

X

CITY OF THE VILLAGE OF MINNETONKA BEACH

RESOLUTION NO. 14

RESOLUTION GRANTING VARIANCES TO LAFAYETTE CLUB, INC.

WHEREAS, Lafayette Club, Inc., by Stephen R. Wood, General Manager of Lafayette Club located at 2800 Northview Road, (the "Applicant") has requested side setback variances with respect to the construction of a new tennis courts in accordance with the attached Tennis Court Site, Exhibit A; Tennis Court Detail, Exhibit B; and Tennis Pro Shop Floor Plan, Exhibit C (collectively sometimes referred to as the "Facility"); and

WHEREAS, Minn. Stat. Section 462.357 requires that variances from the strict interpretation of the zoning ordinance be granted only when there is a demonstrated hardship because of circumstances unique to the property, and Section 85.38 (5) of the City's Code of Ordinances sets forth additional factors to be considered; and

WHEREAS, the Planning Commission considered the applicant's requests and recommended approval of the variances requests; and

WHEREAS, the City Council has had an opportunity to review the matter and to hear from the applicant regarding its requests.

A

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of the Village of Minnetonka Beach, Minnesota that the Applicant's requests for side setback variances are granted as follows:

TRANSFER ENTERED
DEPT. OF PROPERTY TAX & PUBLIC RECORDS

MAR 13 1990
MINNETONKA COUNTY MINN.
BY _____ DEPUTY

- A. The side setback for the Facility is 8 feet. An 8 foot side setback variance is granted for the new tennis pro shop and also for the tennis courts, such that the Facility shall have a side setback requirement of zero feet.

- B. The Applicant is granted a variance to permit the new tennis pro shop to encroach onto the leased railroad property a distance of 11 feet, such that the pro shop will be located 64 feet from the center line of the leased railroad property.

- C. The Applicant is granted a variance to permit the tennis courts to encroach on the leased railroad property a distance of 50 feet, such that the tennis courts will be located 25 feet from the center line of the leased railroad property.

The factors justifying granting the above variances are as follows:

- (a) Only a portion of the tennis courts to be improved encroach upon the leased property.

- (b) The use of the property as a country club significantly predates the City's Zoning Ordinance of the surrounding community developments.

- (c) The proposed tennis Facility is separated from other private property by the remainder of the railroad right-of-way and a public street (Westwood Road). The greatest impact of the

proposed use is the Dakota Rail, Inc. property itself, from whom the Applicant has obtained a lease, and permission to construct the improvements (see attached Exhibits D, E and F.) No detriment to the surrounding community.

Said variances, however are subject to the following conditions:

1. The Facility shall be developed in full compliance with the plans submitted to the City dated January 27, 1989, copies of which are attached as Exhibit G.
2. The new tennis prop shop, shall not exceed 1,450 square feet and shall be built on one level.
3. No permanent structures shall be permitted on the second level rooftop.
4. No kitchen or cooking facilities are permitted in the new tennis building.

No more than 8 functions per year which involve food for 40 or more people, are permitted courtside or near the tennis building.

5. Applicant shall pay to the City the SAC and connection charges as determined by the MWCC for 11 additional units.
6. Applicant represent it has control over the certain land identified in this variance application via lease, i.e., the leased railroad land. As part of the application the Applicant has requested a permit to construct portions

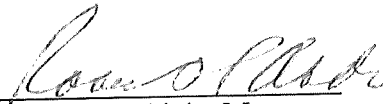
of the tennis courts and part of the new tennis pro shop on the leased railroad land. The request for such is wholly the responsibility of the Applicant and the City takes no responsibility for the accuracy or legal sufficiency of the lease of railroad land nor for the right of the Applicant to construct improvements on such land. Further, upon the termination of such authority in the Applicant to maintain such improvement on the leased railroad land, the Applicant hereby specifically agrees, and recognizes that it may have the obligation, to demolish the same, and remove the remains thereof wholly at the responsibility and the cost of the Applicant.

7. As an inducement to the City to issue this variance and understanding the City will only issue such variance if it receives the following indemnity, the Applicant hereby agrees to indemnify and save the City and its officers, trustees, employees, agents and instrumentalities harmless against and from any and all claims, actions, causes of action, liability, losses, responsibility, damage and expense, including attorneys fees, costs, and other expenses related thereto, by or on behalf of any person or persons, firm or firms, corporation or corporations, or otherwise arising from, or in any way related to the variance herein granted by the City to the Applicant and shall resist or defend any such using legal counsel and/or other professional assistance as may be reasonably necessary and as satisfactory to the City.

