



Cass County
Planning Commission/Board of Adjustment

September 12, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting September 12, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted September 6, 2011 with Ballenthin, Bliss, Fitch, Gardner, Gould, Moore and Sundberg present.

Sundberg called the meeting to order at 11:00 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Julie Aldridge, Al Anderson, Craig Anderson, Joyce Anderson, Pat Betcher, Al Chacey, James Ek, Linda Ek, Sanford Engen, Barb Gildner, Hunt Gildner, Jack Hopen, Kathy Hopen, Pat Humphrey, Jim Johnson, Dennis King, Mona King, Judy Krzmarzick, Robert Krzmarzick, Donald Larson, Court Lechert, Mary Martin, Gary Mohs, Wayne Molstead, Caryl Nelson, Peggy Newville, Tom Newville, Fred Smith, Verdale Soukup, Adam Surma, Dan Surma, John Surma, Reno Wells, Norm Wieland, Bonnie Zarn, Lannie Zarn and Troy Zubke.

MS/P Gould/Gardner to approve the minutes of the 08/08/11 PC/BOA meeting as presented.

Variance

Anderson, Albert, Ponto Lake Township on property described as Lot 5, "Ada Pine Beach", Section 27-139-29, PID # 32-448-0050 located at 575 County 43 NW. An application submitted to replace the existing residence with a new 30 feet x 40 feet residence located 53 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). The property contains .4 acre riparian to Lake Ada (RD).

PC members were at the site 09/06/11. 38 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the Mr. Anderson and Mr. Soukup.

MS/P Ballenthin/Gould to approve the application to locate a residence at less than the required lake setback located upon PID # 32-448-0050 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 lot was created in 1935 and it is obvious that the existing residence was constructed prior to land use regulation.
2. The existing residence, which was not constructed by the applicant, as allowed by statute could be reconstructed at current dimension and volume.
3. The lot is 163 feet from lake to right-of-way which leaves 13 feet buildable area based upon 100 feet setback from lake and 50 feet from right-of-way.
4. The proposed site is a reasonable use of residential property and located as proposed, subject to the conditions, will not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The size of the new construction is not excessive and located to be as least obtrusive to the lake and 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.
5. The proposed residence is not excessive, extreme and is similar in size to many Lake Ada residences.
6. The proposed residence will not affect area land use because there are similar sized structures along CSAH # 43 and around Lake Ada and is abuts an existing road.
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 dimensions and configuration of the residence shall not exceed that submitted 08/18/11 and shall not be constructed at less than 55 feet from the lake.
2. Any debris resulting from demolition or construction no reused or recycled must be disposed of in a permitted 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. 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. 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.

Ek, James & Linda, Pine River Township on property described as Part of Gov Lot 9, Section 1-138-30 & Part of NW NW, Section 12-138-30, PID # 31-001-3300 located at 430 28th Ave SW. An application submitted to be allowed to leave as presently located a 26 feet x 40 feet accessory structure at less than required boundary line setback of 10 feet. Section 1126.1 A. of the Land Use Ordinance requires structures to be 10 feet from a lot boundary line. The property contains 32.4 acres riparian to Horse Lake (NE).

PC members were at the site 09/06/11. 14 notices of the application were mailed. No responses were received. The application was reviewed and discussed with Linda and James Ek.

MS/P Fitch/Bliss to approve the application as submitted to retain the garage at current location at a zero lot line setback located at 31-001-3300 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 condition.

Findings:

1. The lot was created in 1954 and the garage was constructed in 2001.
2. The garage is not observable from the lake or road and does not affect run-off and therefore it can be concluded that the variance 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 garage is not excessive or extreme in size or configuration.
4. The garage is of a reasonable size and located where it is not obtrusive to the lake or surrounding area 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 garage does not affect area land use because it is located on a lot of 32 acres cannot be seen from road or neighbor.
6. There is no reason to conclude that financial consideration is the sole reason for the application.

Condition:

1. The existing dimensions and location of the garage shall not be altered.

Gildner, Scott & Annie/Gildner, Hunt & Barbara, Shingobee Township on property described as S $\frac{1}{2}$ Lot 9, Lot 10 & S75 Ft of Lots 11 & 12, All Blk 1 & Adjacent Vacated Park Blvd Iroquois Ave, "Ojibway", Section 11-142-31, PID # 38-504-0170 located at 8985 Cedar Point Road NW and Lots 1 & 2 Blk 2 & Adjacent Vacated Park Blvd, "Ojibway", Section 11-142-31, PID # 38-504-0210 located at 8979 Cedar Point Road NW. An application submitted to be allowed to divide an existing guest house and retain one half on each lot. Parcel # 38-540-0170 contains 37,000 square feet and is 105 feet wide. PID # 38-540-0210 contains 30,000 square feet and is 100 feet wide. Section 1113.1 requires a lot that contains a guest house on a General Development (GD) to contain 60,000 square feet total area, 27,000 square feet buildable area and be at least 180 feet wide at the water and the structure setback which is 75 feet from the water. The parcels are riparian to Leech Lake (GD).

PC members were at the site 09/06/11. 16 notices of the application were mailed. One response from the Leech Lake Association recommending denial of the application was received. The application was reviewed and discussed with Barb and Hunt Gildner.

MS/P Ballenthin/Moore to deny the application as submitted for lot creation and configuration 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.

Findings:

1. PID # 38-540-0170 and PID 38-540-0210 share a guest quarters duplex structure which lies across the property line. The applicants created a property line division which resulted in the guest quarters lying across the property line. Both parcels are non-conforming and fail to meet GD guest quarters lot standards. The failure to meet lot standards is substantial.
2. Division of the existing guest quarters into two structures at some unknown future date, one on each parcel, will result in both parcels continuing to be substantially non-conforming.
3. Applicants are currently using both parcels including the guest quarters and have reasonable use of the property. Applicants intend to continue to use both parcels including the guest quarters in their current location for an indefinite period of time and grant cross easements to each other to allow continuation of such use. Applicants have failed to show that their property cannot be put to a reasonable use without the variance.
4. Applicants have not demonstrated if or when the current guest quarters will be divided the locations to which the divided guest quarters will be moved and the dimensions of the guest quarters after they are moved. The request for variance is indefinite and unreasonable.
5. The plight of the land owners is not due to circumstances unique to the property not created by the land owners because the land owners created the need for variance by establishing a land division boundary line which results in the guest quarters located on the new boundary line. There is no demonstration of practical difficulty related to creation of a boundary line which locates the guest quarters entirely on one parcel and which eliminates the need for the requested variance and there is no showing of practical difficulty which requires both parcels to have non-conforming guest quarters as proposed.

Johnson, James, Woodrow Township on property described as Lots 37-41, "Interlachen Lodge", Section 8-140-29, PID # 51-378-0370 located at 4212 Interlachen Drive NW. An application submitted to expand an existing non-conforming 20 feet x 30 feet residence with a 16 feet x 24 feet addition. The residence is non-conforming because it is 75 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. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains 1.35 acres riparian to Baby Lake (RD).

PC members were at the site 09/06/11. 32 notices of the application were mailed. One response from Woodrow Township recommending denial of the application was received. The application was discussed and reviewed with Mr. Johnson.

MS/P Ballenthin/Moore to approve the location and size of the addition as submitted of the residence located at PID # 51-378-0370 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 which was platted in 1920 is a peninsula on which the 100 feet setback cannot be met.
2. The residence was permitted in 1973 at 50 feet.
3. The expansion will be mostly unobservable from the lake nor will it necessarily affect run-off to the shoreline because of the existing shoreline vegetation 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.
4. The expansion construction will not be readily observable from the lake or affect run-off to the shoreline because of the existing shoreline vegetation 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.
5. The expansion is reasonable in size and located to be as least obtrusive to the lake which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. The expansion will not affect area land use because there are similar sized and configured residence along Interlachen Road and Baby 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 dimensions and location of the expansion shall not vary from that submitted with the application 08/24/11.
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 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.
5. Shoreline 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

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.

Krzmarzick, Judy & Robert, Kego Township on property described as Part of Gov Lot 2, Section 33-141-28, PID # 19-033-1309 located at 5061 Sawmill Trail NE. An application submitted to expand an existing non-conforming 864 square feet residence with a 12 feet x 40 feet addition to the non-lakeside. The residence is non-conforming because it is 40 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. B. of the Land Use Ordinance requires a variance for any expansion of a non-conforming structure. The property contains .94 acre riparian to Girl Lake (RD).

PC members were at the site 09/06/11. 51 notices of the application were mailed. Two responses, one favoring approval and one favoring denial were received. The application was discussed and reviewed with Judy and Robert Krzmarzick.

MS/P Bliss/Ballenthin to approve the location and configuration of the addition as submitted for the residence located upon PID # 19-033-1309 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 which was created in 1977 is a peninsula on which the 100 feet setback cannot be met.
2. Expansion was allowed by variance in 1982 at 47 feet.
3. The expansion will be on the non-lakeside of the primary exposure, south easterly, which will make it mostly unobservable from that primary view nor will it necessarily 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.
4. The expansion is reasonable in size and located to be as least obtrusive as possible to the primary exposure to the lake which does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
5. The expansion will not affect area land use because there are similar sized and configured residences along Saw Mill Trail and Girl Lake.
6. 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 that submitted with the application 08/22/11.
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, 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. Shoreline 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Applicants will remove the privy as volunteered.
8. VP07-141-28-3 is revoked hereby invalid.
9. Approval does not allow or imply that the structure to be expanded can be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

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.

Larson, Donald, Wabedo Township on property described as Lot 22 & Nly $\frac{1}{2}$ of Adjacent Shady Lane, "Island View", Section 18-140-28, PID # 46-407-0220 located at 3491 Island View Road NE. An application submitted to construct a 14 feet x 37 feet deck to a residence that is 40 feet from the lake. In addition the application request to be allowed to construct retaining walls that will exceed 4 feet in height without an engineered plan. Section 1126.8 of the Land Use Ordinance allows for the placement of a deck to a non-conforming residence provided the encroachment of the deck does not exceed 16 feet or 15% of the existing lake setback and that the deck is not located less than 40 feet from the lake. Section 1126.9 of the Land Use Ordinance requires that a retaining wall not exceed 4 feet in height without a plan signed by a registered engineer. The property contains .32 acre riparian to Woman Lake (GD).

PC members were at the site 09/06/11. 32 notices of the application were mailed. Three responses including one from Wabedo Township favoring approval were received. The application was discussed and reviewed with Mr. Larson.

MS/P Fitch/Moore to table consideration until the 10/10/11 meeting in order for the applicant to submit a revised site plan and for the Planning Commission to visit the site again.

McCrae, Bruce, Ponto Lake Township on property described as Part of Gov Lot 1, Section 23-139-29, PID # 32-023-2202 located at 762 County 49 NW. An application submitted to expand an existing 1,140 square feet residence with a 16 feet x 26 feet addition. The residence is non-conforming because it is located 52 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 of the Land Use Ordinance requires variance for any expansion of a non-conforming structure. The property contains 34 acres riparian to Hand Lake (RD).

PC members were at the site 09/06/11. 44 notices of the application were mailed. No responses were received. The application was discussed and reviewed with owners association members who were representing the applicants.

MS/P Moore/Ballenthin to approve the location and configuration of the addition as submitted for the residence located upon PID # 32-023-2202 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 1961 and it is obvious that the residence was constructed prior to land use regulation.
2. The residence as allowed by statute could be reconstructed at current dimension and volume.
3. The expansion is a reasonable use of residential property and located as proposed, subject to the conditions, will not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed expansion is not excessive in size and located in a manner to be as least obtrusive to the lake and 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.
5. The expansion is not excessive, extreme and is similar in size to many Hand Lake residences.
6. The expansion will not affect area land use because there are similar sized structures along Hand Lake and because it will be screened and mostly unobservable from neighboring properties.
7. 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 dimensions and configuration of the expansion shall not exceed that submitted 08/24/11.
2. Any debris resulting from demolition or construction no reused or recycled must be disposed of in a permitted 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. 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval does not allow or imply that the structure to be expanded shall be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

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.

Mohs, Gary, Sylvan Township on property described as Pt of NE NE, MPL Lease Lot # 2, Section 20-133-29, PID # 41-120-1102 located at 13202 Yde Drive SW. An application submitted to construct a 20 feet x 20 feet awning/porch 75 feet from the river. The applicant also requests to be allowed to utilize a holding tank for waste water. Section 1126.1 A. of the Land Use Ordinance requires structures to be 100 feet from a river classified Tributary (TR). Section 3.13 of the Individual Sewage Treatment System Ordinance allows for installation of a holding tank only where there is no other reasonable alternative to treating and disposing of waste water. The property contains one acre riparian to the Gull River (TR).

PC members were at the site 08/02/11. 26 notices of the application were mailed. One response from Sylvan Township recommending approval with conditions was received. The application was discussed and reviewed with Mr. Mohs.

MS/P Fitch/Bliss - Ballenthin/Yes, Bliss/Yes, Fitch/Yes, Gardner/Yes, Gould/No, Moore/Yes to approve the application as submitted for the awning and a holding tank to be located upon PID # 41-120-1102 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 prior to the adoption of land use regulation.
2. The residence was permitted to be constructed at 75 feet in 1983.
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 expansion and holding tank 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.
5. The location of the expansion and the holding tank does not 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, 3. Improve coordination and communication between county, local governments and the citizens in land use planning and 4. Protect the County's natural resources from degradation.
6. The expansion is not excessive or unusual in size.
7. The applicant did not construct the original structure and the need for variance is due to the configuration of the parcel.
8. The awning is inconsequential and will not affect area land use.
9. 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 expansion and holding tank location shall be that as depicted on the site plan submitted 07/21/11.
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. Specific attention must be devoted to the area of the slope to the boat access and the area of the boat access.
5. The recommendations submitted by Sylvan Township are adopted.
 - a. Add black dirt and grass seed to existing driveway north and west of cabin to reduce erosion.
 - b. Abandon river boat access ramp access; remove all concrete blocks, tires and debris. Reestablish area with approved vegetation to eliminate current erosion.
 - c. Require approved vegetation on bank in swim area directly east of cabin on river to curb erosion.
 - d. Comply with county and state requirements.

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. 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.

Newville, Tom & Peggy, Powers Township on property described as Lot 3, "Vincent's Ox Yoke Shores", Section 10-139-30, PID # 34-376-0030 located at 3396 Ox Yoke Road NW. An application submitted to locate an addition to the existing residence that will be 5 feet from the closest property boundary line. Section 1126.1 B. of the Land Use Ordinance requires structures to be 10 feet from a property boundary line. The property contains 1.35 acres riparian to Ox Yoke Lake (RD).

PC members were at the site 09/06/11. 28 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Peggy and Tom Newville.

MS/P Ballenthin/Fitch to approve the application as submitted for the expansion of the residence located at PID # 34-376-0030 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 property was platted in 1958 prior to the adoption of county land use regulation.
2. The adjoining property has indicated no objection to closer setback.
3. The location of the expansion 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 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 expansion is not excessive or extreme in size.
6. The addition is not significant in scale with the site, the house, the lake or the area in general and will not affect area land use and because there are numerous similar residences along Ox Yoke 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 dimensions and configuration of the expansion shall not exceed 14 feet x 16 feet as amended during the 09/12/11 meeting.
2. Any debris resulting from demolition or construction no reused or recycled must be disposed of in a permitted 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. 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. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval does not allow or imply that the structure to be expanded shall be removed by demolition or any other method from the site nor shall the structure to be expanded be reduced to "one wall".

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.

Van Den Avyle, Michael, Woodrow Township on property described as N 220 Feet of SW SE, Section 17-140-29, PID # 51-017-4302 located at 1764 S Kerr Lake Drive NW. An application submitted to replace an existing non-conforming 16 feet x 18 feet guest cabin with new 16 feet x 18 feet construction 130 feet from the lake. The guest cabin is non-conforming because it is located 130 feet from the lake and because the lot does not comply with the minimum lot size requirements to contain a primary residence and a guest residence. Section 1113.1 of the Land

Use Ordinance requires a riparian lot on a Natural Environment Lake (NE) to contain 120,000 square feet total area and 60,000 square feet buildable area, be 300 feet wide at the water and be 300 feet wide at the 150 feet structure setback. The applicant's lot contains 204,732 square feet total area, exceeds 60,000 square feet buildable area and is about 225 feet wide at the lake and setback. Section 1126.1 A. of the Land Use Ordinance requires structures to be 150 feet from a lake classified Natural Environment (NE). The property contains 4.7 acres riparian to Kerr Lake (NE).

MS/P Fitch/Gardner to table consideration of the application until the 10/10/11 meeting as requested by the applicant.

Zarn, Lannie, Unorganized on property described as Lot 5, Blk 1, "West Winnie Estates", Section 18-145-28, PID # 72-340-0150 located at 102 Jewelweed Lane NE. An application submitted to replace the existing residence located 58 feet from the lake with new construction of 28 feet x 50 feet located 76 feet from the lake. Section III. F. of the Mississippi Headwaters Standards for Land Use requires structures to be located 100 feet from a lake classified General Development (GD). The property contains .75 acre riparian to Lake Winnibigoshish (GD). Consideration of this application was tabled during the 08/08/11 meeting at the applicant's request in order to submit a revised site plan.

PC members were at the site 08/01/11. 42 notices of the application were mailed. No responses were received. The application was discussed and reviewed with Bonnie and Lannie Zarn.

MS/P Gardner/Moore to approve the application as submitted for the location and configuration for a residence at PID # 72-340-0150 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 which was a DNR lease lot was platted in 1988.
2. There is no record of when the residence was located.
3. The existing residence which was not constructed by the applicant, as allowed by statute, could be reconstructed at current dimension and volume.
4. Although not substantially increased, the new residence will be 10 feet further from the lake.
5. The location of accessory structures and the septic tank do not allow for compliance with the 100 feet setback requirement.
6. The proposed configuration of the lot is a reasonable use of residential property and located as proposed, subject to conditions, will not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
7. The proposed new construction is not excessive in size and located in a manner to reuse a portion of the existing site 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.

8. The residence will not affect area land use because there are similar residences along Jewelweed Lane and Lake Winnibigoshish.

9. 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 dimensions and configuration shall not exceed that submitted with the application 08/23/11 and 09/09/11 not less than 76 from the lake.

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

3. 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.

4. 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.

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.

Conditional Use Permit/Variance

Engen, Patricia & Sanford, Pine River Township on property described as Revised Description 5 of Gov Lot 5, Section 35-138-30, PID # 31-035-2210 located at 3071 20th St SW. An application submitted to be allowed to establish a private campground consisting of five travel trailers which will be utilized for family use and not available to the public which requires a conditional use permit. In addition, placement of the travel trailers at less than 150 feet from the lake is also requested. Section 1121 C. of the Land Use Ordinance establishes private campground criteria. Section 1126.1 A. of the Land Use Ordinance requires structures to be 150 feet from a lake classified Natural Environment (NE). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. The property contains 9.66 acres riparian to Clam Lake (NE).

PC members were at the site 09/06/11. More than 50 notices of the application were mailed. Three responses including two opposed to approval and one favoring approval were received. The application was discussed and reviewed with Mr. Engen.

MS/P Gardner/Moore to approve the application as submitted for the location and configuration for a residence at PID # 72-340-0150 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 existing activity which has been on-going for several years seems not to be disruptive to the neighborhood based on no record of concerns or complaints made to ESD.
2. No wetland or critical habitats are 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 activity which has been on-going for several years seems not to have altered area land use.

6. The designation of private campground will not increase the need or demand for governmental services because no road improvements are required and it is not nor will be served by municipal or community waste water treatment.

7. The private campground designation 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.

8. The recreational vehicle trailers are unobtrusive to the neighborhood and the lake and do 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.

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.

Conditions:

1. The property shall contain no more than five recreational vehicles/trailers.
2. All recreational vehicles/trailers must be located at least 75 feet from the lake.
3. All recreational vehicles/trailers must have current license and registration.
4. The recreational vehicles/trailers shall not occupy the property from 10/01 to 04/30.
5. The existing vegetative buffer along the shoreline and property boundary buffers shall be maintained.

Conditional Use Permit

Hopen, John, Shingobee Township on an easement described as the N 33 Feet of the SW SW which Lies Westerly of the Centerline of Christmas Point Road, Section 1-141-31. An application submitted to construct a cartway road along an easement in order for several parcels to access Christmas Point Road NW. The easement is 33 feet wide x 527 feet long. The roadway will be constructed with a 22 feet wide driving surface, one foot shoulders and ditches with a maximum 2 to 1 slope. Section 1106.2 of the Land Use Ordinance requires that a Conditional Use Permit be obtained for the movement of more than 200 cubic yards, which this project will exceed, within the shoreland area (1,320 feet from public waters). The easement is located within the shoreland area of Leech Lake (GD). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process.

PC members were at the site 09/06/11. More than 75 notices of the application were mailed. One response from the Leech Lake Association recommending approval was received. The application was discussed and reviewed with Kathy and Jack Hopen.

MS/P Bliss/Gardner to approve the application as submitted for the location and configuration of the easement roadway upon review of Section 705 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. No wetland or critical habitat is affected.
2. No scenic or historic features are affected.
3. The roadway poses no particular likelihood to harm to public health, safety or welfare.
4. The roadway is necessary to provide access for existing residences.
5. The roadway will not increase the need or demand for governmental services.

Condition/Approve:

1. All applicable approvals, permits and easement shall be obtained required from other jurisdictions or adjacent property owners.
2. Final plans and specifications must be submitted prior to construction.

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

The Shores of Pine Point LLC, Turtle Lake Township on property described as Gov Lot 3 Excluding East 654.06 Ft Thereof, Section 31-143-30, PID # 45-231-2403 located at 9693 Pine Point Road NW. An application submitted to establish 12 RV sites. Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1104.9 of the Land Use Ordinance establishes the resort density and expansion standards. The property contains 11.29 acres riparian to Leech Lake (GD).

PC members were at the site 09/06/11. More than 50 notices of the application were mailed. Four responses, including the Leech Lake Association, all favoring approval were received.

MS/P Fitch/Moore to table consideration of the application until the 10/10/11 meeting in order for supplemental detail and information to include a storm water management plan for the new site, a shoreline vegetative buffer/herbicide management plan, proposed lease agreement, detail of the existing shore recreation areas and a property boundary buffer plan to be submitted.

Tri-City Paving Inc, Turtle Lake Township on property described as NW NE, Section 15-141-30, PID # 45-015-1200 and NE NE Less E $\frac{1}{4}$ Thrf, Section 15-141-30, PID # 45-015-1100 located at 3317 64th St NW. An application submitted to renew a conditional use application approved 9/84 for PID # 45-015-1200 to establish and operation an extractive use/gravel pit that includes excavation, crushing, occasional asphalt manufacturing with all pit related materials transported by truck to various job locations. The application also calls for the eventual

expansion of extractive operation to the adjoining parcel PID # 45-015-1100. The combined parcels contain 69.22 acres. PID # 45-0125-1200 is classified Commercial (C) and PID # 45-015-1100 is classified Shoreland Residential (SR). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1107 of the Land Use Ordinance establishes the extractive use requirements.

PC members were at the site 08/02/10. 36 notices of the application were mailed for the 08/09/10, 08/08/11 and 09/12/11 meetings. 12 responses, including a petition, all opposed except one have been received. The application was discussed and reviewed with Tri-City representatives as well as numerous persons from the area around the pit. Discussion included among others asphalt production, truck traffic route options, wetlands, pit entrance location and pit reclamation.

MS/Failed Ballenthin/Moore - Ballenthin/Yes, Bliss/No, Fitch/Abstain, Gardner/Yes, Gould/No, Moore/Yes, Sundberg/No to deny the extractive use application for 45-015-1100 and 45-015-1200 upon review with Section 705 of the Land Use Ordinance (01/10/10) with the following findings.

Findings:

1. Expansion into this residential area and an area of increasing residential development is not consistent with the Comprehensive Plan because it results in conflict with existing and future residential development due to noise, dust and vehicle operations: because it has an adverse impact to public health, safety and welfare resulting from the same; and because it is not compatible with the residential nature of the neighborhood.
2. Contaminate and sediment run-off from the extractive use activity, which will occur regardless of best management practices, will adversely affect Hanson Lake (NE).
3. Spills, which will occur regardless of best management practices, will contaminate ground water in the area which will adversely affect the water well quality of area properties and the water quality of Hanson Lake (NE).
4. Real estate professionals have concluded that the extractive use activity will adversely affect property values within the general vicinity of the extractive use activity.
5. Real estate professionals have concluded that the extractive use activity will depress sales including commercial property along TH # 200 due to the extractive use activity.

MS/Failed Gould/Bliss - Ballenthin/No, Bliss/Yes, Fitch/Abstain, Gardner/No, Gould/Yes, Moore/No, Sundberg/Yes to approve the extractive use application for 45—015-1100 and 45-015-1200 upon review with Section 705 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. CU84-141-30-2 allowed gravel extraction to commence at the site for two years. There is no record or evidence of the CUP ever coming before the Planning Commission for renewal.

2. Gravel extraction and crushing has occurred at the site intermittently since 1984.
3. No critical habitat is contained in the area defined for the gravel mining activity.
4. No scenic or historical features are located in the area defined for the gravel mining activity.
5. The gravel activity is similar to other mining activities which comply with local and state standards and will have no unique characteristics that could affect public health, welfare or safety.
6. Access to the property will be utilized in configuration which will require no additional public service or infrastructure.
7. Review of the mandatory EAW was written for the gravel mining activity with a negative EIS determination adopted.

Conditions:

1. Gravel mining and crushing shall comply with the terms, limits and conditions set forth in the application for conditional use permit.
2. The working area shall be located as shown on the map submitted with the application.
3. The owner shall submit to ESD an annual report of the cubic yards extracted during the prior 12 month period and describe area subject to reclamation by 03/01 of the following year.
4. Mining and related activities shall be conducted from 6:00 AM to 9:00 PM Monday - Friday and 6:00 AM to 6:00 PM Saturday. No activity shall be conducted Sunday or legal holidays. No activity shall be conducted Friday, Saturday and Sunday of any legal holiday which occurs on a Monday.
5. Hours and days of operation shall only be altered by CUP for a specific project.
6. Not more than 20 out bound trips shall be allowed per hour. One trip shall be considered one in bound empty and one out bound loaded.
7. All truck traffic speed whether in bound or out bound shall not exceed 40 miles per hour.
8. The applicant shall comply with all applicable WACA requirements and standards.
9. The applicant shall comply with all applicable NPDES requirements and standards.
7. Reclamation shall comply with the DNR publication "A Handbook for Reclaiming Sand and Gravel Pits".
8. A reclamation plan for fifty percent of the existing excavation area must be submitted prior to the commencement of any pit activity after 09/12/11.
9. A reclamation plan for the for existing excavation area containing stockpiles must be submitted prior to the commencement activity upon PID # 45-015-1100.
10. Reclamation plans shall be submitted to ESD for approval.
11. ESD shall submit each reclamation plan to Turtle Lake Township, MDNR and MPCA for review and approval prior to any approval by ESD.
12. Financial assurance in form of a Letter of Credit to Cass County in the amount of \$1,500 per acre for 69.22 acres must be submitted prior to the commencement of a pit activity after 09/12/11.

13. The result of all reclamation shall be a land form suitable for residential development without additional land alteration.
14. Reclaimed areas that will contain permanent or seasonal water retention shall contain irregular bottoms and irregular perimeters to reasonable mimic natural permanent or seasonal water bodies.
15. Reclamation vegetation shall consist of native vegetation in compliance with Cass County ordinances in effect at the time of reclamation.
16. There shall be no stockpiles of any material not excavated on-site except for reclaimed asphalt pavement (RAP).
17. The applicant shall enforce all conditions as applicable on all third party operators, independent contractors or others using or being used in connection with the operation of the site.
18. All extracted material shall be utilized only for surface applications such as roads, parking lots, surface development sites and filling of surface depressions by way of example only.
19. No extracted material shall be utilized for below surface application such as in below surface mining of hydraulic fracturing by way of example only.
20. In bound/empty traffic from TH # 200 shall utilize County # 124
21. Out Bound/loaded traffic shall utilize County # 124 to 32 Ave to TH # 200.
22. 32nd Avenue shall be maintained for damage and dust control as prescribed by Turtle Lake Township.
23. County # 124 shall be maintained for damage and dust control as prescribed by the Cass County Highway Department.
24. There shall no engine braking, "Jake Braking", on any in bound or out bound roadways.
25. On all current and on each additional extraction site drill and bore shall be conducted to determine water table prior to the commencement of mining activities.
26. On each extractive site which has not be reclaimed drill and bore to determine water table not less than every five years or more often if ground water seepage into the excavation site is evident.
27. All drill and bore logs shall be submitted to ESD within thirty days of completion.
28. The floor of all excavation shall not be less than 10 feet from the water table.
29. There shall be no on-site washing of any aggregate material.
30. Operations within the current pit area parcels must be concluded contoured and seeded prior to any phased mining activity in the new area of operation.
31. Applicant consents to inspection of the property by ESD to verify compliance with all conditions.
32. All requests for asphalt manufacturing shall be consider as separate CUP application.
33. This approval shall expire 09/12/16 unless renewed after public hearing by the PC/BOA.

The application of Tri-City Paving Inc. is denied pursuant to Minnesota Statutes 15.99, Subd. 2(b). The reasons for denial are set forth in the findings following the motion to deny.

Other Business

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 to revise VP11-142-27-1 to include a 90 square feet deck on the north side of the residence. The property contains 1.12 acres riparian to Boy Lake (GD).

MS/P Ballenthin/Gould to table consideration of the request to the 10/10/11 meeting in order for a site plan showing deck dimension and property boundary line setbacks to be submitted.

Moser, Tom/Kastanos, Pam, Crooked Lake Township on property described as Revised Description 1 of Gov Lot 1, Section 26-139-26 & Gov Lot 2, Section 2-139-26, PID # 12-026-2213 located at 718 State 6 NE. Request to extend the approval of VP10-139-26-1 which was approved 04/12/10 to 04/12/14.

MS/P Moore/Gardner to extend expiration to 04/12/14.

MS/P Moore/Gardner at 5:40 pm, to adjourn.

P. Fairbanks