



Cass County  
Planning Commission/Board of Adjustment

July 11, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting July 11, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspections were conducted July 5, 2011 with Bliss, Fitch, Gardner, Gould, Kostial, Moore and Sundberg present and July 6, 2011 with Bliss, Fitch, Gould and Kostial present.

Sundberg called the meeting to order at 9:10 a.m.

Members present: Fitch, Gardner, Gould, Kostial, Moore and Sundberg.

Staff Present: Berg and Fairbanks.

Citizens Present: Steve Baker, Marilyn Black, Vern Black, Paul Bork, Yvonne Bork, Julie Chapman, Mike Chapman, Pam Campbell, Chuck Cowan, Terry Daudt, Mike Donovan, Kyle Duclos, Dave Frana, Jackie Frana, Lou Gogela, Brian Hanson, Michelle Heller, Dan Kell, Keith Kile, Mitch Loomis, Ken Nordin, Kathy Pfaaf, Larry Pfaaf, Diane Power, Bob Reinceke, Llonna Reinceke, Marvin Theis, Patricia Theis, Bob Theisen, Fran Theisen, Gina Theisen, Tom Theisen, Cindy Wieland, and Norm Wieland.

MS/P Fitch/Gould to approve the minutes of the 06/13/11 PC/BOA meeting as presented.

Variance

Black, Marilyn & Vernon, Pine Lake Township on property described as Lot 4, Blk 1 "Leech Lake Homesites", Section 1-141-29, PID # 30-339-0120 located at 108 White Rock Lane NW. An application submitted to expand a non-conforming residence with a 12 feet x 30 feet addition and a 26 feet x 34 feet attached garage. The residence is non-conforming because it is 63 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 75 feet from a lake classified General Development (GD). Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. The property contains .51 acre riparian to Leech Lake (GD).

PC members were at the site 07/05/11. 20 notices of the application were mailed with no responses received. The application was discussed and reviewed with applicants.

MS/P Fitch/Gardner to approve the application to expand the structure located upon PID # 30-339-0120 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The original structure was constructed when the property was a DNR lease lot at less than 75 feet from the lake.
2. The proposed additions are modest in size, do not increase setback encroachment and will be mostly unobservable from the lake therefore it can be concluded that a variance for the expansion 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 also to promote the health, safety, general welfare.
3. The proposed additions are modest in size, do not increase setback encroachment and will be mostly unobservable from the lake therefore it can be concluded that a variance for the expansion does not contradict the purpose of the comprehensive plan which is to provide a basis for land use decisions and protect the county's natural resources.
4. The proposed new construction is modest in size and located in a manner to as least obtrusive for the lake and highway 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.
5. The proposed expansion size is not excessive or extreme therefore can be deemed reasonable.
6. The proposed expansion will not affect area land use because there are similar residences along White Rock Lane and because the proposed expansion will not significantly alter its view from the lake.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included, No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 expansion shall not exceed 1,532 square feet as configured on the site plan submitted with the application 06/23/11.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD must 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. No storm water run-off to the lake or to adjoining properties is permitted. The approved expansion and structure, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the river and adjoining properties.
5. Existing shore vegetation must be maintained.
6. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Bork, Paul & Yvonne, Ponto Lake Township on property described as Lot 2, Blk 1, "Lundrigans Spring Beach", Section 22-139-29, PID # 32-433-0110 located at 1012 Ada Lane NW. An application submitted to construct a 28 feet x 42 feet, 1176 square feet, accessory structure. Proposed accessory structure and existing accessory structure, 832 sq. ft., would total 2008 square feet. Section 1101 of the Land Use Ordinance limits accessory structure maximum square footage on riparian lots of 1 - 1.49 acres to 1200 square feet. The property contains one acre riparian to Lake Ada (RD).

PC members were at the site 07/06/11. 36 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Bork.

MS/P Moore/Kostial to approve the application for the garage to be located upon 32-433-0110 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

## Findings:

1. The proposed structure will not be observable from the lake or affect run-off to the shoreline therefore it can be concluded that a variance for the new construction does not contradict the purpose of the official control, 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.
2. The proposed construction will not be observable from the lake or affect run-off to the shoreline therefore can be concluded that a variance for the replacement construction does not contradict the purpose of the comprehensive plan which is to provide a basis for land use decisions and protect the county's natural resources.
3. The proposed construction is not excessive or extreme in size or configuration therefore can be deemed reasonable.
4. The proposed new construction is modest in size and located in a manner to as least obtrusive for the lake and highway 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.
5. The proposed construction is not excessive or extreme in size or configuration therefore can be deemed reasonable.
6. The proposed construction will not affect area land use because there are similar structures along White Rock Lane, it will not be directly observable from neighboring property or from the lake.
7. The existing accessory structure was constructed prior to the adoption of accessory structure size limitation based upon lot size.
8. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: If the following conditions are included, No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 dimensions and location of the expansion shall not vary from the site plan submitted with the application 06/23/11.
2. The garage shall comply with all applicable setback requirements.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the river or to adjoining properties is permitted. The approved expansion, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the river and adjoining properties.
6. Existing shore vegetation must be maintained.
7. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Carey, Brian, Hiram Township on property described as Lot 1 "Elmhurst & Adjacent Vacated Portion of RDWY, Section 12-140-31, PID # 16-400-0010, 16-001-3311, and 16-001-3312 located at 5116 Aspen Trail NW. An application submitted as "Option A" to expand a non conforming structure at 30 feet from the lake with a 2300 + sq ft addition with an attached garage, or "Option B" to construct a new residence at 60 feet from the lake and construct an addition to a non conforming cabin and retain as guest quarters on a lot that is less than the minimum lot size requirements for guest quarters. Section 1113.1 of the Land Use Ordinance requires a minimum of 180 feet of width and 60,000 sq ft lot area in order to be allowed guest quarters; the existing lots contain 31,032 sq ft lot area and 140 feet in width. Section 1115.3 B states that any expansions to a non conforming structure shall require a variance. Section 1126.1 A of the Land Use Ordinance requires structures to be placed at 75 feet from Ten Mile Lake classified as General Development (GD). The property contains .72 acre riparian to Ten Mile Lake (GD).

Consideration of this application was tabled during the 05/09/11 meeting in order for the applicant to submit a revised site plan. PC members were at the site 05/02/11 and 07/05/11. 35 notices of the application were mailed for each meeting. Six responses in response to the May notice opposed o the application, one favoring Option B from the Ten Mile Lake Association, of mostly no objection and one limited to a question as to the location of the drainage easement

were received. Four responses opposed to the application were received in response to the July meeting mailing. The size and location of the expansion, the location of the SSTS, a detached garage, and the condition of the existing residence were discussed by the members and the applicant's representative Mr. Hanson.

M Gould to deny the application. Motion failed for lack of a second.

MS/P Gould/Fitch - Fitch/Yes, Gardner/Yes, Gould/No, Moore/Yes to table consideration of the applicant until the 08/08/11 meeting in order for Mr. Hanson to consult with the applicant in order to consider possible reconfiguration of the proposed expansion of the existing residence.

Chapman, Julie & Michael, Rogers Township on property described as Lot 6 "Fawn Park", Section 20-142-27, PID # 36-397-0060 located at 8225 Boy Lake Drive NE. An application submitted "after the fact" to be allowed to expand a non-conforming structure with 6 feet x 54 feet, 4 feet x 10 feet and 4 feet x 16 feet additions. The residence is non-conforming because it is located 60 feet from the lake. Section 1115.3 B requires a variance to expand a non-conforming residence. Section 1126.1 A of the Land Use Ordinance requires structures to be located 75 feet from a classified as General Development (GD). The property contains 1.12 acres riparian to Boy Lake (GD).

PC members were at the site 07/05/11. 33 notices of the application were mailed. One response of no objection to the application was received. The application was discussed and reviewed with Julie and Michael Chapman.

MS/P Fitch/Moore to approve the application as submitted and reviewed for expansion of the residence located upon PID # 46-003-4400 upon review of criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The residence was constructed in 1978 with permit.
2. The expansion is modest in nature and does not necessarily contradict the purpose of the official control, 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, general welfare.
3. The expansion is modest in nature and it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use 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 expansion is not excessive or extreme in size and can be deemed reasonable.
5. The applicant did not construct the original structure.

6. The proposed expansion will not affect area land use because there are similar residences along Boy Lake and will its view from the lake is not significantly altered.

7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.

2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 residence shall not exceed the dimensions in place 07/11/11.

2. The area under the overhang may be occupied by deck but shall not be enclosed.

3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.

4. No storm water run-off to the lake or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.

5. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

6. The Director ESD shall determination appropriate administrative fees for staff and PC costs in resolving the "after the fact" situation.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions

of the approved plan for vegetation not completed in accordance with the implementation schedule will be installed at the direction of ESD and charged against the financial assurance.

7. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Donovan, Douglas, Sylvan Township on property described as Pt of SE NE, Section 17-133-29, PID # 41-117-1411 located at 12976 River Trail SW. An application submitted "after the fact" to be allowed to retain a 12 feet x 16 feet bath house located less than 100 feet from the river. In addition calls for a subsurface sewage treatment system (SSTS) to be located less than 75 feet from the river. Section 1126.1 A of the Land Use Ordinance requires structures to be located 100 feet and SSTS to be located 75 feet from a river classified Tributary (TR). The property is riparian to the Gull River (TR).

PC members were at the site 07/06/11. 14 notices of the application were mailed. One response from Sylvan Township recommending approval was received. The application was discussed and reviewed with the applicant's brother Mike Donovan.

MS/P Kostial/Fitch to approve the location of the bathhouse and SSTS for PID # 41-117-1411 upon review of the criteria contained in Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The lot was created prior to the adoption of land use regulation.
2. The residence was constructed prior to the adoption of land use regulation.
3. The lot is a peninsula and not wide enough to allow for compliance with the required 100 feet setback.
4. The location of the structure and proposed drainfield does not contradict the purpose of the official control, 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.
5. The location of the structure and proposed drainfield does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult for land use and resource decisions wisely, 2. Eliminate conflicts caused by unplanned development,
6. 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. The structure is not excessive or unusual in size.



8. The applicant did not construct the original structure and the need for variance is due to the configuration of the parcel.
9. The structure will not affect area land use because there is similar construction in the area.
10. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 structure shall not exceed that in place 07/11/11 and the drainfield shall not be located at less than 63 feet from the river.
2. No storm water run-off to the river or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake and adjoining properties.
3. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.
4. The Director ESD shall determination appropriate administrative fees for staff and PC costs in resolving the "after the fact" situation.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions

of the approved plan for vegetation not completed in accordance with the implementation schedule will be installed at the direction of ESD and charged against the financial assurance.

5. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Frana, Jacqueline, Shingobee Township on property described as Pt of Gov Lot 7, Section: 11-141-31, PID # 38-011-1219 located at 6404 Christmas Point Road NW. An application submitted to remove an existing residence and mobile home, retain an existing 12 feet x 14 feet deck and construct a 2500 square feet residence and 825 square feet attached garage less than 30 feet from the top of a bluff. Section 1126.1 B of the Land Use Ordinance requires structures to located 30 feet from the top or toe of a bluff. A bluff is a topographic feature located either part or fully within the shoreland area and having the following characteristics; the slope rises at least 25 feet vertically above the toe of the bluff, the grade of the slope from toe of the bluff to a point 25 feet or more above the toe of the bluff averages 30 % or greater and the slope drains toward public waters. The property contains .84 acre riparian to Leech Lake (GD).

PC members were at the site 07/06/11. 48 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the Franas.

MS/P Moore/Gardner to approve the setback of a residence from the top of a bluff as submitted for PID # 38-011-1219 upon review of Section 800 of the Land Use Ordinance (01/10/10) along with criteria contained in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. The lot was created in 1960 prior to the adoption of land use regulation.
2. The lack of separation from the bluff setback to the right-of-way setback limits placement options.
3. The location of the proposed residence which will not be located within the bluff does not contradict the purpose of the official control, 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, general welfare.
4. The location of the proposed residence does not encroach into the bluff and can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use 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 use is not excessive or extreme in size and can be deemed reasonable.

6. The applicant did not construct the original structure and the need for variance is due to the location of the residence and the width of the lot therefore the applicant did not create the need for variance.

7. The proposed residence will not affect area land use because there are similar sized residence located along Christmas Point Road and Leech Lake and will not significantly alter the look from the lake.

8. There is no reason to conclude that financial consideration is the sole reason for the application.

**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 residence shall not exceed the dimensions as shown on the site plan submitted 07/11/11 but the existing structure designated as "deck" shall be removed.

2. The residence may have a non-lakeside walk-out basement.

3. ESD must confirm the setback from the top of the bluff prior land use permit authorization.

4. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.

5. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.

6. No storm water run-off to the lake or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.

7. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

**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.**

Kell, Daniel & Marie, Birch Lake Township on property described as Lot 4, Block 1, "Thoma's 4 - T's Addition", Section 9-140-30, PID # 05-376-0120 located at 4309 Tower View Lane NW. An

application submitted to expand the existing non-conforming residence with a 24 feet x 24 feet two story addition and a 6 feet x 12 feet porch located to the non-lakeside of the residence none of which will increase encroachment to the lake. The residence is non-conforming because it is located 63 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. The property contains .69 acres riparian to Stony Lake (RD).

PC members were at the site 07/05/11. 36 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Kell.

MS/P Gould/Kostial to approve the expansion for the non-conforming residence located at PID # 05-376-0120 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings and conditions.

#### Findings:

1. The lot was created in 1969 prior to the adoption of land use regulation.
2. The location of the expansion which will not increase the existing setback encroachment does not contradict the purpose of the official control, 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, general welfare.
3. The location of the expansion does not increase setback encroachment and can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use 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 expansion is not excessive or extreme in size and can be deemed reasonable.
5. The applicant did not construct the original structure and the need for variance is due to the location of the residence therefore the applicant did not create the need for variance.
6. The expansion will not affect area land use because there are similarly sized residences located along Stony Lake and it will not significantly alter the look from the lake.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 residence shall not exceed the dimensions as shown on the site plan submitted 07/05/11.
2. ESD must confirm the setback from the top of the bluff prior land use permit authorization.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation schedule will be installed at the direction of ESD and charged against the financial assurance.

7. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Pfaff, Kathryn & Larry, Crooked Lake Township on property described as Pt of Lots 1 & 2, Blk 1, "Luschers Bay", Section 26-139-26, PID # 12-481-0102 and PID # 12-481-0104 located at 6416

Minnesota St NE. An application submitted to expand a non-conforming 22 feet 6 inches x 20 feet 7 inches resort cabin with a 22 feet x 24 feet addition and expand a non-conforming 18 feet 4 inches x 14 feet 8 inches resort cabin with a 12 feet x 16 feet addition. The resort cabins are non-conforming because they are less than 75 feet from the lake. Section 1126.1 A. of the Land Use Ordinance requires structures to be 75 feet from a lake classified General Development (GD). Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. The property contains .6 acre riparian to Lake Roosevelt (GD).

PC members were at the site 07/06/11. 74 notices of the application were mailed. Two responses one favoring approval and one opposed to approval were received. The application was discussed and reviewed with Kathy and Larry Pfaaf.

MS/P Moore/Kostial to table consideration of the application until the 08/08/11 meeting in order for the setback from the lake of the proposed additions be confirmed and for the applicants to determine their status with MOH resort license requirements.

Siebenaler, Josephine & Robert, Woodrow Township on property described as Lot 13, Blk 1, "Lake Have Acres", Section 25-140-29, PID # 51-543-0126 located at 2827 State 84 NW. An application submitted to expand the existing 18 feet x 24 feet residence with construction of a second floor. The applicants request relief from CUP04-140-29-2 Condition # 2. b. "The Mule Lake units shall not be expanded vertically". The property contains .04 acres non-riparian to Mule Lake (RD).

PC members were at the site 07/05/11. Over 50 notices of the application were mailed. One response favoring approval of the application along with two responses, including that of Woodrow township opposed to approval of the application were received. The application was discussed and reviewed with the applicants.

MS/P Moore/Kostial to deny the application to expand the non-conforming residence location upon PID 3 51-543-0126 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings.

Findings:

1. The property is the redevelopment of a formers resort and as reviewed by the PC was never intended for vertical expansion as memorialized in the CUP conditions.
2. One unit with second story will placed the entire line of units facing TH # 84 will the scale and symmetry of all units.
3. One unit with second story will create second story envy and precipitate more requests for second story expansion and the resulting impact to the scale of the development

Steinkopf, Allen, Kego Township on property described as Pt of Gov Lot 2, Section: 33-141-28, PID # 19-033-1303 located at 5059 Sawmill Trail NE. An application submitted to remove an

existing cabin and construct a 1760 square feet residence and 736 square feet attached garage 52 feet from the lake and one foot from a dedicated right-of-way. Section 1126.1 A of the Land Use Ordinance requires structures to be located 100 feet from a lake classified Recreational Development (RD). Section 1126.1 B. of the Land Use Ordinance requires structures to be setback 20 feet from a dedicated road right-of-way. The property contains .93 acre riparian to Girl Lake (RD). Consideration of this application was tabled during the 05/09/11 meeting in order for the applicant to submit a more detailed site plan.

PC members were at the site 07/05/11. 64 notices of the application were mailed for the 05/09/11 and 07/11/11 meetings. One response objecting to the application along with four responses favoring approval of the application were received. The application was discussed and reviewed with the applicant's representative Mr. Daudt.

MS/P Gould/Kostial to approve the expansion for the non-conforming residence located at PID # 05-376-0120 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings and conditions.

Findings:

1. The lack of separation from the lake setback to the roadway easement limits placement options.
2. The location of the residence which will decrease the amount of lake setback encroachment does not contradict the purpose of the official control, 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, general welfare.
3. The location of the proposed residence which will decrease the amount of lake setback encroachment and it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use 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 proposed residence is not excessive or extreme in size and can be deemed reasonable.
5. The need for variance is due to the configuration of the parcel which was not created by the applicant.
6. The residence will not affect area land use because there are similar sized and constructed structures in the immediate area and along Girl Lake.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 residence shall not exceed the dimensions as shown on the site plan submitted 06/16/11.
2. ESD must confirm the setback from the lake prior land use permit authorization.
3. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
4. ESD must determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
5. No storm water run-off to the lake or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
6. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation schedule will be installed at the direction of ESD and charged against the financial assurance.

7. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.



Theis, Marvin & Patricia, Wabedo Township on property described as Part of Gov Lot 3, Section 12-140-28, PID # 46-012-3202 located at 4155 Sioux Camp Road NE. An application submitted to expand the existing non-conforming residence with a 6 feet x 9 feet addition located to the non-lakeside of the residence which will not increase encroachment to the lake. The residence is non-conforming because it is located 71 feet from the lake. In addition the application requests to be allowed to construct a 24 feet x 24 feet, 576 square feet, accessory structure. Proposed accessory structure and existing accessory structure, 1200 sq. ft., would total 1776 square feet. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a lake classified Recreational Development (RD). Section 1115.3.B. of the Land Use Ordinance allows for the expansion of a non-conforming residence only by variance. Section 1101 of the Land Use Ordinance limits accessory structure maximum square footage on riparian lots of 1 - 1.49 acres to 1200 square feet. The property contains 1.2 acres riparian to Little Boy Lake (RD).

PC members were at the site 07/06/11. 33 notices of the application were mailed. Two responses including that of Wabedo Township both favoring approval of the application were received. The application was discussed and reviewed with the applicant.

MS/P Kostial/Gould to approve the expansion for the non-conforming residence and garage to be located at PID # 46-012-3202 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings and conditions.

#### Findings:

1. The lot was created in 1958 and the existing accessory structure was constructed prior to the regulation of accessory structure square footage based upon lot size.
2. The location of the addition and the accessory structure which mostly be not observable form the lake does not contradict the purpose of the official control, 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, general welfare.
3. Based upon the location of the addition and the accessory structure it can be concluded that a variance does not necessarily contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource use 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 form degradation.
4. The size of the structure and addition are not excessive or extreme in size and can be deemed reasonable.
5. The applicant did not construct the original structure and the need for variance is due to the location of the residence.

6. The accessory structure and addition will not affect area land use because there is similar construction along Sioux Camp Road and Little Boy Lake and will be mostly unobservable from the lake.
7. There is no reason to conclude that financial consideration is the sole reason for the application.

NOTICE TO APPLICANT: No permit to implement shall be issued until and if:

1. ESD required and approved erosion control is installed.
2. A written plan for native vegetation is 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 \$1.00 per square foot of the buffer area for no-mow or \$3.00 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 construction shall not exceed the dimensions as shown on the site plan submitted 06/13/11.
2. Any debris resulting from demolition and/or construction not recycled or reused must be disposed of in a permitted disposal facility.
3. ESD must 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. No storm water run-off to the lake or adjoining properties is permitted. The approved structure, and any structure to which the approved structure is attached, if necessary, shall be equipped with gutters to redirect storm water and if needed water retention structures such as rain gardens shall be installed to retain structure run-off and prevent run-off to the lake, the access road, and adjoining properties.
5. Shore vegetation shall be maintained in its existing type, configuration, and density or as determined by ESD shall be installed and maintained in a buffer area, subject to a 14 feet wide lake access area. The applicant shall submit a written plan for a native vegetation buffer to reduce/eliminate nutrient run-off to the lake which shall have written approval by ESD. The plan shall include a schedule for implementation and an estimate of the cost to implement. The plan shall include a buffer within an area defined in the plan and approved by ESD.

Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the vegetation plan as determined by ESD. Portions of the approved plan for vegetation not completed in accordance with the implementation schedule will be installed at the direction of ESD and charged against the financial assurance.

6. Applicants consent to inspection of the property from time to time by ESD to verify compliance with conditions.

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.

Young, Karen & William, Gould Township on property described as S165' of N330' of Gov Lot 2, Section 14-143-29, PID # 15-114-1402 located at 11083 Five Mile Point Road NW. An application submitted to construct a 14 feet x 16 feet, 224 square feet, accessory structure. Proposed accessory structure and existing accessory structures, 3436 sq. ft., would total 3660 square feet. Section 1101 of the Land Use Ordinance limits accessory structure maximum square footage on riparian lots of 2 -4.99 acres to 2400 square feet. The property contains 2.93 acres riparian to Leech Lake (GD).

PC members were at the site 07/05/11. 45 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Mr. Young with discussion including possible options for lawn equipment storage.

MS/P Fitch/Gould to deny the application to expand the non-conforming residence location upon PID 3 51-543-0126 upon review of Section 800 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 along with the following findings.

Findings:

1. Several options in existing structures are available for lawn equipment storage.
2. The proposer already exceeds the maximum accessory square footage allowed by lot size by more than 1,000 square feet.
3. The applicant has failed to demonstrate any practical difficulty that would justify the need for additional accessory structure capacity.

Variance/Conditional Use Permit

Duclos, Jill & Kyle, Shingobee Township on property described as Lot 6, Block 1, "Ullands South View Acres", Section 5-142, PID # 38-485-0161 located at 9286 Cooks Lop NW and Pt of Gov Lot 7, Section 5-142-31, PID # 38-105-4316 located at 6551 N Kabekona Drive. An application submitted to establish a home business. The application requests the placement of a storage tank for asphalt based sealcoat product utilized for the business activity. The proposed tank

will have a capacity of 4,000 gallons will hold product during the summer months and be empty for the balance of the year. Home business is defined as "use of a residential property for a commercial use by the inhabitants thereof which may be conducted inside as well as outside the primary residence". In addition, the proposed tank will be located less than ten feet from the nearest property boundary line. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 1110 of the Land Use Ordinance requires a conditional use permit (CUP) for a home business. Section 1126.1 B. requires structures to be located 10 feet from a property boundary line. The adjacent parcels combined contain 2.5 non-riparian acres within the shoreland area (1,320 feet) of Leech Lake (GD).

PC members were at the site 07/05/11. 63 notices of the application were mailed. Two responses both raising various concerns in regard to approval were received. The application was discussed and reviewed with Mr. Duclos.

MS/P Kostial/Gardner to approve the closer lot line setback for the tank and the home business located at PID # 38-105-4316 upon review of Sections 705, 800 and 1110 of the Land Use Ordinance (01/10/10) and M.S. 394.27, Subdivision 7 with the following findings and conditions.

#### Findings:

1. The site for the tank near seems reasonable and will not be visible from N Kabekona Bay Drive or the adjacent neighbor.
2. The home business and tank location does not contradict the purpose of the official control, 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.
3. The home business and tank location is unobtrusive 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.
4. The tank will not affect area land use because it will not be visible to the neighborhood and the contents do not pose a threat to public health and safety.
5. The tank will not be will be empty from September to April.
6. The home business and tank will have no affect to streets, utilities, or other public facilities and require no additional public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. There is no record or history of neighborhood complaints in regard to the activities/operations conducted by the applicant.

#### Conditions:

1. A privacy fence to the property line and the street must be constructed.

2. Home business noise must not exceed applicable decibel limit.
3. Product delivery shall not exceed 4 per working season of April - September.
4. The tank must be placed on a base/foundation.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

### Conditional Use Permit

Heller, Michelle, Ponto Lake Township on property described as part of Gov Lot 10, Section 15-139-29, PID # 32-015-4412 located at 1252 Indian Point Trail. An application submitted to establish a private campground. A private campground which requires a conditional use permit must be owned and managed for private use and the number of recreational vehicles or campsites must not exceed two per acre. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 1121 of the Land Use Ordinance requires a conditional use permit (CUP) for a private campground. The property contains 5.9 acres riparian to Hand Lake (RD).

