

#2676

MISC. BOOK 6

Fee \$50.00

Filed at 1:13 PM
November 23, 1992

02508 05-05-05
claim
BK 23 pg 419

OCT-29-92 THU 10:17

EIDSHOE LAW FIRM

FAX NO. 7122586714

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AMENDMENT TO EASEMENT AGREEMENT

This Amendment is being made to an Easement dated August 29, 1985, and recorded at Miscellaneous Record Y, Page 819, of the records of the Dickinson County Recorder, the same being filed September 3, 1985.

Long Lines, Ltd. and Village Lakeshares, Inc., both Iowa corporations, are the owners of certain real property legally described on the attached Exhibit "A".

1. Paul Comeau and Westendorf Partnership hereinafter "owners" are the record title holders to certain real estate described as:

The South 40 feet of Lot 41, and all of Lot 42, Auditor's Plat No. 121, Dickinson County, Iowa; AND that part of Gov't Lot 1, Sec. 14, Twp. 99 North, Range 37, West 5th P.M., Dickinson County, Iowa, described as follows: Commencing at the northwest corner of said Gov't Lot 1; thence East 869.5 feet along the north line of said Gov't Lot 1 to the point of beginning of the southwest corner of Lot 42 of Aud. Plat #121, Dickinson County, Iowa, said point of beginning marked with a capped 5/8" rebar, Reg. #3869; thence South 5.84 feet; thence North 89°22' East to the west shoreline of West Okoboji Lake; thence North 3 feet, more or less, along said shoreline to the north line of said Gov't Lot 1 and the south line of said Lot 42 of Aud. Plat #121; thence West to the point of beginning and referred to herein as Duplex Lot.

The parties hereby agree to the following clarifications and amendment to the Easement noted above:

1. The initial Easement provided for a permanent easement "for ingress and egress from the existing road serving Parcel B across the property set forth on Exhibit "A" for the perpetual benefit of the owners of Parcel B." This Easement is modified to grant an ingress and egress easement for benefit of the Duplex Lot from the existing road which lies immediately to the west of the Duplex Lot and north of the property identified on Exhibit "A" south across the east one-half of a parcel identified as Tract 2 on the attached Plat of Survey by Jacobson-Westergard & Assoc., Inc. dated September 25, 1985, and attached hereto as Exhibit "B".

REC'D. NO. 2676

NOV 23 PM 1:13

VIOLA HAGEDORN REC.
DICKINSON COUNTY, IOWA

FEE \$ 50.00

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EIDSMOE LAW FIRM

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2. The original Easement also provided an easement to the owners for a "parcel of ground 20 feet by 30 feet approximately 5 feet west of the existing access road, if such road were extended south onto the property shown on Exhibit "A" for purposes of a storage shed together with right of ingress and egress thereto." This Easement is hereby released and terminated. By separate agreement, Long Lines Ltd. and Village Lakeshares, Inc. together will provide free boat storage for 3 boats, whether denominated boat, pontoon, sailboat or waverunner, for a period of 6 years to L. Paul Comeau.

3. Long Lines, Ltd. and Village Lakeshares, Inc., do hereby grant an easement for the benefit of the Duplex Lot to maintain necessary culverts and other drain lines and tiles on that property described as Tract 2 as well as Tract 3 as shown on the Plat of Survey by Jacobson-Westergard & Assoc., Inc., dated September 25, 1985, as shown on Exhibit "B". The existing fence located on the south side of Tract 3 shall not be removed by Long Lines, Ltd. or Village Lakeshares, Inc. and shall be maintained by them. Said fence shall be extended and maintained by Long Lines, Ltd. or Village Lakeshares, Inc. from southeast to northwest along the west diagonal line of the east one-half of a parcel identified as Tract 2 on the attached Plat of Survey by Jacobson-Westergard & Assoc., Inc. dated September 25, 1985, and attached hereto as Exhibit "B".

