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Sep 11, 2018 2:00 PM

Office of the County Recorder
Hennepin County, Minnesota
Martin McCormick, County Recorder
Mark Chapin, County Auditor and Treasurer

Deputy 120	Pkg ID 1734310C
Attested Copy or Duplicate Original	\$2.00
Document Recording Fee	\$46.00
<i>Document Total</i>	\$48.00

MCWD DECLARATION

THIS DECLARATION (Declaration) is made as of August 30, 2018, by Judson M. Dayton and Shelley Mydra-Dayton, husband and wife, both as individuals and as trustees of The Judson M. Dayton Revocable Trust Agreement dated October 31, 1988, as amended (collectively, Declarant) in favor of the Minnehaha Creek Watershed District (MCWD), a special purpose local unit of government with purposes and powers pursuant to Minnesota Statutes Chapters 103B and 103D.

RECITALS:

- A. Declarant owns certain real property within the City of Orono, Hennepin County, Minnesota, platted and legally described as Lots 1 and 2 and Outlot A, Block 1, Topside (the Property).
- B. Declarant is the sole owner of the Property, subject only to the mortgage described in the attached Consent of Mortgagee to the Declaration and easements of record.
- C. The Property constitutes the entirety of the land to which MCWD Permit # 18-273 applies.
- D. Declarant desires to subject the Property to certain conditions and restrictions imposed by the MCWD as a condition to issuance of MCWD Permit # 18-273 for the mutual benefit of the MCWD and the owners of the Property.

NOW, THEREFORE, Declarant makes this Declaration and hereby declares that this Declaration shall constitute covenants running with the Property in perpetuity, and further declares that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which shall be binding on all persons owning or acquiring any right, title or interest in the Property, and their heirs, successors, personal representatives and assigns. All features requiring maintenance identified on the scaled site plan for the Property attached hereto and incorporated herein as Attachment A will be maintained in perpetuity in accordance with the following:

1. WETLAND BUFFER AREAS

- a. Buffer vegetation will not be cultivated, cropped, pastured, mowed, fertilized, subject to the placement of mulch or yard waste, or otherwise disturbed, except for periodic cutting or burning that promotes the health of the buffer, actions to address disease or invasive species, mowing for purposes of public safety, temporary disturbance for placement or repair of buried utilities, or other actions to maintain or improve buffer quality, each as approved by MCWD staff in writing. Pesticides and herbicides may be used in accordance with Minnesota Department of Agriculture rules and guidelines. No new structure or hard surface will be placed within a buffer, except that construction of a trail or path of no more than four (4) feet in width to provide riparian access through the buffer is acceptable. No fill, debris or other material will be excavated from or placed within a buffer.
- b. Permanent wetland buffer monuments will be maintained in the locations shown on the approved site plan. Language shall indicate the purpose of the buffer, restrictions, and the name and phone number of the Minnehaha Creek Watershed District.

2. **WATERBODY CROSSINGS & STRUCTURES.** Crossings and structures in contact with the bed or bank of a waterbody will be inspected at least once a year and maintained in good repair in perpetuity to ensure continuing adequate hydraulic and navigational capacity is retained in accordance with approved plans, to ensure no net increase in the flood stage beyond that achieved by the approved plans, to prevent adverse effects on water quality, changes to the existing flowline/gradient and increased scour, erosion or sedimentation, and to minimize the potential for obstruction of the waterbody.
3. **STORMWATER FACILITIES.** To the extent the following facilities exist on the Property, the following regulations shall apply:
 - a. **Stormwater retention and treatment basin(s).** Stormwater retention and treatment basin(s) must be inspected at least once a year to determine if the basin's retention and treatment characteristics are adequate and continue to perform per design. Culverts and outfall structures must be inspected at least annually and kept clear of any obstructions or sediment accumulation. Sediment accumulation must be measured by a method accurate to within one vertical foot. A storage treatment basin will be considered inadequate if sediment has decreased the wet storage volume by 50 percent of its original design volume. Based on this inspection, if the stormwater basin(s) is identified for sediment cleanout, the basin(s) will be restored to its original design contours and vegetation in disturbed areas restored within one year of the inspection date.
 - b. **Raingardens, infiltration basins and filtration basins.** Raingardens, infiltration basins and filtration basins will be inspected annually to ensure continued live storage capacity at or above the design volume. Invasive vegetation, excess sediment and debris will be removed as needed and healthy plant growth will be maintained to ensure that the facilities continue to perform per design.

