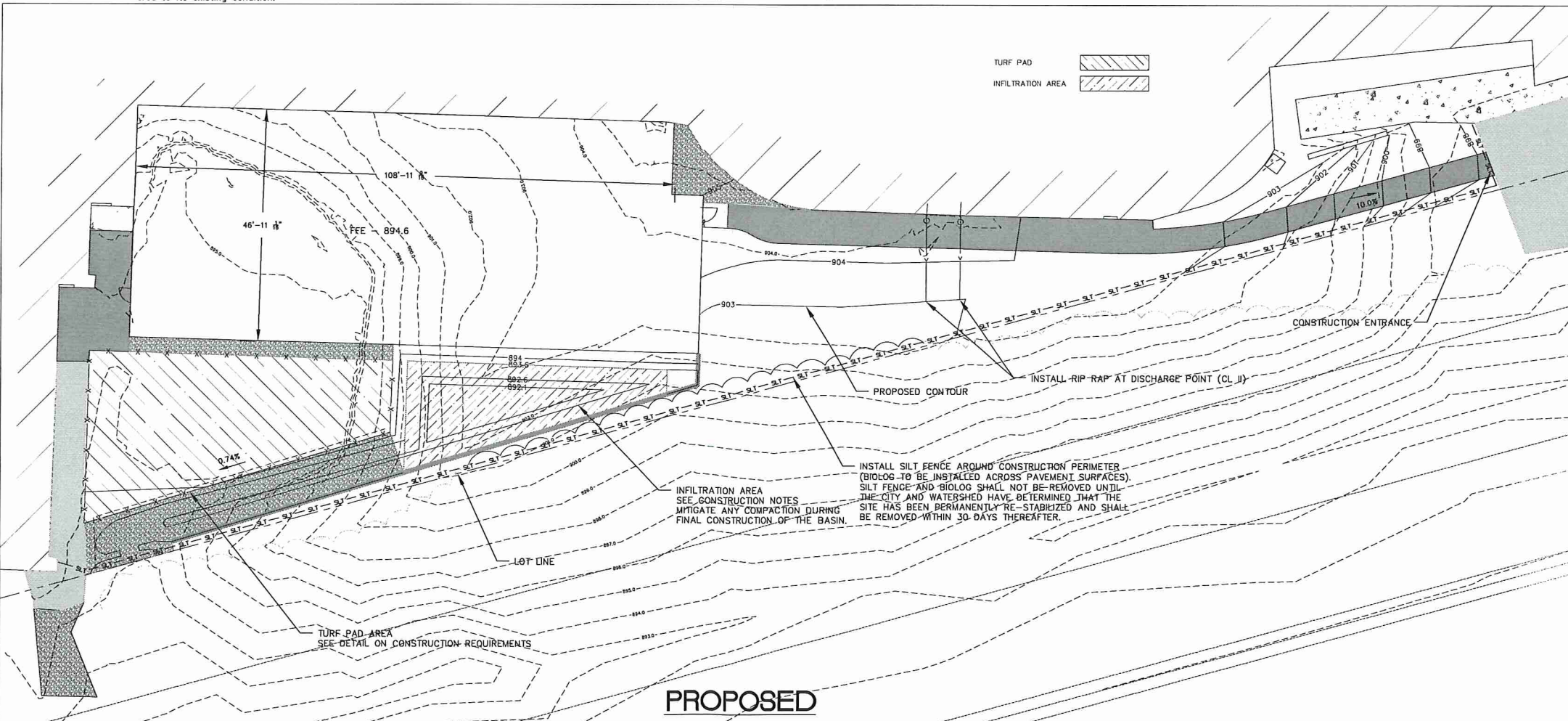
Concrete and other washouts waste: The Contractor must provide effective containment for all liquid and solid wastes generated by washout operations (concrete, sludge, paint, farm release oils, curing compounds, and other construction materials) related to the construction activity. The liquid and solid washout wastes must not contact the ground, and the containment must be designed so that it does not result in runoff from the washout operations or areas. Liquid and solid wastes must be disposed of properly and in compliance with MPCA rules. A sign must be installed adjacent to each washout facility that requires site personnel to utilize the proper facilities for disposal of concrete and other washout wastes.

