Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

AGENDA

Crow Wing County Board of Commissioners
Regular Meeting

06/09/2026
9:00 AM
County Board Room, 3rd Floor, Historic Courthouse, Brainerd MN

*Note: Times are approximate

The agenda has been published as shown below but is subject to change to include such business as may come before the Board.

ATTEND IN-PERSON OR BY MICROSOFT TEAMS (CALL 218-302-1725, CONFERENCE ID: 235 601 745#); LIVESTREAM AVAILABLE AT WWW.CROWWING.GOV OR ON THE CROW WING COUNTY YOUTUBE CHANNEL

ONE OR MORE MEMBERS OF THE COUNTY BOARD MAY ATTEND REMOTELY

1. **9:00 AM Call to Order and Pledge of Allegiance**

2. **Open Forum**

3. **Review and Approve Minutes**

   3.1. May 26, 2026, Regular County Board Meeting Minutes

4. **Review and Approve Agenda**

5. **Consent Agenda - Items are generally defined as items of routine business, not requiring discussion, and approved in one vote. Commissioners may elect to pull a Consent Agenda item(s) for discussion and/or separate action.**

   5.1. Bills
   5.2. Personnel Actions
   5.3. 2026 New Low Potency Hemp License Registration
   5.4. 2026 Temporary On-Sale Liquor Licenses
   5.5. Exempt Gambling Permit - Knights of Columbus
   5.6. 2026 Combination Liquor License Renewals

5.7. 2026 On Sale and Sunday Liquor License Renewals
5.8. IIJA Discretionary Match Grant Agreement
5.9. Out of State Travel Request - IT
5.10. 2026 State of MN Federal Boating Safety Equipment Grant Contract
5.11. Abatements

6. **Land Services**

6.1. Pelican Beach Holdings LLC – Land Use Map Amendment
6.2. Pelican Beach Holdings LLC – Pelican Beach Reserve –Preliminary Plat
6.3. Linda & Philip Tidd – Oak Ridge Terrace – Preliminary Plat
6.4. Sean Gragert – Hooker Landing – Preliminary Plat
6.5. R and R Landscaping and Construction Inc – Ann Lake Acres – Preliminary Plat
6.6. Mark & Carol Holzer – Riverwood Shores on Whitefish – Final Plat

7. **County Sheriff**

7.1. Outdoor Warning Siren Annual Maintenance Program

8. **County Attorney**

9. **County Administrator**

9.1. Senior Management Team Report

10. **Additional Business**

11. **Adjournment**

County Board Correspondence

06/09/2026 Correspondence

For more information, call 218-824-1067
Crow Wing County Board of Commissioners meeting agendas are available online at
www.crowwing.gov

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Admin Services	Amber Berent
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: May 26, 2026, Regular County Board Meeting Minutes

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
Approve the minutes of the May 26, 2026, Regular County Board Meeting.

Approximate length of presentation:

Crow Wing County
Board of Commissioners

Regular Meeting Minutes

05/26/2026
9:00 AM

County Board Room, 3rd Floor, Historic Courthouse,
Brainerd MN

1. **9:00 AM Call to Order and Pledge of Allegiance**

Present: Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

Also Present: County Administrator Deborah A. Erickson, County Attorney Kelsey Hopps, Administrative Coordinator Amber Berent

2. **Recognition of Retiring Employee Meg Sherman after 26 years**

The Board recognized the following employee who is retiring and thanked her for her service to Crow Wing County: Meg Sherman - 26 years of service.

3. **Open Forum**

Rick Felt spoke in support of immigration enforcement and the 287g agreement.

Gail Holmes spoke in support of immigration enforcement and the 287g agreement.

Doug Kern thanked the Sheriff for enforcing laws and thanked the Board for their support of the sheriff and law enforcement in the county.

Rachel Kohn spoke in support of immigration enforcement and the 287g agreement.

Dottie Smith spoke in support of immigration enforcement and the 287g agreement.

Shirley Yeager spoke in support of immigration enforcement and the 287g agreement.

4. **Review and Approve Minutes**

4.1 May 12, 2026, Regular County Board Meeting Minutes

Approved the minutes of the May 12, 2026, regular County Board meeting.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jon Lubke
SECONDER:	Steve Barrows
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

4.2 May 20, 2026, Emergency County Board Meeting Minutes

Approved the minutes of the May 20, 2026, emergency County Board meeting.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jamie Lee
SECONDER:	Steve Barrows
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

5. **Review and Approve Agenda**

Approved the agenda of the May 26, 2026, regular County Board meeting.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Steve Barrows
SECONDER:	Paul Koering
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

6. **Consent Agenda - Items are generally defined as items of routine business, not requiring discussion, and approved in one vote. Commissioners may elect to pull a Consent Agenda item(s) for discussion and/or separate action.**

Approved the following consent agenda.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Paul Koering
SECONDER:	Jon Lubke
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

6.1 Bills

Approved the following expenditure listing for May 26, 2026, with the full listing available on file in the Office of the Administrative Services Director:

General Fund	$223,714.85
Restricted & Committed Funds	8,448.46
Highway Fund	2,618,021.84
Community Services Fund	38,170.94
Solid Waste (Non-Landfill) Fund	9,800.70
Land Management Fund	80,245.18
Unorganized Territories Fund	84,696.06
Capital Projects Fund	167,545.19
Landfill Fund	5,027.40
Child Protection	67.87
State of Emergency	9,216.00
Opioid	149.84
	$3,245,104.33

6.2 Personnel Actions

Approved the Human Resource Report for Personnel Actions dated May 26, 2026, as on file.

6.3 2026 Amended and Reviewed Policies

Approved the policy revisions as recommended by the Administrative Services Finance Division and the Budget Committee.

Updated Policy:

- Procurement Policy

6.4 Exempt Gambling Permits - Crow Wing County Fair

Approved the Minnesota Lawful Gambling Application Exempt Permit for the Crow Wing County Fair Association to be held on the dates of August 4, 2026, to August 8, 2026, at the Crow Wing County Fairgrounds, Town of Oak Lawn. Subject to all State Laws and upon approval of said dates, the applicants submitting a copy of reports required by the State.

6.5 Exempt Gambling Permits - Crow Wing County Fair

Approved the Minnesota Lawful Gambling Application Exempt Permit for Blake's Beacon to be held on August 4, 2026, to August 8, 2026, at the Crow Wing County Fairgrounds, Town of Oak Lawn. Subject to all State Laws and upon approval of said dates, the applicants submitting a copy of reports required by the State.

6.6 Exempt Gambling Permit - Mission Township Firefighters Relief Association

Approved the Minnesota Lawful Gambling Application for an Exempt Permit for the Mission Township Firefighters Relief Association. To be held on August 15, 2026, at Mission Township Fire Hall, Mission Township, subject to all State Laws and upon approval of said date, the applicant submitting a copy of reports required by the State.

6.7 2026 3.2 Percent Malt Liquor License Renewal

Approved the 2026 renewal 3.2 Percent Malt Liquor License Application of Up North Inc. DBA Sullivans Resort & Campground, Unorganized Territory, subject to recommendation by the County Attorney and County Sheriff, subject to all state requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.

6.8 2026 3.2 Percent Malt Liquor License Renewal

Approved the 2026 renewal 3.2 Percent Malt Liquor License Application of Wings Airport Café, LLC DBA Wings Airport Café, as recommended by the Town of Oak Lawn, County Attorney and County Sheriff, subject to all state requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.

6.9 2026 Combination Liquor License Renewals

Approved the attached 2026 renewal Combination (On-Sale Sunday and Off Sale) Liquor License Applications, as recommended by the appropriate Town Boards, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said Licenses.

Approved Licenses:

Township	Applicant	Business
First Assessment	Lakes Area Diversified Investments, Inc	Bada-Boom
Perry Lake	Bridge Tavern LLC	Bridge Tavern LLC
Nokay Lake	Mamma Dee’s Green Lantern LLC	Green Lantern
Lake Edward	Harpo’s House LLC	Harpo’s
Roosevelt	J.R.’s Junction Inc.	J.R.’s Junction

Oak Lawn	Mark Gangestad	Oaklawn Tavern
Ideal	Ideal Corners Investment Corp.	Old Milwaukee Club
Maple Grove	Paradise Resort Bar & Grill, Inc.	Paradise Resort Bar & Grill
Bay Lake	Ruttger's Ruby's Dining Room LLC	Rutttger's Bay Lake Resort
First Assessment	The Woods, LLC	The Woods
Garrison TWP	Twin Pines Resort Inc.	Twin Pines Resort

6.10 2026 Club On-Sale Liquor License Renewal

Approved the 2026 renewal Club On-Sale Liquor License Application of the Brainerd Lakes Curling Association, as recommended by the Town of Oak Lawn, County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.

6.11 2026 On-Sale Intoxicating Malt Liquor License Renewal

Approved the 2026 renewal Club On-Sale Liquor License Application of the Brainerd Lakes Curling Association, as recommended by the Town of Oak Lawn, County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.

6.12 2026 On-Sale and Sunday Liquor License Renewals

Approved the attached 2026 renewal On-Sale and Sunday Liquor License Applications, as recommended by the appropriate Town Boards, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said Licenses.

Approved Licenses:

Township	**Applicant**	**Business**
Bay Lake	Ruttger's White Oak Grill LLC	Clubhouse/White Oak
Long Lake	Dennis Drummond Wine Company LLC	Dennis Drummond Wine Company
Timothy	Evergreen Property LLC	Fireside Bar
First Assessment	CP Klecatsky Enterprises LLC	Gravel Pit Golf and Event Center
Lake Edward	Lakes Area Recreation & Rental LLC	Lakes Area Recreation & Rental
Mission	Mission Tavern INC.	Mission Tavern
Ideal	Norway Ridge Properties	Norway Ridge Supper Club

6.13 2026 Off Sale Liquor License Renewals

Approved the attached 2026 renewal Off-Sale Liquor License Applications, as recommended by the appropriate Town Boards, subject to recommendation by the County Attorney and County Sheriff, subject to all state requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said Licenses.

Approved Licenses:

Township	**Applicant**	**Business**
First Assessment	Casey's Retail Company	Goodstop #4265
Bay Lake	Hansen Sports & Hunter's Bay Store, INC.	Hansen Sports
Lake Edward	Lakes Area Recreation & Rental LLC	Lakes Area Bottle Shop
First Assessment	Top Fuel Liquor, INC.	Top Fuel Liquor, INC.
Crow Wing	Knudson Management, INC.	Wild Rice Liquors

6.14 Abatements

Approved the attached Abatements as recommended by the Land Services Director.

May 26, 2026

Market Value Reduction / Classification Change

APPLICANT	DISTRICT	PARCEL NUMBER	PAYABLE YEAR	TAX	SETTLEMENT
B & D Crosslake Holdings LLC	Crosslake	14100755	2026	$380.00	$86.00
State of Minnesota - DOT	Garrison City	24130743	2026	$180.00	Cancel
State of Minnesota - DOT	Garrison City	24130756	2026	$3,416.00	Cancel
Peter Opatz	Brainerd	41191380	2026	$932.00	$175.00
Gary Schueneman	Jenkins Twp	72250517	2026	$3,412.00	$3,196.00

6.15 Authorize Direct Sale to City of Brainerd / Set Sale Price / Reclassify as Non-Conservation

Authorized direct sale of tax forfeited land to the City of Brainerd described as: N. 100 FT. OF S. 200 FT. EX. W. 50 FT. OF LOT 9 BLOCK 8 Crow Wing County, Minnesota RE Code: 41250756 Further, approve the direct sale of said tax forfeited property price of $1.00.

6.16 Central Services Roof Replacement Contract Awarding Approval

Authorized entering into a contract between Crow Wing County and Thelen Heating and Roofing, Inc., for Crow Wing County Central Services Roof Replacement (base bid, alternate 1 and alternate 2) as detailed in the bid form on file; and further, the Facilities Manager is authorized to sign said contract and any and all potential change order requests related to the project within the scope of the approved CIP budget, subject to review and approval by the County Attorney.

6.17 Highway 2027 CIP Plow Truck Early Order Budget Amendment

Approved the Highway 2027 CIP Plow Truck Early Order Budget Amendment.

6.18 Sheriff's Office Unit 6584 Boat & Motor Replacement Budget Amendment

Approved the Sheriff's Office Unit 6584 Boat & Motor Replacement Budget Amendment.

6.19 2026 Crow Wing County Election Emergency Plan

Approved the 2026 Crow Wing County Election Emergency Plan and authorize the Administrative Services Director to submit the approved plan to the Minnesota Secretary of State, meeting Minnesota Statute 204B.181.

7. **Community Services**

7.1 Resolution Declaring a Public Health Nuisance at 22103 Rebel Rd, Merrifield, MN 56465

Approved Resolution **2026-35** (attached): Resolution Declaring a Public Health Nuisance at 22103 Rebel Rd, Merrifield, MN 56465

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Steve Barrows
SECONDER:	Paul Koering
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

8. **Land Services**

8.1 Cobblecrest Properties LLC – “Clearwater Point Second Addition” Final Plat

Approved the Final Plat of Clearwater Point Second Addition as submitted.

RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Jamie Lee
SECONDER:	Paul Koering
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

9. **County Sheriff**

County Sheriff Eric Klang gave an update.

10. **County Attorney**

11. **County Administrator**

No Report.

12. **Additional Business**

13. **Adjournment**

Adjourned the meeting at 9:38 AM.

RESULT:	**ADJOURNED [UNANIMOUS]**
MOVER:	Steve Barrows
SECONDER:	Paul Koering
AYES:	Paul Koering, Jon Lubke, Steve Barrows, Rosemary Franzen, Jamie Lee

_____
Rosemary Franzen, Chair
Board of County Commissioners

_____
Deborah A. Erickson
County Administrator

Prepared by Amber Berent

BOARD OF COUNTY COMMISSIONERS
Crow Wing County, Minnesota

DATE: May 26, 2026 **Resolution: 2026-35**
OFFERED BY COMMISSIONERS: Barrows and Koering
AYES: Koering, Lubke, Barrows, Franzen, Lee;

RESOLUTION DECLARING A PUBLIC HEALTH NUISANCE AT 22103 REBEL RD, MERRIFIELD, MN 56465

WHEREAS, Crow Wing County Public Health learned of a potential public health nuisance located at 22103 Rebel Rd, Merrifield, MN (hereinafter the "Property); and,

WHEREAS, Crow Wing County Public Health viewed the property during multiple site inspections as well as digital images available on GIS mapping for Crow Wing County; and,

WHEREAS, County property records indicate the Property is owned by Kevin and Theresa Close (hereinafter "Property Owner"); and,

WHEREAS, there is an accumulation of residential waste along with soft sided items including but not limited to chairs, blankets, and clothing. Additionally, there are many unsecured structures, vehicles, and tires which are an attractant and provide breeding grounds for vermin and other animals, all of which are known to spread diseases that are injurious and a threat to the public health; and,

WHEREAS, the Property Owner was provided a Public Health Nuisance Abatement notice by letter dated May 1st, 2026, with a deadline of May 11th, 2026; and,

WHEREAS, the Property Owner has failed to remediate the public health concerns; and,

WHEREAS, Crow Wing County Public Health has the responsibility for preventing and controlling the spread of disease throughout the County; and,

WHEREAS, the Property is located within Crow Wing County and is subject to the authority of the Crow Wing County Community Health Board.

NOW, THEREFORE BE IT RESOLVED that the Crow Wing County Board of Commissioners declares the following:

1. The property located at 22103 Rebel Rd, Merrifield, MN, hereby constitutes a public health nuisance under Minn. Stat. §145A.04, subd. 8.
2. Crow Wing County Public Health shall comply with Minn. Statute and abate the Property at the Property Owner's expense.

