



Le Sueur County, MN

Thursday, August 18, 2016

Regular Session

Item 5

McCullough Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER: Robert and Janet Mc Cullough

911 ADDRESS: 3728 Sioux Lane, Madison Lake MN 56063

VARIANCE REQUEST: To allow the applicants to replace decks within the bluff and bluff impact zones and reduce the impervious surface on the lot to 28%, in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Washington. **VARIANCE IS FOR CONSTRUCTION WITH THE BLUFF, BLUFF IMPACT ZONE AND IMPERVIOUS SURFACE.**

VARIANCE NUMBER: 16223

PARCEL NUMBER: 05.680.0020

SITE INFORMATION

LOCATION: Property is located at Lots 33-35 of Schmitts's Plat, Section 18, Kasota Township.

ZONING & PURPOSE: Recreational Residential

The intent of the **Recreational Residential (RR) District** is to preserve areas which have natural characteristics suitable for both passive and active recreational usage. Also, it is the intent of this district to manage areas suitable for residential development of varying types, including permanent and seasonal housing. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

GOALS AND POLICIES:

Goal 3: Improve water quality in Le Sueur County.

Policy: The County will undertake actions to help protect groundwater as well as surface water features.

GENERAL SITE

DESCRIPTION: Residential

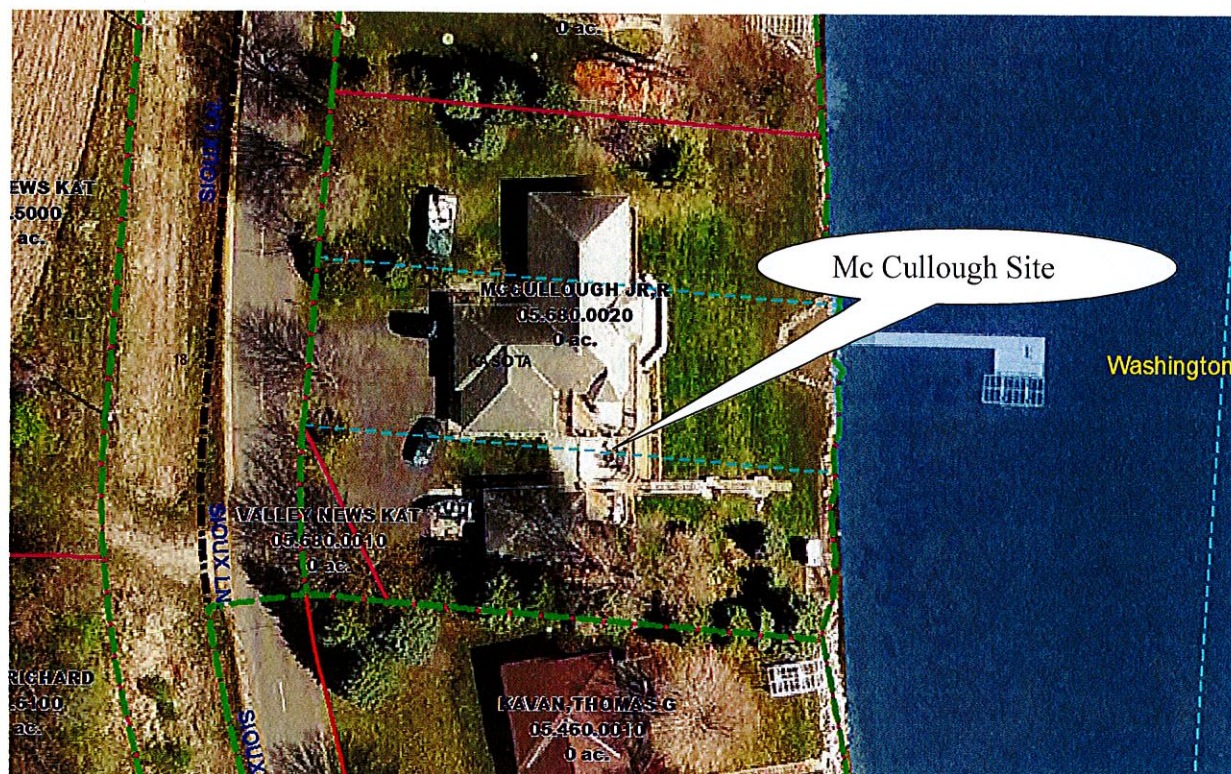
ACCESS: Existing

LAKE: Lake Washington

ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact,

AERIAL PHOTO



STAFF FINDINGS

Staff findings per Le Sueur County Ordinance, the following findings have been developed for this request:

1. Variance:
 - a. Replace Ext. Decks within the Bluff and Bluff Impact Zones
 - b. Impervious Surface reduced from 33% to 28%- required 25%

BLUFF - A topographic feature such as a hill, cliff, or embankment meeting all of the following criteria:

- A. The slope rises at least 15 feet from the toe of the bluff to the top of the bluff.
- B. The grade of the slope from the toe of the bluff to the top of the bluff averages 18 percent or greater,
(Revised July 9, 2009)

BLUFF – TOP - The top of the bluff shall be determined to the upper end of the highest ten (10) foot segment that exceeds eighteen (18) percent. (Revised July 9, 2009)

BLUFF IMPACT ZONE . Land located within 30 feet from the top or bottom of a bluff. (Revised July 9, 2009)

2. **Refer to DNR Guidance Letters:**

- a. The Role of the Variances in Shoreland Management Ordinances pg. 9
- b. Bluffs and Steep Slopes pg. 11
- c. Limiting Impervious Surface pg. 15

3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
4. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
5. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
6. A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

CONSIDERATIONS

1. The following shall be considered at the hearing:
 - a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
 - b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
 - c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

CONDITIONS

1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
3. *If approved*, construction must be completed **prior to the Variance expiration**, Section 22; Subdivision 7.
4. *If approved*, a **zoning permit** must be purchased prior to starting construction, Section 26.
5. **Extension** must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.

VARIANCE FINDINGS OF FACT

Name of Applicant: ROBERT & JANET MCCULLOUGH

Variance # 16223

Variance Request: TO ALLOW APPLICANTS TO REPLACE AN EXT DECKS WITHIN THE BLUFF AND BIZ AND
REDUCE THE IMP SURFACE TO 28%

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a practical difficulty exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

Y N 1. Does the property owner propose to use the property in reasonable manner?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 2. Is the alleged practical difficulty unique to the property?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 3. Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 4. Will the issuance of the Variance maintain the essential character of the locality?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 5. Does the alleged practical difficulty involve more than economic considerations?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 7. Is the Variance consistent with the Comprehensive Plan?

Explain _____

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

G. IF ALL THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

() APPROVED () DENIED

CONDITIONS:

Applicant response to conditions: Agree () Disagree ()

Reasons:

Board of Adjustment Chairman

Date

Variance Application

BY: _____

I. **Applicant:**
 Name Robert and Janet McCullough
 Mailing Address 3728 Sioux Lane
 City Madison Lake State MN Zip 56063
 Phone # 507-243-4217 Phone # 507-380-5077 (cell)

II. **Landowner:**
 Name Robert and Janet McCullough
 Property Address 3728 Sioux Lane
 City Madison Lake State MN Zip 56063
 Phone # 507-243-4217 Phone # 507-380-5077 (cell)

III. **Parcel Information:**
 Parcel Number R 05,680,0020 Parcel Acreage _____
 Township Kasota Section _____
 Subdivision _____ Lot _____ Block _____

See Attachment Lots numbered thirty-three (33), thirty-four (34),
 Full Legal Description must be attached. and thirty-five (35) of Schmitts Plat No. 1,
 (Full legal description can be found on deed, not abbreviated legal description from tax statement). of part of government
 Lot Numbered Four, of
 Section 18-109-25,
 LeSueur County,
 Minnesota

IV. **Variance Request:** List requested alternative to development standard(s).
See Attachments

V. Description of Request:

a. A full written description of the proposed variance request with detailed information must be attached.

VI. Township Notification:

Township must be notified prior to application. (County Commissioners are not the Township Board.)

Kasota Township notified on 7-18-16 4:41 PM
 (Township Name) (Date)

Board Member Joe Kienlen regarding the proposed request.
 (Name)
- Jim Dieke - LWSB contacted on 7-18-16

VII. Site Plan - Shall be a Certificate of Survey to include, but not limited to:

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts.*
- Access
- Easements
- Impervious Surface
 - Required for *Shoreland, Business, & Industrial Districts.*
 - Itemized current & proposed impervious surfaces to include total percentages.
 - Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

*Site shall be physically staked, then surveyed.

*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

*Stakes must remain in place until construction commences.

VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

1. Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.