PLAN SYMBOLS

- EXISTING RIGHT OF WAY LINE
- PROPOSED SETBACK

UTILITIES SYMBOLS

- UTILITY POLE
- GUY OR ANCHOR
- STREET LIGHT
- TELEPHONE PEDESTAL
- GAS MAIN
- EXISTING WATER MAIN
- ELECTRIC BOX
- TELEPHONE CABLE
- ELECTRIC CABLE
- EXISTING STORM SEWER
- EXISTING STORM MANHOLE
- EXISTING SANITARY SEWER
- EXISTING SANITARY MANHOLE
- GATE VALVE
- PROPOSED GATE VALVE
- EXISTING HYDRANT
- CABLE TELEVISION BURIED
- FIBER OPTIC CABLE
- MAILBOX
- TRAFFIC SIGNAL LINE
- TRAFFIC SIGNAL HAND HOLE
- EXISTING CATCH BASIN
- PROPOSED WATERMAIN
- PROPOSED HYDRANT
- PROPOSED STORM MANHOLE
- PROPOSED CATCH BASIN
- BITUMINOUS
- CONCRETE
- GUTTER OUT CURB



LIFETIME
 HEALTHY WAY OF LIFE
 2902 CORPORATE PLACE CHANHASSEN, MN 55317
 CONSULTANT
ELFERING & ASSOCIATES
 10062 FLANDERS COURT NE
 BLAINE, MN 55449

PROJECT INFORMATION
ST. LOUIS PARK, MN
ALPHA ADDITION
 5525 CEDAR LAKE ROAD
 ST. LOUIS PARK, MN

DRAWING LOG

REV	DATE	DESCRIPTION
1	2/28/18	CITY COMMENTS

CONFIDENTIALITY NOTICE
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PROFESSIONAL OF RECORD
 I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA
 NAME: Kristie Elfering, P.E.
 REG. NO.: 4253
 EXP. DATE: 05/31/2019
 STAMP

ISSUE DATE: 04/18/18
 SHEET NO: **C3.00**
 PUBLICATIONS
 Issued for Permit & Bid

EROSION CONTROL PLAN

PROPOSED

MEETING DATE: August 23, 2018

TITLE: Variance Approval for Life Time, Inc., 5525 Cedar Lake Road, District Permit 18-153

RESOLUTION NUMBER: 18-083

PREPARED BY: Elizabeth Showalter

E-MAIL: eshowalter@minnehahacreek.org

TELEPHONE: 952-641-4518

REVIEWED BY: Administrator Counsel Program Mgr. (Name):_Tom Dietrich____
 Board Committee Engineer Other

ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input type="checkbox"/> Other (specify): FINAL ACTION ON AUGUST 23, 2018	

PURPOSE or ACTION REQUESTED:

Approval of a variance from the Stormwater Management rule and authorization of the District Administrator to execute a cooperative agreement with Life Time to establish a \$490,000 escrow fund to be used for alternative compliance with the Stormwater Management Rule.

PROJECT/PROGRAM LOCATION:

5525 Cedar Lake Road, St. Louis Park

PROJECT TIMELINE:

A partnership framework was presented at the August 9, 2018 meeting, which informed the draft agreement. Upon Board approval staff will work with Life Time to satisfy the conditions of the variance and permit, including execution of the agreement and conveyance of escrow funds.

PROJECT/PROGRAM COST:

The proposed agreement will establish a \$490,000 escrow funded by Life Time to be used for a project or projects that will provide 7.2 pounds of phosphorus reduction and 28,734 cubic feet of volume abstraction. The proposed agreement allows the fund to be used for soft costs, therefore no costs will be incurred by the District.

PAST BOARD ACTION:

July 26, 2018: Staff presented variance request. The Board tabled the request to the August 9, 2018 meeting, directing staff to identify a potentially collaborative solution.