The total cost for the Abatement shall be charged and assessed against the Property pursuant to the provisions and methods set for in Minn. Stat. §145A.08.

STATE OF MINNESOTA)
COUNTY OF CROW WING) ***ss***

I, Deborah A. Erickson, County Administrator, Crow Wing County, Minnesota, hereby certify that I have compared the foregoing copy of the resolution of the county board of said county with the original record thereof on file in the Administration Office, Crow Wing County, Minnesota, as stated in the minutes of the proceedings of said board at a meeting duly held on May 26, 2026, and that the same is a true and correct copy of said original record and of the whole thereof, and that said resolution was duly passed by said board at said meeting.

Witness my hand and seal this 9th day of June 2026.

_____

DEBORAH A. ERICKSON
COUNTY ADMINISTRATOR

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Human Resources	Amy Fischer
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Personnel Actions

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
Approve the Human Resource Report for Personnel Actions dated June 9, 2026, as on file.

Approximate length of presentation:

Human Resource Report
Personnel Actions
June 9, 2026

Replacement Staffing
Classification Title: Financial Worker
Department: Community Services
Reason for Vacancy: Departure of Katlynn Kruschek June 12, 2026
Personnel Committee: Yes

Classification Title: Correctional Officer (2)
Department: Sheriff's Office - Jail
Reason for Vacancy: Departure of Anthony Brill May 20, 2026, and Michael Astle May 21, 2026
Personnel Committee: Yes

Classification Title: Environmental Services Specialist
Department: Land Services
Reason for Vacancy: Movement of Ashly Maus June 22, 2026
Personnel Committee: No

Classification Title: Social Worker
Department: Community Services
Reason for Vacancy: Departure of Paige Gerads August 24, 2026
Personnel Committee: No

Hires
Name: Jaylin Strack
Classification Title: Social Worker
Department: Community Services
Start Date: June 29, 2026
Reason for Vacancy: Departure of Anna Tretter April 27, 2026

Promotions/Movement
Name: Ashly Maus
Classification Title: Sr. Technical Specialist
Department: Highway
Start Date: June 22, 2026
Reason for Vacancy: Departure of Cindy Rader May 1, 2026

Departures
Name: Michael Astle
Classification Title: Correctional Officer
Department: Sheriff's Office - Jail
Date of Departure: May 21, 2026

Departures Continued
Name: Jeff Moengen
Classification Title: Operations Manager
Department: Community Services
Date of Departure: June 10, 2026

Name: Katlynn Kruschek
Classification Title: Financial Worker
Department: Community Services
Date of Departure: June 12, 2026

Name: Julie Feierabend
Classification Title: Records Specialist
Department: Sheriff's Office
Date of Departure: June 12, 2026

Name: Paige Gerads
Classification Title: Social Worker
Department: Community Services
Date of Departure: August 24, 2026

Reclassifications
Community Services
Health Educator Grade 150 to Public Health Nurse Grade 160
Sheriff's Office- Jail
Administrative Associate Grade 100 to Senior Administrative Specialist Grade 120

Re-Evaluations
Information Technology
Systems Administrator Grade 150 to Grade 160
Sheriff's Office
Investigations Analyst Grade 140 to Grade 150

Personnel Budget Amendment: Position Reclassification

Amendment Title:	**CS Health Educator (WIC Nutritionist) to Public Health Nurse**		
Department:	Community Services		
Date Requested	6/1/2026	**Expected Start Date**	6/22/2026
Mandated?	Yes	**If Mandated, list State Statute:**	145A
Formulas assume the positions have 80hr pay periods to use the pay tables. If it is not 80hrs, they default to a 3.5% yearly pay increase.		**Number of Positions Affected (select):**	**1**

Evaluation Questions

Please answer all evaluation questions using the financial date referenced above

1. Which department is requesting this position and who is the contact for any additional questions?

Community Services - Kara Terry

2. What is the business need for requested position(s)?

The Public Health Department is requesting the reclassification of the vacant Health Educator (WIC Nutritionist) position to a Public Health Nurse (PHN) to ensure continuity of essential services and to meet the increasing demand across public health programming.

The department recently experienced the unexpected loss of its long-term Health Educator (WIC Nutritionist). This position served the WIC program exclusively for over ten years and provided critical support to one specific program area. The departure leaves a significant gap in service delivery and provides an opportunity to assess the needs of the team overall.

Reclassifying the position to a PHN will strengthen departmental capacity in several key ways:

• A PHN can maintain WIC program delivery while enhancing clinical oversight, participant assessment, and care coordination.

• PHN licensure and training enable staff to flex across multiple program areas, including family home visiting, disease prevention and control, environmental health, and public health emergency preparedness. This flexibility is essential for covering staffing gaps and fluctuations in service demand. This is similar to the flucuations we have seen in the social service areas and the reclassification of case aides to social workers. For example, in the MNChoices work, we reclassified a case aide to a social worker to allow for the staff to work within the MNChoices system. If not for the change in classification, the staff person would not have been allowed by state to provides these assessments. Much in the same way, a health educator is not able to draw down state funding in our family home visiting program, for example. The reclassification allows the opportunity to shift the position to the need as we do in other areas.

• The broader skill set of a PHN improves operational efficiency, reducing reliance on temporary staff and minimizing repeated onboarding and training costs.

• A PHN role aligns more effectively with the department's need for cross-program responsiveness, ensuring stability of essential services during transitions and surges.

Given the increasing complexity of community health needs and the department's responsibility to deliver consistent, high-quality services, a PHN classification provides the necessary clinical competencies, program versatility, and long-term sustainability that the organization requires.

3. Provide a brief explanation as to why this position was not submitted in the previous or current budgeting cycle.

This position reclassification was not proposed in previous or current budget cycles because staffing levels within the Public Health Department were stable. A recent vacancy has provided us with an oppoortunity to assess the team's structure and the needs of the department.

This change, along with other staff absences and reduced capacity across the team, allowed us the opportunity to assess the team's structure and make necessary changes. At this time, the public health team consists of 11 staff; 8 public health nurses, one vacant health educator position, one Nurtirion Dietician. Current WIC coverage includes the PHNs rotating through the WIC clinic. In addition to PHN rotation, six temporary staff have worked to cover the WIC work over the last two years. The turnover/change has created substantial operational and financial burdens. These burdens include: repeated onboarding and training costs, increased workload on PHNs, reduced continuity of care of WIC participants, and increased risk of burnout among existing employees. In addition, WIC program guidelines require certain credentials for those providing WIC duties. Professional credentials must include a Public Health Nurse (PHN), a Registered Nurse (RN), Registered Dietician (RD), or an individual with a bachelor's degree in nutrition. In the past, hiring for an RD, or someone with similar credentials, has proven to be time intensive as there is a limited pool of individuals who hold a nutrition degree and/or are a licensed nutrition professional.

As a result of all of this, the department now requires a staffing model that provides greater flexibility and sustainability. Reclassifying the position to a Public Health Nurse (PHN) will ensure continuity of WIC services while enabling cross-program support in areas such as family home visiting, disease prevention, environmental health, and emergency preparedness.

This shift reflects a change in operational need rather than an oversight in prior budget planning. This is a similar shift to what has been done on the case aide/social work position changes. In order to provide flexibility in the work, we must reclassify the position to allow us to work in multiple program areas and garner reimbursement from the grants we oversee.

4. Describe the work that this position will be assigned.

The Public Health Nurse (PHN) will work with the team to sustain and support the Women, Infants, and Children (WIC) program. Services provided will include participant assessments, ongoing counseling, clinical oversight, and program coordination. The PHN team will rotate through this coverage to ensure all are helping to suport the WIC team and experiencing in office client contact as well as in-home contact.

In addition to WIC duties, the PHN will provide cross-program support based on community needs, department priorities, and staffing demands. This position will be responsible for:

- Conducting Child and Teen Checkups (C&TC) outreach, follow-up, and care coordination.
- Supporting Cannabis and Substance Use Prevention (CSUP) activities, including community education, engagement, and data-informed prevention strategies.
- Assisting environmental public health functions as needed, such as community outreach, education, and response activities.
- Contributing to Family Home Visiting (FHV) services, including conducting visits, supporting families, and reinforcing early childhood health and development goals.
- Participating in Public Health Emergency Preparedness (PHEP) planning and response efforts, including surge staffing during emergencies or outbreaks.

Given the dynamic nature of public health, the PHN role is designed to adapt as priorities shift, allowing the department to maintain essential services across program areas while responding effectively to emerging needs. This flexibility ensures a sustainable staffing model that enhances service continuity, operational efficiency, and community impact. It has proven to be effective in our social services area as well. The public health department has found without adequate staffing we have lost revenue of PHN billable services, delays in services and appointments, capacity of staff to conduct necessary preventative work, increase workload and burnout, and difficulty in meeting program expectations. This position is essential to maintaining quality service delivery and ensuring this vulnerable population receive appropriate nutritional, health, and developmental support through WIC programming.

5. How will this position be funded for current and future years? Grant revenues, levy, or other by means? If Grant revenues, how long is funding available? (If grant or other revenues, answer 5a)

This request will not impact the levy as it will be funded through a combination of federal WIC funding and established Local Public Health Funding and Foundations of Public Health funding streams, aligned with MN Statute 145A and the delivery of core public health responsibilities. Local Public health funding in Minnesota has existed for over 50 years and CWC PH has long participated in this structure to support mandated services, use of these funds for this postion is appropriate, consistent with their purpose.

5a. How will this position be absorbed/released when revenues cease if funded by grant or other funding sources?

We do not anticipate the end of funding, however, if we no longer receive funding, the position would be eliminated.

Position Detail Questions:

Reclassified Position - Current Year		Existing Position - Current Year	
Position Title:	Public Health Nurse	Position Title:	Health Educator
Position Grade:	160	Position Grade:	150
Hours/Pay Period:	80	Hours/Pay Period:	80
Hourly Rate:	$ 41.00	Hourly Rate:	$ 36.78
# of Positions	1	# of Positions	1
Total Annual Salary:	$ 85,280.00	Total Annual Salary:	$ 76,499.07

Reclassified Position - Current Year		Existing Position - Current Year	
Social Security	$ 5,287.36	Social Security	$ 4,742.94
Medicare	$ 1,236.56	Medicare	$ 1,109.24
PERA Comp	$ 6,396.00	PERA Comp	$ 5,737.43
LTD	$ 196.14	LTD	$ 175.95
Comp/Hardware	$ -	Comp/Hardware	$ -
Other Emp. Exp.	$ -	Other Emp. Exp	$ -
Total Expenses:	$ 13,116.06	**Total Expenses:**	$ 11,765.56

Funding of Reclassified Position - Current Year		Funding of Existing Position - Current Year	
Grant	$ 98,396.06	Grant	$ 88,264.63
Levy	$ 0.00	Levy	$ (0.00)
Other Sources	$ -	Other Sources	$ -
Total Revenue:	$ 98,396.06	**Total Revenue:**	$ 88,264.63

Future Years - Expected Position Budget Impact					
Expenditures:	**2026**	**2027**	**2028**	**2029**	**2030**
Annual Salary	$ 85,280.00	$ 89,572.40	$ 93,145.85	$ 96,844.76	$ 100,672.66
Employer Paid Expenses	$ 13,116.06	$ 13,776.24	$ 14,325.83	$ 14,894.72	$ 15,483.46
Other Position-Related Expenses	$ -	$ -	$ -	$ -	$ -
Total Expenditures	**$ 98,396.06**	**$ 103,348.64**	**$ 107,471.68**	**$ 111,739.49**	**$ 116,156.12**
Revenues:	**2026**	**2027**	**2028**	**2029**	**2030**
Grant	$ 98,396.06	$ 103,348.64	$ 107,471.68	$ 111,739.49	$ 116,156.12
Levy	$ 0.00	$ 0.00	$ (0.00)	$ (0.00)	$ (0.00)
Other Sources	$ -	$ -	$ -	$ -	$ -
Total Revenues	$ 98,396.06	$ 103,348.64	$ 107,471.68	$ 111,739.49	$ 116,156.12
Existing Position Budget Impact:	$ 88,264.63	$ 92,699.80	$ 96,389.50	$ 100,208.36	$ 104,160.15
Diff. between Existing/Reclassified Position:	**$ 5,319.00**	**$ 10,648.83**	**$ 11,082.18**	**$ 11,531.13**	**$ 11,995.97**
Year-over-Year Levy Increase/Decrease:	**$ 0.00**	**$ (0.00)**	**$ (0.00)**	**$ 0.00**	**$ (0.00)**

Reclassified Position - Allocation						
Department	**Account Code**	**2026**	**2027**	**2028**	**2029**	**2030**
Public Health	12480416	100%	100%	100%	100%	100%
		$ 98,396.06	$ 103,348.64	$ 107,471.68	$ 111,739.49	$ 116,156.12
		$ -	$ -	$ -	$ -	$ -
		$ -	$ -	$ -	$ -	$ -
		$ -	$ -	$ -	$ -	$ -
	Allocation Total	100%	100%	100%	100%	100%

Approvals/Signatures:

Kara Terry	5/21/2026
Senior Management Member	**Date**
Amy Fischer	5/21/2026
Human Resources Department	**Date**
Nancy Malecha	5/21/2026
Finance Department	**Date**

For Admin use Only:

Personnel Committee Date: _____

Board Date: _____

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Administration	Jory Danielson
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 2026 New Low Potency Hemp License Registration

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
Approve the new 2026 New Low Potency Hemp License Registration application of Lakes Area Recreation and Rental, Town of Lake Edward, subject to recommendation by the County Attorney and County Sheriff, subject to any delinquent taxes being paid, and authorize the Administrative Services Director to issue said License.

Approximate length of presentation:

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Administration	Jory Danielson
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 2026 Temporary On-Sale Liquor Licenses

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
Brainerd Jaycees for the temporary on sale of liquor at the following locations-

- Merrifield Lions Park, Town of Lake Edward, on July 18, 2026 as recommended by the Town of Lake Edward, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue
  said License

- Brainerd International Raceway, Unorganized- 1st Assessment, on the dates of August 20 - August 23, 2026, as recommended by the Unorganized - 1st Assessment, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License

Approximate length of presentation:

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Administration	Jory Danielson
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Exempt Gambling Permit - Knights of Columbus

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
To support the Minnesota Lawful Gambling Application for an Exempt Permit for the Knights of Columbus to be held on the date of August 21, 2026 at the St. Mathias Church/Park, Town of St. Mathias, subject to all State Laws and upon approval of said date, the applicant submitting a copy of reports required by the State.

Approximate length of presentation:

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Admin Services	Jory Danielson
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 2026 Combination Liquor License Renewals

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
To approve the 2026 Combination renewals (On Sale and Sunday and Off Sale) Liquor License Application of

- Dunmire's On The Lakes, LLC DBA Dunmire's On The Lakes, as recommended by the Unorganized First Assessment, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.
- Ruttgers Ruby’s Dining Room, LLC DBA Ruttger’s Bay Lake Resort, as recommended by the Town of Bay Lake, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said License.

Approximate length of presentation:

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Admin Services	Jory Danielson
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 2026 On Sale and Sunday Liquor License Renewals

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
Approve the attached 2026 renewal On Sale and Sunday Liquor License Applications, as recommended by the appropriate Town Boards, subject to recommendation by the County Attorney and County Sheriff, subject to all State requirements and any delinquent taxes being paid and authorize the Administrative Services Director to issue said Licenses.

Approximate length of presentation:

2026 Liquor License

Township	Applicant	Business
BAY LAKE	RUTTGERS WHITE OAK GRILL LLC	CLUBHOUSE/WHITE OAK
OAK LAWN	DUNMIRE'S INC.	DUNMIRE'S BAR & GRILL
TIMOTHY	EVERGREEN PROPERTY, LLC	FIRESIDE BAR
CROW WING	NORTH CENTRAL SPEEDWAY, INC.	NORTH CENTRAL SPEEDWAY
BAY LAKE	LONESOME PINE CORPORATION	THE LONESOME PINE RESTAURANT AND BAR

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Highway and Engineering	Tim Bray
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: IIJA Discretionary Match Grant Agreement

PREVIOUS ACTION:
5/14/24 - Authorized an application for $200,000 Federal SS4A grant.