The decks and steps are all existing and deteriorating. We are presenting a plan for replacement that is a reduction in impervious surfaces, creating a more natural look and making the property safe to use.

2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?

Existing home entrances will continue to be used. Bluff is more of a slope to lake that has existing, mowable grass will have minimal if any impact.

3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.

Deck in front of boat storage had existing patio entrance when we purchased, now by 23 years ago. Other patio entrances had been in place for 121 years.

4. How will the request maintain the essential character of the locality?

The variance will not change the essential character. It will enhance it by use of natural boulders, stone steps, vegetation/native edging and pervious pavers.

5. Does the alleged practical difficulty involve more than economic considerations?

Yes. We want to be able to live our retirement years at this location with safe access to the lake and without the ongoing labor required by wood decks and steps.

6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?

Yes. The LWSO and Fania Township have been contacted. We are reducing the impervious surfaces. We understand our home is in a bluff designation. However, we have more of a mowable grass slope which will experience minimal impact.

7. Describe how the request is consistent with the Comprehensive Land Use Plan.

Reduction in impervious surfaces to 38.7%, a more natural lakeshore look with boulders and vegetation/native edgings, will improve water quality.

8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.

Part of Lake Washington Sanitar District
No changes to current system.
Current well remains in place - no changes.

9. Explain why this request is the minimum variance amount to afford relief.

We are reducing the size of decks and replacing with materials that increase pervious surfaces to insure safety, a natural look and maintain protection of the slope to the lake.

- g. The Board of Adjustment may conduct an onsite visit to the affected property prior to the scheduled meeting. Any conversation with the Board of Adjustment during the onsite visit is prohibited.
- h. The Board of Adjustment shall hold a public hearing on the proposed Variance at a scheduled Board of Adjustment meeting.
- i. The applicant or representative must appear before the Board of Adjustment in order to answer questions concerning the request, or the application will be tabled.
- j. The Board of Adjustment has the authority to request additional information or designate conditions.
- k. The Board of Adjustment has the authority to determine Variance approval or denial. No Variance may be granted that allow any use that is prohibited in the Zoning District in which the property is located.
- l. The Department shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.
- m. The Department will file a certified copy of any order or decision issued by the Board of Adjustment with the County Recorder.
- n. A zoning permit is required prior to starting construction however zoning permits will not be available the day of the Board of Adjustment meeting. Zoning permit application must be approved prior to obtaining a zoning permit.

XIII. Signatures:

I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

Robert McCully
Applicant signature

7-19-16
Date

I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

Robert McCully
Landowner signature

7-19-16
Date

OFFICE USE ONLY

Date received <u>7/19</u>	Present Zoning Classification <u>RR</u>	Feedlot within 500' 1000' <u>N</u>
Meeting date <u>8/18</u>	Lake Classification <u>RD</u>	Erosion Control Plan <u>Y</u> N
60 Day <u>9/16</u>	Lake <u>Wash</u>	Water courses <u>Y</u> N
RFPE _____	FEMA Panel # <u>270700380</u>	Bluff <u>Y</u> N
<input type="checkbox"/> Site Plan -survey	Flood Zone <u>X outside</u>	Other _____
<input checked="" type="checkbox"/> Surveyor Certificate	<input type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic <u>Muni</u>
<input checked="" type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	COC NONC/Waiver Design
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	ATF / SPEC MTG
<input checked="" type="checkbox"/> Application complete	<u>K Brockway</u> Planning & Zoning Department Signature	Fee \$ <u>1146</u> Date <u>7/19</u> Permit # <u>16223</u>

01-15-16

4





Variance Application

III. Parcel Information: Full legal description is:

Lots number thirty-three (33), thirty-four (34) and thirty-five (35) of Schmitts Plat No. 1, of part of government Lot Numbered Four, of Section 18-109-25, LeSueur County, Minnesota

IV. Variance Request

We are requesting a variance to replace 20 year old wood decks and wood steps to the lake that have deteriorated and are no longer safe. We also want to replace existing plastic landscaping with fabric.

V. Description of Request

Although we did not know our residence was located in a designated bluff as for over 21 years we have had existing grass to the shoreline which is mowed on a regular basis, we are very conscious of the importance of controlling erosion to maintain and/or improve the lakeshore and water quality. We have a significant investment in our property and it is important to us to maintain this investment and at the same time be able to enjoy and safely use the property as we enter our retirement years. We are presenting a plan that will decrease the existing impervious surfaces and that will have minimal impact to the bluff/slope to the lake.