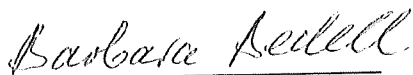
8. The variances granted herein are specifically subject to the terms of that certain lease by and between Burlington Northern Railroad Company (formerly Burlington Northern, Inc.), A Delaware Corporation, Lessor and Lafayette Club, Inc., a Minnesota corporation, Lessee, dated July 1, 1981 (this lease was assigned to Dakota Railroad, Inc., December 1, 1985) a copy of which is

attached hereto as Exhibit E, together with any further agreements by and between the above-named Lessor and Lessee with respect to the permitted use of the property which is the subject of said lease. With respect to Applicant's construction of improvement on the leased property, letters to the City dated January 16, 1989 from Thomas Lovett are attached as Exhibits G and F.

Dated: August 14, _____, 1989


Robert Abdo, Mayor

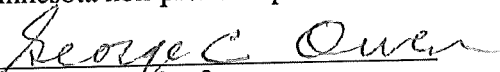
ATTEST:

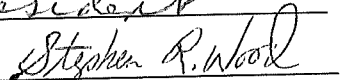

Barbara Bedell, Clerk

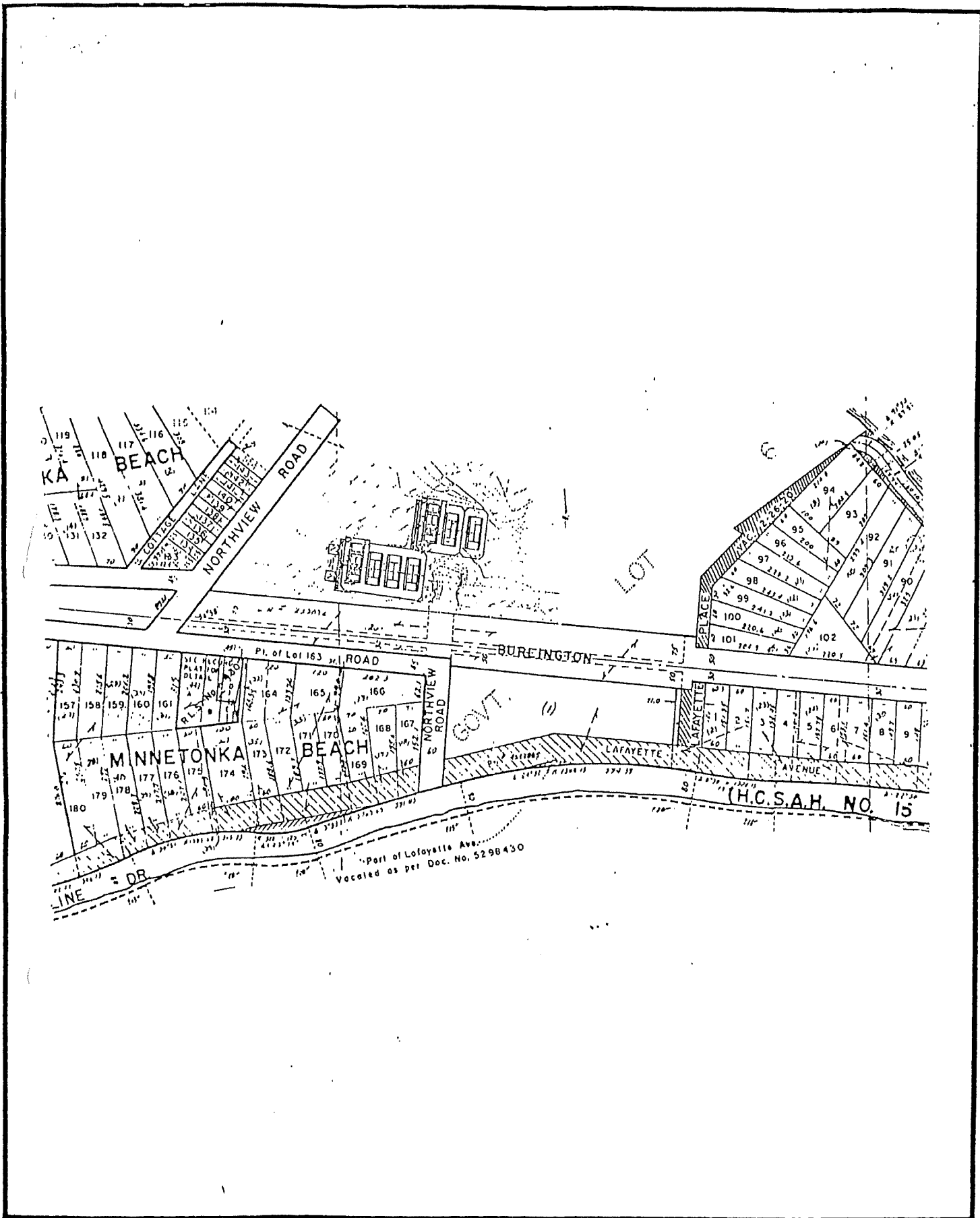
