



Cass County
Planning Commission/Board of Adjustment

December 12, 2011

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting December 12, 2011 in the meeting room of the Cass County Land Department in Backus. The field inspection was conducted December 5, 2011 with Bliss, Fitch, Gardner, Gould, Kostial, Moore and Sundberg present.

Sundberg called the meeting to order at 9:30 a.m.

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Craig Anderson, Al Chacey, Martha Chartelien, Charles Duncan, Jane Gunsbury, Cindy Hidde, Tom Lund, Sev Neumann, Mary Peterson, Richard Peterson, Charles Senst, Rebecca Sellnow, Sarah Sellnow, Tom Steffens, Joel Sutton, Dana Torkelson, Sonny Torkelson, Marla Yoho, Ernie Wagenbach, and Lee Wangstad.

MS/P Moore/Gardner to approve the minutes of the 11/14/11 PC/BOA meeting as presented.

Variance

Duncan, Alice & Richard, Wabedo Township on property described as Part of Gov Lot 7, Section 28-140-28, PID # 46-028-4404 located at 2830 Diamond Crest Trail. An application submitted to expand an existing non-conforming 28 feet x 42 feet residence with an 8 feet x 28 feet deck/stairway. The residence is non-conforming because it is 90 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 12.1 acres riparian to Lake Wabedo (RD).

PC members were at the site 12/05/11. 21 notices of the application were mailed. Two responses including that of Wabedo Township and the WLBCR Lake Association recommending approval of the application were received. The application was discussed and reviewed with Mr. Duncan.

MS/P Moore/Gardner to approve the application for the deck/stairway to be constructed for the residence at PID # 46-028-4404 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 residence was constructed with permit in 1994 when the setback for Lake Wabedo was 85 feet.
2. The residence is 90 feet from the lake therefore non-compliant to the current lake setback of 100 feet.
3. The deck/stairway 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 size of the deck/stairway is not excessive and will be located to be not obtrusive to the neighborhood and the lake and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
4. The deck/stairway is not excessive in size, extreme of scale and not substantially different from many other residences in the along Lake Wabedo therefore there is no reason to conclude that that area land use will be negatively affected or altered.
5. There is no reason to conclude that financial consideration is the sole reason for the application.
6. The application is consistent with ter4m of the recorded Conservation Easement Section 3.2 which provides: Residential Uses The protected property may used and developed for residential purposes as follows: a. Existing Structures: The existing residential dwellings and out buildings may be maintained, repaired, remodeled, expanded and replaced in substantially their same locations, or, subject to the approval of the County, in such new locations as shall conform to the conservation purposes of this Easement. Any expansion or replacement of an existing building or structure shall not substantially alter its character or function and shall not exceed 30 feet in height as measured in accordance with Cass County standards.

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. The plan shall include restoration of the disturbed area lakeside of the home with seed or pavers.

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 of the deck/stairway shall not exceed that of the site plan submitted with the application 11/17/11.
2. The existing vegetation to the lake must be maintained and replaced as needed.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 existing residence/deck and stairway if determined necessary by ESD 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.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 12/12/13.

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.

Graco Minnesota Inc, Inguadona Township on property described as Govt Lot 4, Section 35-141-27, PID # 18-035-2400 located at 5479 Snowball Road NE. An application submitted to be allowed to construct a residential structure on the property which already contains five residential structures. Section 1120 of the Land Use Ordinance allows for one primary residence per single family residential lot. The property contains 20.76 acres riparian to Lower Trelipe Lake (RD).

PC members were at the site 12/05/11. 26 notices of the application were mailed. Three responses all objecting to approval of the application were received. The application was reviewed and discussed with Graco Inc. representatives.