4. As provided in the original Easement, the owners of the Duplex Lot shall continue to have an easement for purposes of maintenance and landscaping over that real property described as Parcel A on Exhibit "C" attached hereto, the same being a survey of Jacobson-Westergard & Assoc., Inc. dated February 19, 1985, except the west boundary line shall be that diagonal line shown in Tract 2 on Exhibit "B" and the southern boundary line shall be the southern most line which runs east and west of Tract 3 on Exhibit "B". The owners of the Duplex Lot shall also have the exclusive right to the utilization of the lakeshore frontage of Parcel A, but shall not install a boat lift south of the dock identified as a "walkway" closest to the area labeled as "B" on the drawing attached as Exhibit "D", nor shall owner park or tie a boat or waverunner on the south side of such dock or in the area "B" of the drawing attached as Exhibit "D". Except in the event of an emergency, Long Lines, Ltd. and/or Village Lakeshares, Inc. shall not permit their employees, agents, patrons, invitees and/or guests to use said dock in any way and shall enforce same. So long as Elaine M. Martin and Joy K. McCarthy, general partners of Westendorf Partnership, or their heirs own an interest in one or both of the Duplex units or own an interest in any entity owning an interest in one or both of the Duplex units on Duplex Lot, Long Lines, Ltd. and Village Lakeshares, Inc. do hereby agree to grant to the owners of the Duplex Lot the exclusive right to use the easement area namely Parcel A on Exhibit "C" with the above

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described west and southern boundaries. Thereafter, Long Lines, Ltd. and Village Lakeshares, Inc. and owners of Duplex Lot shall have a mutual right to use the easement area for recreational purposes only and neither party shall have the right to build any buildings or structures on the easement area.

5. All easements granted herein shall be permanent easements and shall run with the land and be binding upon the parties, their heirs, executors, successors, administrators, personal representatives and assigns.

DATED this 29th day of October, 1992.

LONG LINES, LTD.,

By: Melvin D. Meredith
 Title: Senior Vice President
 Melvin D. Meredith

VILLAGE LAKESHARES, INC.

By: Melvin D. Meredith
 Title: Senior Vice President
 Melvin D. Meredith

L. Paul Comeau
 L. PAUL COMEAU a/k/a PAUL COMEAU

Linda M. Comeau
 LINDA N. COMEAU

WESTENDORF PARTNERSHIP,

By: Joy E. McCarthy
 Joy E. McCarthy, General Partner

By: Elaine M. Martin
 Elaine M. Martin, General Partner

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STATE OF Iowa)
COUNTY OF Dickinson) ss.

On this 29th day of October, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Melvin D. Meredith to me personally known, who being by me duly sworn, did say that HE is the SR. VICE PRES. of the Corporation executing the within and foregoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that HE as SR. VICE PRES. acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by Him voluntarily executed.



Nancy S. Rees
Notary Public Nancy S. Rees
Commission Expires 4/22/95

STATE OF Iowa)
COUNTY OF Dickinson) ss.

On this 29th day of October, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Melvin D. Meredith to me personally known, who being by me duly sworn, did say that HE is the SR. VICE PRES. of the Corporation executing the within and foregoing instrument, that no seal has been procured by the corporation; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that HE as SR. VICE PRES. acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by Him voluntarily executed.



Nancy S. Rees
Notary Public Nancy S. Rees
Commission Expires 6/22/95

STATE OF Nebraska)
COUNTY OF Douglas) ss.

On this 17th day of ~~XXXXXX~~ November, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared L. Paul Comeau a/k/a Paul Comeau and Lynda M. Comeau, husband and wife, to me personally known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Mary E. Burnison
Notary Public



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EIDSMOE LAW FIRM

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STATE OF Iowa)
COUNTY OF Dubuque) ss.

On this 18 day of ~~October~~ ^{NOVEMBER}, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Joy K. McCarthy, to me personally known, who being by me duly sworn, did say that she is a General Partner of Westendorf Partnership, executing the within and foregoing instrument; that said instrument was signed on behalf of Westendorf Partnership and that she as a General Partner acknowledged the execution of the foregoing instrument to be the voluntary act and deed of Westendorf Partnership, by it and by her voluntarily executed.

Eileen M. Schuyler
Notary Public



STATE OF Nebraska)
COUNTY OF Douglas) ss.