Consent and Acceptance

The Lafayette Club acting through and under the specific authority of its Board of Directors through its authorized officers hereby acknowledges to the City that it has read the foregoing variance, understands the same, agrees the conditions herein imposed are those negotiated between the Club and the City, agrees they are reasonable conditions and agrees to abide by and perform all the terms and conditions in the above variance.

The Lafayette Club
A Minnesota non-profit corporation

By 
Name George C. Owen
Title President

And By 
Name Stephen R. Wood
Title General Manager

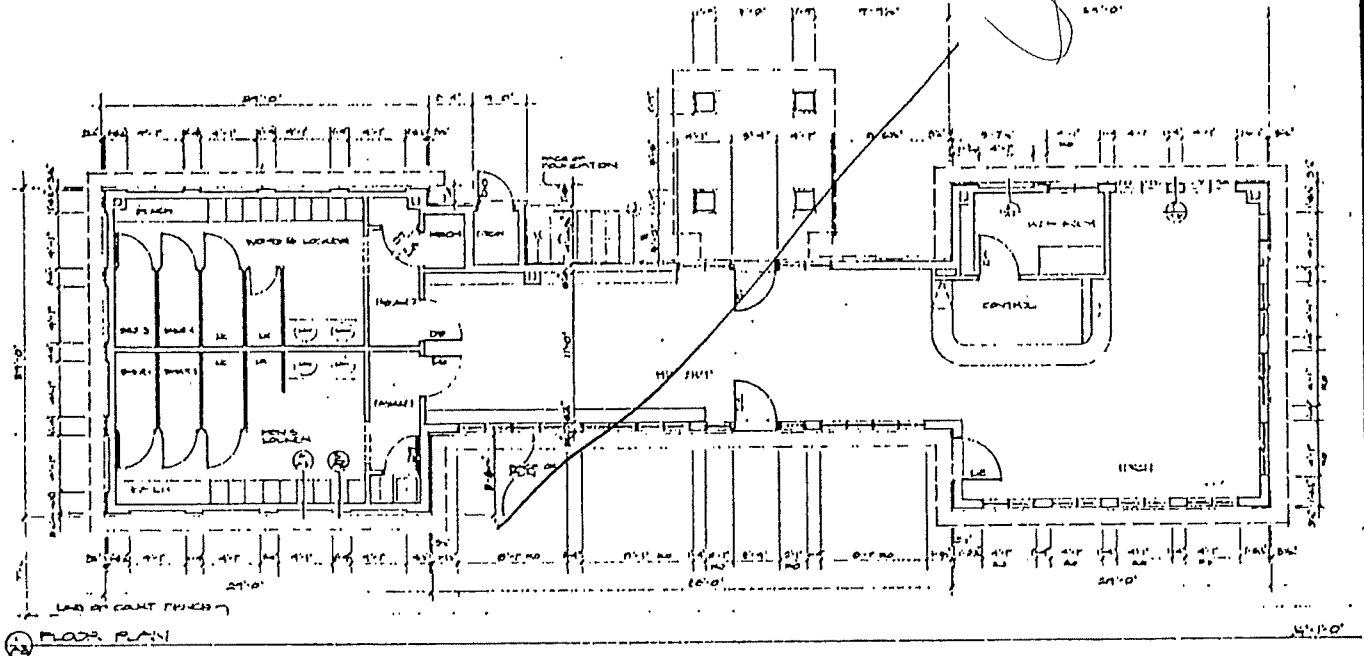


THIS DOCUMENT HAS BEEN RECORDED IN AN ELECTRIC COURT

TENNIS COURT SITE

LAFAYETTE CLUB MINNETONKA BEACH, MN.
EXHIBIT A

*balls
change to
this floor
plan*

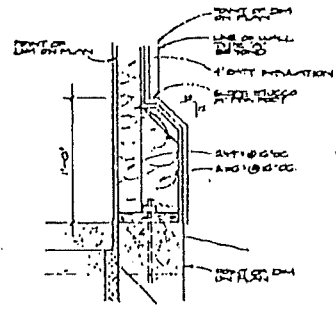


1 FLOOR PLAN

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
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25 Schedule

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2 WALL TYPE 'B' 12'-0"

PRELIMINARY

Lafayette Tennis Club	DATE
WALTER K. GERBER, ARCHT.	BY
MINNETONKA, MN.	DATE

TENNIS PRO SHOP FLOOR PLAN

LAFAYETTE CLUB MINNETONKA BEACH, MN.
EXHIBIT C

THIS DOCUMENT HAS BEEN RECORDED IN AN ELECTRONIC CONDITION

(b) In the event the premises hereby demised, or any part thereof, shall be subject to any special assessment for any public improvement or improvements and said assessment is in the amount of Five Hundred Dollars (\$500.00) or less, Lessee shall reimburse Lessor in full, promptly upon the presentation by Lessor of bills for the amount thereof. In the event the amount of said assessment exceeds Five Hundred Dollars (\$500.00), the rental herein reserved and stipulated to be paid by Lessee shall be automatically increased by an amount equal to thirteen percent (13%) per annum of the total amount of said assessment until paid in full.

4. (a) Lessee shall not place, or permit to be placed, or to remain, any material, structure, pole or other obstruction within 8 1/2 feet laterally of the center line or within 23 feet vertically from the top of the rail of any track; provided that if by statute or order of competent public authority greater clearances shall be required than those provided for in this paragraph 5, then Lessee shall strictly comply with such statute or order. However, vertical or lateral clearances which are less than those hereinbefore required to be observed but are in compliance with statutory requirements will not be or be deemed to be a violation of this clause. Lessee agrees to indemnify Lessor and save it harmless from and against any and all claims, demands, expenses, costs and judgements arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of any breach of the foregoing or any other covenant contained in this agreement.

Should either or both the lateral and vertical clearances hereinbefore required to be observed be permitted to be reduced by order of competent public authority, Lessee hereby agrees to strictly comply with the terms of any such order and indemnify and hold harmless Lessor from and against any and all claims, demands, expenses, costs and judgements arising or growing out of loss of or damage to property or injury to or death of persons occurring directly or indirectly by reason of or as a result of any such reduced clearance.

Lessor's operations over the track with knowledge of an unauthorized reduced clearance shall not be or be deemed to be a waiver of the foregoing covenants of Lessee contained in this clause or of Lessor's right to recover for such damages to property or injury to or death of persons that may result therefrom.

5. Lessee, at Lessee's sole cost and expense, shall install and maintain adequate facilities for fire protection in all buildings and structures upon said premises. Lessee also, at Lessee's sole cost and expense, shall observe and comply with all the rules, regulations and orders of any duly constituted authority and of any board of fire underwriters having jurisdiction of said premises and all provisions of any fire insurance policy covering said premises.

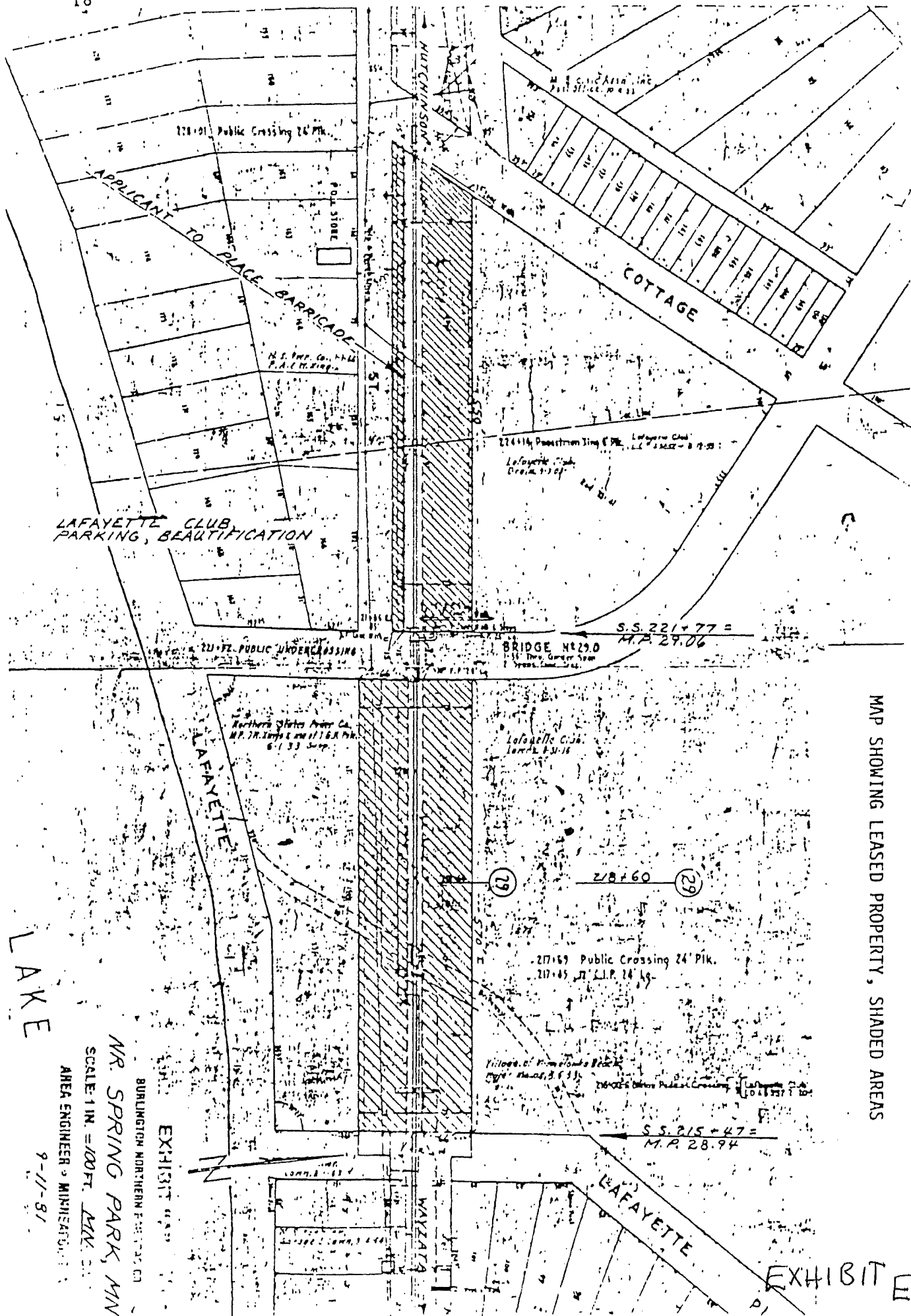
6. Lessee shall not permit the existence of any nuisance on said premises; shall maintain and keep the same in proper, clean, safe and sanitary condition and free and clear of any explosive, flammable or combustible material which would increase or tend to increase the risk of fire, except for such material as may be necessary to Lessee's business; and further, Lessee shall keep, observe and comply with all federal, state and local regulations, ordinances and laws, and with the regulations of any duly constituted legal authority having jurisdiction of the premises, and at Lessee's sole cost shall make any and all improvements, alterations, repairs and additions and install all appliances required on said premises by or under any such regulations, ordinances or laws. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such regulation, ordinance or law is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from, or connected with such violation or violations. Lessee shall not place or permit to be placed any advertising matter upon any part of said premises or upon any improvements thereon except such as is necessary to advertise Lessee's own business.

7. Lessee shall comply with all applicable laws and ordinances and all rules, regulations and requirements of any governmental authority promulgated thereunder controlling environmental standards and conditions on the premises. If, as a result of Lessee's occupancy of the premises and its operations hereunder, any such law, ordinance, rule, regulation or requirement is violated, Lessee shall protect, save harmless, defend and indemnify Lessor from and against any penalties, fines, costs and expenses, including legal fees and court costs incurred by Lessor, caused by, resulting from or connected with such violation or violations.

8. Lessee, at Lessee's sole cost and expense, shall keep the premises hereby demised in good condition and shall make all repairs and renewals that from time to time may be necessary to keep any improvements which may be located thereon in good condition and repair and ready and fit for occupancy.

9. (a) It is understood by the parties that said premises are in dangerous proximity to the tracks of Lessor and that property on said premises will be in danger of injury or destruction by

As Shown Located in the Record of Title



MAP SHOWING LEASED PROPERTY, SHADED AREAS

LAKE

NR. SPRING PARK, MN

SCALE 1 IN. = 100 FT. M.W. 200
AREA ENGINEER & MINNEAPOLIS

9-11-81

EXHIBIT

EXHIBIT E



LAFAYETTE
CLUB

2800 NORTHVIEW ROAD
MINNETONKA BEACH, MN 55361
PHONE 471-8493

January 16, 1989

Brian Bedell
Minnetonka Beach Mayor
2945 Westwood Road
Minnetonka Beach, MN 55361

RE: Request For Building Permit For Tennis Building

Dear Mayor Bedell:

Lafayette Club hereby agrees to indemnify, defend and save harmless the City of Minnetonka Beach from any and all claims by Dakota Rail, Inc., or any party having a lease hold interest in subject property, resulting from the City's issuance of a building permit to Lafayette Country Club for Lafayette's Tennis Building.

Sincerely,

Stephen R. Wood
General Manger

SRW/gm

EXHIBT F

LOVETT & ASSOCIATES, LTD.

ATTORNEYS AT LAW

1400 FIRST BANK PLAZA WEST
MINNEAPOLIS, MINNESOTA 55402
612 • 339-4567
TELECOPIER 612 • 349-6210

THOMAS G. LOVETT, JR.
RICHARD J. HARDEN

January 26, 1989

Lafayette County Club
2800 Northview Road
Minnetonka Beach, MN 55361

Attention: Mr. Stephen Wood, General Manager

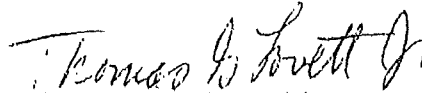
Re: Construction of Tennis Building
partially on property leased by
Lafayette Club from Dakota
Rail, Inc.

Dear Mr. Wood:

Pursuant to Section #1 of the indefinite term lease between Lafayette Club and Burlington Northern Railroad Company (subsequently assigned to Dakota Rail, Inc.) dated July 1, 1981, you are hereby notified that Dakota Rail, Inc. gives Lafayette Club permission to build a tennis building as per architectural plans dated November 14, 1988, Job No. 8719, as approved by the City of Minnetonka Beach on January 9, 1989.

This permission is granted by me as Trustee in the Chapter 11, Subchapter IV railroad reorganization case of Dakota Rail, Inc., Bankruptcy Case No. 4-88-639, District of Minnesota and the permission granted is subject to final approval of the Bankruptcy Court.

Very truly yours,


Thomas G. Lovett, Jr.

TGL:ka

EXHIBIT G

RUN DATE 02/27/90

HENNEPIN COUNTY PROPERTY INFORMATION SYSTEM

REPORT NO. P1433401

1990 TAX BOOK
82 MINNETONKA BEACH

OWNER
TAXPAYER NAME/ADDRESS
METES AND BOUNDS

MORT CODE/LOAN #
ESCROW NAME/ADDRESS

ADDITION NAME
ACREAGE SCH MTR SEM
DST SHD DST

LOT BLK PLAT PARCEL PROPERTY I.D.
SN TWP RG QR SUFFX

THE LAFAYETTE CLUB
THE LAFAYETTE CLUB
2600 NORTHVIEW RD
MINNETONKA BEACH MN 55361

UNPLATTED 16 117 23
043.60 278 3
STATUS: CURRENT

2600 NORTHVIEW RD

60516 401D 16-117-23 IS 0001
CONSTRUCTION YEAR

COM AT THE INTERSEC OF N LINE OF
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TH NELY ALONG SAID CTR LINE TO ITS
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EXTENSION TO SELY LINE OF CRYSTAL BAY
SAID SELY LINE AND SAME EXTENDED TO
ALONG SAID LAKE SHORE TO ITS INTERSEC
LINE OF LOT 115 MTKA BEACH TH SELY
SELY LINE OF LOTS 115 AND 114 TO AN
SMLY LINE OF LOT 144 SAID ADDN TH
AND SAME EXTENDED TO THE SELY LINE OF
COTTAGE PLACE TH SMLY TO BEG EX RD

TAXABLE MARKET 1,909,400
GROSS TAX CAPACITY 94,856
NET TAX CAPACITY 94,856
RENTAL TAX
IF PROJ AMT
IMPROVE AMT 10,000
TAX LEVY/DESCRIPTION RMSDPRTPP
NON-HOMESTEAD GROSS TX N CC
STATE PAID AID
OPEN SPACES N CC

QUALIFYING AMT .00
FD SHARED TC 23,929
FD AREA RATE 194.5780
DIVISION NO
DIVISION DATE
SEE ID S

AMOUNT 117,541.45
LAND 449,700
BLDG 1,459,700
BLDG 1,449,700
NACH OWNZ BASE1 BASE2 NHDASE NON-HNST
449,700 1,459,700 3,300 91,556

TOTAL TAX 96,477.44
TOTAL PAID .00
AMT UNPAID 96,477.44