- c. **Vegetated swales.** Vegetated swales may mowed for public safety, but otherwise must remain free from vegetative disturbance, fertilizer application, yard or other waste disposal, the placement of structures unless approved within the permit, or any other alteration that impedes function.
- d. **Reporting.** The Declarant will submit to the MCWD annually a brief written report that describes stormwater facility maintenance activities performed under this Declaration, including dates, locations of inspections and the maintenance activities performed.

4. VIOLATION. Both the Declarant, while Declarant is the owner of the Property, and a subsequent property owner are liable to the MCWD for performance under this Declaration, and the MCWD may seek any remedy in law or equity against the Declarant as long as the Declarant owns the Property, and thereafter against the subsequent property owner(s) to enforce the Declaration.

5. PROPERTY OWNER. The term "Property Owner" as used in this Declaration means the owner(s) of the Property.

6. RECITALS. The recitals set forth above are expressly incorporated herein.

IN AGREEMENT, the undersigned have executed this Declaration as of the day and year first set forth above.

[Signatures appear on following page.]

DECLARANT:

Judson M. Dayton

Shelley Mydra-Dayton

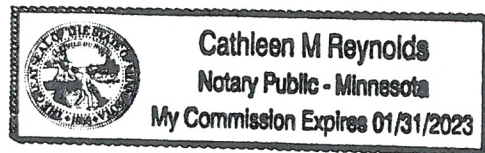
[illegible]

The foregoing instrument was acknowledged before me on Aug 30, 2018, by Judson M. Dayton and Shelley Mydra-Dayton, husband and wife, both as individuals and as trustees of The Judson M. Dayton Revocable Trust Agreement dated October 31, 1988, as amended.

Notary Public

This instrument drafted by:

Minnehaha Creek Watershed District
15320 Minnetonka Blvd
Minnetonka MN 55345



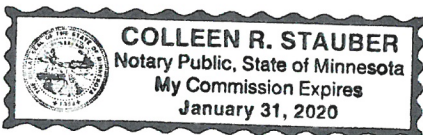
MORTGAGEE CONSENT AND SUBORDINATION

The undersigned mortgagee, being the owner and holder of that certain mortgage (the "Mortgage") dated October 14, 2011; executed by Judson M. Dayton and Shelley Mydra-Dayton, husband and wife, as Mortgagor, to Julia W. Dayton, as Mortgagee; and filed for record October 21, 2011, as Document Number A9705964, in the office of the Hennepin County Recorder hereby consents to the foregoing Declaration, and agrees that the Mortgage shall be subject and subordinate to the foregoing Declaration.

Julia W. Dayton

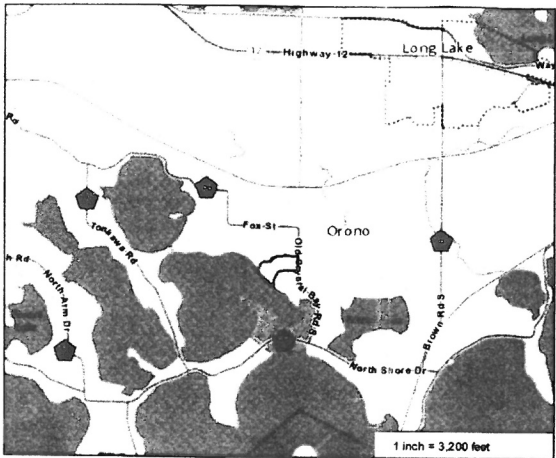
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me on August 30, 2018, by Julia W. Dayton, a single person.