August 9, 2018: Staff presented the findings of an analysis examining the Twin Lake Subwatershed. The analysis included a regional assessment of issues and drivers within the subwatershed and a comparison of

opportunities for regional treatment. A letter of support from the City of St. Louis Park for identification of a partnership opportunity was presented with a map of opportunities from the City's CIP and anticipated public and private projects. Staff presented a partnership framework that would establish a \$490,000 escrow to be used for regional stormwater improvements. The Board directed staff to develop a cooperative agreement with Life Time based upon the partnership framework.

SUMMARY:

The proposed cooperative agreement establishes an escrow fund for use in identifying and pursuing alternative compliance with the Stormwater Management Rule. The funds are to be used for the removal of 7.2 pounds of phosphorus and 28,734 cubic feet of volume abstraction. The funds may be used for design, construction, operations and maintenance, feasibility analysis, administration, and legal costs.

Review of potential projects will initially focus within the minor subwatershed. If no feasible and sound alternative is identified within the subwatershed, the District may expand the review to areas down gradient from the minor subwatershed outlet. The funds may be used for a single project, or a combination of projects that achieves the phosphorus and abstraction metrics over a 20 year period. If no project is identified that fully satisfies the abstraction and removal metrics, the District may proceed with one or more projects that achieve a part of the required abstraction and removal. District staff will continue to work with St. Louis Park to develop a framework for collaborative review of public-private projects, and will provide clarity on District staff responsibilities for identification of projects and management of funds at the August 23, 2018 meeting.

Upon execution of the agreement, Life Time will have satisfied the conditions on the approval of the variance and will be deemed in compliance with District Rules with respect to all work performed under Permit 18-153 and all preexisting improvements on the site.

RESOLUTION

RESOLUTION NUMBER: 18-083

TITLE: **Variance Approval for Life Time, Inc., 5525 Cedar Lake Road, District Permit 18-153.**

WHEREAS Life Time, Inc., (“Life Time”) has applied for a permit for an addition of about 5,300 square feet of hard surface to its fitness facility at 5525 Cedar Lake Road, St. Louis Park (the “Property”);

WHEREAS the Property is 10.4 acres in size, 8.5 acres of which is hard surface;

WHEREAS the District’s Stormwater Management Rule, §§ 2 and 5(c), states that once site hard surface exceeds 40 percent, the property owner must provide and stormwater volume control for the aggregate site hard surface installed since the date of rule adoption in 2005;

WHEREAS in conjunction with its permit application, designated as Permit No. 18-153, Life Time has applied for a variance from the requirement to provide stormwater management for aggregate site hard surface, on the following grounds: (a) the present improvement is small in relation to the total site hard surface; (b) doing so would cause disturbance that would make its commercial operations infeasible; and (c) it could more feasibly have installed stormwater management facilities as a part of its preceding, more extensive improvements under District permit 13-041, but the District did not impose the requirement at that time;

WHEREAS the District Variance rule sets forth the following criteria for variance:

- Special conditions to which other property in the District generally is not subject mean that strict compliance with the rule will cause undue hardship;
- The hardship was not created by the property owner or its contractor;
- The hardship is not merely an inconvenience, and not solely economic;
- There is no feasible and prudent alternative by which the rule may be met; and
- The variance will not impair or be contrary to the intent of the rules.

WHEREAS Life Time proposes to construct a new infiltration basin, which District staff and the District engineer find are sufficient to meet the rule requirements for the proposed new hard surface but exhaust the ability to locate facilities on the Property without disturbing existing improvements and utilities;

WHEREAS District staff and the District engineer have thoroughly reviewed the possibilities for Life Time to secure phosphorus removal and volume control elsewhere within the subwatershed and downstream of the Property, and have concluded that at this time there are no such possibilities, and have documented the review in memoranda that are a part of the permit file;

WHEREAS District staff has determined that within the next several years there is a reasonable likelihood for regional treatment to be installed as a part of public park, road and drainage improvements or otherwise through work that the District can facilitate;