MS/P Moore/Bliss to approve the application as submitted to add another residential structure to PID # 18-035-2400 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. As best can be determined, Graco Inc has utilized the property for employee recreation and company business meetings since the 1960's.
2. The 20.76 acre parcel currently contains 6 residential structures, except for one expansion, of which there is no record of permit and based appearance were more than likely constructed prior to land use regulation.
3. Based upon appearance all structures seem well maintained in excellent condition.
4. Except for the caretaker, the property is vacant during the winter.
5. The property is not available or open to the general public.
6. The structure 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.
7. The size of the structure is not excessive, complies with lake setback and because of the size and configuration of the property will not be obtrusive to the neighborhood and does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
8. The structures on this parcel, including the proposed new cabin, are excessive in size, extreme in scale and not substantially different in density from other property along Lower Trelipe Lake and therefore there is no reason to conclude that that area land use will be negatively affected or altered.
9. There is no reason to conclude that financial consideration is the sole reason for the application.
10. The current usage is likely the least obtrusive use of this property because the underlying parcel is large enough to be subdivided into at least 10 or more riparian single family residential lots all with lake access and the existing density including the approved residence is less than that would be allowed if the property was a resort.

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 of the structure shall not exceed 46 feet x 48 feet to include residence, porch and deck.
2. The structure shall be at least 100 feet from the lake.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 to adjoining properties is permitted. The approved expansion and structure if determined necessary by ESD 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.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 12/12/13.

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.

Peterson, Mary Jo & Richard, Otter Tail Peninsula Township on property described as Lot 3, Block 1, "Beverly Vista", Section 11-143-30, PID # 28-360-0130 located at 2932 Moose Lane NW. An application submitted to exceed the maximum square footage accessory structure allowed per lot size. The property currently contains 1356 square feet accessory structure. The applicant is proposing a 960 square feet addition which will bring the total square feet accessory structure to 2316 square feet. Section 1101 of the Land Use Ordinance allows for 1500 square feet accessory structure for riparian lots that contain from 1 - 1.49 acres. The property contains 1.2 acres riparian to Leech Lake (GD).

PC members were at the site 12/05/11. 33 notices of the application were mailed. No responses were received. The application was reviewed and discussed with Mr. and Ms. Peterson.

MS/P Kostial/Gould to approve the application as submitted to allow the size of accessory structure to exceed the maximum allowed per lot size for PID # 28-360-0130 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 accessory structure proposed for expansion was constructed 1998 prior to the adoption of the accessory structure size based upon lot size standards.
2. The expansion will be more than 200 feet from the lake on the non-lakeside on the structure.
3. The expansion and the structure both comply with property boundary line setback
4. 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.
5. The expansion is not excessive, not out of scale to the surrounding area and will not be visible 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 is not unusual, excessive or extreme when compared with other structures along the lake and will have no effect to area land use.
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 of the expansion footprint shall not exceed 30 feet x 32 feet.
2. The height to peak of the expansion shall not exceed that of the existing structure.
3. Any debris resulting from construction not reused or recycled must be disposed of in a permitted 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 if determined necessary by ESD 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.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Approval expires 12/12/13.

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

Chateleine, Martha, Boy River Township on property owned by Daniel Olson described as NE Less NE Thereof & Less NW of NW of NW of NE, Section 28-143-27, PID # 08-028-1200 located at along 104th St NE. An application submitted to re-classify 27.5 acres of the property from Agriculture/Forestry (AF) to Rural Residential - 20 (RR-20) which will reduce the minimum required lot size from 40 acres to 20 acres which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 901 of the Land Use Ordinance established the various land use zone classifications. Section 1113.2 of the Land Use Ordinance establishes minimum lot size standards in the non-shoreland area. 117.14 acres (AF) in the non-shoreland area.

20 notices of the application were mailed. No responses were received. The application was discussed and reviewed with the applicant.

MS/P Bliss/Fitch to approve the application as submitted for the reclassification of 27.5 acres in the configuration as submitted to be split from PID # 08-028-1200 at upon review of Sections 705, 901 and 1113 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The application complies with the intent of the Rural Residential - 20 (RR-20) classification which is to promote low density development outside the shoreland zone not close to a municipality.
2. There is no reason to expect that one lot of 27.5 acres will cause adverse effects to adjoining property.
3. One lot of 27.5 acres will have no impact to the demand for governmental services.
4. The new parcel will utilize existing roadways with no effect to public infrastructure.
5. No wetland or critical habitat will be disturbed by reduction of minimum lot size.
6. No scenic or historic features will be affected by the reduction of minimum lot size.
7. No particular threat to public health, safety and welfare can be expected from a change to minimum lot size.
8. The proposal does not reach the mandatory EAW threshold.
9. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.

Conditions:

1. Approval applies to one lot of the size and configuration submitted with the application site plan 11/10/11.
2. The size and configuration of the proposal shall not differ from that shown on the application site plan submitted 11/01/11.

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.

Molle, Bruce & Lori, Boy Lake Township on property on described as part Of Govt Lot 3, Section 13-142-28, PID # 07-013-3114 located at 8540 22nd Ave NE. An application submitted to re-classify one acre from Water Oriented Commercial (WOC) to Shoreland Residential (SR) which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 901 of the Land Use Ordinance established the various land use zone classifications. Section 1113.2 of the Land Use Ordinance establishes minimum lot size standards. The property contains one acre riparian to Boy Lake (GD).

31 notices of the application were mailed. No responses were received. The applicants or a representative were not present.

MS/P Fitch/Bliss to table consideration of the application until the 01/09/12 meeting in order for the applicants or a representative to be present.

Proposed Findings/Approve: DISCUSSED NOT ADOPTED

1. The application complies with the intent of the Shoreland Residential (SR) classification which is to allow low to medium density seasonal and year round residential uses.
2. There is no reason to expect that one residential lot will cause any adverse effects to adjoining developed property.
3. The new lot will not increase demand for governmental services.
4. The new lot will utilize existing roadways with no effect to public infrastructure.
5. No wetland or critical habitat will be disturbed.
6. No scenic or historic features will be affected.
7. No particular threat to public health, safety and welfare can be expected.
8. There will not be any effect to surface water or ground water quality.

Proposed Conditions/Approve: DISCUSSED NOT ADOPTED

1. Approval applies to one lot of the size and configuration submitted with the application site plan 11/07/11.
2. The size and configuration of the proposal shall not differ from that shown on the application site plan submitted 11/07/11.

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.

Neumann, Heather & Severin, Walden Township on property on described as NW SW & W $\frac{1}{2}$ SW SW & E $\frac{1}{2}$ SW SW Except E $\frac{1}{2}$ of S $\frac{1}{2}$ E $\frac{1}{2}$ SW SW, Section 27-137-30, PID # 48-027-3200 located at along 44th St SW NE. An application submitted to re-classify 10 acres of the property from Agriculture/Forestry (AF) to Rural Residential - 10 (RR-10) which will reduce the minimum required lot size from 40 acres to 10 acres which requires approval by conditional use permit (CUP). Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 901 of the Land Use Ordinance established the various land use zone classifications. Section 1113.2 of the Land Use Ordinance establishes minimum lot size standards in the non-shoreland area. The property contains 75.06 acres (AF) in the non-shoreland area.

16 notices of the application were mailed. No responses were received. Two persons appeared to object to approval of the application. The application was reviewed and discussed with Mr. Neumann who explained the 10 acre size is a requirement of his financial institution to qualify for financing.

MS/P Kostial/Gould to approve the application as submitted for the reclassification of 10 acres in the configuration as submitted to be split from PID # 48-027-3200 upon review of Sections 705, 901 and 1113 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. The application complies with the intent of the Rural Residential - 10 (RR-10) classification which is to promote low density development outside the shoreland zone not close to a municipality.
2. There is reason to expect that one lot of 10 acres will cause adverse effects to adjoining property.
3. One lot of 10 acres will have no impact to the demand for governmental services.
4. The new parcel will utilize existing roadways with no effect to public infrastructure.
5. No wetland or critical habitat will be disturbed by reduction of minimum lot size.
6. No scenic or historic features will be affected by the reduction of minimum lot size.
7. No particular threat to public health, safety and welfare can be expected from a change to minimum lot size.
8. The proposal does not reach the mandatory EAW threshold.
9. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.
10. The area to be reclassified is small for the area but the unique circumstance to this application is that the maximum acreage that the financial institution will accept for re-financing for the applicant is 10 acres.
11. The 10 acres reclassified and created is the location of the residence.
12. The applicant will retain the remaining 65 acres which continue as AF.

Conditions:

1. Approval applies to one lot of the size and configuration submitted with the application site plan 11/16/11.
2. The size and configuration of the proposal shall not differ from that shown on the application site plan submitted 11/16/11.

Quarterdeck Properties LLC, Fairview Township on property described as Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & Part of Govt Lots 4 -6 & part of NW SW, Section 5-134-29, PID # 14-005-3102 Located at 9820 Birch Bay Drive SW. An application submitted to upgrade and reconfigure to include removal existing non-conforming resort unit with new at the required setback, shoreline vegetation restoration and storm water run-off management. Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1104 of the Land Use Ordinance establishes resort criteria. The property contains 27.03 acres riparian to Gull Lake (GD).

PC members were at the site 11/07/11. More than 100 notices of the application were mailed for the 11/14/11 and 12/12/11 meetings. Four responses to the 11/14/11 mailing, including Fairview Township, none offering objection to approval were received. One response received from the 12/12/11 meeting mailing of objection to the approval of the proposed re-development was received. The CUP and PP was discussed and reviewed with Mr. Stephens and Ms. Hidde.

MS/P Ballenthin/Gardner to table consideration of the CUP and Preliminary Plat until the 01/09/12 meeting in order for the applicant to consider and better define owner occupancy requirements.

Proposed Findings/Approve: DISCUSSED NOT ADOPTED

1. As best can be determined the property as been operated as a resort from the early 1900's which predates any land use regulation.
2. There is no record of a conditional use permit (CUP) for the resort since the adoption of land use regulation in the early 1970's.
3. There is no evidence to conclude that over the years of operation that Quarterdeck has adversely affected adjoining property.
4. Quarterdeck clientele is temporary and transient which has no impact to schools
5. Quarterdeck utilizes existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
6. No wetland or critical habitat will disturbed by the redevelopment.
7. No scenic or historic features will be affected by the redevelopment.
8. No threat to public health, safety and welfare can be expected from the redevelopment.
9. Waste water treatment complies with applicable county and state standards with no public infrastructure required.
10. The project does not reach the mandatory EAW threshold.
11. The redevelopment configuration complies with applicable density standards.
12. There is no evidence or reason to expect that the resort redevelopment will adversely affect adjoining property.
13. The redevelopment proposal which includes structure compliance with lake setback standards, storm water management and shore impact zone vegetation will result in overall property improvement as compared to existing conditions on the property.
14. The property is classified Water Oriented Commercial (WOC) and the proposed and continuing resort use is a Conditional Use in the WOC district. All future alterations and expansion of the resort shall require a permit or Conditional Use Permit (CUP) as provided by Cass County Ordinances and so long as resort operations continue and new resort dwelling units that may eventually be constructed in the resort on Blocks 1, 2, and 3 shall have such riparian lake access and mooring rights as may be permitted by CUP or amended CUP approved by the Cass County Planning Commission.