Notary Public

TOPSIDE
TITLE SHEET

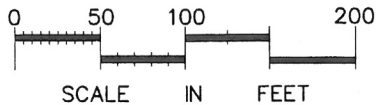


VICINITY MAP

- 1. TITLE SHEET
- 2. REMOVAL AND RESTORATION / LANDSCAPE PLAN
- 3. DRIVEWAY PLAN AND PROFILE
- 4. SWPPP PLAN
- 5. GRADING PLAN
- 6. DETAIL SHEET

DATE 7-25-18		REMARKS	I hereby certify that this plan, specification, or report was prepared by me, or under my direct supervision, and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota. <i>Mark S. Gronberg</i> Mark S. Gronberg Minnesota License Number 12755	PROJECT	DATE 7-25-18 SCALE 1"=50' SHEET 18-086	GRONBERG & ASSOCIATES, INC. CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS 445 NORTH WILLOW DRIVE LONG LAKE, MN 55356 952-473-4141
DATE 8-15-18						
DATE 8-24-18						

TOPSIDE



1. REMOVE EXISTING DRIVEWAY AND SUBCUT AN AVERAGE OF 3 FEET OR AS NECESSARY TO REMOVE UNSUITABLE SOILS IN THE AREAS OF THE PROPOSED DRIVES
2. FABRIC AND 2 FEET OF SAND TO BE PLACED UNDER 8" OF CLASS 5 AGGREGATE BASE AND THE BLACKTOP. CULVERTS ARE TO BE REPLACED IF NECESSARY.
3. IN AREAS OF REMOVED DRIVEWAY THAT ARE TO BE SEEDED, RIP THE SURFACE TO AT LEAST 12" DEPTH BEFORE ADDING BLACK DIRT (MINIMUM 6") AND SEED.
4. NO RETAINING WALLS ARE PROPOSED AS PART OF THIS PROJECT.
5. THE COMMON DRIVEWAY IS ON OUTLOT A WITH EACH INDIVIDUAL DRIVEWAY TO LOTS 1 AND 2 COMING OFF OF OUTLOT A.
6. 26 NEW 15 FOOT HIGH WHITE PINES ARE TO BE PLANTED ALONG THE OUTLOT A DRIVEWAY.
7. EXISTING STONE ENTRY TO BE PARTIALLY REMOVED AND PARTIALLY RECONSTRUCTED. OLD STONEWORK TO BE CLEANED UP AND FLOWERING SHRUBS AND PERENNIALS PLACED