WHEREAS the Board of Managers (“Board”) has reviewed the memoranda and recommendations of District staff and the District engineer, finds them reasonable and adopts them;

WHEREAS Life Time proposes as a condition of a variance to enter into an agreement with the District, under which it would pay into escrow the avoided cost of installing facilities on the Property, which the District would use to fund regional stormwater management in place of Life Time’s on-site management;

WHEREAS the proposed agreement, developed between District staff and Life Time, is included with the variance application;

THEREFORE BE IT RESOLVED that the Board finds as follows:

- Special conditions causing undue hardship exist that do not apply generally to other properties within the District, namely that the proposed improvement is of limited scope in proportion to existing site improvements and there is not room to accommodate the required stormwater management facilities without substantial disturbance to existing improvements and utilities;
- The hardship was not created by Life Time or its contractor, but results in large extent from the District’s inadvertent failure to impose the requirement of aggregate stormwater management when the Property was undergoing substantial disturbance and improvement under Permit 13-041;
- The hardship is not merely an inconvenience and not solely economic, in that, in addition to the heightened cost of retrofitting, the work would require a large area of site disturbance, including reconfiguration and rerouting of site drainage and existing utility lines, and would impair the present commercial use of the property for a period of time, with a substantial potential impact on existing member use and Life Time’s commercial relations;
- There is no feasible and prudent means by which Life Time can meet the §5(c) requirements, as the District engineer has reviewed both on- and off-site options and concluded that Life Time has maximized the opportunity for on-site treatment without disturbing existing improvements, and that there are no off-site options that appear both to offer potentially cost-effective phosphorus removal or flow management and to be feasible for Life Time as a private entity to implement;
- A variance will not be contrary to the intent of the rules, because: (a) Life Time has maximized treatment on-site; (b) Life Time is bearing its avoided compliance cost through a legally binding agreement; (c) under the agreement, there is a strong likelihood that the District, through its relationships with its public and private partners and its capacities as a public agency, can facilitate achieving the rule’s stormwater management outcomes through regional means; and (d) regional management is consistent with the Stormwater Management Rule, at §7.

BE IT FURTHER RESOLVED that the Board therefore approves a variance on the following conditions:

- Life Time will construct on-site stormwater management facilities in accordance with District-approved plans and specifications;

- Before a permit is issued, Life Time and the District will execute an agreement materially equivalent to the proposed agreement included in the variance request.

BE IT FINALLY RESOLVED that the District Administrator is authorized to sign the required agreement, with non-material changes and on advice of counsel, and to administer the receipt and management of the escrow for which it provides.

Resolution Number 18- was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

Secretary Date: _____

AGREEMENT
Alternative Stormwater Management Agreement

Minnehaha Creek Watershed District and Life Time, Inc.

This Agreement is entered into by the Minnehaha Creek Watershed District, a political subdivision of the State of Minnesota with powers set forth in Minnesota Statutes chapters 103B and 103D (“District”), and Healthy Way of Life I, LLC, a Delaware Limited Liability Company _____ (“Life Time”).