2/24/26 - Authorized issuing an RFP for professional services to develop a SS4A plan.

5/12/26 - Authorized entering into a professional services contract with Bolton & Menk, Inc. to develop a SS4A plan.

COMMENTS:
Crow Wing County was awarded a federal Safe Streets and Roads for All (SS4A) planning grant to develop a countywide safety action plan. The purpose of the plan is to identify transportation safety concerns, evaluate crash trends, engage local jurisdictions and the public, and develop strategies and projects intended to reduce serious injury and fatal crashes on the County transportation system.

The SS4A grant is a federal discretionary grant program and requires a local match. For Crow Wing County's project, the required local match is 20% of the total project cost, which equals $50,000.
To offset this required match, Crow Wing County applied for funding through the IIJA Discretionary Match Program. This program provides funding assistance to local agencies that have received federal discretionary grants by helping cover the required non-federal match.

Crow Wing County was awarded $50,000 through the IIJA Discretionary Match Program, which will fully fund the required 20% local match for the Safe Streets and Roads for All planning grant.

RECOMMENDED BOARD ACTION:
Adopt a resolution authorizing the County Engineer to sign and enter into the awarded IIJA Discretionary Match Grant Agreement.

Approximate length of presentation:

STATE OF MINNESOTA
FEDERAL TRANSPORTATION GRANTS TECHNICAL ASSISTANCE AND IIJA DISCRETIONARY MATCH GRANT AGREEMENT

This Grant Agreement (the "Agreement") is between the State of Minnesota, acting through its Commissioner of Transportation ("State"), and ("Grantee"):

Public Entity (Grantee) name, address and contact person:

Crow Wing County
County Highway Department
16589 CR 142
Brainerd, MN 56401
Contact: Timothy Bray – County Engineer

RECITALS

1. General Funds were appropriated to provide grants for technical assistance to a requesting local unit of government that seeks to submit an application for a federal discretionary grant for a transportation-related purpose in Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a).
2. General Funds were appropriated to make state funded grants to a federal grant recipient in Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a).
3. Grantee has been awarded Federal Transportation Grants Technical Assistance or IIJA Discretionary Grant Match funds in session law as noted above.
4. Grantee represents that it is duly qualified and agrees to perform all services described in this Agreement to the satisfaction of State. Pursuant to Minn. Stat. § 16B.98, Subd. 1, Grantee agrees that administrative costs must be necessary and reasonable as a condition of this Agreement.

AGREEMENT TERMS

1 **Term of Agreement, Survival of Terms, and Incorporation of Exhibits**

1.1 **Effective Date.** This agreement will be effective on the date the State obtains all required signatures under Minn. Stat.§16B.98, Subd. 5. As required by Minn.Stat.§16B.98 Subd. 7, no payments will be made to Grantee until this agreement is fully executed. Grantee must not begin work under this agreement until this agreement is fully executed and Grantee has been notified by the State's Authorized Representative to begin the work.

1.2 **Expiration Date.** This agreement will expire on **December 31, 2029**, or when all obligations have been satisfactorily fulfilled, whichever occurs first.

1.3 **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this agreement, including, without limitation, the following clauses: 8. Liability; 9. State Audits; 10. Government Data Practices; 11. Workers Compensation; 12. Governing Law, Jurisdiction, and Venue; and 14. Data Disclosure.

1.4 **Exhibits.** Exhibit A: Sources and Uses of Funds Schedule; Exhibit B: Grant Application; and Exhibit C: Grantee Resolution Approving Grant Agreement are attached and incorporated into this agreement.

2 **Grantee's Duties**

2.1 Grantee will conduct activities in accordance with its grant application, or in the case of legislatively selected projects, in accordance with the enabling session law. Collectively, activities set forth in the grant project application and/or the enabling session law will be referred to as the "Project". See Exhibit B.

2.2 Grantee will comply with all required grants management policies and procedures set forth through Minn.Stat.§16B.97, Subd. 4 (a) (1).

2.3 **Asset Monitoring.** If Grantee uses funds obtained by this agreement to acquire a capital asset, the Grantee is required to use that asset for a public purpose for the normal useful life of the asset. Grantee may not sell or change the purpose of use for the capital asset(s) obtained with grant funds under this agreement without the prior written

consent of the State and an agreement executed and approved by the same parties who executed and approved this agreement, or their successors in office.

3 Time

3.1 Grantee must comply with all the time requirements described in this Agreement. In the performance of this grant Agreement, time is of the essence.

4 Consideration and Payment

4.1 **Consideration.** State will pay for all services performed by Grantee under this Agreement as follows:

4.1.1 **Compensation.** Grantee will be reimbursed for actual, incurred costs that are eligible under Minn. Stat. § 174.38. Grantee shall use this grant solely to reimburse itself for expenditures it has already made to pay for the costs of one or more of the activities listed under section 2.1.

4.1.2 **Sources and Uses of Funds.** Grantee represents to State that the Sources and Uses of Funds Schedule attached as Exhibit A accurately shows the total cost of the Project and all of the funds that are available for the completion of the Project. Grantee agrees that it will pay for any costs that are ineligible for reimbursement and for any amount by which the costs exceed State's total obligation in section 4.1.3. Grantee will return to State any amount appropriated but not required.

4.1.3 **Total Obligation.** The total obligation of State for all compensation and reimbursements to Grantee under this Agreement will not exceed $**50,000.00.**

4.2 **Payment**

4.2.1 **Invoices.** Grantee will submit state aid pay requests for reimbursements requested under this Agreement. State will promptly pay Grantee after Grantee presents an itemized invoice for the services actually performed and State's Authorized Representative accepts the invoiced services.

4.2.2 **All Invoices Subject to Audit.** All invoices are subject to audit, at State's discretion.

4.2.3 **State's Payment Requirements**. State will promptly pay all valid obligations under this Agreement as required by Minn. Stat. § 16A.124. State will make undisputed payments no later than thirty (30) days after receiving Grantee's invoices and progress reports for services performed. If an invoice is incorrect, defective or otherwise improper, State will notify Grantee within ten (10) days of discovering the error. After State receives the corrected invoice, State will pay Grantee within thirty (30) days of receipt of such invoice.

4.2.4 **Grant Monitoring Visit and Financial Reconciliation.** During the period of performance, State will make at least annual monitoring visits and conduct annual financial reconciliations of Grantee's expenditures.

4.2.4.1 State's Authorized Representative will notify Grantee's Authorized Representative where and when any monitoring visit and financial reconciliation will take place, which State employees and/or contractors will participate, and which Grantee staff members should be present. Grantee will be provided with at least seven (7) calendar days of notice prior to any monitoring visit or financial reconciliation.

4.2.4.2 Following a monitoring visit or financial reconciliation, Grantee will take timely and appropriate action on all deficiencies identified by State.

4.2.4.3 At least one monitoring visit and one financial reconciliation must be completed prior to final payment being made to Grantee.

4.2.5 **Unexpended Funds.** Grantee must promptly return to State at grant closeout any unexpended funds that have not been accounted for in a financial report submitted to State.

4.2.6 **Closeout.** State will determine, at its sole discretion, whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed. Monitoring of any capital assets acquired with grant funds will continue following grant closeout.

4.3 **Contracting and Bidding Requirements.** If Grantee is a municipality as defined by Minn. Stat. § 471.345, Subd. 1, then Grantee shall comply with the requirements of Minn. Stat. § 471.345 for all procurement under this Agreement.

5 Conditions of Payment

All services provided by Grantee under this Agreement must be performed to State's satisfaction, as determined at the sole discretion of State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Grantee will not receive payment for work found by State to be unsatisfactory or

performed in violation of federal, state, or local law.

6 **Authorized Representatives**

6.1 State's Authorized Representative is:

Marc Briese,
Programs Manager,
MnDOT State Aid Office
395 John Ireland Boulevard, MS 500
St. Paul, MN 55155
Office: 651-366-3802
marc.briese@state.mn.us

or his/her successor. State's Authorized Representative has the responsibility to monitor Grantee's performance and the authority to accept the services provided under this agreement. If the services are satisfactory, State's Authorized Representative will certify acceptance on each invoice submitted for payment.

6.2 Grantee's Authorized Representative is:

Timothy Bray – County Engineer
16589 CR 142
Brainerd, MN 56401
(218)-824-1110
Tim.bray@crowwing.gov

If Grantee's Authorized Representative changes at any time during this Agreement, Grantee will immediately notify State.

7 **Assignment Amendments, Waiver, and Grant Agreement Complete**

7.1 **Assignment.** Grantee may neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of State and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors in office.

7.2 **Amendments.** Any amendments to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

7.3 **Waiver.** If State fails to enforce any provision of this Agreement, that failure does not waive the provision or State's right to subsequently enforce it.

7.4 **Grant Agreement Complete.** This Agreement contains all negotiations and agreements between State and Grantee. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

7.5 **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.

7.6 **Certification.** By signing this Agreement, Grantee certifies that it is not suspended or debarred from receiving federal or state awards.

8 **Liability**

Grantee and State agree that each will be responsible for its own acts and the results thereof to the extent authorized by law, and neither shall be responsible for the acts of the other party and the results thereof. The liability of State is governed by the provisions of Minn. Stat. § 3.736. If Grantee is a "municipality" as that term is used in Minn. Stat. Chapter 466, then the liability of Grantee is governed by the provisions of Chapter 466. Grantee's liability hereunder shall not be limited to the extent of insurance carried by or provided by Grantee, or subject to any exclusion from coverage in any insurance policy.

9 **State Audits**

Under Minn. Stat. § 16B.98, Subd.8, the Grantee's books, records, documents, and accounting procedures and practices

of Grantee, or other party relevant to this Agreement or transaction, are subject to examination by State and/or the State Auditor or Legislative Auditor, the Attorney General, as appropriate, for a minimum of six (6) years from the end of this Agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Grantee will take timely and appropriate action on all deficiencies identified by an audit.

10 **Government Date Practices**

Grantee and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by State under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by Grantee under this agreement. The civil remedies of Minn. Stat. § 13.08 apply to the release of the data referred to in this clause by either Grantee or State.

11 **Workers' Compensation**

Grantee certifies that it is in compliance with Minn. Stat. § 176.181, Subd. 2, pertaining to workers' compensation insurance coverage. Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way State's obligation or responsibility.

12 **Governing Law, Jurisdiction, and Venue**

Minnesota law, without regard to its choice-of-law provisions, governs this Agreement. Venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

13 **Termination; Suspension**

13.1 **Termination by the State.** State may terminate this Agreement with or without cause, upon thirty (30) days' written notice to Grantee. Upon termination, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed. If funding is canceled, withdrawn, or terminated, State may suspend its performance until funding is restored. Suspension of performance does not release State from its obligations under the agreement.

13.2 **Termination for Cause.** State may immediately terminate this grant Agreement if State finds that there has been a failure to comply with the provisions of this Agreement, that reasonable progress has not been made, that fraudulent or wasteful activity has occurred, that Grantee has been convicted of a criminal offense relating to a state grant agreement, or that the purposes for which the funds were granted have not been or will not be fulfilled. State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

13.3 **Termination for Insufficient Funding.** State may immediately terminate this Agreement if:

13.3.1 It does not obtain funding from the Minnesota Legislature; or

13.3.2 If funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to Grantee. State is not obligated to pay for any services that are provided after notice and effective date of termination. However, Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. State will not be assessed any penalty if the Agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. State will provide the Grantee notice of the lack of funding within a reasonable time of State's receiving that notice.

13.4 **Suspension.** State may immediately suspend this Agreement in the event of a total or partial government shutdown due to the failure to have an approved budget by the legal deadline. Work performed by Grantee during a period of suspension will be deemed unauthorized and undertaken at risk of non-payment.

14 **Data Disclosure**

Under Minn. Stat. § 270C.65, Subd. 3, and other applicable law, Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

15 **Fund Use Prohibited.** Grantee will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering into or receiving a State contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, or as an equipment or material supplier. This restriction does not prevent Grantee from utilizing these funds to pay any party who might be disqualified or debarred after Grantee's contract award on this Project.

16 **Discrimination Prohibited by Minnesota Statutes § 181.59.** Grantee will comply with the provisions of Minn. Stat. § 181.59 which requires that every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district or any other district in the state, for materials, supplies or construction will contain provisions by which Contractor agrees: 1) That, in the hiring of common or skilled labor for the performance of any work under any contract, or any subcontract, no Contractor, material supplier or vendor, will, by reason of race, creed or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates; 2) That no Contractor, material supplier, or vendor, will, in any manner, discriminate against, or intimidate, or prevent the employment of any person or persons identified in clause 1 of this section, or on being hired, prevent or conspire to prevent, the person or persons from the performance of work under any contract on account of race, creed or color; 3) That a violation of this section is a misdemeanor; and 4) That this contract may be canceled or terminated by the state of Minnesota, or any county, city, town, township, school, school district or any other person authorized to grant contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms or conditions of this Agreement.

17 **Limitation.** Under this Agreement, State is only responsible for receiving and disbursing funds. Nothing in this Agreement will be construed to make State a principal, co-principal, partner, or joint venturer with respect to the Project(s) covered herein. State may provide technical advice and assistance as requested by Grantee, however, Grantee will remain responsible for providing direction to its contractors and consultants and for administering its contracts with such entities. Grantee's consultants and contractors are not intended to be third party beneficiaries of this Agreement.

18 **Additional Provisions**

18.1 **Prevailing Wages.** Grantee agrees to comply with all of the applicable provisions contained in Minn. Stat. Chapter 177, and specifically those provisions contained in Minn. Stat. § 177.41 through 177.435 as they may be amended or replaced from time to time with respect to the Project. By agreeing to this provision, Grantee is not acknowledging or agreeing that the cited provisions apply to the Project.

18.2 **E-Verification.** Grantee agrees and acknowledges that it is aware of Minn. Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such order.

18.3 **Telecommunications Certification.** If federal funds are included in Exhibit A, by signing this Agreement, Grantee certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), Grantee does not and will not use any equipment, system, or service that uses "covered telecommunications equipment or services" (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any system. Grantee will include this certification as a flow down clause in any contract related to this Agreement.

18.4 **Title VI/Non-discrimination Assurances.** Grantee agrees to comply with all applicable US DOT Standard Title VI/Non-Discrimination Assurances contained in DOT Order No. 1050.2A, and in particular Appendices A and E, which can be found at: https://edocs-public.dot.state.mn.us/edocs_public/DMResultSet/download?docId=11149035. If federal funds are included in Exhibit A, Grantee will ensure the appendices and solicitation language within the assurances are inserted into contracts as required. State may conduct a review of the Grantee's compliance with this provision. Grantee must cooperate with State throughout the review process by supplying all requested information and documentation to

State, making Grantee staff and officials available for meetings as requested, and correcting any areas of non-compliance as determined by State.

18.5 **Use, Maintenance, Repair and Alterations**. The Grantee shall not, without the written consent of the State and the Commissioner, (i) permit or allow the use of any of the property improved with these grants funds (the "Real Property") for any purpose other than in conjunction with or for the operation of a county highway, county state-aid highway, town road, or city street and for other uses customarily associated therewith, such as trails and utility corridors, (ii) substantially alter any of the Real Property except such alterations as may be required by laws, ordinances or regulations, or such other alterations as may improve the Real Property by increasing its value or which improve its ability to be used for the purposes set forth in section (i), (iii) take any action which would unduly impair or depreciate the value of the Real Property, (iv) abandon the Real Property, or (v) commit or permit any act to be done in or on the Real Property in violation of any law, ordinance or regulation.