On this 17th day of ~~October~~ ^{November}, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Elaine M. Martin, to me personally known, who being by me duly sworn, did say that she is a General Partner of Westendorf Partnership, executing the within and foregoing instrument; that said instrument was signed on behalf of Westendorf Partnership and that she as a General Partner acknowledged the execution of the foregoing instrument to be the voluntary act and deed of Westendorf Partnership, by it and by her voluntarily executed.

Mary E. Burnison
Notary Public



AMENDMENT TO EASEMENT AGREEMENT

EXHIBIT "A"

That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

Commencing at the North quarter of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37) Northeast Quarter westerly line is assumed to bear South 0 degrees 23.0 minutes West) 1898.09 feet along the northerly line of the Northeast Quarter of said Section 14 to the southwest corner of Lot 42 of Auditor's Plat #121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1 degree 04.2 minutes West 5.84 feet to the point of beginning; thence South 7 degrees 34.5 minutes East 147.64 feet; thence North 88 degrees 33.5 minutes East 304.01 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence North 30 degrees 26.9 minutes West 90.77 feet along said shoreline; thence North 17 degrees 54.4 minutes West 61.45 feet along said shoreline to a point 3 feet southerly of the northerly line of said Government Lot 1; thence North 89 degrees 33.8 minutes West 258.50 feet to the point of beginning, containing 0.90 acre.

PLAT OF SURVEY

TRACT 1 - That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

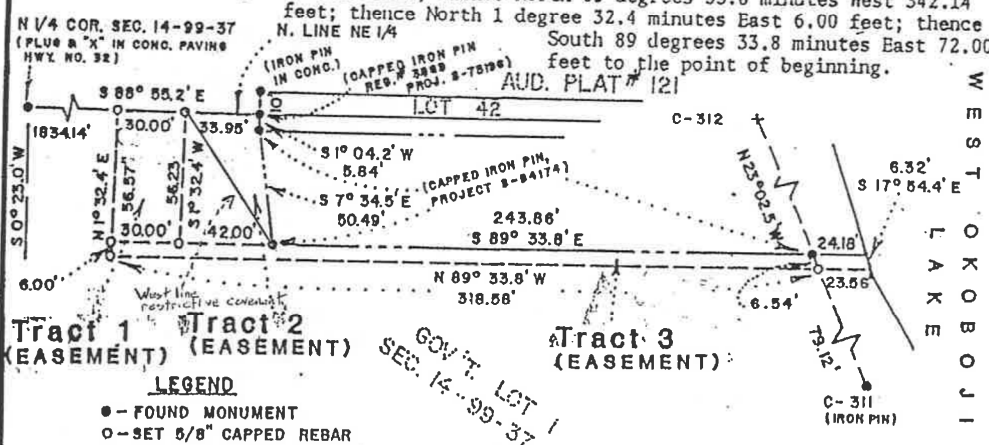
Commencing at the north quarter corner of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37 Northeast Quarter westerly line is assumed to bear South 0 degrees 23.0 minutes West) 1834.14 feet along the northerly line of the Northeast Quarter of said Section 14 to the point of beginning; thence continuing South 88 degrees 55.2 minutes East 30.00 feet; thence South 1 degree 32.4 minutes West 56.23 feet; thence North 89 degrees 33.8 minutes West 30.00 feet; thence North 1 degree 32.4 minutes East 56.57 feet to the point of beginning.

TRACT 2 - That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

Commencing at the north quarter corner of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37 Northeast Quarter westerly line is assumed to bear South 0 degrees 23.0 minutes West) 1864.14 feet along the northerly line of the Northeast Quarter of said Section 14 to the point of beginning; thence continuing South 88 degrees 55.2 minutes East 33.95 feet to the southwest corner of Lot 42 of Auditor's Plat #121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1 degree 04.2 minutes West 5.84 feet; thence South 7 degrees 34.5 minutes East 50.49 feet; thence North 89 degrees 33.8 minutes West 42.00 feet; thence North 1 degree 32.4 minutes East 56.23 feet to the point of beginning.

