



Cass County
Planning Commission/Board of Adjustment

October 10, 2016

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting October 10, 2016 in the meeting room of the Cass County Land Department in Backus. The field inspection for the meeting was conducted October 3, 2016, with PC members Froehlig, Kostial, LaPorte, Moore, Pehling and Sundberg along with ESD staff Berg, and Fairbanks in attendance.

Sundberg called the meeting to order at 9:31 a.m.

Members present: Fitch, Froehlig, Kostial, LaPorte, Moore, Pehling and Sundberg.

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Mitch Brinks, Terry Gaulrapp, Terry Freeman, Jeff Hagen, Cindy Hidde, Ben Meister, Galen Krantz, Bill Klohn, Donna Loechler, Ed Loechler, Tom Lund, Doug McChane, Sharyn McChane, Ken Pizel, David Schmit, Heather Schmit, David Schmitt, Maria Schmitt, Gale Severson, Tom Severson, Don Snyder, Brian Stephenson, Renee Stephenson, Jay Weiher, Marla Yohoo and Brad Zafke.

MS/P Kostial/Froehlig to approve the minutes of the 09/12/16 PC/BOA meeting as presented.

Variance

Gaulrapp, Terrence & Sara, Rogers Township on property described as Lot 1, "Rogers Beach" & Part of Govt Lot 1, Section 22-142-27, PID #36-406-0010 at 3759 84th Street NE. An application submitted to expand an existing nonconforming residence with 12 feet x 28 feet and 6 feet x 12 feet additions located on the non-lakeside of the structure. The residence is nonconforming because it is 55 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Sections 1115.3 which establishes the nonconforming lot and structure criteria and requirements and Section 1126.1 A. which requires structures to be located 100 feet from a lake classified Recreational Development (RD). The property contains .4 acre riparian to Swift Lake (RD).

PC members were at the site 10/03/16. 25 notices of the application were mailed with no response received. The application was reviewed and discussed with Mr. Gaulrapp.

MS/P Kostial/Froehlig to approve the application as to expand the non-conforming residence located at PID #31-406-0010 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. The property was platted in 1957 and contains .4 acre.
2. The residential structure was permitted at 50 feet from the lake by ZP71-142-27-26.
3. The proposed expansion will be to the non-lakeside of the structure and will not be visible from the lake.
4. There is nothing to indicate that the location or size of the expansion will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. There is nothing to indicate that the application is solely financially based.
6. The application, if approved, will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. The application, if approved and assuming compliance with applicable run-off related standards or conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
8. The application, if approved, will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The location, configuration and dimensions of the residential structure expansion shall not vary from that submitted 09/21/16 unless approved by ESD or if necessary the Planning Commission.
2. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

3. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
4. ESD shall determine and if required, the applicant shall install construction erosion control.
5. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Any material from demolition and construction not reused or recycled must be disposed of in a permitted facility.
7. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Jenewein, Robert, Wabedo Township on property described as Part of Govt Lot 8, Section 27-140-28, PID #46-027-2223 located at 1240 Wabedo Pass Road NE. An application submitted to construct a driveway from Wabedo Pass Road that will be located from 50 feet to 100 feet from the ordinary high water level (OHWL). The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 A. which requires structures, including a driveway to be located 150 feet from a lake classified Natural Environment (NE). The property contains 6.29 acres riparian to Bass Lake (NE).

PC members were at the site 10/03/16. 32 notices of the application were mailed with two responses, including that of the Wabedo Township Planning Commission, recommending denial of the application were received. The application was reviewed and discussed with Mr. Jenewein. After discussion with the members as to the need to identify a future residence site, to consider an alternate approach to the property from County #120 and the need to repair the existing approach erosion damage, the application was withdrawn from consideration by Mr. Jenewein.

Hagen, Jeffery, Turtle Lake Township on property described as E 422 feet of SE $\frac{1}{4}$ of Govt Lot 4, Section 22-140-30, PID #45-122-3305 located at 8006 Hawthorne Trail NW. An application submitted, "after the fact", to be allowed to maintain current setback at less than 75 feet from the OHWL and at less 10 feet from the closest property boundary line for the residence, to maintain current setback of less than 75 feet from the lake for accessory/storage structure, to maintain the current setback of less than 75 feet from the for a fuel storage tank and to maintain flat roof deck area constructed on the rebuilt boathouse. The applicable portions of the Land Use Ordinance are Section 800 which establishes the variance criteria and Section

1126.1 A. & B. which requires structures to be setback 75 feet from a lake classified *General Development (GD)* & 10 feet from a property boundary line and Section 1126.4 B.2. that requires a boathouse rebuilt under the terms of a Shoreland Alteration Permit to have a pitched roof. The parcel contains 1.78 acres riparian to Leech Lake (GD).

PC members were at the site 10/03/16. 50 notices of the application were mailed for each meeting. Four responses were received. The application was reviewed discussed with Mr. Hagen.

MS/P Pehling/Kostial/Fitch-Abstain to approve, "after the fact" the location of the residence located at PID #45-122-3305 upon review of the criteria contained in Section 800, Section 1126.1 A. & B. and Section 1126.4 B.2. of the Land Use Ordinance along with M.S. 394.27, Subd. 7 and the "Statsvold Decision" with the following findings and conditions:

Findings/Residence Lake and Sideyard Setback:

1. The completed residence is 68 feet 6 inches from the lake and 8 feet 6 inches from the closest property boundary line.
2. It seems that the placement of in-lake break water structures has effected lake bottom material and caused discrepancies in setback measurements.
3. Alteration or movement of the structure is not feasible.
4. The practical difficulty here is to mitigate the setback encroachment so as to not alter, disturb or negatively impact existing land use or neighboring property which will maintain a connection to the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. There is nothing to indicate that the application is solely financially based.
6. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
7. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
8. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

"Statsvold" - After the Fact Findings Approve Residence Sideyard Setback:

1. There is nothing to indicate or any way to determine that the applicant or contractor did not act in good faith when the construction of the residence took place although it seems that the

placement of in-lake break water structures could be a factor in the measurement discrepancies.

2. The applicant acquired appropriate land use permit after which several measurements have been taken to verify lake and property line setback.
3. Any casual observer would conclude that the construction required substantial investment.
4. Construction has been completed.
5. There are similar sized residences along Leech Lake and throughout the county.
6. The degree of impact of setback encroachment, 6 feet 6 inches from the lake and 1 foot 6 inches to the closest property boundary line, to the area and the land use system is not significant and the County's benefits are outweighed by the applicant's burden if the applicant were required to comply with the ordinance.
7. In light of all factors, the interest of justice is served by granting the ATF variance.

Conditions:

1. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
2. The applicant shall consult with ESD in order to establish appropriate vegetation along the length of the ornamental retaining wall.
3. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

MS/P Moore/Kostial/Fitch-Abstain to deny the "after the fact" setback location of the accessory/storage structure and fuel storage/dispenser apparatus as well as the flat roof of the re-built accessory/boathouse structure located at PID #45-122-3305 upon review of the criteria contained in Section 800, Section 1126.1 A. & B. and Section 1126.4 B.2. of the Land Use Ordinance along with M.S. 394.27, Subd. 7 and the "Statsvold Decision" with the following findings and conditions:

Findings/Deny/Accessory Structure Setback/Fuel Storage Tank Setback & Flat Roofed on Rebuilt Boathouse:

1. The fuel storage tank and dispensing apparatus and the accessory/storage structure can be moved to meet setback and the roof of the boathouse could be modified to a 4/12 roof.
2. Section 1126.4 B. 2. requires that a maintained/re-built boathouse to have minimum 4/12 pitch roof.
3. The permit to maintain/rebuild the boathouse, SA15-142-30-1, contains the specific notation, "Not allowed to use roof as a deck or sitting area".
4. The permit archive contains no application for a fuel tank container/dispenser or a storage structure at the current location.

5. At 75 feet setback, the fuel storage/dispenser could be equipped with hose/reel system to accommodate boat fueling.
6. There is no compelling information in the record or application that the threshold of practical difficulty is established.
7. The accessory/storage structure could be moved to comply with lake setback.

"Statsvold" - After the Fact Findings for Findings/Deny/Accessory Structure Setback/Fuel Storage Tank Setback & Flat Roofed Rebuilt Boathouse Flat Roof:

1. There is nothing to indicate or anyway to determine that the applicant or contractor inquired as to permit requirements for the fuel storage apparatus or storage structure.
2. It seems that the placement of in-lake break water structures by the applicant could be a factor in the measurement discrepancies.
3. It can be concluded that although the fuel storage apparatus, storage structure and flat roofed boathouse are complete and in place that as related to the property and residence they are not of substantial investment.
4. There are similar sized structures along Leech Lake and throughout the county that comply with applicable setback requirements.
5. The degree of impact of the setback encroachment (5 feet from the OHWL) of the fuel tank and relocated accessory/storage structure to the area and the environment is significant and the County's benefits in denying a variance to the shoreland standards are not outweighed by the applicant's burden if the applicant were required to comply with the ordinance.
6. In light of all factors, the interest of justice is served by not granting these portions of the ATF variance.

Conditions:

1. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if required the applicant shall implement a vegetative mitigation plan for the boulder area as prepared by ESD and shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
2. A permit along with applicable "after the fact" fee shall be obtained for the fuel storage apparatus and it shall be moved to a point at least 75 feet from the lake by 12/31/16.
3. A permit along with applicable "after the fact" fee shall be obtained for the accessory/storage structure and it shall be moved to a point at least 75 feet from the lake by 12/31/16.
4. The existing boathouse flat roof and railing shall be replaced with a sloped roof with no railing by 12/31/16.
5. Financial assurance in the amount of \$1,500 in the form of a letter of credit or cash shall be submitted to ESD by 10/31/16 to guarantee compliance with Conditions #2, #3 and #4.
6. Docking/mooring shall be consolidated into one location in accordance with Section 1106.3 B.3. of the Land Use Ordinance.

7. The applicant shall comply with item #3 contained in the DNR correspondence received by ESD dated 10/04/16.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Loechler, Edward, Hiram Township on property described as Part of Govt Lot 1, Section 17-140-31, PID #16-017-1106 located at 3946 64th Avenue NW. An application submitted to enclose an existing platform located less than 30 feet from the top of a bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff (NE). The property contains 1.25 acres riparian to Ten Mile Lake (GD).

PC members were at the site 10/03/16. 31 notices of the application were mailed with three responses all endorsing approval received. The application was reviewed and discussed with Donna and Edward Loechler.

MS/P Moore/Froehlig to approve the application for a closer bluff for the gazebo structure to be located at PID #16-017-1106 upon review of the criteria contained in Section 800 and Section 1126.1 B. of the Land Use Ordinance along and M.S. 394.27, Subd. 7 with the following findings and conditions:

Findings:

1. The property was platted in 1961 and the existing residence was constructed prior to the adoption of the bluff requirements.
2. The proposed site has been occupied by a platform/gazebo structure.
3. The proposed structure will not increase the existing square footage on the ground.
4. The proposed structure will not be visible from the lake or neighboring residences.
5. The topography of the lot along with the allowed existing use represents practical difficulty for the proposed structure location and there is nothing to indicate that the proposed structure location and size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. The proposed construction will not be visible from neighboring property or the lake which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a

rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

7. There is nothing to indicate that the application is solely financially based.

8. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.

9. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.

10. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The location and size of the structure shall not vary from that submitted 09/15/16 unless approved by ESD or if necessary the Planning Commission.

2. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.

3. ESD shall determine and if required, the applicant shall install construction erosion control.

4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

5. Any material from construction not reused or recycled must be disposed of in a permitted facility.

6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

McChane, Douglas, Woodrow Township on property described as Lot 5, Block 1 & Undivided 1/26 Interest in Outlot A, "Shores of Big Deep", Section 29-140-29, PID #51-500-0110 located at 2931 Flicker Trail NW. An application submitted to expand a nonconforming residence with a 14 feet x 16 feet addition and to enclose two existing 12 feet x 14 feet decks. The residence is nonconforming because it is within the bluff area located within the property. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes nonconforming structure and lot standards and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains 1.2 acres riparian to Big Deep Lake (RD).

PC members were at the site 10/03/16. 26 notices of the application were mailed with one response endorsing approval of the application received. The application was reviewed and discussed with Sharyn and Douglas McChane.

MS/P Froehlig/LaPorte/Fitch-Abstain to approve the application to expand the nonconforming residence at PID #51-500-0110 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance along with M.S. 394.27 Subd. 7 with the following findings and conditions:

Findings:

1. The property was platted in 1961 and the existing residence was constructed prior to the adoption of the bluff requirements.
2. The decks proposed to be enclosed are part of the original construction.
3. The proposed structure expansion will not be visible from the lake or neighboring residences.
4. The topography of the lot along with the allowed existing use represents practical difficulty for the proposed structure location and there is nothing to indicate that the proposed structure location and size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. The proposed residence expansion will not be visible to neighboring property or the lake which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.

7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The location and size of the structure shall not vary from that submitted 09/15/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
3. ESD shall determine and if required, the applicant shall install construction erosion control.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Any material from construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Pizel, Kenneth & Darlene, Thunder Lake Township on property described as Part of Lot 3 & Part of Lot 4, Block 1, "Evergreen Terrace", Section 10-140-26, PID #42-388-0120 located at 6099 Fort Thunder Drive NE. An application submitted to expand a nonconforming residence with an 11 feet x 12 feet and 12 feet x 32 feet additions both to be located one foot from the top of a bluff. The residence is nonconforming because it is located less than 30 feet from the top of a

bluff. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes nonconforming structure and lot standards and Section 1126.1 B. which requires structures to be located 30 feet from the top or toe of a bluff. The property contains .74 acre riparian to Thunder Lake (GD).

The PC was at the site 10/03/16. 40 notices of the application were mailed with one response, from the Thunder Lake Association, offering no objection to approval of the application was received. The application was reviewed and discussed with Mr. Pizel.

MS/P Kostial/Moore to approve the expansion of the nonconforming residence at PID #42-388-0120 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 B. of the Land Use Ordinance along with M.S. 394.27 Subd. 7 with the following findings and conditions:

Findings:

1. The property was platted in 1965 prior to the adoption and administration of the bluff standards.
2. The residence was constructed by ZP94-140-28-5 at 140 feet from the lake with no reference to a bluff or bluff setback.
3. The residence even with the proposed expansion will comply with the required lake setback.
4. The permitted configuration and location of the residence present practical difficulty to expansion to which there is nothing to indicate that the modest expansion will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. The proposed residence expansion as proposed will not be visible to neighboring property or the lake which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
8. Approval assuming compliance with applicable run-off related conditions will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

10. The expansion will be no closer to the lake or bluff than the existing structure.

NOTICE TO APPLICANT: If the following conditions are included no permit to implement shall be issued until:

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.
3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The location and size of the expansion shall not vary from that submitted 09/14/16 unless approved by ESD or if necessary the Planning Commission.
2. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
3. ESD shall determine and if required, the applicant shall install construction erosion control.
4. No run-off to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Any material from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
7. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Severson, Thomas & Gale, Slater Township on property described as Part of Govt Lot 8, Section 28-142-26 PID #39-028-4306 located at 7658 Little Sand Drive NE. An application submitted to construct a 9 feet x 9 feet addition and a 7 feet x 15 feet constructed roof overhang both located non-lakeside 85 feet from the lake. The residence/deck is non-conforming because it is 49 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes nonconforming structure and lot standards and Section 1126.1 A. which requires structures to be located 150 feet from a lake classified Natural Environment (NE). The property contains 1.98 acres riparian to Little Sand Lake (NE).

PC members were at the site 10/03/16. 19 notices of the application were mailed with no responses received. The application was reviewed and discussed with Gale and Thomas Severson.

MS/P LaPorte/Pehling to approve the application to expand the nonconforming residence located at PID #39-028-4306 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27 Subd. 7 with the following findings and conditions:

Findings:

1. The property was platted in 1961 prior to the adoption of land use regulation.
2. There is nothing in the permit archive to determine when the residence was constructed at less than 150 feet from the lake.
3. The proposed expansion is will be to the non-lakeside of the structure.
4. The location of the residence represents practical difficulty to expansion of the residence which will not be visible to the lake and which there is nothing to indicate that the increased size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. The proposed residence expansion will not be visible to neighboring property or the lake and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local

- governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is solely financially based.
 7. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.
 8. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.
 9. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The size and location of the residence expansion shall not vary from that submitted 09/16/16 unless approved by ESD or if necessary the Planning Commission.
2. ESD must determine and if required, the applicant shall install construction erosion control.
3. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.
4. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.
6. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
7. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/12/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Stephenson, Brian, Boy Lake Township on property described as Part of Govt Lot 2, Section 24-142-28, PID #07-024-2408 located at 2224 82nd Street NE. An application, "after the fact", submitted to approve two 10 feet x 24 feet additions and a 12 feet x 36 feet deck and a detached 10 feet x 20 feet sauna structure all constructed sans permits. The residence is non-conforming because the deck/residence is less than 75 feet from the lake with the sauna 28 feet from the lake. In addition the application requests approval of a 14 feet x 54 feet addition to the non-lakeside of the residence which will be less than 75 feet from the lake. The applicable portions of the Land Use Ordinance include Section 800 which establishes variance criteria, Section 1115.3 which establishes nonconforming structure and lot standards and Section 1126.1 A. which requires structures to be located 75 feet from a lake classified General Development (GD). The property contains 6.39 acres riparian to Boy Lake (GD).

PC members were at the site 10/03/16. 17 notices of the application were mailed with two responses both endorsing approval of the application received. The application was reviewed and discussed with Renee and Brian Stephenson.

MS/P Kostial/Moore to approve the application to expand the nonconforming residence located at PID #07-024-2408 upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 A. of the Land Use Ordinance along with M.S. 394.27 Subd. 7 with the following findings and conditions:

Findings:

1. The residence was approved at 16 feet x 24 feet 75 feet from the lake by ZP89-142-28-5.
2. According to the applicant, the two 10 feet x 24 feet additions to the residence were completed in 1991.
3. Permit Application ZP03-142-28-12 for a storage building and Permit Application ZP04-142-28-13 for SSTS make no mention of the existing 10 feet x 24 feet additions or the existing 10 feet x 30 feet sauna.
4. The proposed expansion will be to the non-lakeside of the residence but less than 75 feet from the lake.
5. The location of the residence represents practical difficulty to expansion of the residence which will not be visible to the lake and which there is nothing to indicate that the increased size will alter, disturb or negatively impact existing land use or neighboring property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
6. The proposed residence expansion will be non-lakeside not be visible to neighboring property or the lake which does not contradict the purpose of the comprehensive plan which is to 1.

Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

7. There is nothing to indicate that the application is solely financially based.

8. Approval will not allow a use that is prohibited in the zoning district in which the subject property is located.

9. Approval, assuming compliance with applicable run-off related conditions, will not restrict the passage of storm water in such a manner as to increase the height of flooding or impact adjacent properties.

10. Approval will not result in an incompatible land use that would be detrimental to the protection of ground and surface water quality.

"Statsvold" - After the Fact Findings:

1. There is nothing to indicate or anyway to determine that the applicant did not act in good faith when the additions were added to the original construction.

2. There is nothing to indicate or anyway to determine if the applicant inquired as to permit and placement limits for the additions.

3. A casual observer would conclude that the additions required substantial investment as compared to the original construction.

4. According to the applicant the additions and sauna were completed in the early 90's.

5. There are similar residence and accessory structures along Boy Lake and throughout the county.

6. The degree of impact to the area and the land use system is not significant and the County's benefits by denying a variance to the shoreland standards are outweighed by the applicant's burden if the applicant were required to comply with the ordinance.

7. In light of all factors, the interest of justice is served by granting the ATF variance.

NOTICE TO THE APPLICANT: No site preparation or building construction shall be commenced until issuance of Permit. Commencement of either prior to issuance of a Permit may result in withholding, withdrawal or revocation of a permit until inspection by ESD, correction of any circumstances in violation of laws or ordinances or the terms of this Variance, deposit of financial assurance as determined by ESD to secure correction of violations and completion of other measures required by ESD.

Conditions:

1. The size and location of the residence expansion shall not vary from that submitted 09/16/16 unless approved by ESD or if necessary the Planning Commission.

2. ESD must determine and if required, the applicant shall install construction erosion control.

3. The applicant shall comply with the recommendation of the Shoreline Rapid Assessment and if enhancement or mitigation is determined necessary, the applicant shall submit financial

assurance to the County in the amount determined by ESD in the form of a Letter of Credit or cash which shall be reduced incrementally as determined and approved by ESD.

4. No run-off to adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.

5. Any material resulting from demolition and construction not reused or recycled must be disposed of in a permitted facility.

6. A permit along with applicable "after the fact" fee shall be obtained for the additions and sauna in order for this permit to be approved.

7. Approval does not allow or imply approval that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

8. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.

9. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/18.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Conditional Use Permit

Krantz, Galen & Verna, Poplar Township on property described as NE $\frac{1}{4}$, Section 34-136-32, PID #33-034-1100 located at 6869 State #64 SW. Application submitted to reclassify a 20 acre portion of the property from Agriculture/Forestry (AF) to Rural Residential - 20 (RR-20) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Sections 903 and 1000 which establish land use districts standards. The property contains 160.41 acres (AF).

29 notices of the application were mailed with no responses received. The application was reviewed and discussed with the applicants' representative Cindy Hidde.

MS/P Moore/Kostial to approve the reclassification as submitted for PID #33-034-1100 upon review of the criteria contained in Sections 705, 903 and 1000 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. Section 903.5, Rural Residential - 5, 10 & 20; "The purpose of these districts is to promote low-density rural development in those portions of the County outside the shoreland and beyond areas of anticipated municipal growth where less development is desired and most suitable. These zones will be created as reclassifications where the Planning Commission determines that

larger lot sizes are required to protect agriculture interests, critical habitats or preserve the rural nature of an area".

2. The area proposed for reclassification contains less than .01% of the total area of the township.
3. There is nothing to indicate that the smaller lot size and possible subsequent single family development will have any detrimental impact to neighboring property which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or contradict the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
4. The surrounding area, one half mile, contains an area of RR-5 and RR-10 to which there is no reason or evidence to conclude that area land use has been or will be affected or altered by the reclassification.
5. Approval will have no impact to the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. No threat to public health, safety and welfare can be expected.

Conditions:

1. The reclassification shall apply to the acreage and boundary as submitted and recorded.
2. Lot creation shall comply with the requirements of the Subdivision and Platting Ordinance.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

The Shores at Pine Point LLC, Turtle Lake Township on property described as Govt Lot 3 Excluding the E654.06 Feet Thereof, Section 31-143-30, PID #45-231-2403 located at 9693 Pine Point Road NW. Application submitted to expand the existing resort harbor. The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards, Section 1106.2 which regulates the amount of excavation within the lake setback area and Section 1106.5 which establishes harbor construction and expansion requirements. The property contains 11.29 acres riparian to Leech Lake (GD).

PC members were at the site 10/03/16. 33 notices of the application were mailed with one response endorsing approval of the application received. The application was reviewed and discussed Mr. Brad Zubke.

MS/P Kostial/Froehlig to approve the expansion as submitted for the harbor expansion located at PID #45-231-2403 upon review of the criteria contained in Sections 705 and 1106.5 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The harbor to be enlarged currently provides mooring and lake access for the resort.
2. The harbor enlargement will not extend further lake-ward than that of the current harbor.
3. The DNR, Permit #1975-3056, has approved the project.
4. Cass County policy is that of support of the resort industry to thrive by reasonable ordinance development and administration that protect natural resources as well allow for healthy resorts.
5. Resort, boats, boat trailers and water recreation whether commercial or residential are integral to the culture and environment of Cass County and northern Minnesota.
6. No evidence or documentation has been submitted to verify the property values in the area might be affected.
7. There is no evidence to conclude that over the years of operation that the resort has adversely affected neighboring property.
8. An existing township road that will not require expansion or reconfiguration is utilized.
9. No wetland or critical habitat will be disturbed by the project.
10. No scenic or historic features will be affected by the project.
11. No threat to public health, safety and welfare can be expected from the project.
12. Approval will not contradict the purpose of the official controls which are to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and also to promote the health, safety, general welfare.
13. The project will not be obtrusive to the neighborhood and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
14. The application includes provision and location for excavated spoil.

Conditions:

1. The plan and specifications submitted 07/26/16 are approved for implementation.
2. Verification of US ACOE approval must be submitted to ESD prior to the commencement of construction.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. Financial Assurance in the amount of \$5,000 in the form of a letter of credit or cash must be submitted prior to the commencement of construction.
5. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/10/16.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Snyder, Donald & Mary Lynn, Homebrook Township on property described as NW NW, Section 12-135-30, PID #17-012-2200 located at 2481 76th Street SW. Application submitted to reclassify the property from Agriculture/Forestry (AF) to Rural Residential - 20 (RR-20) which requires approval by conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which establishes CUP standards and Sections 903 and 1000 which establish land use districts standards. The property contains 160.41 acres (AF). 29 notices of the application were mailed with no responses received. The application was reviewed and discussed with the applicants' representative Cindy Hidde.

24 notices of the application were mailed with no responses received. The application was reviewed and discussed Mr. Snyder.

MS/P LaPorte/Fitch to approve the reclassification as submitted for PID #17-012-2200 upon review of the criteria contained in Sections 705, 903 and 1000 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. Section 903.5, Rural Residential - 5, 10 & 20; "The purpose of these districts is to promote low-density rural development in those portions of the County outside the shoreland and beyond areas of anticipated municipal growth where less development is desired and most suitable. These zones will be created as reclassifications where the Planning Commission determines that larger lot sizes are required to protect agriculture interests, critical habitats or preserve the rural nature of an area".
2. The area proposed for reclassification contains less than .01% of the total area of the township.
3. There is nothing to indicate that the smaller lot size and possible subsequent single family development will have any detrimental impact to neighboring property which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or contradict the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
4. The surrounding area, one half mile, contains an area of RR-5 and RR-10 to which there is no reason or evidence to conclude that area land use has been or will be affected or altered by the reclassification.
5. Approval will have no impact to the demand for governmental services.

6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. No threat to public health, safety and welfare can be expected.

Conditions:

1. The reclassification shall apply to the acreage and boundary as submitted and recorded.
2. Lot creation shall comply with the requirements of the Subdivision and Platting Ordinance.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

EAW Review/EIS Determination

Hengel Ready-Mix & Construction, May Township on property described as W $\frac{1}{2}$ of Section 24-134-31, Excluding the W 714 Feet of S 1085.8 Feet Thereof, Section 24-134-31, PID #24-124-0001 located along County #34. Hengel Ready-Mix & Construction proposes to use the property for an extractive use, gravel mining. Minnesota Rules 4410.4300 Subpart 12 B. requires the preparation on an Environmental Assessment Worksheet (EAW) for, "Development of a facility for the extraction or mining of sand, gravel, stone or other nonmetallic minerals, other than peat, which will excavate 40 or more acres of land to a mean depth of ten feet or more during its existence." Review of the EAW is assigned to the local governmental unit (LGU) which in Cass County is the Planning Commission. The EAW will be reviewed along with comments received in order to determine if the preparation of an EIS should be ordered. The property contains 300 acres (AF).

MS/P Kostial/Fitch to adopt a Negative Declaration for the preparation of an Environmental Impact Statement for the proposed Hengel Ready-Mix extractive use gravel pit to be located in Section 24-134-31, May Township of Cass County Minnesota:

RESOLUTION REGARDING ENVIRONMENTAL REVIEW FOR THE PROPOSED HENGEL READY-MIX EXTRACTIVE USE GRAVEL PIT TO BE LOCATED IN SECTION 24-134-31, MAY TOWNSHIP, CASS COUNTY, MINNESOTA

WHEREAS, pursuant to Minn. Rules 4410.1000-4410.1700, and Minn. Rule 4410.4300, subpart 20a, Cass County, as the Responsible Governmental Unit (RGU), has prepared an Environmental Assessment Worksheet (EAW) for the proposed Hengel Gravel Pit (hereinafter "Project"); and

WHEREAS, pursuant to Minn. R. 4410.1500, the EAW was distributed to the EQB mailing list and other interested parties on August 22, 2016; and

WHEREAS, Cass County notified the public of the availability of the EAW for public comment, and a news release was provided to the Walker Pilot Independent: thereafter the EAW was published in the EQB Monitor on August 22, 2016, and was made available for review on the Cass County Web site at co.cass.mn.us on August 22, 2016; and

WHEREAS, the public comment period for the EAW began on August 22, 2016 and ended on September 20, 2016. During the 30-day comment period, Cass County received three comment from government agencies; and

WHEREAS, the comments received from government agencies have indicated that there is no need for further information to be developed in order to properly evaluate the project; and

WHEREAS, the Planning Commission has reviewed the record compiled to date, and determined that information necessary for a reasoned decision has been presented; and

NOW THEREFORE, BE IT RESOLVED by the Cass County Planning Commission as follows:

1. Based upon the record prepared, the Planning Commission hereby determines that information necessary to a reasoned decision has been compiled and submitted.
2. Pursuant to Minn. Rule 4410.1700, there are no potential significant environmental effects that can be reasonably expected to occur that cannot be addressed through the CUP process.

NOW THEREFORE, BE IT RESOLVED by the Cass County Planning Commission determines a Negative Declaration for the preparation of an Environmental Impact Statement.

P. Fairbanks
Cass County Environmental Services Department
Cass County Courthouse
PO Box 3000
Walker MN 56484

218-547-7287

paul.fairbanks@co.cass.mn.us

Conditional Use Permit

Hengel Ready-Mix & Construction, May Township on property described as W $\frac{1}{2}$ of Section 24-134-31, Excluding the W 714 Feet of S 1085.8 Feet Thereof, Section 24-134-31, PID #24-124-0001 located along County #34. An application submitted to establish an extractive use consisting of sand/gravel mining, crushing and storage. Such land use requires a conditional use permit (CUP). The applicable sections of the Land Use Ordinance include Section 705 which

establishes CUP standards and Section 1107 which establishes the extractive use criteria and requirements. The property contains 300 acres (AF).

PC members were at the site 10/03/16. 50 notices of the application were mailed. One response opposing approval raising issues of dust, noise and truck traffic was received. In addition one person raising similar issues and access to the site appeared to make public comment. The application was reviewed and discussed with Hengel Ready-Mix representatives Heather and David Schmit along with their consultant Ben Meister.

MS/P Kostial/Froehlig to approve the extractive use gravel pit site and operation at PID #24-124-0001 upon review of the criteria contained in Sections 705 and 1107 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. It has been established that suitable sources of base material required to maintain and construct roads at all governmental levels must be available in adequate and economical quantities.
2. The proposed extractive use complies with Section 1104.9.
3. No wetland or critical habitats will be affected by the proposed land use activity.
4. No scenic or historic features will be affected by the proposed land use activity.
5. No evidence or information has been submitted to establish that the proposed land use will have a detrimental effect to public health, safety or welfare.
6. No evidence or information has been submitted to establish that the proposed land use activity has the potential to alter or be detrimental to land use in the general area.
7. Approval will not increase the need or demand for governmental services because no public road improvements are required and it does not require waste water treatment.
8. Approval will not contradict the purpose of the official controls, the Land Use Ordinance, which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and also to promote the health, safety, general welfare.
9. The proposed extractive use site is not adjacent to readily or observable from residential structures, public infrastructure or the public in general which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.

Conditions:

1. The operation plans and specifications submitted with the application are adopted and approved for implementation and shall not be altered without review and approval of the Planning Commission.

2. The Site Development Plan and the Reclamation Plan submitted with the application are adopted and approved and shall not be altered without review and approval of the Planning Commission.
3. The Industrial Storm Water Pollution Plan is adopted and approved as submitted.
4. Financial assurance in an amount determined by Section 1107.1 B. shall be submitted to ESD in order to allow commencement of operations.
5. The applicant shall notify ESD of the dates and duration of all extractive use activity.
6. The applicant shall obtain and maintain all applicable MPCA permits.
7. The operation of the extractive use activity shall subscribe to and implement all applicable best management practices established in "A Handbook for Reclaiming Sand and Gravel Pits in Minnesota" published by the Minnesota DNR, July 1992.
8. Traffic control at the junction of the access road and County #104 shall be operated so as to not create a safety hazard and to comply with the "Manual on Uniform Traffic Control Devices for Streets and Highways" published by the US Department of Transportation, Federal Highway Administration, 2009 Edition.
8. No asphalt operations shall be conducted without the review and approval of the Planning Commission.
9. Unless revoked or otherwise revised by the Planning Commission this approval shall be effective as long as the site is used for the approved land use.
10. Dust control as contained and prescribed in the Plan for Operation must be observed and implemented at all times.

COMPLIANCE WITH ALL CONDITIONS IS REQUIRED. FAILURE TO COMPLY WITH ANY CONDITION SHALL RESULT IN A VIOLATION AND SUBJECT THE APPLICANT TO ENFORCEMENT PROCEDURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, REVOCATION OF THIS VARIANCE, REMOVAL OF VIOLATIONS AND MITIGATION.

Other Business

* Request received from David M. Schmitt to extend the expiration date and to revise the residence configuration of VP15-139-30-8 which was approved 10/13/14.

MS/P Moore/Kostial to extend the expiration of VP15-139-30-8 until 10/13/18 and approve the footprint revision as submitted.

* Request received from Sylvan Township to reclassify PID #41-109-3306 from Rural Residential 2.5 (RR-2.5) to Commercial (C). Commercial activity in Sylvan Township is administered and regulated by the township.

ESD staff directed to assess various options and report to PC.

* Request received from Kory Nelson to revise CU16-142-31-1 approved 07/25/16. Mr. Nelson requests revision to Condition #5, "Access shall only be through the existing approach to County #12." The proposed revision is based upon topography limiting the use of the current access

and which requires two approaches to County #12. One approach for entrance and one approach for exit.

MS/P Moore/Kostial to revise ingress/egress for CU16-142-31-1 as submitted and explained by Terry Freeman.

* Request received from Quarterdeck Resort to be allowed to exceed the square feet footprint for a proposed lower level coffee/ice cream shop with upper level to include guest check-in area and resort guest units which will result the resort exceeding the maximum square footage allowed in Tier 1.

MS/P LaPorte/Fitch to allow for an increase of 629 square feet in Tier 1 provided that the increase be accompanied by a decrease of 629 square feet in Tier 1 and that the density neutral revision be verified to ESD and the PC.

* Request received from Pat Swenson to extend the expiration date of VP11-140-31-4 approved 10/10/11 to 10/10/17 in order to record the lot creation as approved with conditions as approved.

MS/P Kostial/Moore to extend the expiration of VP11-140-31-1 until 10/10/17 as requested.

MS/P Froehlig/Fitch at 3:00 PM, to adjourn.

P. Fairbanks