- Remove three existing deteriorated wood decks, reduce the size of these decks and replace with pervious pavers and boulders. Plant vegetation/native edging by boulders. One of these decks services the patio door to home that was built 21 years ago; other two smaller decks services the patio door that was existing on the boat storage garage when we purchased the property 23 years ago.
- Remove an existing deteriorated wood deck (services patio door to house that was built 21 years ago) and replace with smaller composite deck.
- Remove an existing deteriorated wood deck (services master bedroom balcony that was built 21 years ago) and replace with same sized composite deck as supports are cavaliered into the existing home structure.
- Remove existing deteriorated straight line wood steps to lakeshore that were built 21 years ago and replace with meandering stone steps and plant vegetation/native edging.
- Remove plastic under existing river rock landscaping and replace with fabric using same river rock.
- Add small boulders on northeast corner of existing home to match boulders used in decks. Plant vegetation/native edging by boulders.

These planned changes will reduce the impervious surfaces on the property from 33.3% to 28.7% which demonstrates our commitment to work towards the 25% goal. These changes will create a more natural look for the lakeshore by using boulders and vegetation/native edging with minimal impact to the slope. It will also insure a safe environment by the removal of deteriorated decks and steps. We will then be able to maintain our investment and continued enjoyment of the property.

Surveyor Certification

I. **Applicant:**
 Name ROBERT & JANET McCullough

II. **Landowner:**
 Name ROBERT & JANET McCullough
 Property Address 3728 SIOUX LANE
 City MADISON LAKE State MN Zip 56063

III. **Parcel Information:**
 Parcel Number 05-680.0020

IV. **Site Plan - Shall be a Certificate of Survey to include, but not limited to:**

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts*
- Access
- Easements
- Impervious Surface
 - Required for *Shoreland, Business, & Industrial Districts.*
 - Itemized current & proposed impervious surfaces to include total percentages.
 - Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

***Site shall be physically staked, then surveyed.**

***Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.**

***Stakes must remain in place until construction commences.**

V. **Quantities and Submittal Formats:**

- a. One (1) reproducible copy of the request and all other supporting documents.
- b. Ten (10) copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- c. Electronic version of any supporting documents if available.
- d. Pre-application meeting is recommended prior to making application to ensure submittal completion.
Appointment is necessary.
- e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. **Appointment is necessary.**
- f. All required information must be correct and submitted **at the time of application**, or the application will not be accepted.