TRACT 3 - That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

Commencing at the north quarter corner of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37 Northeast Quarter westerly line is assumed to bear South 0 degrees 23.0 minutes West) 1898.09 feet along the northerly line of the Northeast Quarter of said Section 14 to the southwest corner of Lot 42 of Auditor's Plat #121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1 degree 04.2 minutes West 5.84 feet; thence South 7 degrees 34.5 minutes East 50.49 feet to the point of beginning; thence South 89 degrees 33.8 minutes East 268.04 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence South 17 degrees 54.4 minutes East 6.32 feet along said shoreline; thence North 89 degrees 33.8 minutes West 342.14 feet; thence North 1 degree 32.4 minutes East 6.00 feet; thence South 89 degrees 33.8 minutes East 72.00 feet to the point of beginning.



Tract 1 (EASEMENT) Tract 2 (EASEMENT) Tract 3 (EASEMENT)

LEGEND
 ● - FOUND MONUMENT
 ○ - SET 5/8" CAPPED REBAR

SCALE 1" = 60'

SURVEY 9/19/85

CLIENT: Paul Comeau

2514 South 119th St. Omaha, Ne.

Jacobson-Westergard & Assoc., Inc.

12 1/2 South 6th
 Estherville, Iowa 51334

712/362/2647

I hereby certify that this plat, map, survey or report was made by me or under my direct personal supervision and that I am a duly registered Land Surveyor under the laws of the State of Iowa.