RECITALS

- A. Pursuant to rules duly adopted under Minnesota Statutes §103D.341, the District regulates land development to protect water resources. On _____, 2018, the District Board of Managers (“Board”) approved Permit No. 18-153 for a building addition and related development at the Life Time property located at 5525 Cedar Lake Road, St. Louis Park, Minnesota (the “Site”).
- B. In conjunction with Permit No. 18-153, the Board approved a variance requested by Life Time due to its inability, during the permit term, to meet District stormwater management rules requiring that stormwater management achieve an annual removal of 7.2 pounds of phosphorus and annual abstraction of 28,734 cubic feet. The variance is conditioned on the execution of an agreement between the District and Life Time under which the District will use its capacities to identify and implement regional stormwater management that will provide for these phosphorus removal and volume abstraction outcomes, and Life Time will bear the cost of such facilities.
- C. The funds that Life Time is providing under this Agreement are solely to implement the stormwater management that the District rules require as closely as possible, from a subwatershed perspective, to what Life Time would achieve if management on the Site were feasible.
- D. On the basis of the record established by the variance request, an alternative approach to substantially meet the phosphorus removal and volume abstraction outcomes required by the District rules was needed to support variance approval. This Agreement memorializes this alternative approach. The intent is that Life Time will achieve the water resource outcomes required by the District rules at its cost, and the District will facilitate this outcome without exposing its general taxpayer to substantial risk or using public funds for private compliance cost.
- E. The maximum sum that Life Time will contribute under this Agreement has been determined by the parties as the estimated cost that Life Time would incur to provide for the required stormwater management on the Site. This cost does not include loss of area and other indirect costs that Life Time would incur to manage stormwater on site, all of which contribute to the infeasibility of on-site treatment and the basis for the variance approval.
- F. Accordingly, the parties enter into this Agreement for mutual valuable consideration, and intend that it be legally binding.
- G. Permit No. 18-153 and the associated variance are attached as Exhibit A and incorporated into this Agreement.

TERMS

Escrow

1. Within the time specified in Permit No. 18-153, Life Time will deliver \$490,000 to the District, which the District will place into escrow for its own benefit as obligee (the "Escrow"). The parties will cooperate on the manner of funds transmittal.

2. The Escrow will be subject to the following:

a. The District will maintain a discrete escrow fund and hold or invest the funds in a manner consistent with the applicable requirements of Minnesota Statutes chapter 118A and the District's adopted investment and depository policy, as each may be amended from time to time.

b. In delivering the Escrow, Life Time unconditionally represents that all escrow funds submitted are its funds and that no third party has any right or entitlement thereto, perfected or unperfected. Life Time will remain the title owner of the Escrow, including any accrued interest. All obligations of the District under this Agreement in holding and using the Escrow are to Life Time only.

c. Life Time will not assign or purport to assign any interest in the Escrow to any third party, absent written District approval. The District will continue to recognize Life Time as the title owner of the Escrow, unless and until, in the District's judgment:

(i) Life Time has documented its assignment of escrow funds and agrees to hold the District harmless for handling the funds in accordance with the assignment terms;

(ii) the District is directed otherwise by a court with jurisdiction; or

(iii) the District is otherwise mandated by unclaimed property or other applicable law.

d. Nothing in this Agreement creates any right in any third party as against the District or in any way waives or abridges any immunity, defense or liability limit that the District enjoys under law. Life Time holds the District harmless for, and will defend and indemnify it as to any third-party claims through Life Time relating to, loss in Escrow value, loss of potential interest, early withdrawal penalty or any other economic or other claim related to the Escrow or the District's management thereof, including attorney fees and costs, absent gross negligence by the District or its manager or employee.

Identification of Alternative Stormwater Management

3. The District may use its own staff and may retain professional services to identify and evaluate the feasibility of one or more alternative stormwater management projects.

4. The District's review of potential projects initially will focus on those within the minor subwatershed as defined in the District's watershed management plan. Review, beyond preliminary consideration, outside of the minor watershed will rest on a District Board determination that there is no feasible and sound option within the minor subwatershed to achieve the required outcomes. On this

determination, the District may expand its assessment to areas downgradient from the minor subwatershed outlet. "Feasible and sound" means: (a) the level of projected performance is reliable; (b) the District reasonably can expect to acquire the needed property rights, permits and approvals; (c) the estimated cost for the required removal and abstraction outcomes does not exceed the Life Time contribution; and (d) operation and maintenance for the expected project life are reasonable.

5. A decision to proceed with one or more projects utilizing the escrow funds will be made by the District Board on the basis of a finding that the project or projects will provide for some or all of the removal and abstraction outcomes that full compliance under Permit No. 18-153 would have produced.

6. The District will provide technical deliverables to Life Time before the District Board: (a) extends the District's assessment beyond the minor subwatershed boundary; or (b) approves a project for final design or implementation. The District will receive comment from Life Time and consult with it, as it may request.