2

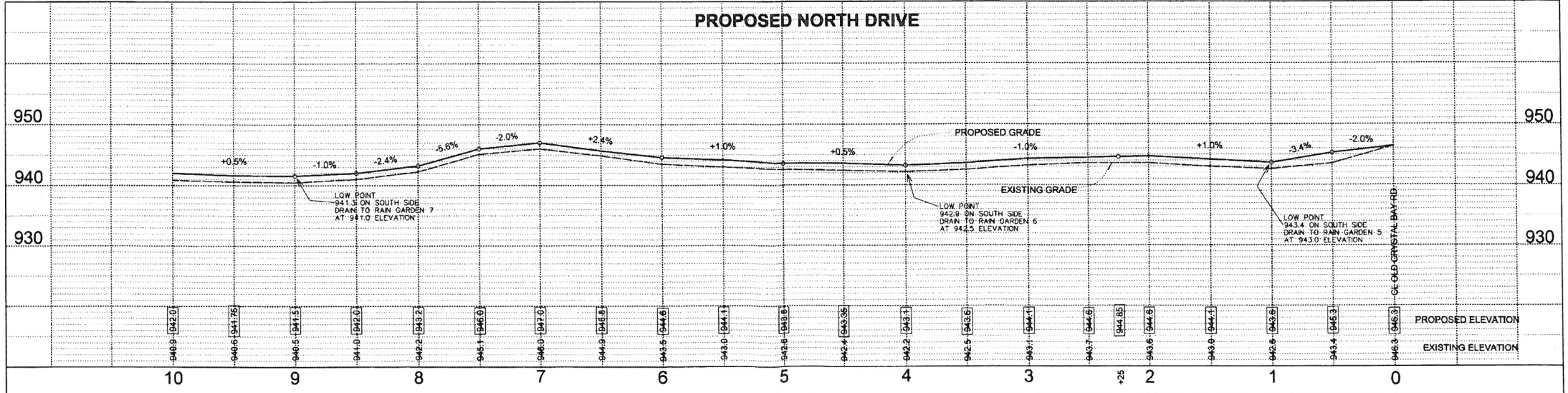
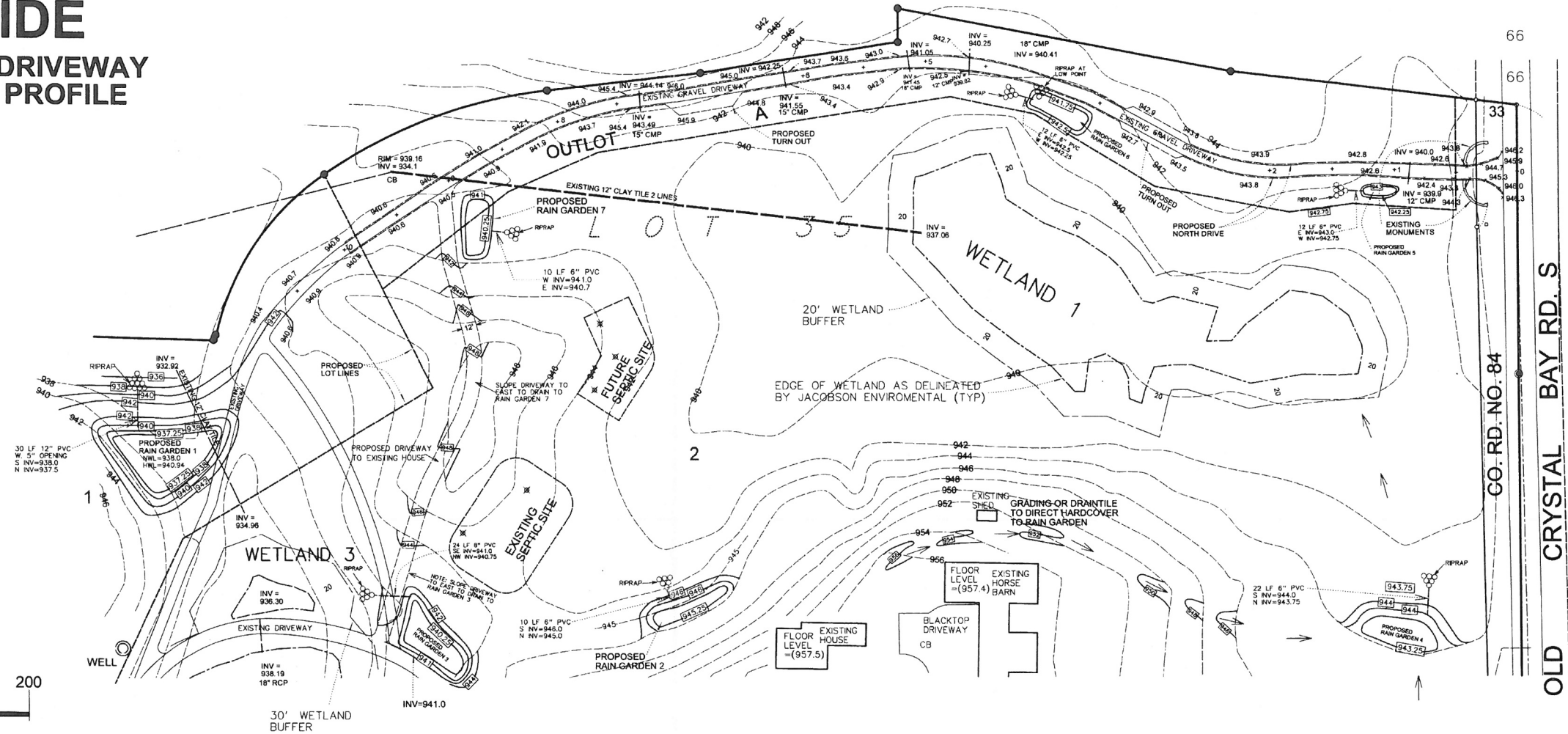
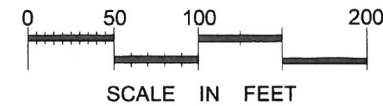
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DESIGNED	
DRAWN	
CHECKED	