Signed *R. V. Bendixen* Date 9/25/85
 R. V. BENDIXEN, L.S. Iowa Reg. No. 9017

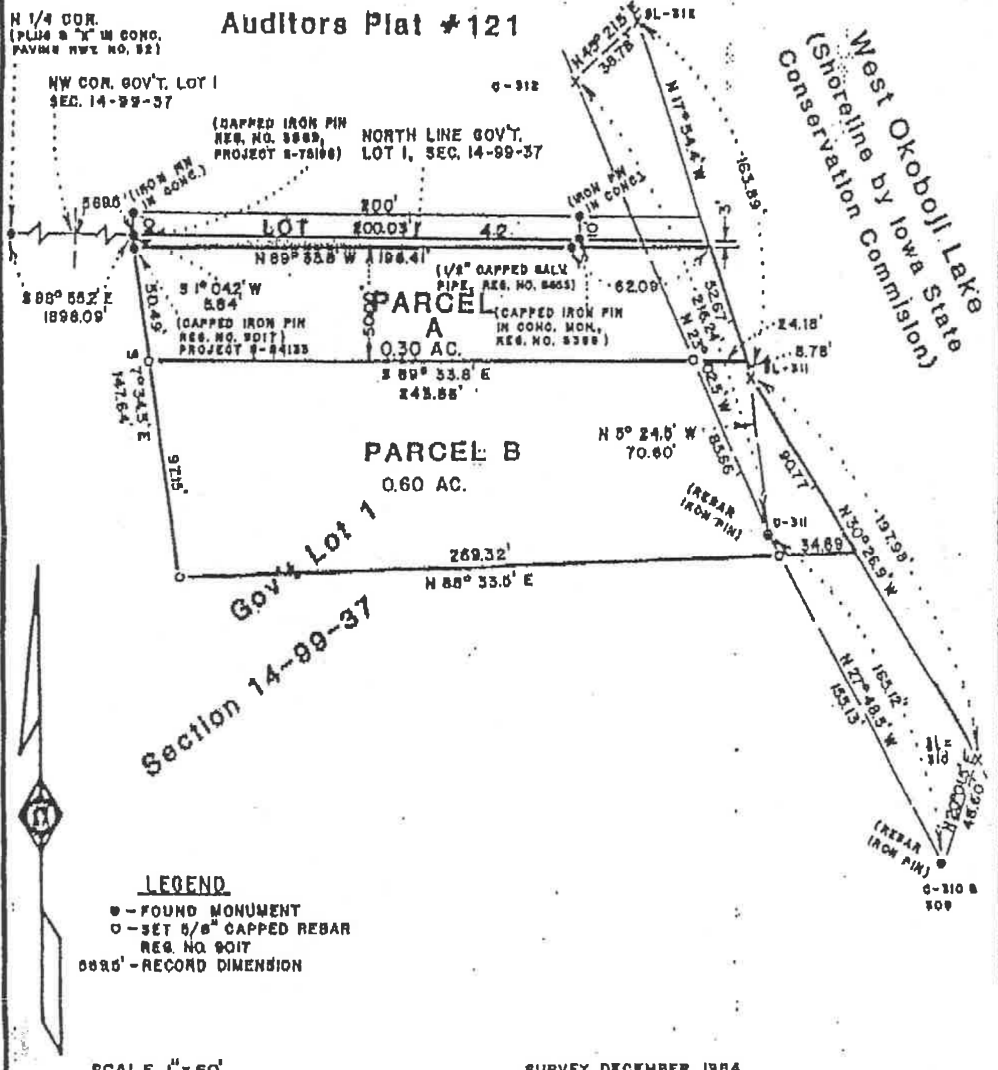
BRUNING 52862

JW	Survey Notes	Drawn	Checked By	Project No.
	Book JW # 112 Page 72	Date 9/26/85 By E.A.S.	R.V.B.	S-84174B

PLAT OF SURVEY

PART OF GOV'T. LOT 1 OF THE NORTHEAST QUARTER
OF SECTION 14-99-37, DICKINSON CO., IOWA

SEE SHEET 2 of 2 FOR DESCRIPTIONS



CLIENT: Paul Comeau
2614 South 119th St. Omaha, Ne.

Jacobson-Westergard & Assoc., Inc.
12 1/2 South 6th
Estherville, Iowa 51334
712/362/2847

BRUNING 522862

JW	Survey Notes	Drawn	Checked By	Project No.
	Book JW 112 Page 17	Date 2/19/85 By E.A.S.	R.V.B.	8-84174

PARCEL A

That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

Commencing at the north quarter corner of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37 Northeast Quarter westerly line is assumed to bear South 0 degrees 23.0 minutes West) 1898.09 feet along the northerly line of the Northeast Quarter of said Section 14 to the southwest corner of Lot 42 of Auditor's Plat #121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1 degree 04.2 minutes West 5.84 feet to the point of beginning; thence South 7 degrees 34.5 minutes East 50.49 feet; thence South 89 degrees 33.8 minutes East 268.04 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence North 17 degrees 54.4 minutes West 52.67 feet along said shoreline to a point 3 feet southerly of the northerly line of said Government Lot 1; thence North 89 degrees 33.8 minutes West 258.50 feet to the point of beginning, containing 0.30 acre.

PARCEL B

That part of Government Lot 1 of the Northeast Quarter of Section 14, Township 99 North, Range 37 West of the 5th Principal Meridian, Dickinson County, Iowa, described as follows:

Commencing at the north quarter corner of said Section 14; thence South 88 degrees 55.2 minutes East (Section 14-99-37 Northeast Quarter westerly line if assumed to bear South 0 degrees 23.0 minutes West) 1898.09 feet along the northerly line of the Northeast Quarter of said Section 14 to the southwest corner of Lot 42 of Auditor's Plat #121, Dickinson County, Iowa, a Reg. #3869 capped 5/8" rebar 569.5 feet easterly of the northwest corner of said Government Lot 1; thence South 1 degree 04.2 minutes West 5.84 feet; thence South 7 degrees 34.5 minutes East 50.49 feet to the point of beginning; thence continuing South 7 degrees 34.5 minutes East 97.15 feet; thence North 88 degrees 33.5 minutes East 304.01 feet to the Iowa State Conservation Commission West Okoboji Lake westerly shoreline; thence North 30 degrees 26.9 minutes West 90.77 feet along said shoreline; thence North 17 degrees 54.4 minutes West 8.78 feet along said shoreline; thence North 89 degrees 33.8 minutes West 268.04 feet to the point of beginning, containing 0.60 acre.

NOTES:

- 1) No search of the records for easements or encumbrances was made as a part of this survey.
- 2) No investigation concerning zoning/land use was made as a part of this survey.
- 3) Distances measured in this survey varying from distances of record are inclusive of excesses/deficiencies of former surveys.