If Grantee fails to maintain the Real Property in accordance with this Section, State may perform whatever acts and expend whatever funds necessary to so maintain the Real Property, and Grantee irrevocably authorizes State to enter upon the Real Property to perform such acts as may be necessary to so maintain the Real Property. Any actions taken or funds expended by State shall be at its sole discretion, and nothing contained herein shall require State to take any action or incur any expense and State shall not be responsible, or liable to Grantee or any other entity, for any such acts that are performed in good faith and not in a negligent manner. Any funds expended by State pursuant to this Section shall be due and payable on demand by State and will bear interest from the date of payment by State at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per year based upon a 365-day year.

18.6 **Grant Administrator and Organizational Leadership Contact Information**. Pursuant to Minn. Stat. § 16B.98, Subd. 5(d), if grantee has a website, the names and contact information for the grant administrator(s) and organization's leadership must be clearly published.

[The remainder of this page has intentionally been left blank.]

GRANTEE
The Grantee certifies that the appropriate person(s) have executed the grant agreement on behalf of the Grantee as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

DEPARTMENT OF TRANSPORTATION
Approval and Certifying Encumbrance as required by Minnesota Statutes § 16A.15 and 16C.05

By: _____
State Aid Programs Manager
(with delegated authority)

Date: _____

DEPARTMENT OF TRANSPORTATION CONTRACT MANAGEMENT

By: _____

Date: _____

EXHIBIT A

SOURCES AND USES OF FUNDS SCHEDULE

SOURCES OF FUNDS			USES OF FUNDS	
Entity Supplying Funds	**Amount**		**Expenses**	**Amount**
State Funds:			**Items Paid for with**	
2023 State IIJA Match Funds Grant (SAAS Acct 426)	$50,000.00		**IIJA Match Funds:**	
			Development of a Safe Streets for All Action Plan	$50,000.00
Other:				
Subtotal	$50,000.00		Subtotal	$50,000.00
Public Entity Funds:			**Items paid for with Non-**	
Matching Funds			**General Fund**	
			Grant Funds:	
Other:				
Federal Funds (SS4A planning grant)	$199,999.00		Engineering	$199,999.00
Subtotal	$199,999.00		Subtotal	$199,999.00
TOTAL FUNDS	$249,999.00	=	**TOTAL PROJECT COSTS**	$249,999.00

EXHIBIT B

GRANT APPLICATION

Attach the grant application for the project

EXHIBIT C

GRANTEE RESOLUTION APPROVING GRANT AGREEMENT

RESOLUTION
State Funded Program for IIJA Discretionary Grant Assistance
Terms and Conditions
SP 018-589-001
Date

WHEREAS, **Crow Wing County** has applied to the Commissioner of Transportation for a grant from the State Program for IIJA Assistance; and

WHEREAS, the Commissioner of Transportation has given notice that funding for this project is available; and

WHEREAS, the amount of the grant has been determined to be $**50,000.00** by reason of the lowest responsible bid;

NOW THEREFORE, be it resolved that *Crow Wing County* does hereby agree to the terms and conditions of the grant consistent with Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a), and will pay any additional amount by which the cost exceeds the estimate and will return any amount appropriated for the project but not required. The proper county officers are authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above-referenced grant.

Signatures

BOARD OF COUNTY COMMISSIONERS
Crow Wing County, Minnesota

DATE: June 9, 2026 **Resolution:**
OFFERED BY COMMISSIONERS: and
AYES: NA YS:

State Funded Program for IIJA Discretionary Grant Assistance
Terms and Conditions
Project SP 018-589-001

WHEREAS, Crow Wing County has applied to the Commissioner of Transportation for a grant from the State Program for IIJA Assistance, and

WHEREAS, the Commissioner of Transportation has given notice that funding for the project is available, and

WHEREAS, the amount of the grant has been determined to be $50,000 by reason of the lowest responsible bid.

NOW, THEREFORE, be it resolved that Crow Wing County does hereby agree to the terms and conditions of the grant consistent with Minnesota Laws 2023, Chapter 68, Article 1, Section 2, Subdivision 5(a), and will pay any additional amount by which the cost exceeds the estimate and will return any amount appropriated for the project but not required. The County Engineer is authorized to execute a grant agreement and any amendments thereto with the Commissioner of Transportation concerning the above referenced grant.

STATE OF MINNESOTA)
COUNTY OF CROW WING) ss

I, Deborah A. Erickson, County Administrator, Crow Wing County, Minnesota, hereby certify that I have compared the foregoing copy of the resolution of the county board of said county with the original record thereof on file in the Administration Office, Crow Wing County, Minnesota, as stated in the minutes of the proceedings of said board at a meeting duly held on < >, 2026, and that the same is a true and correct copy of said original record and of the whole thereof, and that said resolution was duly passed by said board at said meeting.

Witness my hand and seal this < > day of < > 2026.

_____
DEBORAH A. ERICKSON
COUNTY ADMINISTRATOR

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

IT	Jason Walkowiak
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Out of State Travel Request - IT

PREVIOUS ACTION:
06/01/2026 - Conference attendance was discussed at the Personnel Committee meeting

COMMENTS:

Attending Community Summit North America would provide direct, practical value to both development capabilities and the organization's use of the Microsoft ecosystem. The conference is heavily focused on real-world implementation, architecture, governance, automation, and emerging Microsoft technologies across the Power Platform stack.

Conference Cost: $1,799 through 05/31. After that it will be $1,999 (15% off code using ForvisMazars15)

Hotel: $2,319.64 through the event organizer

Flight: $200 through Sun Country

Transportation: $80.00

Meals: $80.00

RECOMMENDED BOARD ACTION:
Authorize the CRM Developer to attend Community Summit North America to be held October 11th-15th, 2026 in Nashville, TN, with all expenses to be paid from the Information Technology Budget.

Approximate length of presentation:

Community Summit NA 2026 – Nashville October 11-15th

Conference Cost: $1,799 through 05/31. After that it will be $1,999 (15% off code using ForvisMazars15)

Hotel: $2,319.64 through the event organizer

Flight: $200 through Sun Country

Attending Community Summit North America would provide direct, practical value to both my development capabilities and our organization's use of the Microsoft ecosystem. The conference is heavily focused on real-world implementation, architecture, governance, automation, and emerging Microsoft technologies across the Power Platform stack.

As a Microsoft Dynamics CRM/Power Platform developer, key areas I expect to learn and bring back include:

- Advanced development techniques in Power Apps, Power Automate, Dataverse, Power Pages, and Copilot Studio
- Best practices for enterprise governance, security, ALM (Application Lifecycle Management), and environment strategy
- New AI and Copilot capabilities that can improve automation efficiency and reduce development time
- Scalable architecture patterns used by other organizations solving similar business problems
- Performance optimization and maintainability strategies for large or complex solutions
- Integration approaches between Power Platform, Microsoft 365, Azure, Dynamics 365, and third-party systems
- Hands-on exposure to upcoming Microsoft roadmap features before broader adoption
- Practical solutions and lessons learned directly from Microsoft engineers, MVPs, and experienced enterprise developers

Beyond technical learning, the conference also offers significant professional networking opportunities with developers, architects, consultants, and Microsoft representatives. These connections can help accelerate troubleshooting, solution design, and adoption of best practices long after the conference ends.

Because the conference is put on by the Microsoft Dynamics 365 community and is implementation-focused, the content tends to be immediately applicable rather than

purely theoretical. My goal would be to return with actionable knowledge, documented best practices, and new ideas that can directly improve the quality, scalability, and efficiency of our Power Platform solutions.

In addition, I can share key takeaways internally through documentation or knowledge-sharing sessions so the broader team also benefits from the investment.

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Sheriff	N/A
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 2026 State of MN Federal Boating Safety Equipment Grant Contract

PREVIOUS ACTION:

COMMENTS:
The total amount of this grant is $17,500.

RECOMMENDED BOARD ACTION:
Authorize entering into a grant contract between Crow Wing County, Crow Wing County Sheriff's Office and the State of Minnesota, acting through its Department of Natural Resources, Enforcement Division for supplementary funding of specific items for recreational boating safety, effective March 3, 2026, through September 1, 2026, and the Chair and County Administrator are authorized to sign said grant contract, subject to review as to form and execution by the County Attorney.

Approximate length of presentation:

DEPARTMENT OF NATURAL RESOURCES

2026 STATE OF MINNESOTA

FEDERAL BOATING PATROL SUPPLEMENTAL GRANT

CONTRACT AGREEMENT

ENCUMBRANCE WORKSHEET

Contract #: 289452 **PO #:** 300029844

State Accounting Information

Dept. ID	PC Bus. Unit	Fiscal Year	Source Type	Vendor Number
R29	R2901	2026	REIMB	0000197288-001

Total Amount	Project ID	Billing Location	UEI
$17500	R29G70CGBLA25	R297000221	FM9SDDFC6KP6

Accounting Distribution

Fund	Fin. Dept. ID	Approp. ID	Category	Account	Activity
3000	R2937715	R297227	84101501	441302	A7CG002

Grant Begin Date	Grant End Date
May 22, 2026	September 7, 2026

Grantee Name and Address:

Crow Wing County Sheriff's Office
304 Laurel St.
Brainerd, MN 56401

Payment Address:
(where DNR sends the check)

Crow Wing Co.
326 Laurel St. #22
Brainerd, MN 56401-3591

STATE OF MINNESOTA

GRANT CONTRACT AGREEMENT
FEDERAL SUB-AWARD AGREEMENT
Swift Contract Number: 289452

This Grant Contract Agreement is between the State of Minnesota, acting through its Department of Natural Resources, Enforcement Division ("State") and Crow Wing County Sheriff's Office, 304 Laurel St., Brainerd, MN 56401 (FM9SDDFC6KP6) ("Grantee"). The payment address for this grant agreement is Crow Wing Co., 326 Laurel St. #22, Brainerd, MN 56401-3591.

Recitals

1. Under Department of Homeland Security – through the Recreational Boating Safety Financial Assistance program to states, commonwealth and territories (FAIN 70Z02326MO0006968), (CFDA number 97.012) in U.S.C. 13101-13110 the State received a federal award of $17500 on March 3, 2026 for the Federal Boating Safety Supplemental Patrol Grant. This project is not a research and development award.
2. Under Federal Boating Safety Supplemental Patrol Grant and Minnesota Statute § 84.026 the State subawards $17500 to the Grantee UEI for the purpose of conducting the program entitled Federal Patrol Grant (“Project”) for the purpose of Boat and Water Safety.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this Grant Contract Agreement to the satisfaction of the State.

Grant Contract Agreement

1. Term of Grant Contract Agreement

1.1. Effective Date. May 22, 2026, or the date the State obtains all required signatures, whichever is later. This is the Performance and Budget Period start date.

Per Minnesota Statutes § 16B.98, Subd. 5, the Grantee must not begin work until this Grant Contract Agreement is fully executed and the State's Authorized Representative has notified the Grantee that work may commence.

Per Minnesota Statutes § 16B.98 Subd. 7, no payments will be made to the Grantee until this Grant Contract Agreement is fully executed.

1.2. Expiration Date.

1.3. September 7, 2026, or, in the event this Grant Contract Agreement is continued by way of amendment or new agreement, the date the amendment or new agreement is fully executed, whichever is later. In the event an amendment or new agreement is not fully executed within 60 calendar days of the stated

expiration date, this grant agreement will expire on September 7, 2026.

1.1. Survival of Terms. The following clauses survive the expiration or cancellation of this Grant Contract Agreement: Liability; State Audits; Government Data Practices and Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; Data Disclosure; and Monitoring.

2. Specifications, Duties, and Scope of Work

2.1. The Grantee shall be responsible for the administration, supervision, management, record keeping, and program oversight required for the work performed under this agreement.
2.2. The Grantee will comply with the required grants management policies and procedures set forth through Minn. Stat. §16B.97, subd 4 (a)(1).
2.3. The Grantee agrees to complete the program in accordance with the approved budget to the extent practicable and within the program period specified in the grant contract agreement. Any material change in the grant contract agreement shall require an amendment by the State (see Section 9.2).
2.4. The Grantee agrees to meet all grant program requirements, as described in the Exhibit A, Specifications, Duties, and Scope of Work.
2.5. The Grantee is responsible for maintaining an adequate conflict of interest policy throughout the term of this agreement. The Grantee shall monitor and report any actual, potential or perceived conflicts of interest to the State's Authorized Representative. The Grantee must sign and return Exhibit C, Conflict of Interest Disclosure, when countersigning this Agreement.
2.6. The Grantee will comply with Exhibit D, Requirements for DNR Grantees.
2.7. The Grantee will comply with 2 CFR Part 200 Uniform Administrative Requirements, as applicable.

3. Time

The Grantee must comply with all the time requirements described in this Grant Contract Agreement. In the performance of this Grant Contract Agreement, time is of the essence and failure to meet a deadline date may be a basis for a determination by the State's Authorized Representative that the Grantee has not complied with the terms of the Grant Contract Agreement. The Grantee is required to perform all the duties cited within clause two "Specifications, Duties, and Scope of Work" within the grant period. The State is not obligated to extend the grant period.

4. Consideration and Terms of Payment

The consideration for all services performed by the Grantee pursuant to this Grant Contract Agreement shall be paid by the State as follows:

4.1. Compensation. The total obligation of the State under this Grant Contract Agreement, including all compensation and reimbursements, is not to exceed seventeen thousand five hundred dollars, which shall be paid in accordance with the terms outlined in Exhibit B: Non- Construction Programs.

4.2. Total Federal Funds. The total amount of federal funds obligated to the Grantee by the State is seventeen thousand five hundred dollars, including the current financial obligation.

4.1. Matching Requirements. Not applicable.

4.2. Indirect Cost Rate. The Grantee does not have a federally negotiated indirect cost rate and has chosen not to use the de minimis rate. No indirect costs will be paid.

4.3. Administrative Costs. Not applicable.

4.4. Travel Expenses. Not applicable.

4.5. Invoices. Payments shall be made by the State after the Grantee's presentation of invoices for services satisfactorily performed, and which the Grantee has paid, and the written acceptance of such services by the State's Authorized Representative. Invoices shall be submitted timely, with additional details as requested by the State within the dates previously noted in "Term of Grant Contract Agreement" in this grant contract agreement. Invoice procedures are specified in Exhibit A which is attached and incorporated into this grant contract agreement.

A. In accordance with Minnesota Management and Budget Statewide Operating Policy 0801-01, payment shall be made within 30 days following the State's Authorized Representative approval of an invoice. Payments will not be made if reports or other deliverables are outstanding

4.6. Federal Funds.

A. Payments will be subawarded to the Grantee from US Coast Guard, Department of Homeland Security through the Recreational Boating Safety Financial Assistance, Assistance Listing Number 97.012 and Federal Award Identification Number 70Z02326MO0006968.

B. If applicable, the prime award is attached to this Grant Contract Agreement as Exhibit C: Other Provisions. The Grantee is responsible for its compliance with all applicable federal requirements detailed within Exhibit C: Other Provisions. The Grantee accepts full financial responsibility for any reimbursement imposed by the Grantee's noncompliance.

4.7. Unexpended Funds. The Grantee must promptly return to the State any unexpended funds that have not been accounted for in a financial report to the State.

5. Conditions of Payment

All services provided by the Grantee under this Grant Contract Agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

5.1. The Grantee and any subrecipients must not contract with vendors who are suspended or debarred by the State of Minnesota or the federal government: Suspended and Debarred Vendors, Minnesota Office of State Procurement.

