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CLERK'S CERTIFICATION

The undersigned duly qualified City Clerk of the City of the Village of Minnetonka Beach, Minnesota, hereby certifies that attached hereto is a true and correct original of:

RESOLUTION NO. 2010-37

**A RESOLUTION AMENDING THE CONDITIONAL USE PERMIT FOR
SAFETY FENCE IMPROVEMENTS AND RESCINDING CERTAIN
CONDITIONS OF RESOLUTION 2009-29**

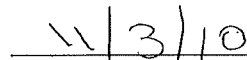
**TO THE LAFAYETTE CLUB
FOR PROPERTY AT 2800 NORTHVIEW ROAD**

**LEGAL DESCRIPTION AS ATTACHED
MINNETONKA BEACH, HENNEPIN COUNTY, MINNESOTA**

As approved by the City Council of the City of the Village of Minnetonka Beach.



Marilyn Regnier, City Clerk



Date

Return to:
City of Minnetonka Beach
2945 Westwood Rd.
P.O. Box 146
Minnetonka Beach, MN 55361
952/471-8878

CITY OF THE VILLAGE OF MINNETONKA BEACH

RESOLUTION NO 2010-37

A RESOLUTION AMENDING THE CONDITIONAL USE PERMIT FOR
SAFETY FENCE IMPROVEMENTS AND RESCINDING CERTAIN CONDITIONS OF
RESOLUTION 2009-29

TO THE LAFAYETTE CLUB
FOR PROPERTY AT 2800 NORTHVIEW ROAD

TENTH AMENDMENT TO THE CONDITIONAL USE PERMIT
DATED NOVEMBER 14, 1988

LEGAL DESCRIPTION AS ATTACHED
MINNETONKA BEACH, HENNEPIN COUNTY, MINNESOTA

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of the Village of Minnetonka Beach, Minnesota was held on the 13th day of September, 2010. The following members were present: Mayor Joann Anderson, Council Members Michelle Kroll, Jill Bartel, Linn Ferguson, and Treasurer Dennis Fischer. Absent: Mike Taylor,

Council Member Bartel introduced the following resolution and moved its adoption:

WHEREAS, Lafayette Club Inc., warrants and represents that it is the owner of the Lafayette Club, Scott Bremer, General Manager and Wayne Fadden, President (Applicant) and;

WHEREAS, Section 206 (7) of the Minnetonka Beach City Code, effective August 31, 1996 (City Code) requires a Conditional Use Permit (CUP) to operate a Country Club in the Single Family Residential Zoning District, and;

WHEREAS, the Applicant has applied for a Tenth Amendment to the Conditional Use Permit dated November 14, 1988 and amended periodically, by the application dated July 27, 2010, and;

WHEREAS, the Applicant has provided information in the application as to the nature of the requested Tenth Amendment, contained in the plan, attachments thereto which adds a safety fence relocated south of the Dakota Rail Regional Trail and East of Woodbridge Road, and;

WHEREAS, the Planning Commission and the City Council, City of the Village of Minnetonka Beach (City Council) has relied on the information contained in the plan submitted, and;

WHEREAS, the Planning and Zoning Administrator has reviewed the Plan and other information and has made a report to the Planning Commission and a report to the City Council, and;

WHEREAS, the request for the Tenth Amendment to the CUP submitted by the Lafayette Club along with a report by the Planning and Zoning Administrator and testimony has been reviewed by the Planning Commission at a Public Hearing on August 16, 2010 and by the City Council on September 13, 2010, and;

WHEREAS, on August, 16, 2010, the Planning Commission held a public hearing, made findings of fact, made findings required by Section 229 (2) contained in this resolution after taking testimony, and recommended approval with conditions to the Tenth Amendment to the City Council, and;

WHEREAS, except for specific conditions contained herein, nothing in this Amendment alters, changes or otherwise nullifies the 1988 CUP and the periodic amendments including conditions of the CUP, and;

WHEREAS, the City Council has made findings of fact contained in the Planning and Zoning Administrator's letter dated September 13, 2010, and has made the findings contained in this Resolution as required by Section 229 (2) of the City Code,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of the Village of Minnetonka Beach, Minnesota, to issue the Tenth Amendment to the CUP in accord with the plans and information submitted making the following findings as required by the City Code and imposing the following reasonable conditions to City Council's issuing of the Tenth Amendment to the CUP:

1. Public Welfare: With the following condition, the proposed uses will not endanger, injure or detrimentally affect the use and enjoyment of other property in the immediate vicinity or the public health, safety, comfort, convenience or general welfare of the neighborhood or the City:

- a. The proposed fence be landscaped as per the Planning Commission and Planning and Zoning Administrator's recommendation.
 - b. The landscaping which was a condition of Resolution 2009-29 be accomplished.
2. Public Facilities and Services: With the following conditions, the proposed use will be serviced adequately by and will not adversely affect essential public facilities and services including, streets, police and fire protection, drainage, refuse disposal, water and sewer systems, and parks; and will not, in particular, create traffic congestion or interference with traffic on the adjacent and neighboring public thoroughfares.
- a. That the fence be at least 8 feet from the right-of-way line of Woodbridge Road.
3. No Detrimental Effect: The proposed uses will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person or property because of excessive traffic, noise, smoke, fumes, glare, orders, dust or vibrations:
4. Destruction, Loss, and Damage: With the following condition, the uses will not result in the destruction, loss or damaged of natural, scenic or historical features or major importance.
- a. That the fence be landscaped with over story trees and conifers, base planting and vines, and that over story trees be planted north of the trail and in the location of the fence to break up the commercial character of the fence. Landscape plans are to be approved by the Planning and Zoning Administrator.
 - b. That the condition contained in Resolution 2008-34 that was not satisfied, "fence east of Woodbridge Road be landscaped" be satisfied before the new fence is installed.

Further be it resolved that Council rescinds the following conditions contained in Resolution 2009-29:

1. That the Lafayette Club and Three Rivers Park District enter into an agreement with the City of the Village of Minnetonka Beach holding the City, its Council, Employees and Consultants harmless, and agreeing to defend them from all action that may result from the improper removal and disposition of Mercury contaminated soil as well as any action that may result from the mercury contaminated soil that may be left on the site;
2. The asphalt parking lot will be stamped in a similar method as is used on other parts of the Dakota Regional Trail with a similar pattern and colored similar to pavers being replaced.

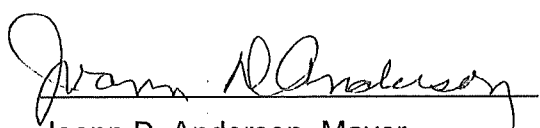
Further be it resolved that the following reasonable conditions to issuing the Tenth Amendment are imposed by the City Council City of the Village of Minnetonka Beach:

1. The Lafayette Club is responsible for the actions of Three Rivers Park District in the construction of the improvements.

- 2. Issuing the Tenth Amendment to the CUP is for the purpose of adding a safety fence adjacent to the Dakota Regional Trail as per the plan submitted July 12, 2010.
- 3. Violation of or non-compliance with any of the terms and conditions of this Resolution issuing the Tenth Amendment to the Conditional Use Permit shall constitute a violation of the zoning code, shall automatically terminate any authority granted herein, and shall be punishable as a misdemeanor.
- 4. That the fence shall not be installed until the conditions of resolution 2008-34 and Resolution 2009-29 as amended have been satisfied and that this Resolution is fully executed by the Lafayette Club's General Manager and President.

The motion for adoption of the foregoing resolution was duly seconded by Council Member Fergusson and, upon vote being taken thereon, the following voted in favor thereof: Bartel, Kroll and Ferguson. The following voted against or abstained: None.

Whereupon the resolution was declared duly passed and adopted the 9th day of August, 2010.



 Joann D. Anderson, Mayor

State of Minnesota)
)ss.
 County of Hennepin)

The foregoing instrument was acknowledged before me this 28th day of September, 2010 by Joann D. Anderson, Mayor of the City of the Village of Minnetonka Beach, a Minnesota municipal corporation.

Seal:




 Notary Public

Wayne Fadden, President and Scott Bremer, General Manager, the undersigned, warrant that they have express authority to:

- 1. Make the application for this Tenth Amendment to the CUP, and
- 2. Sign this Resolution on behalf of Lafayette Club, Inc. binding the Lafayette Club, Inc. to the conditions of this Resolution

The undersigned Applicants on behalf of the Lafayette Club, Inc. successors and assigns have read, understand, and hereby agree to the terms of this Resolution and

agree that the conditions contained in this Resolution are reasonable. The undersigned hereby agree to the recording of this resolution in the chain of title of the property.

Wayne M Fadden
Wayne Fadden, President

State of Minnesota)
)ss.
County of Hennepin)

The foregoing instrument was acknowledged before me this 30 day of September, 2010, by Wayne Fadden President of the Lafayette Country Club, a Chapter 317A nonprofit corporation under the laws of Minnesota, on behalf of the corporation.

Seal:



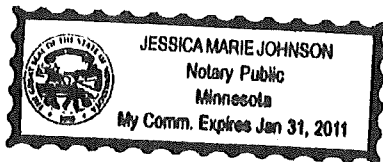
Jessica Marie Johnson
Notary Public

Scott Bremer
Scott Bremer, General Manager

State of Minnesota)
)ss.
County of Hennepin)

The foregoing instrument was acknowledged before me this 30 day of September, 2010, by Scott Bremer General Manager of the Lafayette Country Club, a Chapter 317A nonprofit corporation under the laws of Minnesota, on behalf of the corporation.

Seal:



Jessica Marie Johnson
Notary Public