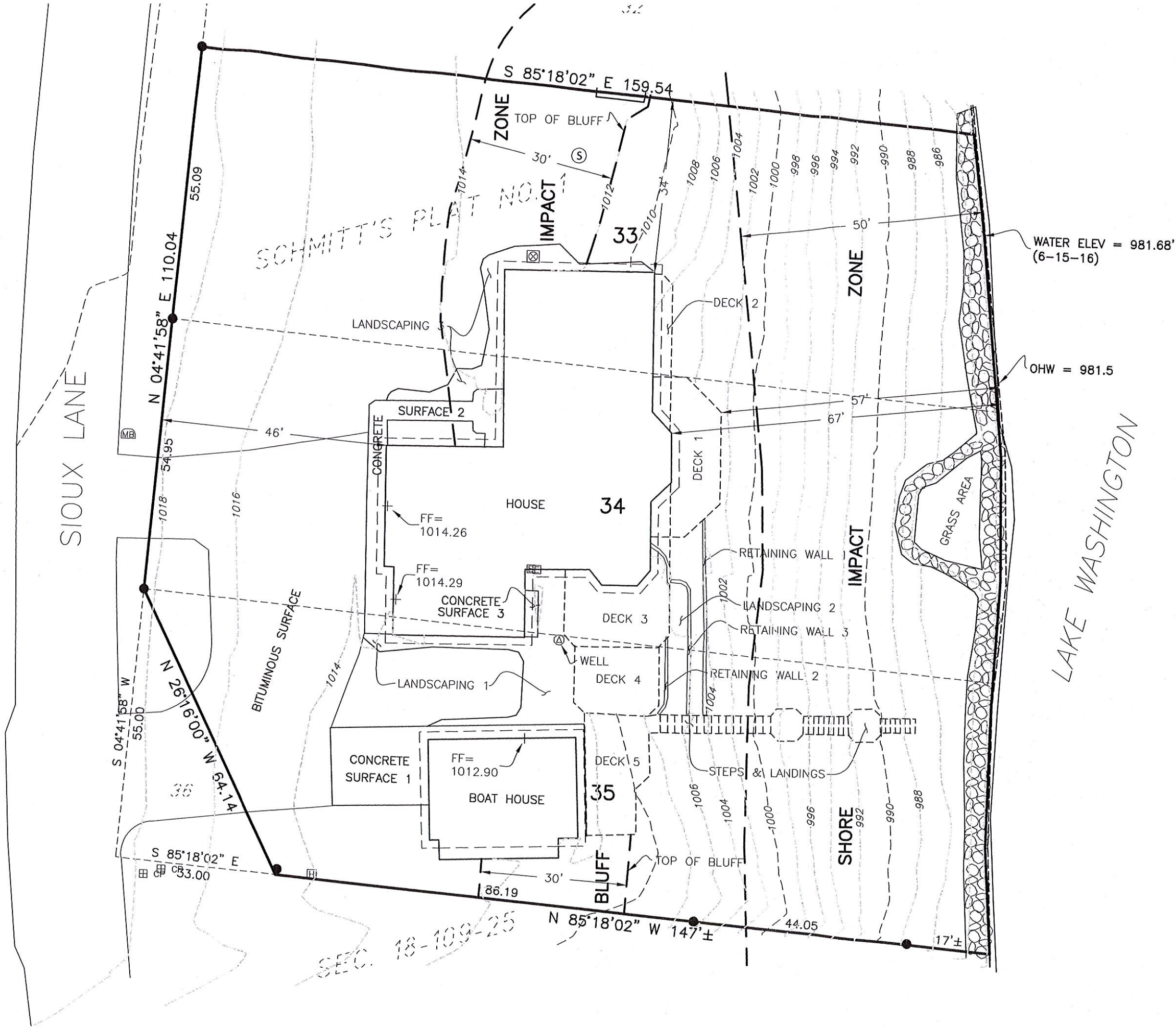
VI. **Signatures:**

The proposed improvements have been physically staked onsite **then** surveyed on 7/8/2016, to reflect an accurate account of current and proposed conditions of the property identified above.

I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.

Roy Jones 7/15/16 19789
 Surveyor Signature Date Lic #

7/19/16 Kathy Brockway
 Date Received Planning & Zoning Department Signature



TOTAL LOT AREA
27534 SQ FT

IMPERVIOUS SURFACES

HOUSE W/ OVERHANG	3325 SQ
BOAT HOUSE	854 SQ
BITUMINOUS SURFACE	2356 SQ
CONCRETE SURFACE 1	331 SQ
CONCRETE SURFACE 2	254 SQ
CONCRETE SURFACE 3	11 SQ
DECK 1	259 SQ
DECK 2	58 SQ
DECK 3	302 SQ
DECK 4	235 SQ
DECK 5	299 SQ
STEPS & LANDINGS	219 SQ
LANDSCAPING 1	331 SQ
LANDSCAPING 2	106 SQ
LANDSCAPING 3	186 SQ
RETAINING WALL 1	24 SQ
RETAINING WALL 2	9 SQ
RETAINING WALL 3	17 SQ
TOTAL	9176 SQ