1. Authorized Representatives

1.1. The State's Authorized Representative is Adam Block, Boating Law Administrator, Enforcement Division, Minnesota Department of Natural Resources (DNR), 500 Lafayette Road, St. Paul, MN 55155-4047, adam.block@state.mn.us, or their successor, and has the responsibility to monitor the Grantee's performance and the authority to accept the services provided under this Grant Contract Agreement. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

1.2. The Grantee's Authorized Representative is Sheriff Erik Klang, Crow Wing County Sheriff's Office, 304 Laurel St., Brainerd, MN 56401, or their successor. If the Grantee's Authorized Representative changes at any time during this Grant Contract Agreement, the Grantee must immediately notify the state.

1.3. The Grantee must clearly post on the Grantee's website the names of, and contact information for, the Grantee's leadership and the employee or other person who directly manages and oversees this Grant Contract Agreement on behalf of the Grantee.

2. Contracting and Bidding Requirements

2.1. The Grantee is required to comply with Minnesota Statutes § 471.345, Uniform Municipal Contracting Law.
2.2. The Grantee and any subrecipients must comply with prevailing wage rules per Minnesota Statutes §§ 177.41 through 177.50, as applicable.
2.3. The Grantee and any subrecipients must not contract with vendors who are suspended or debarred by the State of Minnesota or the federal government: Suspended and Debarred Vendors, Minnesota Office of State Procurement.
2.4. The Grantee must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

3. Assignment, Amendments, Waiver, and Contract Complete

3.1. Assignment. The Grantee may neither assign nor transfer any rights or obligations under this Grant Contract Agreement without the prior consent of the State and a fully executed agreement, executed and approved by the authorized parties or their successors.

3.2. Amendments. Any amendment to this Grant Contract Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Grant Contract Agreement or their successors.

3.3. Waiver. If the State fails to enforce any provision of this Grant Contract Agreement, that failure does not waive the provision or its right to enforce it.

3.4. Contract Complete. This Grant Contract Agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding this Grant Contract Agreement, whether written or oral, may be used to bind either party.

1. Subcontracting and Subcontract Payment

1.1. A subrecipient is a person or entity that has been awarded a portion of the work authorized by this Grant Contract Agreement by Grantee. The Grantee must document any subaward through a formal legal agreement. The Grantee must provide timely notice to the State of any subrecipient(s) prior to the subrecipient(s) performing work under this Grant Contract Agreement.

1.2. The Grantee must monitor the activities of the subrecipient(s) to ensure the subaward is used for authorized purposes; is in compliance with the terms and conditions of the subaward, Minnesota Statutes § 16B.97, Subd.4 1.2.1. (1) and other relevant statutes and regulations; and that subaward performance goals are achieved.

1.3. During this Grant Contract Agreement, if a subrecipient is determined to be performing unsatisfactorily by the State's Authorized Representative, the Grantee will receive written notification that the subrecipient can no longer be used for this Grant Contract Agreement.

1.4. No subagreement shall serve to terminate or in any way affect the primary legal responsibility of the Grantee for timely and satisfactory performances of the obligations contemplated by the Grant Contract Agreement.

1.5. The Grantee must pay any subrecipient in accordance with Minnesota Statutes § 16A.1245.

1.6. The Grantee and any subrecipients must not contract with vendors who are suspended or debarred by the State of Minnesota or the federal government.

2. Liability

The Grantee must indemnify, save, and hold the State, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the State, arising from performance of this Grant Contract Agreement by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under this Grant Contract Agreement.

3. State Audits and Single Audits

3.1. Under Minnesota Statutes § 16B.98, Subd. 8, the Grantee's books, records, documents, and accounting procedures and practices relevant to this Grant Contract Agreement are subject to examination by the Commissioner of Administration, the State granting agency, the State Auditor, the Attorney General, and the Legislative Auditor, as appropriate, for a minimum of six years from the expiration or termination of this Grant Contract Agreement, receipt and approval of all final reports, or the required period of time to satisfy all State and program retention requirements, whichever is later.

3.2. All state and local governments, colleges and universities, and non-profit organizations that expend $1,000,000 or more of federal awards in a fiscal year must have a single audit according to the OMB Uniform Guidance: Cost Principles, Audit, and Administrative Awards Requirements for Federal Awards. This is $1,000,000 total federal awards received from all sources. If an audit is completed, forward a copy of the report to both the State's Authorized Representative and the State Auditor.

1. Government Data Practices and Intellectual Property Rights

1.1. Government Data Practices. The Grantee and State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the State under this grant contract, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant contract. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the Grantee or the State.

If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with applicable law.

1.2. Intellectual Property Rights. No intellectual property will be created under this grant award. If the Grantee or the State determines the services the Grantee is performing under the grant award have intellectual property implications, the parties will amend this section.

2. Workers Compensation

The Grantee certifies that it is in compliance with Minnesota Statutes § 176.181, Subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

3. Governing Law, Jurisdiction, Venue

Venue for all legal proceedings out of this Grant Contract Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

4. Termination

4.1. Termination by the State.

A. Without Cause.
The State may terminate this Grant Contract Agreement without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

B. With Cause.
The State may immediately terminate this Grant Contract Agreement if the State finds that there has been a failure to comply with the provisions of this grant contract, that reasonable progress has not been made, or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

4.1. Termination by the Commissioner of Administration.
The Commissioner of Administration may immediately and unilaterally terminate this Grant Contract Agreement if further performance under the agreement would not serve agency purposes or performance under the Grant Contract Agreement is not in the best interest of the State.

4.2. Termination for Insufficient Funding. The State may immediately terminate this Grant Contract Agreement if it does not obtain funding from the Minnesota Legislature, U.S. Coast Guard, Department of Homeland Security – through the Recreational Boating Safety Financial Assistance program to states, commonwealth and territories (FAIN 3319FAS190127), (CFDA number 97.012) in U.S.C. 13101-13110; or if funding cannot be continued at a level sufficient to allow for the payment of the services addressed within this Grant Contract Agreement. Termination must be by written notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that dedicated funds are available.

In the event of temporary lack of funding or appropriation, the State may pause its obligations under this Grant Contract Agreement without terminating it. This pause will be for the duration of the lack of funding or appropriation and shall not be considered a termination of the Grant Contract Agreement. The Grantee will be notified in writing of the temporary pause, and the Grantee's ability to provide services may be temporarily suspended during this period. The State will provide reasonable notice to the Grantee of the lack of funding or appropriation and shall notify the Grantee once funding is restored or appropriated, at which point the provision of services under the Grant Contract Agreement may resume.

The State will not be assessed any penalty if the Grant Contract Agreement is terminated due to insufficient funding. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State's receiving notice.

5. Publicity and Endorsement

5.1. Publicity. Any publicity pertaining to the services resulting from this Grant Contract Agreement shall identify the State as the sponsoring agency. Publicity includes, but is not limited to: websites, social media platforms, notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee or its employees individually or jointly with others or any subcontractors. All projects primarily funded by state grant appropriations must publicly credit the State, including on the grantee's website, when practicable.

5.2. Endorsement. The Grantee must not claim that the State endorses its products or services.

6. Data Disclosure

Under Minnesota Statutes § 270C.65, Subd. 3, and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

1. American With Disabilities Act

Grantee must comply with the 2010 American Disabilities Act Standards for Accessible Design, or any updated version of these requirements in effect at the time of this grant, and all applicable regulations and guidelines.

2. Non-Discrimination Requirements

2.1. No person in the United States must, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. Including but not limited to:

2.2. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance; Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;

2.3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance.

2.4. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

2.5. Title II of the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination against qualified individuals with disabilities in services, programs, and activities of public entities.

2.6. Any other applicable non-discrimination law(s).

3. Reporting requirements

The Grantee must submit a progress report to the State's Authorized Representative in a form and manner prescribed by the State. For this grant, the invoice and required documentation will serve as the progress report to document the purchase of the equipment described in Exhibit A.

4. Monitoring

4.1. The State shall be allowed at any time to conduct periodic site visits and inspections to ensure work progress in accordance with this grant agreement, including a final inspection upon program completion. At least one monitoring visit per grant period on all state grants of over $50,000 will be conducted and at least annual monitoring visits on grants of over $250,000.

4.1. Following closure of the program, the State's authorized representatives shall be allowed to conduct post-completion inspections of the site to ensure that the site is being properly operated and maintained and that no conversion of use has occurred. Equipment with a value of $5,000 or more at time of purchase requires site monitoring every other year for the life of the equipment. State approval is needed prior to selling or removing this equipment from service.

5. Invasive Species Prevention

5.1. The DNR requires active steps to prevent or limit the introduction, establishment, and spread of invasive species during contracted work. The contractor shall prevent invasive species from entering into or spreading within a project site by cleaning equipment prior to arriving at the project site.

5.2. If the equipment, vehicles, gear, or clothing arrives at the project site with soil, aggregate material, mulch, vegetation (including seeds) or animals, it shall be cleaned by contractor furnished tool or equipment (brush/broom, compressed air or pressure washer) at the staging area. The contractor shall dispose of material cleaned from equipment and clothing at a location determined by the DNR Contract Administrator. If the material cannot be disposed of onsite, secure material prior to transport (sealed container, covered truck, or wrap with tarp) and legally dispose of offsite.

5.3. The contractor shall ensure that all equipment and clothing used for work in infested waters has been adequately decontaminated for invasive species (ex. zebra mussels) prior to being used in non-infested waters. All equipment and clothing including but not limited to waders, tracked vehicles, barges, boats, turbidity curtain, sheet pile, and pumps that comes in contact with any infested waters must be thoroughly decontaminated.

6. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

6.1. The prospective lower tier participant certifies, by submission of this agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency

6.2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

7. Use of Funds as Match to Other Grants or Programs

7.1. State funds cannot be used by the Grantee as match or for reimbursement for any other grant or program without prior written authorization from the State's Authorized Representative.

7.2. **Written request**. The Grantee must submit a written request for authorization no less than 10 business days prior to applying for the new funds or program to the State's Authorized Representative. This request must include the following information: this project name, this contract number, the amount of these funds to be used, location where these funds were or will be used, activity funded, and current landowner (if applicable).

The project name, location where the new funds will be used, activity to be funded, funding source of the new grant or program, and a brief description of the grant or program being applied for must also be included.

7.1. Land Encumbrances. If the new grant or program will add any encumbrances to the land where these funds were or will be spent, these encumbrances must be approved in writing by the State's Authorized Representative and the current landowner.

8. Debarment and Suspension

Under Executive Orders 12549 and 12689, a contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Procurement of Recovered Materials

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. [78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014].

10. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

10.1. Under 2 CFR 200.216: Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

A. Procure or obtain covered telecommunications equipment or services;

B. Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or

C. Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

D. As described in section 889 of Public Law 115-232, "covered telecommunications equipment or services" means any of the following:

10.2. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

A. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

B. Telecommunications or video surveillance services provided by such entities or using such equipment;

C. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

10.1. For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

10.2. In implementing the prohibition under section 889 of Public Law 115-232, heads of executive agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions, and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

10.3. When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

10.4. For additional information, see section 889 of Public Law 115-232 and § 200.471.

11. Domestic Preference for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

12. Reporting Subawards and Executive Compensation

12.1. As required under Title 2 of the Code of Federal Regulations, Subtitle A, Chapter 1, Part 170, the State must report on each subaward that is $30,000 or more to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) at https://sam.gov/fsrs.

12.1. In order for the State to fulfill this requirement, the Grantee shall provide the following data to the State for themselves within 21 dates of the execution of this agreement, and for any subcontractors within 21 days of execution of a subcontract:

A. UEI Number;

B. Relevant executive compensation data if applicable under Title 2 of the Code of Federal Regulations, Subtitle A, Chapter 1, Part 170, Appendix A.

i. The Grantee and contractor in the preceding fiscal year received 80 percent of more of its annual gross revenue in: Federal awards, $25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

ii. The public does not have access to information about the compensation of senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

13. Whistleblower Protections

This award is subject is to whistleblower protections, including the protections established at 41 U.S.C. 4712 providing that an employee of the recipient or a subrecipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a covered person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal grant or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal grant or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal grant or subaward. These covered persons or bodies include:

A. A member of Congress or representative of a committee of Congress.
B. An Inspector General.
C. The Government Accountability Office.
D. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
E. An authorized official of the Department of Justice or other law enforcement agency.
F. A court of grand jury.
G. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Consistent with 41 U.S.C. 4712(d), the recipient and subrecipients shall inform their employees in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712.

Exhibits

The following Exhibits are attached and incorporated into this Grant Contract Agreement.

Exhibit A: Specifications, Duties, and Scope of Work

Exhibit B: Federal Assurances: Non-Construction programs

Exhibit C: Conflict of Interest Disclosure

Exhibit D: Requirements for DNR Grantees

Grant Contract Agreement Signature Page

State Encumbrance Verification

Individual certifies that funds have been encumbered as required by Minnesota Statutes §§ 16A.15

Print Name: SUSAN J. LARSON

Signature: Susan J. Larson Digitally signed by Susan J. Larson Date: 2026.04.30 21:54:09 -05'00'

Title: ACCT TECH Date: 4/27/2026

SWIFT Contract No. 289452

State Agency

With delegated authority

Print Name: _____

Signature: _____

Title: _____ Date: _____

Grantee

With delegated authority

Print Name: _____

Signature: _____

Title: _____ Date: _____

2026 FEDERAL BOATING SAFETY SUPPLEMENTAL PATROL AGREEMENT (CFDA #97.012)

1. The purpose of this program is to provide supplementary funding to the County to provide for additional boating safety patrol hours during high-use periods through the payment of straight time, overtime, or the addition of enforcement personnel on a temporary basis. Other activities such as rental boat inspections, training, extended search and rescue operations, aids-to-navigation work, aquatic invasive species (AIS) enforcement or inspections, talks and displays **do not qualify** for reimbursement under this program. Incidental on-scene accident investigation, assistance to the public and immediate search and rescue operations by personnel assigned to this program are authorized.

2. Reimbursable hours and days of operation shall occur during the following days and hours:
   The schedule of hours shall be left to the county. Scheduling, however, should be made to coincide with periods of activity or complaints and night patrols are encouraged. *If at all possible, schedules should be canceled or delayed if inclement weather is expected.*

3. Emphasis on this program shall be placed on the following violations:

   - Boating while intoxicated
   - Personal watercraft operation
   - Careless and reckless operation
   - Speed and wake violations
   - Use of navigation lights
   - Other boating equipment and registration violations

4. Allowable costs include overtime patrol hours, additional personnel salary and appropriate fringe benefits associated with patrol. Submit one invoice at the end of the grant period or when all obligations have been satisfactorily fulfilled, whichever occurs first. A copy of the daily logs of each deputy involved - showing hours on duty, water body patrolled, boats stopped, citations or warnings issued and other pertinent information on a daily basis must be submitted with the reimbursement invoice. The deputy and his or her supervisor must sign each log sheet. Reimbursement request must also include a summary of the times and hours worked and total costs for each deputy by date. All other expenses, such as fuel, training, repairs, boats, meals etc. must be paid by the county (use of the regular 2026 state boat and water safety grant funds for these other expenses is an allowable cost). The county will be responsible for any unemployment or worker's compensation costs associated with the program.

5. Each participating county, with the payment request, will submit a written review of the program. Payment will not be made without this narrative, which shall include a summary of the county's activities, accomplishments and suggested changes for future funding.

6. **Deadline for the invoice, log sheets and narrative is September 15, 2026. An invoice submitted after that date will not be reimbursed, unless an extension is requested by the grantee in writing and the extension is approved in writing from the State. Submit invoice info to: adam.block@state.mn.us**

7. Hours from this program will be excluded in determining the regular 2028 county grant allocation.

8. These funds are not designed to take the place of existing funding, but rather to supplement it. A copy of the 2026 county supplemental patrol work plan must be submitted to the State for approval before the grant may be processed.

2026 FEDERAL ASSURANCES
NON-CONSTRUCTION PROGRAMS

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et sq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et. seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1et seq.).

14. Will comply with P.L. 93-248 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments and Non-Profit Organizations." *(see below).

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

**If the COUNTY (as defined on page 1 of this grant) expends more than $1,000,000 in federal assistance per year, it agrees to have a program-specific or single audit made in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133 – "Audits of States, Local Governments and Non-Profit Organizations." Copies of the audit report are required to be sent to the following: 1) Office of the State Auditor – Single Audit Division, Suite 500, 525 Park Street, St. Paul, MN 55103, 2) Minnesota Department of Natural Resources, Internal Audit Section – Office of Management & Budget Services 500 Lafayette Road, St. Paul, MN 55155 and 3) The Federal Single Audit Clearinghouse located at: Bureau of the Census, Data Preparation Division, 1201 East 10th Street, Jeffersonville, IN 47132.*

FY 2025 DHS STANDARD TERMS AND CONDITIONS

The Fiscal Year (FY) 2025 Department of Homeland Security (DHS) Standard Terms and Conditions apply to all new federal awards of federal financial assistance (federal awards) for which the federal award date occurs in FY 2025 and flow down to subrecipients unless a term or condition specifically indicates otherwise. For federal continuation awards made in subsequent FYs, the FY 2025 DHS Standard Terms and Conditions apply unless otherwise specified in the terms and conditions of the continuation awards. The United States has the right to seek judicial enforcement of these terms and conditions.

All legislation and digital resources are referenced with no digital links. These FY 2025 DHS Standard Terms and Conditions are maintained on the DHS website at https://www.dhs.gov/publication/dhs-standard-terms-and-conditions.

A. Assurance, Administrative Requirements, Cost Principles, Representations, and Certifications

I. Recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non- Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances, as instructed.

B. General Acknowledgements and Assurances Recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in effect as of the federal award date and located in Title 2, Code of Federal Regulations, Part 200 and adopted by DHS at 2 C.F.R. § 3002.10.

All recipients and subrecipients must acknowledge and agree to provide DHS access to records, accounts, documents, information, facilities, and staff pursuant to 2 C.F.R. § 200.337.

I. Recipients must cooperate with any DHS compliance reviews or compliance investigations.

II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal award and permit access to facilities and personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements required by law, federal regulation, Notice of Funding Opportunity, federal award specific terms and conditions, and/or DHS Component program guidance. Organization costs related to data and evaluation are allowable. The definition of data and evaluation costs is in 2 C.F.R. § 200.455(c), the full text of which is incorporated by reference.

V. Recipients must complete DHS Form 3095 within 60 days of receipt of the Notice of Award for the first award under which this term applies. For further instructions and to access the form, please visit: https://www.dhs.gov/civil-rightsresources-recipients-dhs-financial-assistance.

C. Standard Terms & Conditions

I. Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal award funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal award funds.

II. Activities Conducted Abroad

Recipients must coordinate with appropriate government authorities when performing project activities outside the United States obtain all appropriate licenses, permits, or approvals.

III. Age Discrimination Act of 1975

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub. L. No. 94-135 (codified as amended at Title 42, U.S. Code § 6101 *et seq*.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

IV. Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101– 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

V. Best Practices for Collection and Use of Personally Identifiable Information

(1) Recipients who collect personally identifiable information (PII) as part of carrying out the scope of work under a federal award are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect.

(2) Definition. DHS defines “PII” as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

VI. *CHIPS and Science Act of 2022*, Public Law 117-167 CHIPS

(1) Recipients of DHS research and development (R&D) awards must report to the DHS Component research program office any finding or determination of sex based and sexual harassment and/or an administrative or disciplinary action taken against principal investigators or co-investigators to be completed by an authorized organizational representative (AOR) at the recipient institution.

(2) Notification. An AOR must disclose the following information to agencies within 10 days of the date/the finding is made, or 10 days from when a recipient imposes an administrative action on the reported individual, whichever is sooner. Reports should include:

(a) Award number,

(b) Name of PI or Co-PI being reported,

(c) Awardee name,

(d) Awardee address,

(e) AOR name, title, phone, and email address,

(f) Indication of the report type:

(i) Finding or determination has been made that the reported individual violated awardee policies or codes of conduct, statutes, or regulations related to sexual harassment, sexual assault, or other forms of harassment, including the date that the finding was made.

(ii) Imposition of an administrative or disciplinary action by the recipient on the reporting individual related to a finding/determination or an investigation of an alleged violation of recipient policy or codes of conduct, statutes, or regulations, or other forms of harassment.

(iii) The date and nature of the administrative/disciplinary action, including a basic explanation or description of the event, which should not disclose personally identifiable information regarding any complaints or individuals involved. Any description provided must be consistent with the *Family Educational Rights in Privacy Act*.

(3) Definitions.

(a) An "authorized organizational representative (AOR)" is an administrative official who, on behalf of the proposing institution, is empowered to make certifications and representations and can commit the institution to the conduct of a project that an agency is being asked to support as well as adhere to various agency policies and award requirements.

(b) "Principal investigators and co-principal investigators" are award personnel supported by a grant, cooperative agreement, or contract under Federal law.

(c) A "reported individual" refers to recipient personnel who have been reported to a federal agency for potential sexual harassment violations.

(d) "Sex based harassment" means a form of sex discrimination and includes harassment based on sex, sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity.

(e) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, whether such activity is carried out by a supervisor or by a co-worker, volunteer, or contractor.

VII. *Civil Rights Act of 1964 – Title VI*

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964*, Pub. L. No. 88-352 (codified as amended at 42 U.S.C. § 2000d *et seq*.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS

implementing regulations for the Act are found at 6 C.F.R. Part 21. Recipients of a federal award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 7.

VIII. *Civil Rights Act of 1968*

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. No. 90284 (codified as amended at 42 U.S.C. § 3601 *et seq*.) which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection. therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex, as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units— i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

IX. Communication and Cooperation with the Department of Homeland Security and Immigration Officials

(1) All recipients and other recipients of funds under this award must agree that they will comply with the following requirements related to coordination and cooperation with the Department of Homeland Security and immigration officials:

(a) They must comply with the requirements of 8 U.S.C. §§ 1373 and 1644. These statutes prohibit restrictions on information sharing by state and local government entities with DHS regarding the citizenship or immigration status, lawful or unlawful, of any individual. Additionally, 8 U.S.C. § 1373 prohibits any person or agency from prohibiting, or in any way restricting, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status of any individual: 1) sending such information to, or requesting or receiving such information from, Federal immigration officials; 2) maintaining such information; or 3) exchanging such information with any other Federal, State, or local government entity;

(b) They must comply with other relevant laws related to immigration, including prohibitions on encouraging or inducing an alien to come to, enter, or reside in the United States in violation of law, 8 U.S.C. § 1324(a)(1)(A)(iv), prohibitions on transporting or moving illegal aliens, 8 U.S.C. § 1324(a)(1)(A)(ii), prohibitions on harboring, concealing, or shielding from detection illegal aliens, 8 U.S.C. § 1324(a)(1)(A)(iii), and any applicable conspiracy, aiding or abetting, or attempt liability regarding these statutes;

(c) That they will honor requests for cooperation, such as participation in joint operations, sharing of information, or requests for short term detention of an alien pursuant to a valid detainer. A jurisdiction does not fail to comply with this requirement merely because it lacks the necessary resources to assist in a particular instance;

(d) That they will provide access to detainees, such as when an immigration officer seeks to interview a person who might be a removable alien; and

(e) That they will not leak or otherwise publicize the existence of an immigration enforcement operation.

(2) The recipient must certify under penalty of perjury pursuant to 28 U.S.C. § 1746 and using a form that is acceptable to DHS, that it will comply with the requirements of this term. Additionally, the recipient agrees that it will require any subrecipients or contractors to certify in the same manner that they will comply with this term prior to providing them with any funding under this award.

(3) The recipient agrees that compliance with this term is material to the Government's decision to make or continue with this award and that the Department of homeland Security may terminate this grant, or take any other allowable enforcement action, if the recipient fails to comply with this term.

X. Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 to any work first produced under federal awards and also include an acknowledgement that the work was produced under a federal award (including the federal award number and federal awarding agency). As detailed in 2 C.F.R. § 200.315, a federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes and to authorize others to do so.

XI. Debarment and Suspension

Recipients must comply with the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689 set forth at 2 C.F.R. Part 180 as implemented by DHS at 2 C.F.R. Part 3000. These regulations prohibit recipients from entering into covered transactions (such as subawards and contracts) with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

XII. Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government- wide implementation (2 C.F.R. Part 182) of the *Drug-Free Workplace Act of 1988* (41 U.S.C. §§ 8101-8106).

XIII. Duplicative Costs

Recipients are prohibited from charging any cost to this federal award that will be included as a cost or used to meet cost sharing requirements of any other federal award in either the current or a prior budget period. See 2 C.F.R. § 200.403(f). However, recipients may shift costs that are allowable under two or more federal awards where otherwise permitted by federal statutes, regulations, or the federal award terms and conditions.

XIV. Education Amendments of 1972 (*Equal Opportunity in Education Act*) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (codified as amended at 20 U.S.C. § 1681 *et seq*.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17. Recipients of a federal award from the Federal Emergency Management Agency (FEMA) must also comply with FEMA's implementing regulations at 44 C.F.R. Part 19.

XV. *Energy Policy and Conservation Act*

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 *et seq*.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

XVI. Equal Treatment of Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries.

Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

XVII. Anti-Discrimination

Recipients must comply with all applicable Federal anti-discrimination laws material to the government's payment decisions for purposes of 31 U.S.C. § 372(b)(4).

(1) Definitions. As used in this clause –

(a) DEI means "diversity, equity, and inclusion."

(b) DEIA means "diversity, equity, inclusion, and accessibility."

(c) Discriminatory equity ideology has the meaning set forth in Section 2(b) of Executive Order 14190 of January 29, 2025.

(d) Federal anti-discrimination laws mean Federal civil rights law that protect individual Americans from discrimination on the basis of race, color, sex, religion, and national origin.

(e) Illegal immigrant means any alien, as defined in 8 U.S.C. § 1101(a)(3), who has no lawful immigration status in the United States.

(2) Grant award certification.

(a) By accepting the grant award, recipients are certifying that:

(i) They do not, and will not during the term of this financial assistance award, operate any programs that advance or promote DEI, DEIA, or discriminatory equity ideology in violation of Federal anti-discrimination laws; and

(ii) They do not engage in and will not during the term of this award engage in, a discriminatory prohibited boycott.

(iii) They do not, and will not during the term of this award, operate any program that benefits illegal immigrants or incentivizes illegal immigration.

(3) DHS reserves the right to suspend payments in whole or in part and/or terminate financial assistance awards if the Secretary of Homeland Security or her designee determines that the recipient has violated any provision of subsection (2)..

(4) Upon suspension or termination under subsection (3), all funds received by the recipient shall be deemed to be in excess of the amount that the recipient is determined to be entitled to under the Federal award for purposes of 2 C.F.R. § 200.346. As such, all amounts received will constitute a debt to the Federal Government that may be pursued to the maximum extent permitted by law.

XVIII. *False Claims Act* and Program Fraud Civil Remedies

Recipients must comply with the requirements of the *False Claims Act*, 31 U.S.C. §§ 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

XIX. Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. See OMB Circular A-129.

XX. Federal Leadership on Reducing Text Messaging While Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving recipient-owned, recipient-rented, or privately owned vehicles when on official government business or when performing any work for or on behalf of the Federal Government. Recipients are also encouraged to conduct the initiatives of the type described in Section 3(a) of Executive Order 13513.

XXI. Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (a list of certified air carriers can be found at: Certificated Air Carriers List | US Department of Transportation, https://www.transportation.gov/policy/aviation-policy/certificated-aircarriers-list)for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974*, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

XXII. Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded entirely or in part by federal award funds complies with the fire prevention and control guidelines of Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, 15 U.S.C. § 2225a.

XXIII. John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019*, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. The statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

XXIV. Limited English Proficiency (*Civil Rights Act of 1964, Title VI*)

Recipients must comply with Title VI of the *Civil Rights Act of 1964* (42 U.S.C. § 2000d *et seq*.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps

to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: https://www.dhs.gov/guidance-published-help- department-supported-organizationsprovide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

XXV. Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352 and 6 C.F.R. Part 9, which provide that none of the funds provided under a federal award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification. Per 6 C.F.R. Part 9, recipients must file a lobbying certification form as described in Appendix A to 6 C.F.R. Part 9 or available on Grants.gov as the Grants.gov Lobbying Form and file a lobbying disclosure form as described in Appendix B to 6 C.F.R. Part 9 or available on Grants.gov as the Disclosure of Lobbying Activities (SF-LLL).

XXVI. National Environmental Policy Act

Recipients must comply with the requirements of the *National Environmental Policy Act of 1969*, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 *et seq*.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

XXVII. National Security Presidential Memorandum-33 (NSPM-33) and provisions of the CHIPS and Science Act of 2022, Pub. L. 117-167, Section 10254

(1) Recipient research institutions (“covered institutions”) must comply with the requirements in NSPM-33 and provisions of Pub. L.117-167, Section 10254 (codified at 42 U.S.C. § 18951) certifying that the institution has established and operates a research security program that includes elements relating to:

(a) cybersecurity;

(b) foreign travel security;

(c) research security training; and

(d) export control training, as appropriate.

(2) Definition. “Covered institutions” means recipient research institutions receiving federal Research and Development (R&D) science and engineering support “in excess of $50 million per year.”

XXVIII. Non-Supplanting Requirement

Recipients of federal awards under programs that prohibit supplanting by law must ensure that federal funds supplement but do not supplant non-federal funds that, in the absence of such federal funds, would otherwise have been made available for the same purpose.

XXIX. Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, scope of work, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this federal award are incorporated

by reference. All recipients must comply with any such requirements set forth in the NOFO. If a condition of the NOFO is inconsistent with these terms and conditions and any such terms of the federal award, the condition in the NOFO shall be invalid to the extent of the inconsistency. The remainder of that condition and all other conditions set forth in the NOFO shall remain in effect.

XXX. Patents and Intellectual Property Rights

Recipients are subject to the *Bayh-Dole Act*, 35 U.S.C. § 200 *et seq*. and applicable regulations governing inventions and patents, including the regulations issued by the Department of Commerce at 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Awards, Contracts, and Cooperative Agreements) and the standard patent rights clause set forth at 37 C.F.R. § 401.14.

XXXI. Presidential Executive Orders

Recipients must comply with the requirements of Presidential Executive Orders related to grants (also known as federal assistance and financial assistance), the full text of which are incorporated by reference.

XXXII. Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the *Solid Waste Disposal Act*, Pub. L. No. 89-272 (1965) (codified as amended by the *Resource Conservation and Recovery Act* at 42 U.S.C. § 6962) and 2 C.F.R. § 200.323. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

XXXIII. Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. No. 93-112 (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

XXXIV. Reporting Recipient Integrity and Performance Matters

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of the federal award, then the recipient must comply with the requirements set forth in the government-wide federal award term and condition for Recipient Integrity and Performance Matters is in 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated by reference.

XXXV. Reporting Subawards and Executive Compensation

For federal awards that total or exceed $30,000, recipients are required to comply with the requirements set forth in the government-wide federal award term and condition on Reporting Subawards and Executive Compensation set forth at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated by reference.

XXXVI. Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

(1) Recipients of a federal award from a financial assistance program that provides funding for infrastructure are hereby notified that none of the funds provided under this federal award may be used for a project for infrastructure unless:

(a) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(b) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(c) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

(2) The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

(3) *Waivers*

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

(a) When the Federal agency has determined that one of the following exceptions applies, the federal awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

(i) applying the domestic content procurement preference would be inconsistent with the public interest;

(ii) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(iii) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

(b) A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

(c) There may be instances where a federal award qualifies, in whole or in part, for an existing waiver described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov.

(4) *Definitions*. The definitions applicable to this term are set forth at 2 C.F.R. § 184.3, the full text of which is incorporated by reference.

XXXVII. SAFECOM

Recipients receiving federal awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications. The SAFECOM Guidance is updated annually and can be found at Funding and Sustainment | CISA.

XXXVIII. Subrecipient Monitoring and Management

Pass-through entities must comply with the requirements for subrecipient monitoring and management as set forth in 2 C.F.R. §§ 200.331-333.

XXXIX. System for Award Management and Unique Entity Identifier Requirements

Recipients are required to comply with the requirements set forth in the governmentwide federal award term and condition regarding the System for Award Management and Unique Entity Identifier Requirements in 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated reference.

XL. Termination of a Federal Award

(1) By DHS. DHS may terminate a federal award, in whole or in part, for the following reasons:

(a) If the recipient fails to comply with the terms and conditions of the federal award;

(b) With the consent of the recipient, in which case the parties must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated; or

(c) Pursuant to the terms and conditions of the federal award, including, to the extent authorized by law, if the federal award no longer effectuates the program goals or agency priorities.

(3) By the Recipient. The recipient may terminate the federal award, in whole or in part, by sending written notification to DHS stating the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if DHS determines that the remaining portion of the federal award will not accomplish the purposes for which the federal award was made, DHS may terminate the federal award in its entirety.

(4) Notice. Either party will provide written notice of intent to terminate for any reason to the other party no less than 30 calendar days prior to the effective date of the termination.

(5) Compliance with Closeout Requirements for Terminated Awards. The recipient must continue to comply with closeout requirements in 2 C.F.R. §§ 200.344200.345 after an award is terminated.

XLI. Terrorist Financing

Recipients must comply with Executive Order 13224 and applicable statutory prohibitions on transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible for ensuring compliance with the Executive Order and laws.

XLII. Trafficking Victims Protection Act of 2000(TVPA)

Recipients must comply with the requirements of the government-wide federal award term and condition which implements Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 106 (codified as amended at 22 U.S.C. § 7104). The federal award term and condition is in 2 C.F.R. § 175.105, the full text of which is incorporated by reference.

XLIII. *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001*, Pub. L. 107-56

Recipients must comply with the requirements of Pub. L. 107-56, Section 817 of the USA PATRIOT Act, which amends 18 U.S.C. §§ 175–175c.

XLIV. Use of DHS Seal, Logo and Flags

Recipients must obtain written permission from DHS prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

XLV. Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections in 10 U.S.C § 470141 U.S.C. § 4712.

Attention Boating Law Administrators,

This is a follow up to the e-mail I sent on Friday, October 17, 2025.

Some states have asked questions concerning the application of the current Department of Homeland Security Standard Terms and Conditions, v. 3 (Apr. 18, 2025), given the injunction entered by the Court in Illinois, et al. v. FEMA, et al. Consistent with the injunction, Paragraph C.IX (Communication and Cooperation with the Department of Homeland Security and Immigration Officials) and paragraph C.XVII(2)(a)(iii) (Anti-Discrimination Grant Award Certification regarding immigration) of the Standard Terms and Conditions do not apply to any federal award under this funding opportunity.

If there are any changes in the Department of Homeland Security Standard Terms and Conditions, you will be notified.

If you have any questions, please do not hesitate to contact me directly.

Sincerely.

Pavlo Oborski
USCG/Division of Boating Safety
Grants Management Branch Chief (BSX-22)
571-607-5426
Pavlo.Oborski@uscg.mil

DEPARTMENT OF NATURAL RESOURCES

Conflict of Interest Disclosure Form for Grantees

Conflict of Interest

A conflict of interest occurs when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper or illegal act results from it. There are several types of conflicts of interest.

Actual Conflict of Interest

An actual conflict of interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

Potential Conflict of Interest

A potential conflict of interest may exist if a person has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interests.

Individual Conflict of Interest

A conflict of interest that may benefit an individual employee *or a* grant reviewer is any situation in which *their* judgment, actions or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to *an immediate family member,* business, or organization with which they are involved.

Organizational Conflict of Interest

A conflict of interest can also occur with an organization that is a grant applicant in a competitive grant process or grantee of a state agency.

Organizational conflicts of interest occur when:

- A grantee's objectivity in carrying out the grant is impaired or compromised due to competing duties or loyalties
- A grantee, potential grantee or grant applicant has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

This section to be completed by Grantee's Authorized Representative

I certify that we will maintain an adequate Conflict of Interest Policy, and throughout the term of our agreement will report any actual or potential conflicts of interests by individual employees or our organization as a whole to the State's Authorized Representative.

Organization Name: Crow Wing County Sheriff's Office

Project Name: 2026 MN DNR FEDERAL BOATING SAFETY SUPPLEMENTAL PATROL GRANT

Legal Citation: Under Minnesota Statute §84.026, §86B.101 and Department of Homeland Security – through the Recreational Boating Safety Financial Assistance program to states, commonwealth and territories (FAIN 3319FAS190127), (CFDA number 97.012) in U.S.C. 13101-13110 the State is empowered to enter into this grant contract agreement.

Authorized Representative Printed Name: Eric Klang, Sheriff

Authorized Representative Signature/Date:  6/3/2026

DEPARTMENT OF NATURAL RESOURCES

Requirements for DNR Grantees (RDG)

Effective Date: January 31, 2026.

The following policies apply to all DNR grants, except where specifically noted. These requirements are in addition to requirements in program-specific manuals. In case of any conflicts with an existing grant program manual, the stricter document will control.

Questions about these requirements should be directed to the grant specialist for your grant program. Questions may also be directed to GrantsTeam.DNR@state.mn.us. When sending an email to this address, please include information on your grant funding source, program, and question.

Admin's Office of Grants Management (OGM) Policies

Under Minn. Statutes, section 16b.97 subd. 2, the Minnesota Department of Administration (Admin) is required to create general grants management policies and procedures applicable to all state agencies. Admin's OGM implemented grant policies for the State of Minnesota. Please review OGM grant policies (select the Current Policies tab). Information especially relevant to grantees is summarized below. Unless otherwise noted, these policies do not apply to bonding grants and grants under Minn. Statutes section 16A.86 or section 16A.642.

Grants Conflict of Interest (OGM Policy 08-01)

All grantees must sign a conflict-of-interest disclosure form or certify they will disclose conflicts of interest when signing their grant agreements/GANs. Grantees must also maintain a written standard of conduct covering conflicts of interest and governing the actions of its employees or board members engaged in the selection, award, and administration of contracts. State staff may request this written standard when conducting grant monitoring activities or if otherwise relevant. These requirements apply to all grants, including bonding grants and grants under Minn. Statutes section 16A.86 and section 16A.642.

OGM Policy 08-01 states that a conflict of interest occurs "when a person has actual or apparent duty or loyalty to more than one organization and the competing duties or loyalties may result in actions which are adverse to one or both parties. A conflict of interest exists even if no unethical, improper, or illegal act results from it." Per the OGM policy, there are several types of conflicts of interest:

Actual Conflict of Interest

An actual conflict of interest occurs when a person's decision or action would compromise a duty to a party without taking immediate appropriate action to eliminate the conflict.

Potential Conflict of Interest

A potential conflict of interest may exist if a person has a relationship, affiliation, or other interest that could create an inappropriate influence if the person is called on to make a decision or recommendation that would affect one or more of those relationships, affiliations, or interest.

Individual Conflict of Interest

A conflict of interest that may benefit an individual employee or a grant reviewer is any situation in which their judgement, actions, or non-action could be interpreted to be influenced by something that would benefit them directly or through indirect gain to an immediate family member, business, or organization with which they are involved.

Organizational Conflict of Interest

A conflict of interest can also occur with an organization that is a grant applicant in a competitive grant process or grantee of a state agency. Organizational conflicts of interest occur when:

- A grantee's objectivity in carrying out the grant is impaired or compromised due to competing duties or loyalties
- A grantee, potential grantee, or grant applicant has an unfair competitive advantage through being furnished unauthorized proprietary information or source selection information that is not available to all competitors.

Use of Grant Contract Agreements and Grant Award Notifications (GAN) (OGM Policy 08-04)

All grants need a written grant contract agreement or Grant Award Notification (GAN). State agencies cannot award a grant to a grantee that is on either the suspension or debarment lists for the state of Minnesota or the federal government. If a grantee becomes suspended or debarred, that may be cause for the State to cancel their grant.

Grant agreements/GANs must contain a provision for the grantee to clearly post on the grantee's website the names and contact information for the grantee organization's leadership and the person(s) who directly manages and oversees the grant.

A fully executed copy of the grant agreement or GAN and all relevant records must be kept on file for a minimum of six years from the end date, receipt, and approval of all final reports, OR the period of time required to satisfy all state and program retention requirements, whichever is later.

Grantees must complete work in accordance with the terms and conditions of their grant agreement/GAN. Work not covered under the grant agreement/GAN will not be reimbursed without a prior amendment request.

Public Questions and Comments Concerning Fraud and Waste in State Grants (OGM Policy 08-05)

OGM will serve as the central point of contact for questions and comments about fraud and waste in state grants and about the violation of statewide grants policies. OGM will also respond to other public questions and concerns about state grants.

Grant Payments (OGM Policy 08-08)

State agencies may not issue grant payments until the funds are encumbered, and the grant agreement is fully executed, or the GAN is completed.

Reimbursement is the State's preferred method for making grant payments. DNR grants operate on a reimbursement basis, unless the grant agreement/GAN contains explicit language specifying otherwise.

Grantee reimbursement requests must correspond to the line items in the approved grant budget. Grant managers must review each reimbursement request against the approved grant budget, grant expenditures to date, and the latest grant progress report before approving payment. If grant managers see a discrepancy or have any questions about reimbursement requests and/or related documentation, they will follow up with the grantee.

Any deviation from this policy must be approved by the Agency Wide Grants Manager prior to signing a grant agreement/GAN and must be in accordance with state laws and OGM policies.

Grants in which the payment terms are defined in statute are not covered by this policy.

DNR Reimbursement Procedures

- Grantees must pay for project expenses before seeking reimbursement from the grant and should only request reimbursement for paid expenses. Expenses are reviewed and those deemed eligible are then reimbursed under the terms of the agreement/GAN with the State of Minnesota.
- Grantees are not allowed to request reimbursement for invoices from a vendor that have not yet been paid by the grantee. Please also see the Proof of Payment section below.
- Grantees can expect to be reimbursed within 30 days of the DNR receiving a complete and accurate reimbursement request. If documentation to process the request is missing, or the request has discrepancies or incorrect information, the 30-day clock does not start until all necessary information has been submitted to the DNR and the request has been deemed complete and whole.
- The DNR will pay final reimbursement when the state determines that the grantee has satisfactorily fulfilled all the terms of their grant agreement/GAN, unless a grant term is altered or excluded by the DNR in writing.

Grantees should keep the following documentation on file for monitoring and audit purposes:

- Proof of payment of grant expenses (e.g. copies of cancelled checks, electronic bank statements, etc.)
- Contracting/purchasing bidding documentation
- Organization's conflict of interest policy

- Prevailing wage documentation (if applicable): project assessment form, certified payroll reports, etc.

Grant Progress Reports (OGM Policy 08-09)

Grantees are required to submit written progress reports at least annually until all grant funds have been expended and all the terms in the grant agreement/GAN have been met. Information requested in a grant progress report may include (but is not limited to): goals and objectives, activities, outcomes, challenges, lessons learned, and financial information. State agencies cannot make grant payments on grants with past due progress reports (unless the agency has given the grantee a written extension).

Grant Monitoring (OGM Policy 08-10)

All state grants over $50,000 are required to have at least one monitoring visit before final payment is made. All state grants over $250,000 are required to have annual monitoring visits. In-person visits are preferred where possible, but telephone or virtual visits are also used where reasonable.

The purpose of a monitoring visit is to review and ensure progress towards the grant's goals, address any problems or issues before the end of the grant period, and build a relationship between the agency and grantee.

For state grants over $50,000, state agencies must conduct a financial reconciliation of grantees' expenditures at least once before final payment is made. A financial reconciliation involves reconciling a grantee's request for payment for a given period with supporting documentation (e.g. purchase orders, receipts, payroll records, etc.) for that request.

If previously reimbursed costs are found to be ineligible upon further review during monitoring (or at any other point during the grant period), repayment of those costs or other corrective action may be required.

Proof of Payment

The State requires proof of payment documentation to ensure that funds are being provided on a reimbursement basis. The grantee must maintain proof of payment documentation and make it available when requested by the State. Proof of payment documentation may include:

- A copy of a bank statement with photocopies of cleared checks
- An electronic bank statement
- A copy of cancelled checks or other certified financial records
- Employee original time records and payroll documentation

Cost Share/Required Match

For grants which require cost share or match, the requirements for documenting work completed or expenses incurred as match are the same as for expenses for which grantees are requesting reimbursement. The State may disallow otherwise-eligible costs for reimbursement if the grantee cannot provide proof of the expenses being used as match.

For grants with in-kind match (i.e. non-cash donations of a good or service), grantees should provide documentation similar to a payment request.

If the in-kind match is volunteer time, grantees will need volunteer logs and to show the calculation used to convert volunteer hours to time. If the in-kind match is something other than volunteer time (e.g. use of equipment, or donated materials), grantees must perform due diligence to determine how much the in-kind match would cost. For example, if the in-kind match is a land donation, the documentation should include an appraisal. If the in-kind match is use of equipment, the documentation should demonstrate a realistic cost for the type of equipment and amount of time.

Legislatively Mandated Grants (OGM Policy 08-11)

State agencies must manage legislatively mandated grants with the same level of oversight (including monitoring) applied to other state grants, while respecting and maintaining the legislative intent.

Grantees for legislatively mandated grants must submit a work plan and budget. The grant agreement/GAN must be based on the legislation, the grantee's work plan and budget, and negotiations between the state agency and the grantee.

Grant Amendments (OGM Policy 08-12)

During the grant period, it may be necessary to make changes to the grant contract agreement/GAN. Generally, these modifications could include changes to the grant timeframe, to the scope of work, or to the budget categories.

A formal grant contract amendment is required for any changes. Should a situation arise that requires any changes to the project, it is the grantee's responsibility to communicate immediately with the DNR grants specialist.

The purpose of grant amendments must be similar to the original purpose of the grant and the grantee duties should be within the scope of the original RFP/notice of grant opportunity/application.

If an amendment is allowed, it must be fully executed before additional costs can be incurred.

Contracting and Bidding

Competitive bidding needs to follow a fair and transparent public process.

Grantees must not contract with vendors or subcontractors who are on the suspension or debarment lists for either the State of Minnesota or the federal government.

Grantees must take all necessary affirmative steps to assure that targeted vendors from businesses with active certifications through the entities below are used when possible:

- Minnesota Department of Administration's Certified Target Group, Economically Disadvantaged, and Veteran-Owned Vendor List

- Metropolitan Council's Targeted Vendor list: Minnesota Unified Certification Program
- Small Business Certification Program through Hennepin County, Ramsey County, and the City of St. Paul: Central Certification Program

Grantees must maintain support documentation of the purchasing and/or bidding process utilized to contract services in their financial records, including support documentation justifying a single/sole source bid, if applicable. Grantees must retain the following documentation in the project file:

- Copies of executed subcontract agreements
- A copy of the RFP/RFQ, all submitted bids, and the bid tabulation (if applicable)
- Written documentation that describes the rationale for selection of each subcontractor
- Documentation of the contract/bid approval, if required by grantee internal controls (such as meeting minutes)

This documentation may be reviewed during monitoring visits or when requested by the state.