Proposed Conditions/Approve: DISCUSSED NOT ADOPTED

1. Except as otherwise provided for in these Conditions, the resort shall be constructed, implemented, maintained, managed and operated in compliance with the written overview dated 10/20/11 and the site plan for the development dated 11/28/11 (received ESD 11/29/11) and 12/05/11 (received ESD 12/05/11), the Preliminary Plat approved concurrently herewith, and the Declaration and the property Management Agreement received ESD 11/29/11, the Submittal Documents. Without limiting the foregoing, the Declaration and the Property Management Agreement, to the extent inconsistent with these Conditions, and any other document or agreement containing terms contrary to these Conditions, shall be amended to comply with these Conditions (note Condition # 16.), none of such documents and agreements thereafter shall be amended contrary to these Conditions without prior consent of the Cass County Planning Commission or any successor and any amendment without such consent shall be void and of no effect.
2. Except for roof repairs such as shingles, improvements to the existing Tier 1 units shall not be more than cosmetic such as siding or replacement glass.
3. No permanent structural improvements or expansion shall be permitted to any Tier 1 unit.
4. The existing Tier 1 units shall be replaced as the resort unit lots are sold and shall not be utilized as a resort unit after 12/31 of the year sold.
5. If not sooner removed, all existing Tier 1 units shall be removed not later than December 21, 2020.
6. Any materials resulting from the removal of the existing Tier 1 units not reused or recycled must be disposed of in a permitted facility.
7. The resort is approved for 34 dwelling units. The current 10 lakeside units and the 9 Birchwood Villa Units shall be replaced with not more than 9 resort units in Tier 1, 11 resort units in Tier 2. The existing Lodge Villa 14 units may be retained, the existing restaurant may be relocated and expanded and other existing accessory buildings and uses may be retained and used all as described in the Submittal Documents.
8. No garages or storage structures for use by unit owners are approved.
9. The 20 new units in Tiers 1 and 2, if not owned and operated as rental units by Quarterdeck are approved for use as described in the Submittal Documents subject to these Conditions (note Condition # 16).
10. The swimming area and mooring systems shall be located and configured as described in the Submittal Document. No other shore area or Shore Impact Zone 1 area shall be used for swimming, docking, beaching of watercraft or other recreation activity.
11. Except as may be altered by the Landscape/Vegetation plan or otherwise required or approved by ESD, the storm water management plan, as described with the Submittal Documents is adopted and shall be implemented as construction/development is initiated.
12. The Grading Plan that includes construction phase erosion control measures as submitted, approved by ESD, and, except as otherwise approved by ESD, shall be implemented with respect to each resort unit during construction.
13. Prior to the commencement of construction a Landscape Plan shall be approved by ESD and implemented on a schedule approved by ESD and shall be continuously maintained. As provided in Section 705.2 and Section 705.3 of the Land Use Ordinance, the landscape plan shall

specifically address measures to limit visibility of structures and other facilities as viewed for the lake, limitations on the natural vegetation to be removed and requirement that additional vegetation be planted pursuant to the shoreline buffer standards prescribed in Section 1123 of the Land Use Ordinance. Prior to the issuance of a permit, the applicant shall submit to ESD financial assurance in the amount of \$3/square foot for square feet of area included in the Landscape Plan. Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the plan as determined by ESD.

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

14. Prior to commencement of any construction, and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.

15. ESD shall be provided with verification of MN DOH Resort License; and, for so long as the resort shall be operated a valid and effective Resort License shall be continuously maintained.

16. TO BE DETERMINED BY APPLICANT SUBITTAL FOR PC REVIEW Resort unit owners shall not occupy their unit for more than xx days from xxx - xxx and resort unit owners shall not occupy their unit for more than xx days from xxx - xxx. At all other times each resort unit shall be included in the resort rental pool and shall be kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public on a daily, weekly, monthly or seasonal basis. Unit owners, their guests and permittees who desire to occupy their units for more than the number of days specified above shall only do so after the unit has been made available to the public for rental on the most favorable reservation/time basis that Quarterdeck makes other rental units available to the public, and then only on a rental basis and on the same terms and conditions of rental as the unit would be available to the public for rent. No resort may constitute a Homestead of any person or may be occupies as the primary residence of any person.

17. All Shore Impact Zone 1 and 2 areas that are not used for or otherwise approved by ESD shall be re-vegetated landward from the OHWL. Landscaping and vegetative planting shall be approved by ESD with such areas annually maintained. Access to Gull Lake is not permitted through or across re-vegetated areas except as contained in a written plan approved by ESD.

18. Fuel storage shall comply with MPCA standards.

19. All roof structures of new units and other new construction shall be designed to direct run-off away from the lake.

20. All rain gardens and other water retention structures shall be serviced annually to maintain their function and performance and to remove trash, leaves, and sediment.

21. No fire pits shall be located in the vegetated buffer/no mow areas. Community fire pits are permitted only in the Shoreland Impact Zone II access areas to Gull Lake and portions of the property located more than 75 feet from the OHWL of Gull Lake.

