

February 17, 2014

Steamboat Landing Description and History:

In 1857, Evert Westervelt and Israel Garrard created a plat map of what was then the Village of Westervelt (later Frontenac). Directly on the map they wrote the following:

"Know all men by these present that we Evert Westervelt of Goodhue County, Minnesota Territory and Israel Garrard of Cincinnati, Ohio the equal joint owners of the land upon which this Town is located do hereby dedicate to Public use the streets and alleys as laid out also the three Parks, The Valhalla, the Delta, the Wakondiote. **We also dedicate to public use the Lake shore between Blocks 9 & 13 to be used as a Steamboat Landing**, reserving to ourselves all rights of wharfage and all rights and privileges of Ferry either within the above limits or elsewhere either at the ends of the streets as within the boundaries of lots which run to the water.

In location whereof we do this day file this map for record in the recorder's office of Goodhue County and to the above grant and dedicate to Public use we do set our hands and seals this 30th day of September, 1857."

It was the intention of Israel Garrard and Evert Westervelt that Steamboat Landing be dedicated to public use.

The title, *Steamboat Landing*, as used in current public discussions, refers to the area referred to as, *Frontenac Point*, in the Court case. The decision states,

"Everything points to a general donation or grant to public use of all the areas not surveyed into lots and blocks."

Steamboat Landing includes the portions of Frontenac Point not originally surveyed into lots and blocks. This is a large portion of land that surrounds the individual plots of private land on the Point.

In 1935, there was a Supreme Court of Minnesota case regarding the 'public' status of Steamboat Landing, IN RE PETITION OF CELESTINE M. SCHALLER TO VACATE CERTAIN PARTS OF PLAT OF FRONTENAC; TOWN OF FLORENCE, APPELLANT (see below in Additional Information section of website).

The case overturned a previous lower court decision that would have allowed Ms. Schaller to vacate this area dedicated to public use based on its not being used as a steamboat landing for many years, and having been essentially 'abandoned' by the public. **The Supreme Court recognized that Schaller had cared for the land for years but did not see that as sufficient reason to take the land away from the Public.** The Supreme Court overruled the trial court and determined that,

Steamboat Landing was given to the public land, with one condition, that it could be used as a Steamboat Landing for commercial purposes. Its status as public land is not

contingent upon it being used as a steamboat landing, or being used for any public purpose whatsoever. It is simply public and will remain so whether it is developed as a public space by the Township or not.

For anyone arguing that the Lake-side boundary has changed over time as the shore of the river has evolved, the Supreme Court had this to say (it's a little wordy but what it says is really important!),

"There is nothing else to indicate it (the eastern boundary) but the natural object, the lake; and that must be taken to have been the boundary intended. We know of no rule for determining the extent of a grant or dedication of land to public use, where a navigable lake or river is adopted as one of the boundaries, other than that applied in the case of a private grant. Where, in a private grant, the land is bounded only by navigable water, **the grantee takes to the low-water mark, and the riparian rights go with the upland.** Where the grant or dedication to the public is for the purpose of passage, and goes to the water, the conclusion -- there being no indication of a contrary intention -- is inevitable that the grant or dedication was intended to enable the public to get to the water for the better enjoyment of the public of navigation."

I hope this note helps everyone better understand the legal status of Steamboat Landing.

Please free to call me with questions.

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