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VISIONS
REMARKS
GARDENS
DETAILS
GARDENS

TOPSIDE
PROPOSED DRIVEWAY
PLAN AND PROFILE



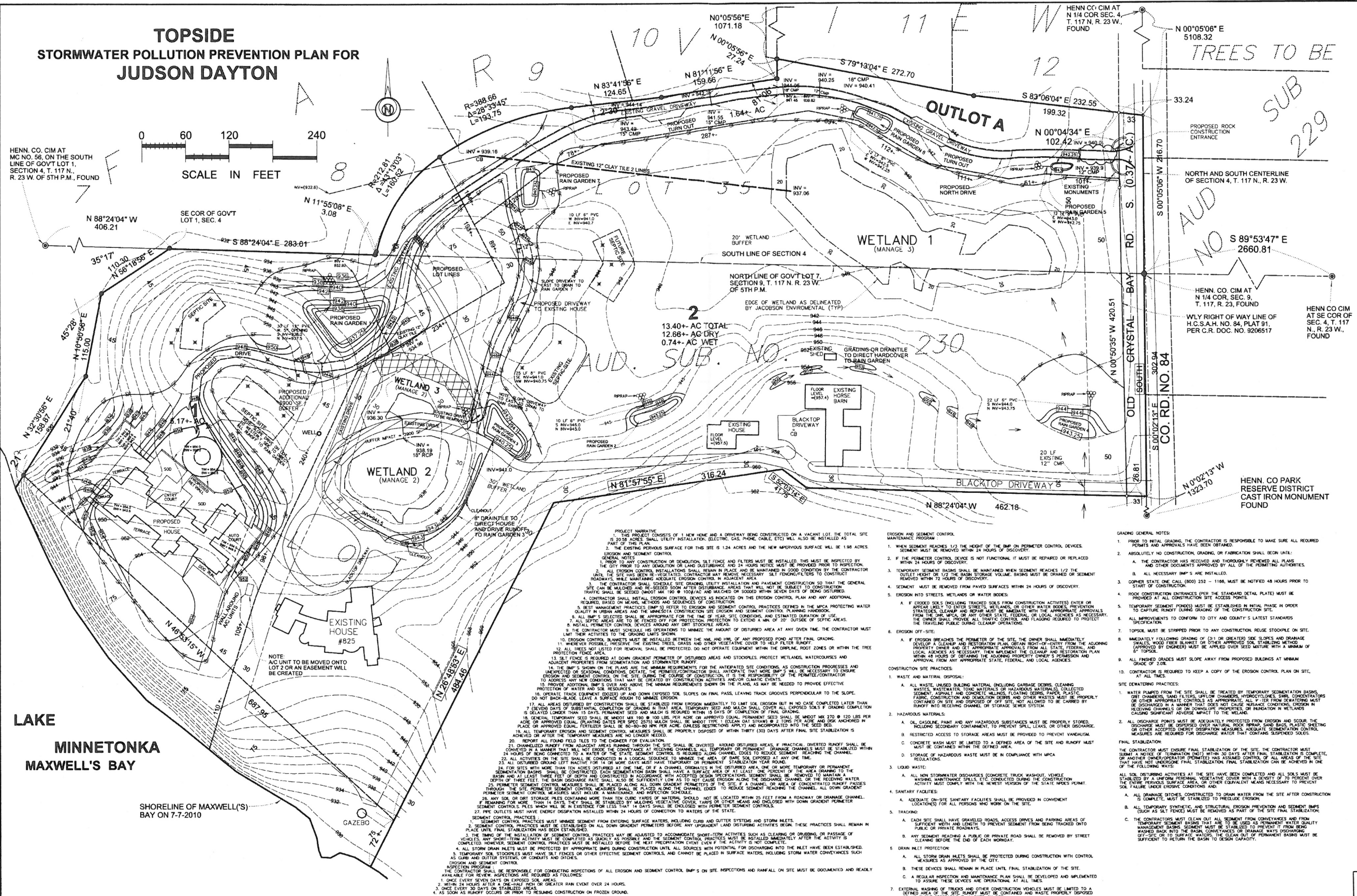
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GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 N. WILLOW DRIVE LONG LAKE, MN 55356
PHONE: 952-473-4141 FAX: 952-473-4435