Projects That May Be Funded from the Escrow

7. A project funded from the Escrow under this Agreement may: (a) be structural or nonstructural; (b) function without operation or maintenance (O&M), or require O&M; (c) consist of any one-time or ongoing action that the District engineer concludes is expected to produce annual phosphorus removal and/or volume abstraction over a 20-year period; and (d) involve one or multiple locations or discrete actions.

8. A project may be constructed or implemented by the District; by another public body or third party through agreement with the District; or through a partnership between the District and one or more other parties.

9. A project may stand alone, or it may consist of an enhancement of or addition to another project or undertaking.

10. If the District cannot identify or proceed with one or more feasible projects that meet the full annual phosphorus reduction and volume abstraction requirements, it may proceed with one or more projects that achieve a part of that result.

11. At any time, Life Time, independent of any regulatory obligation, may implement measures at the Site or another location within the minor subwatershed to meet some or all of its phosphorus removal and/or volume abstraction obligations. It will timely communicate with the District as to any such action in the mutual interest of avoiding unneeded expenditure of the Escrow. The District, through its technical advisors, will determine the measures of removal and abstraction achieved and these will be deducted from the total measures of 7.2 pounds of phosphorus, and 28,734 cubic feet of abstraction, to which the Escrow is applied.

Use of the Escrow

12. The Escrow will apply to fund and/or reimburse the District for all costs, including administrative and legal, development, design, implementation and O&M costs, related to projects under this Agreement. The Escrow will apply to costs reasonably incurred even if no project ultimately is identified or implemented.

13. Escrow funds will become the sole property of the District, and Life Time agrees to the relinquishment of all legal and equitable interest therein, when the District has provided written notice to Life Time of the intent to apply escrow funds, the purpose and the amount, and 20 days thereafter have elapsed. The District may use escrow funds to pay third parties directly, or to reimburse itself for payments made.

14. Within 60 days after the District Administrator has determined that a project has been completed or implemented, the District will perform a project accounting and provide the accounting to Life Time. Final project cost will include the District technical advisor's reasonable calculation of 20 years' O&M cost, at present value.

15. Within five years of the date of this Agreement, the District Board, on the basis of technical and regulatory feasibility, land availability, projected performance and estimated cost, will take formal action identifying one or more projects for final feasibility and advancement of design. The District will maintain the Escrow until each identified project has been completed or implemented, or the Board has formally determined that it will not proceed. When all identified projects have been completed or implemented, the District will perform an accounting of funds expended and return unused funds to Life Time, and Life Time's financial obligation under the Agreement will terminate.

Regulatory Treatment

16. By entering into and performing its obligations under this Agreement, and by otherwise conforming to Permit 18-153 and the associated variance, Life Time will be deemed to have fully complied with District rules with respect to all work performed under Permit 18-153 and all preexisting improvements on the Site.

17. Any future Site improvements will be subject to District permit requirements as may be applicable under the District Rules in effect at the time such improvements are undertaken, however, for the purpose of determining District permit requirements, the site shall be considered as though all improvements completed prior to the date of execution of this agreement, were made in accordance with District requirements in place on the date of execution of this agreement.

Notice and Miscellaneous

18. All notices required or provided for under this Agreement will be made to the following representatives of the parties, except as may be altered in a writing signed by the representative, with receipt confirmed:

Life Time, Inc.

[insert]

Administrator
Minnehaha Creek Watershed District
15320 Minnetonka Boulevard
Minnetonka MN 55345

19. Venue for any action hereunder is in Hennepin County, Minnesota. The law of Minnesota will apply to any such action.

20. The above Recitals are incorporated into and a part of this Agreement.

Intending To Be Bound,

LIFE TIME, INC.

By: [type name and title]

Date:

Approved for Form & Execution

MCWD Attorney

MINNEHAHA CREEK WATERSHED DISTRICT

By: James Wisker, Administrator

Date: