



Cass County  
Planning Commission

March 8, 2010

The Cass County Board of Adjustment conducted a regular meeting March 8, 2010 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted March 1 & 2, 2010.

Sundberg called the meeting to order at 10:02 a.m.

Members present: Ballenthin, Fitch, Gardner, Gould, Moore, Sundberg and Weber.

Staff Present: Berg and Fairbanks.

Citizens Present: Harold Brace, Melanie Burns, Tom Dechmann, Terry Freeman, Don Gilmer, Al Glad, Bob Huewe, Harley Kaiser, Tim Keen, Matt Kreuger, Ken LaPorte, Marilyn Lodin, Brad Manson, Teresa Manson, Butch McDonald, Tom Moser, Dave Rasinski, Ray Rasinski, Mike Schlener, Gary Severson, Ron Stokesbary, Linda Wallin, Chuck Wayt, Norm Wieland, Karen Wolf and Lewis Wolf.

MS/P Gould/Fitch to approve the minutes of the 11/24/09 regular Planning Commission meeting as presented.

MS/P Gould/Weber to approve the minutes of the 12/14 Board of Adjustment regular meeting as presented.

#### Applications for Variance

Burns, Melanie & Ron, Powers Township, VP10-139-30-1 on property described as Lot 3, Blk 1, "Terrils Deer Haven", Section 20-139-30, PID # 34-418-0130 located at 823 State 371 NW. An application submitted to expand an existing non-conforming residence located 41 feet from the right-of-way of TH # 371 by an expansion of the existing second story of the residence. The property contains 3.16 acres in the non-shoreland area (RR-2.5). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/01/10. 19 notices of the application were mailed. No responses were received. The proposal was discussed and reviewed with Ms. Burns.

MS/P Gould/Fitch to approve the application to approve the application for the residence expansion located at PID # 34-418-0130 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and condition along with criteria established by court decisions with the following findings and condition.

Findings:

1. The existing setback from the right-of-way from TH # 371 was approved by permit.
2. The expanded second story will not affect ground or surface water.
3. The expanded second story will have no affect to the land use of the area.
4. The expanded second story is reasonable as based upon the existing configuration of the residence.
5. No comments were received from Powers Township, MN DOT, other agencies or persons notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.
8. Approval of the expanded second story will not increase the need or demand for governmental services.

Condition:

1. The addition to the second story shall not exceed 28 feet x 30 feet and not exceed 30 feet to the peak.

Dirks, Blake & Joellen, Woodrow Township, VP10-140-29-2 on property described as Pt of Gov Lot 6, Section 34-140-29, PID # 51-034-3108 located at 1076 Wild Plum Trail NW. An application submitted to expand an existing non-conforming residence located 78 feet from the lake with a 12 feet x 26 feet addition to be located on the non-lakeside of the residence. The property contains 8.87 acres riparian to Lower Sand Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/02/10. 30 notices of the application were mailed with no responses received. The application was discussed and reviewed with property owners' representative Mr. Krueger.

MS/P Gould/Weber to approve the application for the residence expansion located upon PID # 51-034-3108 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The addition will not be visible from the lake.
2. The addition will not affect ground or surface water.
3. The addition will have no affect to the land use of the area.
4. The addition is reasonable based upon the location and configuration of the existing residence.
5. No comments have been received from Woodrow Township, agencies or persons notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.
8. The addition will not increase the demand or need for increased governmental services.

Conditions:

1. The addition shall not exceed 12 feet x 26 feet.
2. ESD shall determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.

Glad, Allan & Mary Jo, Crooked Lake Township, VP10-139-26-2 property described as Lot 17 Thru 20 Less W  $\frac{1}{2}$  of Lot 20, "Andresen Bay", Section 14-139-26, PID 12-422-0170 located at 6541 Andresen Bay Drive NE. An application submitted "after the fact" to be allowed to retain a 12 feet x 13 feet deck located 49 feet from the lake constructed without permit. The property contains 1.86 acres riparian to Lake Roosevelt (GD). Section 1126.8 B. of the Land Use Ordinance allows for deck addition to a non-conforming residence provided setback criteria is met but which this deck exceeds by 4 feet.

BOA members were at the site 03/01/10. 83 notices of the application were mailed. No written responses were received. The application was reviewed and discussed with Mr. Glad.

MS/P Ballenthin/Moore - Ballenthin-Yes, Fitch-Yes, Gardner-No, Gould-No, Moore-Yes Sundberg-Yes, Weber-Yes to approve the application as submitted to allow retention of the deck as constructed at PID # 12-422-0170 as submitted upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and condition.

Findings:

1. The portion of the deck, 4 feet toward the lake, not allowed by permit apparently has not affected ground or surface water.
2. The portion of the deck, 4 feet toward the lake, not allowed by permit has no affect to the land use of the area.
3. The deck size and location is not unreasonable based upon the location and configuration of the residence.
4. Two responses from property owners located within the one quarter mile notification area both offering no objection to the deck were received.
5. No comments have been received from Crooked Lake Township or agencies notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.
8. Approval of the deck at existing size and location will not increase the demand or need for additional government services.

Condition:

1. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of \$1/sq. ft. based upon the size of a no mow area and \$3/sq. ft based upon the size of a planting/re-vegetation planting area.

Hereid, Rita, Birch Lake Township, VP10-140-30-1 on property described Lot 7, Blk 1 Lyg S of N Line of 140-30 & Pt of Lot 8, Blk 1, "Long Bay Shores 1st Addn" & Pt of Gov Lot 3, Section 6-140-30, PID # 05-363-0140 located at 4644 Long Bay Road NW. An application submitted to expand an existing non-conforming residence located 14 feet from the lake with a 10 feet x 20 feet addition to be located on the non-lakeside of the residence. The property contains 1.33 acres riparian to Ten Mile Lake (GD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/01/10. 47 notices of the application were mailed with no responses received. The application was reviewed with the applicant's representative Ms. Wallin.

MS/P Ballenthin/Fitch to approve the expansion of the residence located at PID # 05-363-0140 as proposed upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The addition will not be visible from the lake.
2. The addition will not affect ground or surface water.

3. The addition will have no affect to the land use of the area.
4. The addition is reasonable based upon the location and configuration of the residence.
5. No comments were received from Birch Lake Township, agencies or persons notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.
8. Approval of the addition will not increase the demand or need for additional government services.

Conditions:

1. The addition shall not exceed 10 feet x 20 feet.
2. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.
3. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of \$1/sq. ft. based upon the size of a no mow area and \$3/sq. ft based upon the size of a planting/re-vegetation planting area.
4. The residence must be guttered in order to direct run-off away from the lake into a retention structure(s) such as a rain garden(s).

Kovalchuk, Mark & Monica, Fairview Township, VP10-134-30-2 on property described as Pt of Gov Lot 3, Section 13-134-30, PID # 14-113-4418 located at 2091 Perch Lane SW. An application submitted to expand an existing non-conforming residence located at less than required bluff setback with 9 feet x 10 feet and 10 feet x 26 feet additions to be located on the non-lakeside of the residence and away from the top of the bluff. The property contains 1.07 acres riparian to Gull Lake (GD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary.

BOA members were at the site 03/02/10. 52 notices of the application were mailed. One response, from Fairview Township, recommending approval of the application was received. The application was discussed and reviewed with applicants' representative Mr. Severson.

MS/P Moore/Gould to approve the application to expand the residence at PID # 14-113-4418 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The expansion of the residence will be non-lakeside not visible from the lake.
2. The residence was constructed at less than the current required bluff setback prior to adoption of bluff setback standards.
3. The additions will not affect ground or surface water.
4. The additions will have no affect to the land use of the area.
5. The additions are reasonable based upon the location and configuration of the residence.

6. Other than Fairview Township which recommends approval, no other comments have been received from agencies or persons notified.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the expansion will not increase the need or demand for additional government services.

Conditions:

1. The additions shall not exceed 9 feet x 10 feet and 10 feet x 26 feet.
2. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.

Lissick, Greg & Sonsalla-Lissick, Judy, Wilkinson Township, VP10-144-31-1 on property described as S  $\frac{1}{2}$  of Lot 3 and All of Lot 4, "Plamor Subdivision", Section 36-144-31, PID # 49-445-0031 located at 12221 Crooked Lake Road NW. An application submitted to expand an existing non-conforming residence located 75 feet from the lake with a 6 feet x 8 feet addition and a 14 feet x 30 feet addition both located on the non-lakeside of the residence. Also included in the application is a request to remove an existing 20 feet x 22 feet garage and replace with a 24 feet x 26 feet garage no closer to the lake than the current 68 feet. The property contains .65 acres riparian to Crooked Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence. Section 1126.1 A. of the Land Use Ordinance requires that a new structure on a lake classified Recreational Development be at least 100 feet from the ordinary high water level (OHWL).

BOA members were at the site 03/01/10. 15 notices of the application were mailed with no responses received. The application was discussed and reviewed with applicants' representative Mr. Brad Lissick.

MS/P Ballenthin/Fitch to approve the application to expand the residence and to construct a garage at PID # 49-445-0031 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The expansion of the residence will be located on the non-lakeside and not be visible from the lake.
2. The location of the addition and garage will not affect ground or surface water.
3. The location of the addition and garage will have no affect to area land use.
4. The lot lacks the depth for the garage location to comply with lake and right-of-way setbacks
5. No comments were received from Wilkinson Township, agencies or persons notified.
6. Financial consideration is not the sole basis of the application.
7. The request is not a substantial variation from the Land Use Ordinance standards.

8. Approval of the expansion and garage will not increase the need or demand for government services.

Conditions:

1. The additions shall not exceed 6 feet x 8 feet and 14 feet x 30.
2. The garage shall not exceed 24 feet x 26 feet and be not less than 18 feet from the driving surface of Crooked Lake Road and no closer to the lake than the existing garage.
3. Access to the garage must from the north
4. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.
5. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of \$1/sq. ft. based upon the size of a no mow area and \$3/sq. ft based upon the size of a planting/re-vegetation planting area.
6. Any material resulting from the removal of the existing garage not recycled or reused must be disposed of in a permitted facility.

Manson, Brad & Teresa, Fairview Township, VP10-134-30-1 on property described as SE SE, Section 21-134-30, PID # 14-121-4400 located at 3381 Beauty Lake Road SW. An application submitted to replace an existing 18 feet x 22 feet residence with a 30 feet x 32 feet residence at the same setback from the lake which varies from 56 feet to 65 feet and be allowed to construct a 30 feet x 30 feet accessory/storage structure located 88 feet from the lake and 12 feet from the driving surface of Beauty Lake Road. In addition, the applicants request to be allowed to retain, "after the fact", an existing 18 feet x 20 feet x 7 feet unattached deck located 15 feet from the lake The property contains 39.98 acres riparian to Beauty Lake (NE). Section 1126.1. A. of the Land Use Ordinance requires structures to be located at least 150 feet from a lake classified Natural Environment (NE). Section 1126.1 B. requires structures to be setback 20 feet from the right-of-way of a township road, dedicated public road or other public roads not classified.

BOA members were at the site 03/02/10. 15 notices of the application were mailed. Two responses of no objection were received. In addition, correspondence received from Fairview Township recommending approval of the residence setback along with comments in regard to the location of to the deck and proposed storage building. The application was discussed and reviewed with Mr. Manson along with his contractor Mr. Rasinski.

MS/P Ballenthin/Weber to table consideration of the application to the 04/12/10 meeting in order for the applicants to submit a revised site plan.

Moser, Thomas, Crooked Lake Township, VP10-134-30-1 on property described as Rev Desct of Gov Lot 1, Section 26-139-26, PID # 12-026-2213 located at 718 State 6 NE. An application submitted to replace an existing 36 feet x 44 feet residence, including decks, with new construction of a 30 feet x 40 feet residence, an attached 18 feet x 22 feet garage and attached deck located at less than 30 feet from the top of a bluff. The property contains .9

acres riparian to Lake Roosevelt (GD). Section 1126.1. B. of the Land Use Ordinance requires structures to be located at least 30 feet from the top or toe of a bluff.

BOA members were at the site 03/02/10. 58 notices of the application were mailed. One response objecting to approval of the application was received. The application was discussed and reviewed with Mr. Moser.

MS/P Gould/Weber to table consideration of the application to the 04/12/10 meeting in order for the applicants to submit a revised site plan.

Sampson, Sheldon, Woodrow Township, VP10-140-29-1 on property described as Pt of Gov Lot 3, Section 36-140-29, PID # 51-036-2102 located at 168 Norman Point Road NW. An application submitted to expand an existing non-conforming residence with a 12 feet x 16 feet addition which would be 68 feet from the lake. The property contains 1.1 acres riparian to Blackwater Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/01/10. 59 notices of the application were mailed. One response from a directly adjacent neighbor with no objection to the application was received. The application was discussed and reviewed with applicant's representative Mr. McDonald.

MS/P Gould/Weber to approve the application to expand the residence PID # 49-445-0031 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

#### Findings:

1. The addition will not affect ground or surface water.
2. The addition will have no affect to area land use.
3. The addition is reasonable based upon the location and configuration of the residence.
4. Except for the response of an adjacent neighbor offering no objection, no comments were received from Woodrow Township, agencies or other persons notified.
5. Financial consideration is not the sole basis of the application.
6. The request is not a substantial variation from the Land Use Ordinance standards.
7. Approval of the addition will not affect the need or demand for government services.

#### Conditions:

1. The addition shall not exceed 12 feet x 16 feet and shall be no closer to the lake than the current setback.
2. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.



3. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of \$1/sq. ft. based upon the size of a no mow area and \$3/sq. ft based upon the size of a planting/re-vegetation planting area.

Schlener, Michael, Wabedo Township, VP10-140-28-1 on property described as Lot 4, Blk 2, "Rogers Point", Section 27-140-28, PID # 46-456-0240 located at 2958 Diamond Crest Road NE. Application submitted to construct a 42 feet x 42 feet residence which would be 70 feet from the lake. The applicant will remove from the property a 10 feet x 34 feet guest quarter structure that was allowed to remain at 50 feet from the lake by variance VP09-140-28-3. The property contains 1.4 acres riparian to Lake Wabedo (RD). Section 1126.1 A. of the Land Use Ordinance requires structures to be located at least 100 feet from a lake classified Recreational Development (RD).

BOA members were at the site 03/01/10. 27 notices of the application were mailed. Four responses including Wabedo Township all objecting to the application were received. The application was discussed and reviewed with Mr. Schlener. After discussing several options based on the existing variance and proposed variance, Mr. Schlener elected to withdraw the application from consideration.

MS/P Ballenthin/Weber to accept Mr. Schlener's decision to withdraw the application from consideration.

Stormer, Kevin, Powers Township, VP10-139-30-2 on property described as Lot 5, "Eldo Shore", Section 32-139-30, PID # 34-469-0050 located at 4039 2nd St NW. Application submitted to construct a 30 feet x 32 garage which would be located seven feet from the right-of-way of 2nd Street and exceed the maximum square feet of accessory structure based upon lot size. The proposed and existing accessory structure would exceed the maximum allowed by 24 square feet. The property contains .75 acres riparian to Bowen Lake (RD). Section 1126.1 B. of the Land Use Ordinance requires structures to be located at least 20 feet of a platted road. Section 1101 of the Land Use Ordinance allows a maximum of 1,200 square feet for a .5 to .99 acre riparian lot.

BOA members were at the site 03/01/10. 29 notices of the application were mailed. No written responses received. Several property owners from the notification area appeared inquire as to the setback of the structure from the road and its height. The application was discussed and reviewed with Mr. Stormer.

MS/P Ballenthin/Fitch to approve the application for the accessory structure on PID # 34-469-0050 as submitted upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The garage will not be visible from the lake.

2. The location of the drain field restricts placement options for the garage.
3. The location of the garage will not affect ground or surface water.
4. The garage size will have no affect to area land use.
5. The location of the garage is reasonable based upon the location of the drain field along with the configuration of the lot.
6. No comments were received from Powers Township or agencies notified.
7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the garage will not affect the need or demand for government services.

Conditions:

1. The garage shall not exceed 30 feet x 32 feet and not be less than 7 feet from the driving surface of 2nd Street.
2. Access to the garage must be from the West.
3. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.

Sweeny, Kathleen, Inquadona Township, VP10-141-27-1 on property described as Pt of Gov Lot 6, Section 31-141-27, PID # 18-032-3204 located at 4868 Mix Lane NE. An application submitted to expand an existing non-conforming residence by removing an existing 12 feet x 19 feet addition which would be replaced with a 12 feet by 24 feet addition which would be from 35 feet to 43 feet from the lake. The property contains .79 acres riparian to Lake Inquadona (GD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/01/10. 14 notices of the application were mailed with no responses received. The application was discussed and reviewed with Ms. Sweeny and the members centered upon the request for the expansion to be two feet closer to the lake and the condition of the foundation.

MS/P Moore/Ballenthin to table consideration of the application until the 04/12/10 meeting as requested by the applicant in order to allow consideration of expansion options.

MS/P Ballenthin/Moore to reconsider the application as requested by the applicant.

MS/P Ballenthin/Moore to approve the application for expansion of the residence at PID # 18-032-3204 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The expansion, 60 square feet, will not alter the view of the residence from the lake.
2. The existing lakeside addition foundation is substandard with substantial decay.

3. The addition will not affect ground or surface water.
4. The addition will have no affect to area land use.
5. The addition is reasonable based upon the configuration residence and the condition of the existing lakeside addition foundation.
6. No comments were received from Inguadona Township, agencies or persons notified.
7. Financial consideration is not the sole basis of the application.
8. The size of the expansion, 60 square feet, is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the addition will not affect the need or demand for government services.

Conditions:

1. The size of the expansion shall not exceed 5 feet x 12 feet.
2. The size of the expansion and the replacement of the existing addition shall not exceed 12 feet x 24 feet.
3. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.
4. ESD shall determine the need for shoreline vegetation and if required approve a plan for restoration along with financial assurance of \$1/sq. ft. based upon the size of a no mow area and \$3/sq. ft based upon the size of a planting/re-vegetation planting area.

Tessman, Christopher & Camp Callie, Barclay Township, VP10-138-29-1 on property described as Lot 3, Blk 1, "Shady Point Villas", Section 30-138-29, PID # 02-403-0130 located at 2328 19th St SW. An application submitted to expand a non-conforming residence with a 10 feet by 21 feet addition which would be 72 feet from and not visible to the lake. The property contains .03 acres riparian to Norway Lake (RD). Section 1115.3 B. of the Land Use Ordinance requires a variance in order to expand a non-conforming primary residence.

BOA members were at the site 03/02/10. 55 notices of the application were mailed with no responses received. The application was discussed and reviewed with applicant's contractor Mr. Keen.

MS/P Moore/Ballenthin to approve the application for expansion of the residence at PID # 02-403-0130 upon review of Section 805 of the Land Use Ordinance (3/1/09) along with criteria established by court decisions with the following findings and conditions.

Findings:

1. The addition will not be visible from the lake.
2. The structure configuration on the property is a result of former resort use.
3. The addition will not affect ground or surface water.
4. The addition will have no affect to the land use of the area.
5. The addition is reasonable based upon the location and configuration of the residence.
6. No comments were received from Barclay Township, agencies or persons notified.

7. Financial consideration is not the sole basis of the application.
8. The request is not a substantial variation from the Land Use Ordinance standards.
9. Approval of the addition will not affect the need or demand for government services.

Conditions:

1. The addition shall not exceed 10 feet x 21 feet.
2. ESD must determine the need for construction erosion control and if required approve erosion control placement prior to the commencement of construction.

Conditional Use Permit & Preliminary Plat

RNS Development Inc, Turtle Lake Township, CU10-142-30-1 & PL10-14230-1 on property described as Part of Govt Lot 7, Section 20-142-30, PID # 45-120-3112, PID # 45-120-3113 & PID # 45-120-3114 located at 8055 Onigum Road NW and at 8051 Onigum Road NW. An application submitted for conditional use permit (CUP) to establish and operate a resort. In addition the applicant is requesting the approval of a preliminary plat to be known as "RNS Lighthouse Point" in order that the resort units may be purchased while remaining available for rental occupancy. The preliminary plat consists of five riparian lots each to be occupied by a residence resort structure and two non-riparian lots each to be occupied by five garage structures. The property contains 4.33 acres classified Water Oriented Commercial (WOC) riparian to Leech Lake (GD). Section 1104.9 D. of the Land Use Ordinance requires that a conditional use permit be obtained to establish a new resort. Section 704.2 of the Land Use Ordinance establishes CUP review criteria. Preliminary plats are reviewed according to the criteria contained in Articles 4 & 5 of the Subdivision and Platting Ordinance.

BOA members were at the site 03/01/10. 83 notices of the application were mailed with no written responses were received. Several property owners from within the notification area were present with one offering support of approval. The application was discussed and reviewed with Nancy and Richard Schaefer along with the surveyor Terry Freeman primarily centered upon ownership and rental details as well as plat compliance with preliminary plat criteria.

MS/Failed Moore/Fitch - Ballenthin-No, Fitch-Yes, Gardner-No, Gould-No, Moore-Yes, Weber-No to approve the application as submitted. Motion to approve fails with two yeas and four nays based upon the following findings.

Findings:

1. The applicant proposes a resort including five vacation homes and five garages. Each vacation home will have secondary ownership in quarter-shares, that is, each vacation home will be privately owned and have four owners with each owning a one-fourth share. Each quarter share owner is entitled to full use of the entire home one week per month for a total of 13 weeks per year on a rotating basis.

2. Each owner can decide to keep all weeks for the owner's private use. No owner is required to offer up for rental any of the owner's weeks. The vacation home may be used by the owners entirely as a private home. If an owner decides to offer up any of the owner's weeks for rental, the management will offer it up for rent.

3. There will be nothing in writing which requires any owner to offer up for rental any of the owner's weeks of shared ownership. The applicant is not proposing to require rental by covenant, rule, by-law, association regulation or other means.

4. "Resort" is defined in the Environmental Definitions Ordinance #2007-04 (May 25, 2007), incorporating amendments made by Ordinance #2009-03  
EFFECTIVE DATE: March 1, 2009, as follows:

Resort: A business including the following characteristics:

1. Catering primarily to those seeking recreation for periods of one day to one week or longer, and;
2. Having a current lodging license, manufactured home park license, or recreational camping area license from the Minnesota Department of Health.

And also including at least one of the following characteristics:

- a. Having for rent three or more resort cabins, rooms, buildings, structures, or enclosures kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public on a daily, weekly, monthly, or seasonal basis,
- b. Having campsites, recreational camping vehicle sites, or manufactured housing sites that are available to the public on a daily, weekly, monthly, or seasonal basis. (This definition amended by the

Land Use Ordinance for Cass County, Minnesota, Ordinance #2005-02, Effective Date: September 5, 2005)

5. The resort proposed by applicant fails to meet the definition of "Resort" because there is no requirement that the privately owned vacation homes be available for rent and because there is no requirement that the privately owned vacation homes be "kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public on a daily, weekly, monthly, or seasonal basis (emphasis added)."

6. Section 1104.9.F.2 of the Land Use Ordinance (including all amendment through Ordinance 2009-07 effective January 10, 2010) allows Second Party Ownership in resort units, provided that "All cabins or rental units are included in the resort rental business." The resort proposed by applicant fails to meet this proviso because there is no evidence that all privately owned vacation homes in fact will be available for rent or included in a resort rental business.

## Other Business

1. Review proposed Rules of Business along with proposed revisions submitted by Jim Ballenthin.

MS/P Ballenthin/Weber to table consideration of the proposed Rules of Business until the 04/12/10 meeting.

2. Request received from Ross Olsen to revise CU09-140-30-2 to be allowed to conduct seasonal weekend market activities which would include a combination of a flea market, growers market and artisan's market. Mr. Olsen's property is located at the junction of TH # 371 and CSAH # 45. CU09-140-30-2 was approved 4/28/09 to allow a chainsaw sculpture event to take place on the property.

MS/P Weber/Gardner to approve the revision CU09-140-30-2 as requested with the following conditions.

1. The conditions to CU09-140-30-2 shall not be altered or affected by this revision.
  2. No parking shall be allowed on the shoulders or within the right-of-way of TH #371 or CSAH #45.
  3. No items, food stuffs, arts or craft offered for sale during the weekend events shall be stored or remain in the sales area Monday through Thursday except for holidays.
3. Discuss county/township land use regulation relationship for the purpose of a recommendation to the County Board to adopt proposed county/township policy.

MS/P Moore/Ballenthin to approve the proposed county/township land use administration and regulation policy and to recommend adoption by the County Board.

4. Review memo from ESD Resources Specialist Retta Freeman in regard to VP09-133-29-4 for the purpose of accepting her recommendation for the record.

MS/P Moore/Ballenthin to accept the memo as presented as part of the satisfaction of the conditions of VP09-133-29-4 and that development as allowed by the variance may continue.

MS/P Gould/Fitch at 4:54 p.m., to adjourn.

Paul Z. Fairbanks