DATE: 8-24-18
DESIGNED: [Signature]
DRAWN: [Signature]
CHECKED: [Signature]
REVISIONS:
7-12-18 UPDATED NO CHANGES
7-25-18 ADDED RAIN GARDENS
8-15-18 ADDITIONAL DETAILS
8-24-18 REVISED RAIN GARDENS

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
[Signature]
DATE: 8-24-18 MINN. LICENSE NUMBER: 12255

STORMWATER POLLUTION PREVENTION PLAN FOR JUDSON DAYTON



GRONBERG & ASSOCIATES, INC.
Civil Engineers, Land Surveyors, Land Planners
445 N. Willow Drive, Long Lake, MN 55356
952-473-4141

DATE	5-7-18
SCALE	1"=60'
JOB NO.	18-086
SHEET	OF

PROJECT

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

DESIGNED	
DRAWN	
CHECKED	

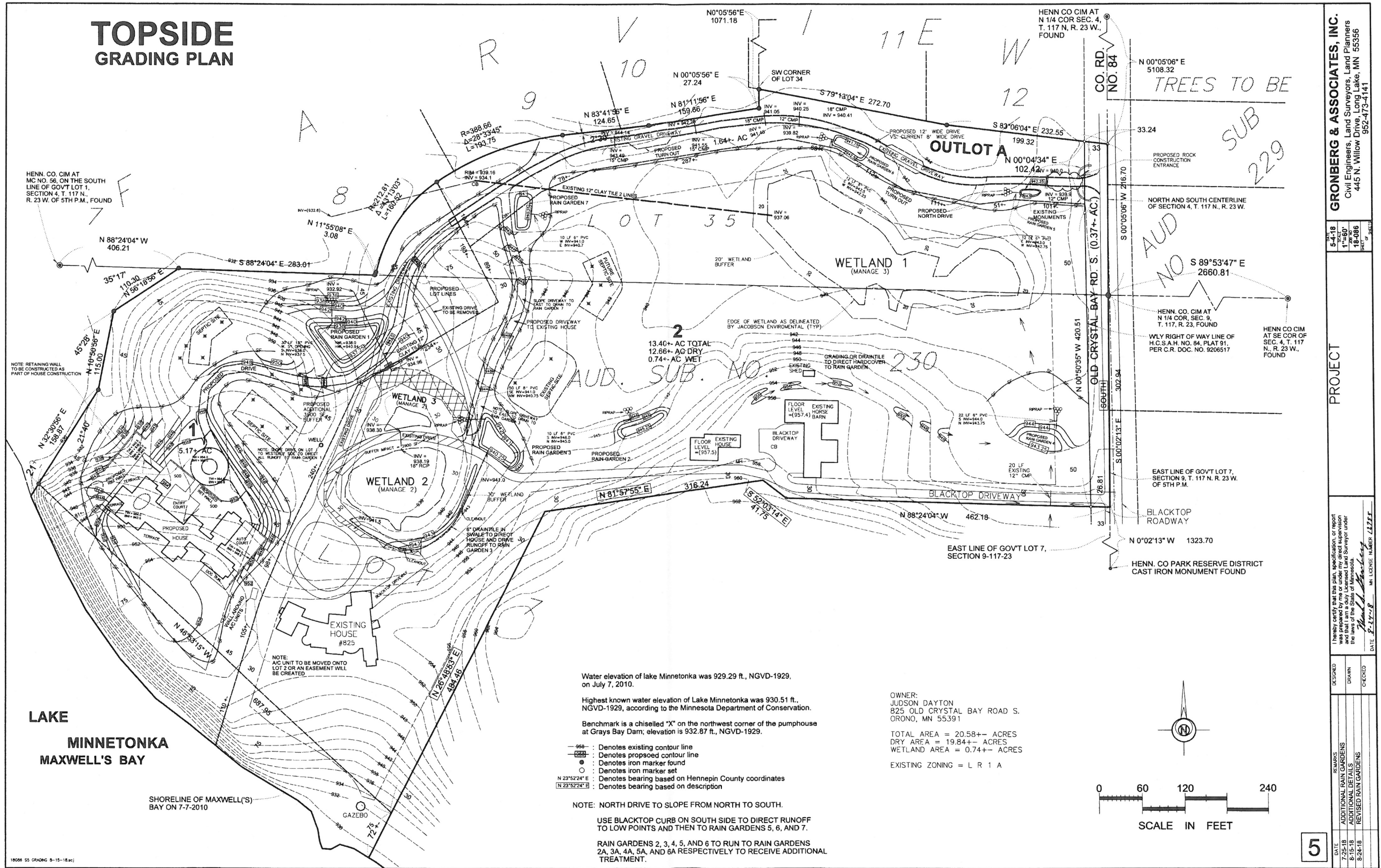
100

REMARKS	NO CHANGE TO RAIN GARDEN DETAIL
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	UPDATE
	ADDED
	ADDITION
	REVISION

DATE
7-12-18
7-25-18
8-15-18
8-24-18

TOPSIDE
GRADING PLAN



GRONBERG & ASSOCIATES, INC.
Civil Engineers, Land Surveyors, Land Planners
445 N. Willow Drive, Long Lake, MN 55356
952-473-4141

PROJECT

5-4-18
1"=60'
18-086
SHEET 5 OF 5

Thereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
Michael Gronberg
DATE: 5-17-18 MN LICENSE NUMBER: 12277