CLIENT:

Jacobson-Westergard & Assoc., Inc.
 12 1/2 South 6th
 Estherville, Iowa 51334
 712/362/2647

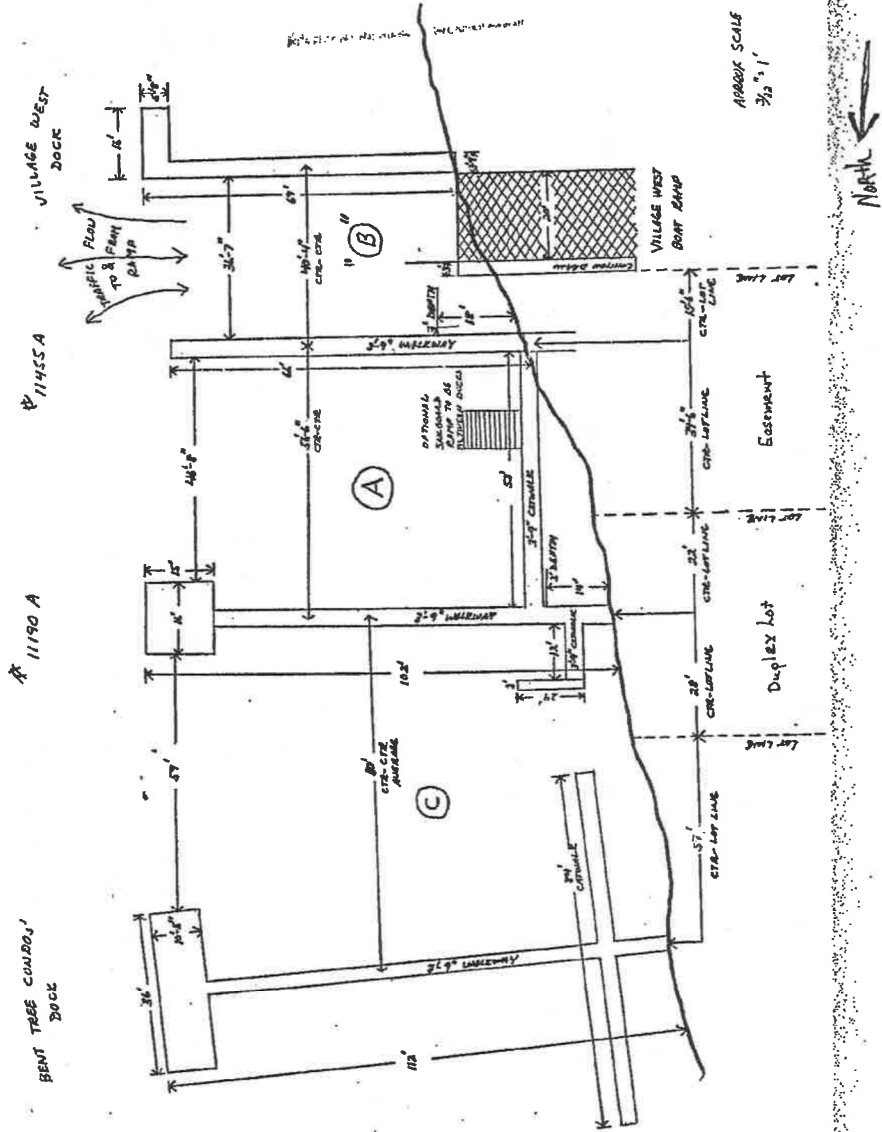
I hereby certify that this plat, map, survey or report was made by me or under my direct personal supervision and that I am a duly registered Land Surveyor under the laws of the State of Iowa.

Signed *R. V. Bendixen* Date *2/19/05*
 R. V. BENDIXEN, L.S. Iowa Reg. No. 9017

BRUNING 40-22-5-0902

JW	Survey Notes		Drawn	Checked By	Project No.
	Book	Page	Date	By	8-84174

EXHIBIT "D"



GRAPHIC SCALE
3/4" = 1'