PC members were at the site 07/06/11. More than 50 notices of the application were mailed. Two responses both raising concerns in regard to waste water treatment were received. The application was discussed and reviewed with Ms. Heller.

MS/P Gould/Fitch to approve the CUP for the private RV campground for PID # 32-015-4412 upon review of Sections 705, and 1121 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

#### Findings:

1. The existing activity seems not to be disruptive to the neighborhood based on no record of concerns or complaints made to ESD.
2. No wetland or critical habitat is affected.
3. No scenic or historic features are affected.
4. The existing use has no record of harm to public health, safety or welfare.
5. The current use has not altered area land use.
6. The designation of family campground will not increase the need or demand for governmental services because no road improvements are required and it is not served by municipal or community waste water treatment.

#### Conditions:

1. All applicable permits and/or licenses must be obtained.
2. The property shall contain no more than five RV/Campsites.
3. A 50 feet vegetated buffer shall be maintained from the RV/Campsites to all abutting properties.

4. All RV holding tanks must be serviced and maintained in accordance with all applicable standards.
5. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.

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

Oppegaard Irrevocable Real Estate Trust/Loomis, Mitch, Shores of Leech Lake Resort, Shingobee Township on property described as Pt of Gov Lots 3 & 4, Section 9-142-31, PID # 38-109-3101 located at 6140 Morriss Point Road NW. An application submitted to reclassify the property from Shoreland Residential (SR) to Water Oriented Commercial (WOC) for the purpose of the residences on the property to be managed for rental by Shores of Leech Lake Resort when not being occupied by the owners. Section 705 of the Land Use Ordinance establishes conditional use permit review criteria. Section 706 of the Land Use Ordinance establishes reclassification standards. Section 1000 of the Land Use Ordinance describes the various land classifications. The property contains 2.6 acres riparian to Leech Lake (GD).

PC members were at the site 06/06/11 and 07/05/11. More than 75 notices of the application were mailed. One response favoring the application and two opposed to the application were received in response to the mailing for the 06/06/11 meeting mailing. Three responses including petition from three property owners opposed to approval of the application were received in response to the 07/11/11 meeting notice. The application was discussed and reviewed with the applicant's representative Mr. Baker and Mr. Loomis. Discussion included land use history of the property, traffic, parking and the proposed management arrangement.

MS/P Moore/Gardner to approve the reclassification for PID # 38-109-3101 upon review of Sections 705, 706 and 1000 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

#### Findings:

1. The structures and site functioned as a resort until 1989 is adjacent to a currently operating resort which it will be part of.
2. No evidence other than anecdotal has been offered that the proposed use will cause adverse effects to adjacent properties.
3. The proposed change will not create an excessive burden on parks, schools, streets and other public facilities and utilities.
4. Waste water treatment complies with all applicable county and state requirements.
5. The proposed activity will not increase erosion to or pollute public waters.

6. No wetland or critical habitat will be disturbed by the resort.
7. No scenic or historic features will be negatively affected by the resort.
8. No unusual threat to public health, safety or welfare can be expected.
9. Existing access to TH # 371 and on-site waste treatment and water supply and will be utilized and therefore require no additional public infrastructure.
10. The density of Shores of Leech lake Resort and the parcel are less than maximum allowed.

Conditions:

1. The 38-109-3101 docks shall not be used for overnight mooring.
2. The 38-109-3101 docks shall not be enlarged or re-configured.
3. Any change in 38-109-3101 management shall require PC review.
4. All 38-109-3101 occupant boat trailers shall be stored at Shores of Leech Lake or at another off site location.
5. No other commercial activity shall take place upon 38-109-3101.
6. Any change in use or structure configuration upon 38-109-3101 shall require PC review.
7. Shores of Leech Lake Resort shall be reviewed and considered separately from 38-109-3101.

Other Business

Request to be heard from Jack Carder to revise VP10-140-31-8 approved 10/11/10 to allow for placement of SSTS at 40 feet from the lake. Property is riparian to Ten Mile Lake (GD). GD SSTS setback is 50 feet due to lot size limitations Mr. Carder needs 40 feet to install a standard system.

MS/P Gould/Gardner to revise VP10-140-31-8 as requested upon review and verification of setback by ESD staff.

MS/P Gould/Fitch at 3:50 pm, to adjourn.

P. Fairbanks