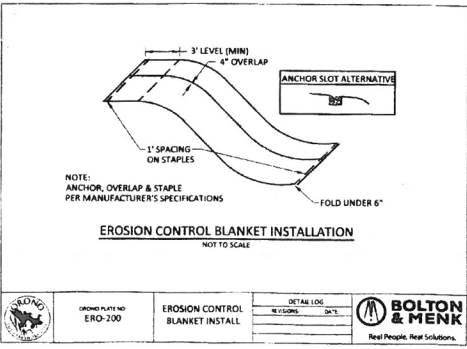
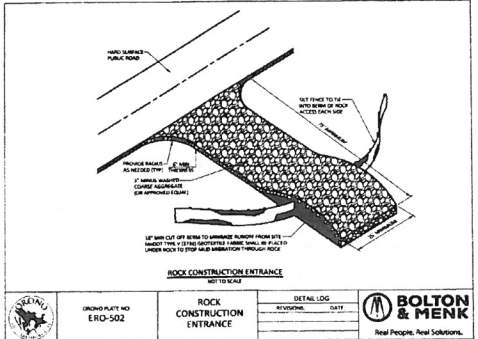
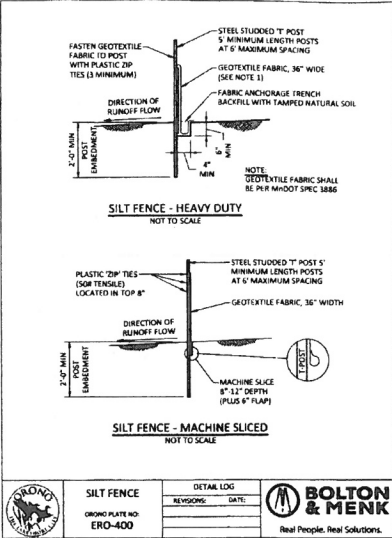
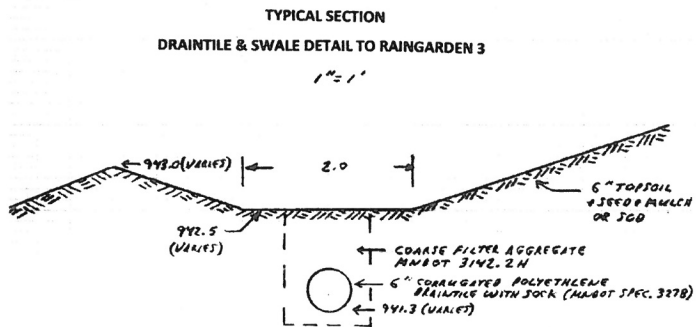
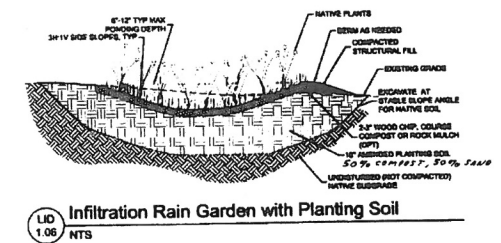
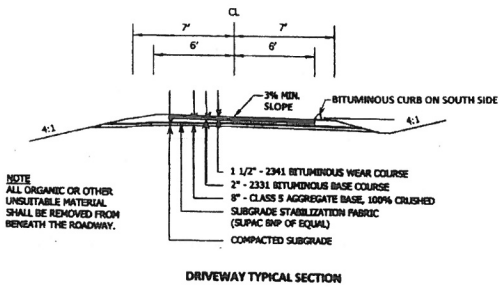
DESIGNED	DRAWN	CHECKED
7-25-18	8-15-18	8-24-18

REMARKS:
ADDITIONAL RAIN GARDENS
ADDITIONAL DETAILS
REVISED RAIN GARDENS

DATE: 7-25-18
DRAWN: 8-15-18
CHECKED: 8-24-18

5

TOPSIDE
STANDARD DETAIL SHEET



ALL CONSTRUCTION & MATERIALS TO BE IN ACCORDANCE WITH THE LATEST SPECIFICATIONS FOR THE CITY OF ORONO, MNDOT & THE CITY ENGINEERS ASSOCIATION OF MINNESOTA (CEAM).

GRONBERG & ASSOCIATES, INC.
CIVIL ENGINEERS, LAND SURVEYORS, LAND PLANNERS
445 NORTH WILLOW DRIVE LONG LAKE, MN 55356
952-473-4141

DATE
7-12-18

SCALE
1"=50'

17-350

PROJECT

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

Mark S. Gronberg Minnesota License Number 12755

DATE
7-25-18

8-15-18

8-27-18

REMARKS

6

18-086