



Cass County
Planning Commission/Board of Adjustment

October 12, 2015

The Cass County Planning Commission/Board of Adjustment conducted a regular meeting October 12, 2015 in the meeting room of the Cass County Land Department in Backus. The field inspections for the meeting were October 5, 2015 and October 6, 2015 with PC members Fitch, Kostial, La Porte, Moore, Pehling and Sundberg along with ESD staff Berg, and Fairbanks in attendance.

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

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

Staff Present: Berg, Fairbanks and Ringle.

Citizens Present: Ron Allar, Rick Anderson, Sue Anderson, Phil Coltart, Rene Dolan, Tim Dolan, Jane Erickson, Kenneth Erickson, Mitch Feierbend, Don Fromm, Arlen Johnson, Dave Johnson, Barb Martin, Jim Martin, Jay Riffle, Michael Schwarze, Allard Tadych, Frances Tadych, Don Tomann, Curt Walter, Darren Ward, Chris Weegman, Wendy Weegman.

MS/P LaPorte/Froehlig to approve the minutes of the 08/10/15 PC/BOA meeting as revised and presented.

Variance

Cavanaugh, David, Kego Township on property described as Part of Govt Lot 10, Section 14-141-28, PID #19-014-3401 located at 6137 County #126 NE. An application submitted to locate a Subsurface Sewage Treatment System, SSTS, septic tank 90 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires SSTS to be at least 150 feet from a lake classified Natural Environment (NE) and Section 800 which establishes variance review criteria. The property contains 36 acres riparian to Maple Lake (NE).

PC members were at the site 10/05/15. 43 notices of the application were mailed with no responses received.

MS/P Fitch/Pehling to table consideration of the application until the 11/09/15 meeting in order to confirm lake setback and to visit the site again.

Dolan, Timothy & Rene, Trelipe Township on property described as Lot 4, "Brookman's Linden Beach", Section 8-140-27, PID #44-365-0040 located at 4019 Northby Creek Trail NE. An application submitted to expand a non-conforming residence with an enclosure of a 12 feet x 20 deck which is considered an addition. The residence is non-conforming because it is located 30 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 75 feet from a lake classified General Development (GD) and Section 800 which establishes the variance review criteria. The property contains .51 acre riparian to Lake Inguadona (GD).

PC members were at the site 10/05/15. 22 notices of the application were mailed with no responses received. The application was reviewed and discussed with the applicants.

MS/P Fitch/LaPorte to approve the expansion for the residence located upon PID #44-365-0040 as submitted upon review of the criteria contained in Sections 800, 1115.3 and 1126.1 A. of the Land Use Ordinance (02/15/13) and M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Brookman's Linden Beach" was platted in 1948, Lot 4 contains .51 acres.
2. The deck proposed for enclosure was approved by VP12-140-27-1.
3. Enclosure of the deck will not affect structure setback or impervious surface coverage.
4. The applicants' shoreline vegetation is an example of being visually appealing along with physically preventing run-off to the lake along with preventing shoreline erosion.
5. Enclosure of the deck will not have a significant affect to use of the property or it necessarily pose or increase potential to harm the natural environment which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
6. Enclosure of the deck will not have a significant affect to use of the property or will it necessarily pose or increase potential to harm the natural environment and therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
7. There is no information or evidence to conclude that area land use will be affected or altered by the enclosure of the deck.
8. There is no reason or evidence 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:

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

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

Conditions:

1. The dimensions, configuration and location of the deck enclosure shall not vary from that submitted 09/14/15 and shall not be revised except as approved by ESD or if necessary the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall determine the need for shoreline vegetative enhancement/restoration to depth from the water as determined by ESD and if required applicant shall provide a plant type and implementation plan to be approved by ESD.
5. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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.

Erickson, Kenneth, Ponto Lake Township on property described as Lot 16, Block 1, "Hay Lake Homesites", Section 12-139-29, PID #32-391-0180 located at 1696 Hazelnut Lane NW. An application submitted to construct a 10 feet x 32 deck to be located 10 feet from the top of a

bluff and boundary fence at which the lakeside end would be 5 feet from the top of a bluff. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 B. which requires structures to be at least 30 feet from the top of a bluff and Section 800 which establishes variance review criteria. The property contains .87 acre riparian to Hay Lake (RD).