Existing Conditions

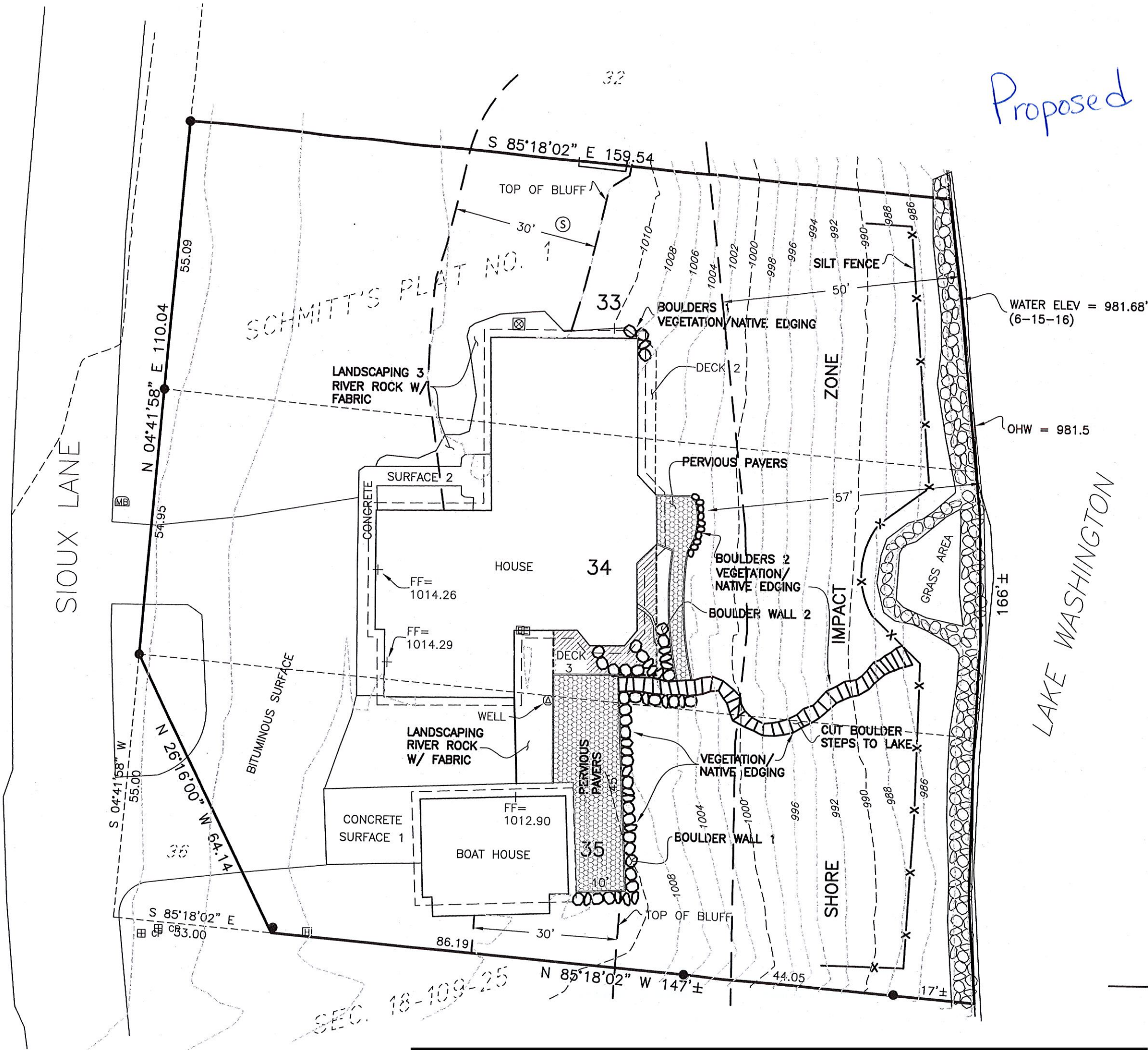
LEGEND

MB	MAILBOX
●	MONUMENT FOUND
H	HAND HOLE
CP	COMMUNICATION PEDESTAL
⊙	WELL
E	ELECTRIC METER
S	SANITARY MANHOLE

SURVEYOR
I hereby certify
under my direct
land surveyor u

Rory Jensen
Rory Jensen
License Num

Proposed Conditions



TOTAL LOT AREA
27534 SQ FT

REMOVED IMPERVIOUS SURFACES

- CONCRETE 3
- DECK 1
- DECK 3 (PARTIALLY REMOVED)
- DECK 4
- DECK 5
- LANDSCAPING 1
- LANDSCAPING 2
- LANDSCAPING 3 (TO PERVIOUS)
- RETAINING WALL 1
- RETAINING WALL 2
- RETAINING WALL 3
- STEPS W/ LANDINGS
- TOTAL

PROPOSED IMPERVIOUS SURFACES

- BOULDERS 1
- BOULDERS 2
- CUT BOULDER STEPS TO LAKE
- BOULDER WALL 1
- BOULDER WALL 2
- TOTAL

TOTALS

EXISTING	-	REMOVALS	+	PROPOSED	=	TOTAL
9176		1770		494	=	7900 (±)

LEGEND

- MONUMENT FOUND
- ⊞ CP COMMUNICATION PEDESTAL
- ⊞ HAND HOLE
- ⊞ WELL
- ⊞ ELECTRIC METER
- ⊞ MAILBOX
- ⊞ AIR CONDITIONER
- ⊞ SANITARY MANHOLE
- X— FENCE LINE



SURVEYOR'S
I hereby certify th
under my direct si
land surveyor und

Rory Jensen
Rory Jensen