22. Parking of vehicles, trailers, etc. is only permitted in designated sites as describer in the submittal documents.

23. The resort at all times shall be owned, operated and maintained in compliance with this Conditional Use Permit and these Conditions and applicable Cass County Ordinances. Without limiting the foregoing, the resort and any conveyance of an interest in the resort or any unit is subject to the provisions of the Land Use Ordinance for Cass County, Minnesota, Sections 1104.9.F and G, Ordinance #2009-07 effective 01/10/10, and as the same may be recodified,

restated, or amended, provided that any such recodification, restatement or amendments which is more restrictive than the Ordinance in effect on the date of this CUP shall be effective to govern the resort only as provided by law.

24. All applicable township, county, and state permits/licenses shall be maintained.

25. All applicable county inspections and compliance verification shall be obtained and maintained.

26. A vegetative buffer as approved by ESD must be established along the boundary of Lot 11 and the south boundary of the property.

27. Signage must be located at the south boundary along the township roadway as to the termination of Quarterdeck Resort property.

28. The resort owners shall mutually agree with the Pillager Area Fire and Rescue as to the placement of a hydrant/holding tank system.

29. The resort owners in conjunction with the Gull Lake Association and the MN DNR shall cooperate in informational and mechanical efforts to restrict invasive species introduction to Gull Lake.

Preliminary Plat of "Quarterdeck Resort", Quarterdeck Properties LLC, Fairview Township, on property described Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & part of Gov Lots 4 - 6 & Part NW SW, Section 5-134-29, PID # 14-005-3102. The surveyor is Cindy Hiddde, Stonemark Land Survey. The preliminary plat contains 22 resort unit lots, two lots for expansion of the current lodge and villas structure and two lots for future development located on 26.2 acres riparian to Gull Lake (GD) classified Water Oriented Commercial (WOC). The resort unit lots will be in the rental pool and may be in second party ownership. Article 4 of the Subdivision and Platting Ordinance (03/09/09) establishes preliminary plat criteria.

Proposed Findings/Approve:

1. The development complies with the resort GD density standards and shall remain so provided resort licensing and Water Oriented Commercial (WOC) are maintained.
2. The County Surveyor and ESD has reviewed and approved the preliminary plat for compliance with Article 4 of the Subdivision & Platting Ordinance (03/09/09).
3. The plat does not reach the mandatory EAW/EIS review standards.

Other Business

Swales, John, Powers Township on property described as Lots 19 & 20 & Part of Lot 21, "Horseshoe Beach", Section 21-139-30, PID # 34-417-0191 located at 1120 W Horseshoe Drive NW. A request received to revise dimensions of the expansion approved by VP08-139-30-6, which was approved 01/12/09. The property contains .56 acre riparian to Horseshoe Lake (RD).

MS/P Moore/Gardner to approve the revision of VP08-139-30-6 as submitted per the 10/13/11 site plan as submitted to ESD with the original conditions along with an addition condition that the residence at the closest point must be 49 feet from the lake.

Gooderum, Steve, Kego Township on property described as East 125 Ft of Gov 4 & Part of Gov Lot 1, Section 27-141-28, PID # 19-027-1301 located at 5482 Suzanne Lane NE. A request received to rescind Condition #7 of VP11-141-28-3 which was approved 11/14/11.

MS/P Gardner/Bliss to approve the revision of VP11-141-28-3 to delete Condition # 7 for as long as Mr. Gooderum owns the property and that that portion of the walkway as described in Condition # 7 prior to sale of the property.

Steinkopf, Allen, Kego Township on property described as Part of Gov Lot 2, Section 33-141-28, PID # 19-033-1303 located at 5059 Sawmill Trail NE. A request received to revise the foot print of the residence approved by VP11-141-28-1 which was approved 07/11/11 from 2,680 square feet to 2,980 square feet.

MS/F Bliss/Moore - Ballenthin/Yes, Bliss/Yes, Fitch/No, Gardner/No, Gould/No, Moore/Yes, Sundberg/No to approve the revision of VP11-141-28-1 as requested.

MS/P Ballenthin/Kostial at 1:40 pm, to adjourn.

P. Fairbanks