PC members were at the site 10/06/15. 29 notices of the application were mailed with no responses received. The application was reviewed and discussed with Mr. Erickson.

MS/P Kostial/LaPorte to approve the application for the deck and fence for PID #32-391-0180 upon review of the criteria contained in Sections 800 and 1126.1 of the Land Use Ordinance (01/10/10) and in M.S. 394.27, Subdivision 7 with the following findings and conditions.

Findings:

1. "Hay Lake Homesites" was platted in 1988.
2. There is no record of construction of the residence in the permit archive although it is obvious that it predates the enforcement of the bluff standards.
3. Although the deck will be less than 30 feet to the top of the bluff it will be 100 feet from the lake.
4. The proposed deck and fence locations seem reasonable when taking into account the age, configuration and location of the residence along with the location of the deck which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and the general welfare.
5. The proposed deck and fence will not be excessive of scale or obtrusive to neighboring property which therefore does not contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. The surrounding area contains structures similar in size and scale and there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed deck and fence addition expansions.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.
8. The deck support will be post construction with minimal excavation.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement or restoration is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

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

Conditions:

1. The dimensions, configuration and location of the deck and fence shall not vary from that submitted 09/10/15 and shall not be revised except as approved by ESD or if necessary the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. ESD shall determine the need for shoreline vegetative enhancement/restoration to depth from the water as determined by ESD and if required applicant shall provide a plant type and implementation plan to be approved by ESD.
5. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
6. Applicant consents to inspection of the property from time to time by ESD to verify compliance with conditions.
7. The fence shall not exceed that allowed by ordinance.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 09/14/17.

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.

Fromm, Bonnie, Ponto Lake Township on property described as S 100 Feet of N 400 Feet of Govt Lot 10, Section 3-139-29, PID #32-003-1413 located at 2219 State 84 NW. An application submitted to be allowed, "after the fact" to retain an existing bunkhouse/guest quarters on a lot, 19,166 square feet, that does not comply with the minimum guest quarters lot size standards and in addition is 51 feet from the lake. The application also requests to be allowed to retain a 10 feet x 20 deck to the primary residence which is 49 feet from the lake

also constructed without permit. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1113.1 which requires a guest quarters lot riparian to a Recreational Development (RD) to contain 100,000 square feet total area, 40,000 square feet buildable area and be 225 feet wide at the water and at the structure setback of 100 feet; this lot contains 19,166 square feet total area, 19,166 square feet buildable area at the lake and structure setback, Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. Consideration of this application was tabled during the 09/14/15 meeting. The property contains .44 acre riparian to Island Lake (RD).

PC members were at the site 09/09/15 and 10/06/15. 29 notices of the application were mailed for both meetings. Five responses all supportive of approval of the application were received. In addition one person was in attendance to advocate for approval. Don Fromm was present to discuss and review the application.

MS/P Moore/LaPorte to approve, "after the fact", the application to retain the lakeside deck and accessory structure located at PID #32-003-1413 based upon the criteria contained in Section 800 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 along with the criteria established by the Minnesota Supreme Court "Statsvold" decision with the following findings and conditions:

Findings:

1. The accessory structure/bunkhouse was placed upon the property and the deck was constructed without consultation with ESD and sans permit prior to the applicants' ownership.
2. The property became of record in 1947 and contains .44 acre.
3. The original construction date of the residence cannot be determined which therefore negates the 15% deck option as allowed by Section 1126.8 of the Land Use Ordinance.
4. There is no information or evidence that the accessory structure/bunkhouse has altered or disturbed land use or neighboring property and it seems not to 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. There is no information or evidence that the accessory structure/bunkhouse has altered or disturbed land use or neighboring property or contradicts the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is primarily financially based.

"Statsvold" - After the Fact Factors:

7. There is no evidence or information or means to determine whether or not the applicant acted in good faith.
8. There is no evidence or information or means to determine that the applicant did not attempt to comply with the ordinance.
9. The construction of the deck and bunkhouse is complete.
10. There are similar structures along Island Lake.
11. The degree of impact to the area and the land use system seems not significant and the County's benefits are outweighed by the applicant's burden if the applicant were required to comply with the ordinance and in light of all factors, the interest of justice is served by granting the ATF variance.

Conditions:

1. The deck shall not be enclosed.
2. The structure shall be used only for storage and moved as determined by ESD staff, adjacent to the lakeside of the garage 62 feet from the lake and moved to that point not later than 06/01/16.
3. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off from all structures shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
4. Applicant consents to inspection of the property 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.

Johnson, Arlen, Powers Township on property described as Part of Govt Lot 5, Section 3-139-30, PID #34-003-2303 located at 2214 35th Ave NW. An application submitted to construct a 20 feet x 26 feet accessory structure/garage 75 feet from the lake and a subsurface sewage treatment system (SSTS) 120 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures and SSTS to be at least 150 feet from a lake classified Natural Environmental (NE) and Section 800 which establishes variance review criteria. The property contains .33 acre riparian to Pickerel Lake (NE).

PC members were at the site 09/08/15 and 10/05/15. 14 notices of the application were mailed for each meeting. Four responses all opposed to approval of the application were received. Several persons appeared at the 09/14/15 meeting to complain about the configuration and location of the proposed accessory structure/garage. The SSTS portion of the application was approved with structure portion of the application tabled in order for the applicant to consider orientation options for the accessory structure. The application was discussed and reviewed

with Mr. Johnson who explained that he has revised access to the garage to be directly from 35th Avenue instead of across the adjacent lot to the west.

MS/P Kostial/Moore to approve the location of the accessory structure/garage to be located upon PID #34-003-2303 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property became a lot of record in 1946 and contains .33 acre.
2. The configuration of the lot makes it impossible for the detached accessory structure/garage to meet 150 feet from the lake at the closest point which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
3. The location of the detached accessory structure/garage based upon the configuration of the lot will not be obtrusive to neighboring property 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.
4. The applicant has offered and confirmed removal from the property of the two existing accessory structure/storage upon completion of construction the detached accessory structure/garage.
5. There is no reason or evidence 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:

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

Conditions:

1. The dimensions, location and configuration of the accessory structure/garage shall not vary from that submitted 09/24/15 unless approved by ESD or if necessary the Planning Commission.

2. ESD staff shall verify in feet the setback at the closest point from the lake of the approved structure prior to land use permit approval.
3. ESD staff shall verify that the approved structure will be situated at least 10 feet from PID #34-003-2404 prior to land use permit approval.
4. ESD staff shall verify that the approved structure will be situated at least 10 feet from the 35th Avenue NW easement prior to land use permit approval.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Applicant consents to inspection of the property by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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.

Martin, James & Barbara, Torrey Township on property described as Lot 38, "Bannister's Vermillion Lake Addition", Section 29-143-25, PID #43-424-0380 located at 10378 Vermillion Point Drive NE. An application submitted to be allowed, "after the fact" to retain two accessory structures constructed sans permit both located 75 feet from the ordinary high water level (OWHL) of the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria. The property contains .73 acre riparian to Vermillion Lake (RD).

PC members were at the site 10/05/15. 41 notices of the application were mailed with no responses received. The application was discussed and reviewed with the applicants.

MS/P Moore/Fitch to approve, "after the fact", the application to retain the accessory structure/boat storage located at PID #43-424-0380 based upon the criteria contained in Section 800 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 along with the criteria established by the Minnesota Supreme Court "Statsvold" decision with the following findings and conditions:

Findings:

1. Approval does not include the 12 feet x 12 feet accessory structure/storage included in the application which shall be removed from the property or to a point 100 feet from the lake, no later than 06/01/16.

2. The boat rack which is 75 feet from the lake was constructed without consultation with ESD and sans permit may remain.
3. The property was platted in 1959 and contains .73 acre.
4. There is no information or evidence that the boat rack has altered or disturbed land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. There is no information or evidence that the boat rack has altered or disturbed land use or neighboring property or contradicts the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is nothing to indicate that the application is primarily financially based.

"Statsvold" - After the Fact Factors:

7. There is no evidence, information or means to determine whether or not the applicant acted in good faith.
8. There is no evidence, information or means to determine that the applicant did not attempt to comply with the ordinance.
9. The construction of the boat rack is complete.
11. There are similar structures along Lake Vermillion.
12. The degree of impact to the area and the land use system is not significant and the County's benefits by moving the boat rack 25 feet away from the lake are outweighed by the applicant's burden if the applicant were required to comply with the ordinance and in light of all factors, the interest of justice is served by granting the ATF variance.

Russel's Cabin LLC, Woodrow Township on property described as Part of Govt Lot 1, Section 29-140-29, PID #51-029-1107 located at 3115 17th Ave NW. The property currently contain contains a 25 feet x 45 feet residence and an 18 feet x 24 feet residence. Both structures were constructed prior to the adoption of land use regulation deemed non-conforming. The application requests a new 1,612 square feet two level primary residence with the smaller existing structure retained as guest quarters. According to today's standards, such a configuration requires a minimum lot size based upon lake classification. The property contains 239,580 square feet total area, more than 175,000 square feet buildable area, is 208 feet wide as measure per ordinance near the shoreline and exceeds 225 feet wide at the structure setback at 100 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1113. 1 which requires a guest quarters lot riparian to a Recreational Development (RD) to contain 100,000 square feet total area, 40,000 square feet buildable area and be 225 feet wide as measured per ordinance at the water and at the structure setback of 100 feet and Section 800 which establishes the variance review criteria. The property contains 5.5 acres riparian to Big Deep Lake (RD).

PC members were at the site 10/05/15. 21 notices of the application were mailed. One response recommending approval of the application was received. The application was discussed and reviewed with Russel's Cabin LLC representatives.

MS/P Kostial/Pehling to approve the application for the size, configuration and location of the camp structure that will replace the existing non-conforming camp structure located upon PID #51-001-3400 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The proposed residence to replace an existing residence will result in no increase of the number of structures to be located on the property.
- 2 The residence to be retained complies with the square feet maximum allowed for guest quarters living area.
3. The proposed structure will comply with applicable setback requirements and will not alter the view of the property to the lake which is reasonable when taking into account the current level of development in the area and configuration of the property which therefore does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed structure replacement will not alter the use of the property and there is no evidence or information to establish that it will 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 surrounding area along Big Deep Lake consists of similar lots, residences and accessory structures located at generally similar setbacks to which there is no reason or evidence to conclude that area land use will be negatively affected or altered by the proposed construction.
6. The variation to lot width, 17 feet, is minor and will not affect the lake or the neighboring area.
7. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

1. ESD required and approved erosion control is installed.
2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.
4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration of the proposed residence shall not vary from that submitted 09/04/15 unless approved by ESD or if necessary, the PC/BOA.
2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. No run-off from all structures on the property to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Applicant consents to inspection of the property by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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.

Sabourin, Richard & Lynn, Ponto Lake Township on property described as Lot 3, Block 1, "Island Lake Estates", Section 3-139-29, PID #32-346-0130 located at 864 County 46 NW. An application submitted to be allowed, "after the fact" to retain two accessory structures, a potting shed and a greenhouse, constructed sans permit and located 71 feet and 87 feet from the ordinary high water level (OWHL) of the lake. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1126.1 A. which requires structures to be at least 100 feet from a lake classified Recreational Development (RD) and Section 800 which establishes the variance review criteria.

The property contains 4.7 acres riparian to Island Lake (RD). PC members were at the site 10/06/15. 39 notices of the application were mailed with one response urging approval received. The application was discussed and reviewed with the applicants' representative Mr. Coltart.

MS/FAILED Kostial/Moore to approve, "after the fact", the application to retain the accessory structure/potting shed located at PID #32-346-0130 based upon the criteria contained in Section 800 of the Land Use Ordinance (02/15/13), M.S. 394.27, Subdivision 7 along with the criteria established by the Minnesota Supreme Court "Statsvold" decision with the following findings and conditions:

Findings:

1. Approval does not include the accessory structure/greenhouse included in the application which shall be removed from the property or to a point 100 feet from the lake as verified by ESD staff.
2. There is ample area available to move the accessory structure/greenhouse.
3. The accessory structure/potting shed which is 87 feet from the lake was constructed without consultation with ESD and sans permit.
4. The property was platted in 1959 and contains .73 acre.
5. There is no information or evidence that the accessory structure/potting shed has altered or disturbed land use or neighboring property which does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
6. There is no information or evidence that the accessory structure/potting shed has altered or disturbed land use or neighboring property or contradicts the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
7. There is nothing to indicate that the application is primarily financially based.

"Statsvold" - After the Fact Factors:

8. There is no evidence, information or means to determine whether the applicant did or did not act in good faith.
9. There is no evidence, information or means to determine if the applicant did or did not attempt to comply with the ordinance.
10. The construction of the accessory structure/potting shed is complete.
11. The accessory structure/potting shed appears to be of good construction.
12. There are similar structures along Island Lake.
13. The degree of impact to the area and the land use system is not significant and the County's benefits by moving the accessory structure/potting shed 13 feet away from the lake are outweighed by the applicant's burden if the applicant were required to comply with the

ordinance and in light of all factors, the interest of justice is served by granting the ATF variance.

A motion to approve that fails is deemed denial, therefore the structures included in the application are non-compliant based upon location and lack of permit for either structure.

Schwarze, Michael, Sylvan Township on property described as Part of SE NE, MP&L Lease Lot 3, Section 20-133-29, PID #41-820-1403 located at 1536 Oak Ridge Road SW. An application submitted to expand a non-conforming residence with an attached 28 feet x 32 feet garage and a deck both that will be less than 100 feet from the river. The relevant portions of the Land Use Ordinance (02/15/13) include Section 1115.3 which establishes the non-conforming structure expansion criteria, Section 1126.1 A. which requires structures to be at least 100 feet from a river Tributary (TRIB) and Section 800 which establishes the variance review criteria. The property contains 1.54 acres riparian to the Gull River (TRIB).

PC members were at the site 10/06/15. 21 notices of the application were mailed with one response from Sylvan Township recommending approval received. The application was discussed and reviewed with Mr. Schwarze.

MS/P LaPorte/Moore to approve the application for the size, configuration and location of the attached garage and deck for PID #41-820-1403 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The property is a MN Power lease lot that contains 1.54 acres.
2. There is no record in the permit archive for the placement of the residence which is setback 64 feet from the river.
3. The existing dilapidated deck/walkway will be removed.
4. The proposed deck will be no closer to the river than the residence.
5. The proposed attached garage will be mostly unobservable from the river.
6. Based upon the configuration and location of the residence, the deck and attached garage locations is the most reasonable option and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
7. The neighboring area along the Gull River contains similar sized lots with residences similar in size to that proposed to which there is no evidence or information to establish that it will 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. There is nothing to indicate that the proposed deck and attached garage will effect or alter the land use of the neighboring area.

9. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

1. ESD required and approved erosion control is installed.

2. If shoreline vegetative enhancement, restoration or no mow is required by ESD or the Planning Commission, a written plan for suitable vegetation shall be approved by ESD and agreed to be implemented by applicant.

3. At applicant's option, the vegetative plan is substantially implemented as determined by ESD or financial assurance in the amount of \$1 per square foot of the buffer area for no-mow or \$3 per square foot for all other vegetative buffers or if less 125% of the cost estimate.

4. As required by other conditions as set forth.

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration of the deck, 10 feet x 14 feet, and attached garage shall not vary from that submitted 09/23/15 unless approved by ESD or if necessary, the PC/BOA.

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

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

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

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

6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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.

Tadych, Allard & Frances, Kego Township on property described as Lots 13 & 14, Block 2, "Pine Gables of the North", Section 33-141-28, PID #19-474-0218 located at 1066 Sarajac Road NE. An application submitted to replace the existing non-conforming residence located 45 feet from the lake with new construction at 60 feet from the lake. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development. The property contains .39 acre riparian to Girl Lake (RD).

PC members were at the site 10/06/15. 45 notices of the application were mailed with one response endorsing approval of the application received. The application was discussed and reviewed with the applicants.

MS/P LaPorte/Moore to approve the application for the size, configuration and location of the residence to be located at PID #19-474-0218 upon review of the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Pine Gables of the North" was platted in 1928 prior to the adoption of land use regulation.
2. There is no record in the permit archive of construction of the structure at 45 feet which is to be removed.
3. Site placement is limited by the location of the SSTS and lot depth.
4. Based upon the lot size and configuration and the location of the SSTS, the lake setback of 62 feet for the proposed residence seems the best option, is reasonable and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
5. The proposed residence will not be out of character or size from neighboring properties to which there is no evidence or information to establish that it will contradict the purpose of the comprehensive plan which is to 1. Provide a rational basis to make difficult land and resource decisions wisely, 2. Eliminate the conflicts caused by unplanned development, 3. Improve coordination and communication between county, local governments and the citizens in land use planning, and 4. Protect the County's natural resources from degradation.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

1. ESD required and approved erosion control is installed.

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

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions:

1. The structure shall not be less than 62 feet from the lake as verified by ESD staff.
2. The dimensions, location and configuration of the residence shall not vary from that submitted 09/24/15 unless approved by ESD or if necessary, the PC/BOA.
3. Any walk-out excavation shall comply with the Shoreland Alteration requirements.
4. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
5. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
6. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
7. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
8. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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.

Tomann Investments, LLC, Pine River City on property described as Lots 13 - 20 Block 1 "Wideman's Addition to Pine River", Section: 31-1038-29, PID # 94-371-0190 located at 403 Fifth St. An application submitted to replace an existing Subsurface Sewage Treatment System tank at 28' from the ordinary high water level (OHWL). The relevant portions of the Land Use Ordinance (02/15/13) include Section 800 which establishes the variance criteria and

1126.1 which requires SSTS to be located at least 75 feet from a river or stream classified Tributary (TRIB). The property contains .41 acre riparian to Norway Brook (TRIB).

PC members were at the site 10/06/15. More than 75 notices of the application were mailed with one response opposed to approval of the application received. The application was discussed and reviewed with Mr. Tomann.

MS/P LaPorte/Kostial to approve the tank replacement at PID #94-371-0190 based upon the criteria contained in Sections 800 and 1126.1 A. of the Land Use Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. "Wideman's Addition to Pine River" was platted in 1907 and contains .41 acre.
2. Lot depth of 70 feet means SSTS river setback of 75 feet is impossible.
3. A variance to replace an existing damaged SSTS tank which will prevent possible harm to public health and water quality does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. A variance to replace an existing damaged SSTS tank which will prevent possible harm to public health and water quality 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. A replacement tank will have no effect to land use or activity in the neighboring area.
6. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

Weegman, Chris & Wendy, Inguadona Township on property described as Part of Govt Lot 6, Section 35-141-27, PID #18-035-3105 located at 4124 Danens Drive NE. An application submitted to replace the existing non-conforming residence located 54 feet from the lake with new construction at footprint with a 12 feet x 12 feet screen porch addition with 3 feet increase in height for all the replacement structure. The relevant portions of the Land Use Ordinance (02/15/13) are Section 800 which establishes the variance criteria and Section 1126.1 which requires structures to be setback 100 feet from a lake classified Recreational Development. The property contains 1.07 acres and is riparian to Lower Trelpe (RD).

PC members were at the site 10/05/15. 14 notices of the application were mailed with no responses. The application was reviewed and discussed with the applicants.

MS/P Fitch/LaPorte to approve the application to construct a residence for PID #18-035-3105 as submitted based upon the criteria contained in Sections 800 and 1126.1 A. of the Land Use

Ordinance (02/15/13) along with M.S. 394.27, Subdivision 7 with the following findings and conditions:

Findings:

1. The existing non-conforming residence was constructed prior to 1972.
2. As allowed by ordinance and statute, the existing residence could be replaced at current footprint and volume.
3. The location mitigates the modest size increase and does not contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare.
4. The proposed structure will be similar to other residences located along Lower Trelipe to which there is no evidence or information to establish that it will 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. There is no reason or evidence to conclude that financial consideration is the sole reason for the application.

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

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

No site preparation or building construction shall be commenced until issuance of a land use permit. Commencement prior to issuance of a land use permit may result in withholding, withdrawal or revocation of a land use permit until inspection by ESD and correction of any circumstances in violation of laws, 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 may be required by ESD.

Conditions:

1. The dimensions, location and configuration of the structure shall not vary from that submitted 09/23/15 unless approved by ESD or if necessary, the PC/BOA.

2. Any material resulting from construction or demolition not reused or recycled must be disposed of in a permitted facility.
3. ESD shall determine the need for construction erosion control and if required applicant shall install ESD approved erosion control placement prior to the commencement of construction.
4. No run-off from all structures to the lake or adjoining properties is permitted. If determined necessary by ESD, run-off shall be directed by gutters or other means to natural water retention features located upon the property or structures such as rain gardens.
5. Applicant shall consent to inspection of the property by ESD to verify compliance with conditions.
6. Unless commenced or otherwise extended or revised by the Planning Commission this approval shall be effective until 10/12/17.

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

Forest Royale LLC, Pine Lake Township on property described as Lot 11, Block 1, "Forest Royale", Section 2-141-29, PID #30-343-0155 an undeveloped lot located along Forestview Road NW. An application submitted for the placement of up to 5,000 cubic yards of fill material in order to prepare Lot 11, Block 1 for construction of a residence. The fill material will be removed from Lot 4, Block 1, "Forest Royale Second Addition". The relevant portions of the Land Use Ordinance (02/15/13) include Section 1106.2 which requires a conditional use permit (CUP) for the movement of more 200 cubic yards of fill material within the shoreland area which is that area with $\frac{1}{4}$ mile of public waters and Section 705 which establishes the CUP criteria. The property contains 4.3 acres riparian to Leech Lake (GD).

PC members were at the site 10/05/15. 48 notices of the application were mailed with no response received. The application was reviewed and discussed with Mr. Feierabend of HyTec Construction.

MS/P Fitch/Moore to deny the application for grading and filling at PID #30-343-0155 based upon review of the criteria contained in Section 705 of the Land Use Ordinance (02/15/13) along with M.S. 394.301 with the following findings:

Findings:

1. The lot is suitable for development with only slight modification, if any, of the topography.
2. The proposed fill configuration is out of scale and excessive when compared to the natural topography of the property.
3. The proposed retaining wall and fill will present a fortress-like view from the lake and in addition, is so excessive that the proposal contradicts 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 retaining wall and fill will present a fortress-like view from the lake and in addition, is so excessive that the proposal contradicts 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 retaining wall and fill is not consistent or compatible with existing land use development in the plat, along Leech Lake and in the county.

6. The proposal for the retaining wall and the fill will have a negative impact to the natural and scenic attributes of the property.

Taylor, Vicki Revocable Trust, Slater Township on property described as Part of Govt Lot 6, Section 14-142-26, PID #39-014-3101 located near Graves Lake Drive NE. An application submitted to reclassify the property from Water Oriented Commercial (WOC) to Shoreland Residential (SR). The relevant portions of the Land Use Ordinance (02/15/13) include Sections 903 and 1001 which establish land use districts along with Section 705 which establishes the CUP criteria. The property contains 3 acres non-riparian within the shoreland area, $\frac{1}{4}$ mile, of Graves Lake (NE).

50 notices of the application were mailed with no responses received.

MS/P Pehling/LaPorte to approve the application as submitted to reclassify PID #39-014-3101 to SR based upon review of the criteria contained in Sections 705 and 1000 of the Land Use Ordinance (02/15/13) and in M.S. 394.301 with the following findings and conditions:

Findings:

1. The lot has been described and recorded.
2. The 3 acres proposed for reclassification represents a miniscule portion of the total acreage of the township.
3. No responses or objections have been received from any persons or governmental entities notified of the application.
4. There is no reason to expect that the reclassification of the parcel will cause adverse effects to adjoining property.
5. Reclassification will have no impact to the demand for governmental services.
6. Existing roadways will be utilized with no need to expand exiting public infrastructure.
7. No wetland or critical habitat will be disturbed.
8. No scenic or historic features will be affected.
9. No threat to public health, safety and welfare can be expected.
10. The total acres to be reclassified do not reach the mandatory EAW threshold.

11. There is no reason to expect that the reduced lot size will have any effect to surface water or ground water quality.

Verizon Wireless, Ponto Lake Township on property owned by Blaine & Mary Fyksen described as N $\frac{1}{2}$ of SW NW & NW of SE NW, Section 2-139-29, PID #32-002-2300 located at 2210 State 84 NW. An application submitted to locate and construct a 199 feet self-support communication tower and 12 feet x 30 feet equipment structure which requires approval by conditional use permit (CUP). The relevant portions of the Land Use Ordinance (02/15/13) include Section 705 which establishes the CUP standards and Section 1127 which establishes the communication tower standards. The property contains 30.39 acres (RR-5).

PC members were at the site 10/06/15. More than 50 notices of the application were mailed. One response objecting to the application was received. The application was reviewed and discussed with Curt Walter of Buell Consulting.

MS/P LaPorte/Kostial to approve the application for a communication tower to be located upon PID #32-002-2300 based upon review of the criteria contained in Sections 705 and 1127 of the Land Use Ordinance (02/15/13) and in M.S. 394.301 with the following findings and condition:

Findings:

1. The Comprehensive Plan recognizes the benefits of wireless communication to the residents of the County.
2. The Comprehensive Plan calls for the placement of communication towers to adequately service a geographic area.
3. There are no towers within the proposed service area where the equipment for the proposed tower could be located to adequately provide service to the area. .
4. No wetland or critical habitat will be disturbed or harmed by the location of the proposed tower.
5. No scenic or historic features will be disturbed or harmed by the location of the proposed tower.
6. The proposed tower will have no adverse material effect to public health, safety or welfare.
7. The proposed tower will not change or impact land use in the area.
8. Existing access to the property will be utilized and require no additional public infrastructure.
9. The proposed tower does not reach the mandatory EAW threshold.
10. The proposed tower will not reach mandatory lighting height.

Conditions:

1. The applicant must comply with applicable FAA and FCC requirements.
2. The tower must be available to other service providers at competitive rates.

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 CUP, REMOVAL OF VIOLATIONS AND MITIGATION.

Plat

"Maxxim Estates", Raasch, Jason & Melissa, Loon Lake Township on property described as South 495 Feet of SE SE, Section 31-136-29, PID #22-031-4402 located at the NW corner of the junction of 72nd Street SW and 17th Avenue SW. The plat contains one common lot of 3.4 acres, 12 lots of .5 acre for individual storage structures and two lots containing 2.5 acres for residential development. The relevant portions of the Subdivision and Platting Ordinance (2/15/13) include Article 4 Preliminary Plat and Article 7 Final Plat. The property is non-riparian and contains 10 acres classified C-2 and 5 acres classified NR/TRIB.

PC members were at the site 08/04/15 and 09/09/15. More than 50 notices of the application were mailed with no written received prior to the meeting. Two persons appeared to express their unhappiness with the plat and the project in general.

MS/P Kostial/Fitch to table the consideration of "Maxxim Estates" until the 11/09/15 meeting.

Other Business

MS/P Kostial/Moore to approve the formation of an Ordinance Review & Revision Committee with Kostial, Moore and ESD staff as recommended by ESD Director Ringle.

MS/P Fitch/Pehling at 2:26 pm, to adjourn.

P. Fairbanks