Contracting and Bidding for Political Subdivisions of the State

In addition to the general contracting and bidding requirements above, municipalities (defined in Minn. Statutes, chapter 471.345 subd. 1 as a county, town, city, school district, or other municipal corporation or political subdivision of the state authorized by law to enter into contracts) must also follow the Uniform Municipal Contracting Law.

Contracting and Bidding for Non-Governmental Organizations

In addition to the general contracting and bidding requirements at the beginning of this section, non-government organizations must follow the contracting policies/procedures below.

Contracting and Bidding for Tribal Governments

Tribal governments are subject to neither the Uniform Municipal Contracting Law nor the DNR contracting policies/procedures below. Tribal governments are subject to the contracting and bidding procedures of their own governance.

Contracting and Bidding Thresholds and Process

- Services and/or materials that are expected to cost between $10,000 and $24,999 must be competitively awarded, based on a minimum of two verbal quotes or bids or awarded to a targeted vendor.
- Services and/or materials that are expected to cost between $25,000 and $99,999 must be competitively awarded based on a minimum of three verbal quotes or bids.
- Any services or materials that are expected to cost $100,000 or more must undergo a formal notice and bidding process.
- Grantees must use an RFP/Request for Quote (RFQ) process to competitively select professional and technical services.

- The advertisement for bid processes must allow for fair competition among potential qualified bidders.

Prevailing Wage

Prevailing wage (Minn. Statutes, sections 177.41-177.45) is the minimum hourly wage employers must pay certain workers who work on construction and public works projects funded by state dollars. Prevailing wage includes the employer's cost of benefits. Other prevailing wage information can be found at the Minnesota Department of Labor and Industry (DLI). Prevailing wage rules apply to any grant award of $25,000 or more that qualifies as a "project" per the following definition:

> Project: demolition, erection, construction, alteration, improvement, restoration, remodeling, or repairing of a public building, structure, facility, land, or other public work, which includes any work suitable for and intended for use by the public, or for the public benefit, financed in whole or part by state funds. "Project" also includes demolition, erection, construction, alteration, improvement, restoration, remodeling, or repairing of a building, structure, facility, land, or public work when the acquisition of property, predesign, design, or demolition is financed in whole or part by state funds (Minn. Statutes, section 177.42).

If the award is $25,000 or more and contains activities in the work/accomplishment plan that qualify as a "project" per the definition above, prevailing wage rules in Minn. Statutes, sections 177.41-177.44 apply. If you are unsure if a project is subject to prevailing wage, ask the grant specialist for a copy of DLI's Project Assessment Form. Grantees must complete the form and return it to the grant specialist. Once ready, the DNR grant specialist will submit it to DLI and copy the grantee on the e-mail.

When prevailing wage applies, all bid requests and RFPs must state that the project is subject to prevailing wage to ensure that incoming bids have factored prevailing wage rates into their submittal. A prevailing wage form should accompany these bid submittals.

Grantees must retain documentation in the project file either the prevailing wage forms, or a notice from DLI that the project is not subject to prevailing wage.

Fraud Reporting

In addition to OGM policy, various state statutes govern reporting of suspected fraud or misuse of state dollars.

State workers with information indicating that public resources (including public money) may have been used for an unlawful purpose must report that information. Any other person with such information is strongly urged to report that information. The DNR takes a "no wrong door" approach for reporting suspected fraud; essentially, the DNR encourages its workforce to report suspected fraud to any DNR supervisor or member of agency leadership, who will connect the person reporting to the correct contact or procedure, as needed.

All state agencies are required to report suspected fraud cases to the Department of Revenue for tax fraud investigation, in addition to referring all allegations of suspected fraud to the Office of the Legislative Auditor and the Minnesota Bureau of Criminal Apprehension's Financial Crimes and Fraud section

(Mnfraud.bureau@state.mn.us or 651-739-3750). Grantees may report suspected fraud directly to these agencies, as well, or to their DNR grant manager or any DNR employee.

Requirements for Working on State Land

When working on state land, grantees must follow all applicable policies and requirements of that land. Grantees should work with the appropriate management staff for the state land to determine these requirements. Insurance is required to do work on state land, following the requirements of Admin.

Audits

Under Minn. Statutes, chapter 16B.98 subd. 8, the state (the grantmaking agency, state auditor, attorney general, legislative auditor, Admin, etc.) has the right to perform programmatic or financial audits of the grantee. The grantee's books, records, documents, and accounting procedures and practices relevant to the grant are subject to state examination for a minimum of six years from the expiration or termination of the grant agreement/GAN, receipt and approval of all final reports, or the required period of time to satisfy state and program retention requirements, whichever is later. This provision is also included in grant agreements/GANs.

Records Retention

Grantees must maintain a file for each project with all project agreements, correspondence, and the records pertaining to project expenses requested for reimbursement. Project records are required for monitoring/audit purposes and must be readily available for review. As with all provisions of the grant agreement/GAN, if the state finds a failure to comply, the State may take action, including immediate termination of the grant agreement/GAN with cause, refusal to disburse additional funds, and/or requiring the return of all or part of the funds already disbursed.

All records related to the project must be retained for a minimum of six years from the grant agreement/GAN end date, or the receipt and approval of all final reports, whichever is later. Some grant funds require permanent retention of the grant records, and in those cases, that requirement supersedes the six-year standard.

Data Practices

- Grantees must comply with the Minnesota Government Data Practices Act (MGDPA) as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the grantee under their grant agreement/GAN. If a grantee receives a request to release this data, the grantee must immediately notify the State. Following this notification, the State will provide instructions to the grantee concerning the release of data.
- Grantees should instruct and train their staff regarding the governing privacy and data practices provisions; maintaining data in a secure manner; and limiting access to work duties and assignments.

- Grantees must mitigate risks associated with the unauthorized access or data breach and report to the DNR any real or perceived security or privacy incident regarding any private data in accordance with MGDPA.
- Grantees are not permitted to use private data with artificial intelligence (AI) services unless it is approved through the DNR/Minnesota IT (MNIT) vendor security risk and compliance process. AI services are reviewed and verified through a process that includes understanding the AI's training, ownership of data and level of security.

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Land Services	Jessica Shea
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Abatements

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:
To approve the attached abatements as recommended by the Land Services Director.

Approximate length of presentation:

June 9, 2026

Approve the following abatements as recommended by the Land Services Director

Market Value Reduction

APPLICANT	DISTRICT	PARCEL NUMBER	PAYABLE YEAR	TAX	SETTLEMENT
Steven Swendra	Garrison City	24463287	2025	$116.00	Cancel

Disaster Abatements

APPLICANT	DISTRICT	PARCEL NUMBER	PAYABLE YEAR	TAX	SETTLEMENT
Todd & Joyce Brenny	Breezy Point	10211216	2025	$5,950.00	$4,756.00
Josiah Granholm	Deerwood City	20080563	2025	$670.00	$400.00
Richard Weiss	Brainerd	41241208	2024	$1,426.00	$698.00
David Pueringer	Brainerd	41241452	2025	$7,954.00	$6,984.00
Landin Rognlin	Irondale Twp	71180504	2025	$2,420.00	$1,002.00
Patricia Wander	Lake Edward Twp	73330517	2025	$2,496.00	$2,128.00
Christian & Alicia Brownell	Long Lake Twp	75240648	2025	$892.00	$342.00
Andrew Lotzer	Long Lake Twp	75310512	2025	$3,640.00	$1,328.00
Dwaine Rosekrans	Oak Lawn Twp	81010508	2025	$1,476.00	$1,120.00

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Pelican Beach Holdings LLC – Land Use Map Amendment

PREVIOUS ACTION:

May 21, 2025 - The Planning Commission/ Board of Adjustment made a motion to recommend approval of the following land use map amendment: Parcel number 73040571 from Waterfront Commercial to Shoreland District and Rural Residential 2.5, involving 4.88 acres.

COMMENTS:

No Township Comment

One comment from the DNR

Five comments from the public

Attached are the resort operating licenses for years 2021 through 2025.

Legal Description: Part of S½ in SE¼ of NE¼

Section 4 Township 135 Range 28

Lake Edward Township

PID: 73040571

RECOMMENDED BOARD ACTION:

Approve the application of Pelican Beach Holdings LLC for a land use map amendment for parcel number 73040571 from Waterfront Commercial to Shoreland District and Rural Residential 2.5, involving 4.88 acres, per recommendation of the PC/BOA, findings of fact discussed 5/21/2026, the application submitted and the staff report.

Approximate length of presentation: 5 minutes

Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Stonemark Land Surveying

Parcel Number: 73040571

Physical Address: 26746 County Road 4, Nisswa, MN 56468

Township: Lake Edward

Legal Description: Part of S½ in SE¼ of NE¼
Section 4 Township 135 Range 28

Pelican Lake – General Development – Lake setback of 75 feet

Development Review Team Meeting: 3/09/2026
Application Submitted: 4/03/2026
60 Day Action Deadline: 6/02/2026
60 Day Waiver: 8/01/2026
County Board Meeting: 6/09/2026
Wetland: Delineation 4/29/2026
Septic: Compliance inspection 8/23/2024

Land Use District: Waterfront Commercial

Adjacent Land Use:
North: Shoreland
South: Shoreland
East: Pelican Lake
West: Rural Residential 2.5

Request:

Land Use Map Amendment:

- From Waterfront Commercial to Shoreland District

Conditional Use Permit:

- Resort Conversion

Preliminary Plat:

- “Pelican Beach Reserve” with 13 lots (11 residential lots and 2 common lots)

Potential Conditions:

Conditional Use Permit:

1. This conditional use permit is for the conversion of Pelican Beach Resort to a residential use and plat consisting of 13 total lots (11 residential/dwelling lots and 2 common lots.)

2. Applicant gives the Land Services Department permission to enter said property to perform inspections of the property to verify compliance with this conditional use permit.
3. A land use permit must be obtained from the Land Services Department prior to the construction of future structures.
4. This conditional use permit is null and void if the County Board of Commissioners denies the Land Use Map Amendment Request from Waterfront Commercial to Shoreland District.
5. A plat must be approved by the County Board of Commissioners if the individual lots are to be sold individually.
6. The development is approved for 11 permanent mooring spaces and is to be consolidated to a common dock as shown on the certificate of survey dated 5/13/2026. The development is also allowed one day use dock.
7. Uncontrolled beaching of watercraft should be prohibited as part of open space preservation as a condition of the plat, in harmony with Article 33.7 B of the Land Use Ordinance.
8. All concrete structures in the lake to moor boats must be removed and coordinated with the MN DNR.
9. Existing dwelling units shall be allowed to be continued but must not be allowed to be increased in size, area, volume or height either at the time of conversion or anytime in the future. Existing dwelling units shall be allowed to be reconstructed in the exact footprint of the dwelling unit with no expansion as previously mentioned allowed. The survey dated 5/13/2026 will be used to document this information for future reference.
10. A stormwater plan according to Article 41.3 A of the Land Use Ordinance must be submitted to Land Services and approved by staff prior to application for final plat.
11. The stormwater management plan, according to Article 41.3 A of the Land Use Ordinance must be effectively implemented within 12 months of the approval of this permit.
12. A shoreland buffer restoration plan shall be submitted to Land Services and approved by staff. The requirement is a minimum of a10-foot no maintenance buffer behind the existing beach covering 70% of the lot width.
13. Existing swing set shall be moved out of shore impact zone 1. No permit is required to move the swing set.
14. An owner's association shall be legally established through covenants and declarations and shall be recorded at the time the plat is recorded. The recorded document shall state that each of the 11 dwelling lots has a 1/11 ownership in the common lot. The recorded document shall also state how the association will manage common infrastructure such as septic systems, road maintenance, dock maintenance and other commonly owned infrastructure. The County is not responsible for enforcing the recorded covenants and declarations.

PLAT:

1. Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board
2. All applicable required improvements (Article 9.8) shall be effectively implemented
3. Documentation of plat monuments completed
4. Title Commitment (Before Final Plat)

5/07/2026 On-Site Comments: Griffin, Pence, Dunlap, Westhoff, Best, Maske

- Notification published in the Brainerd Dispatch on 4/25/2026

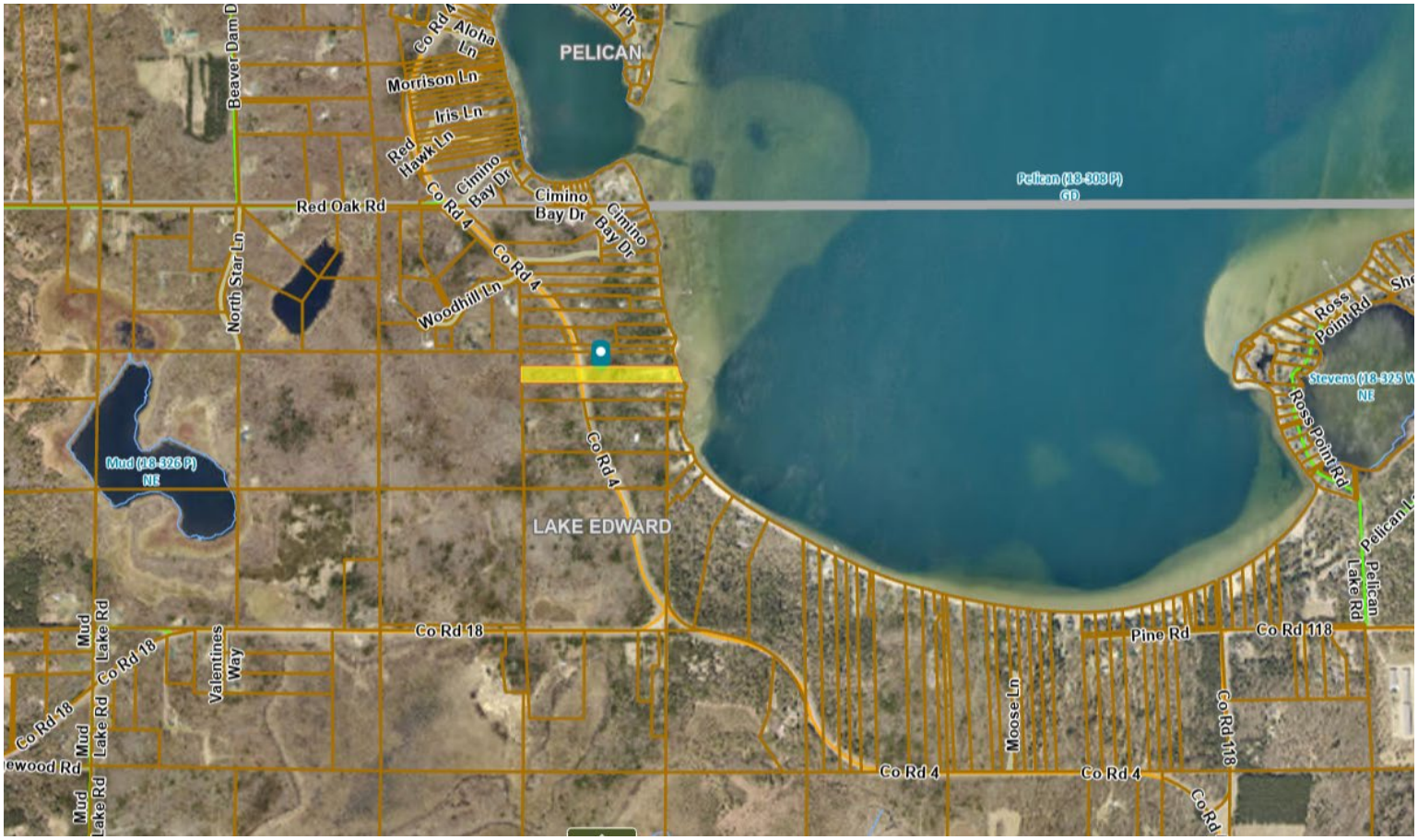
Permit History:

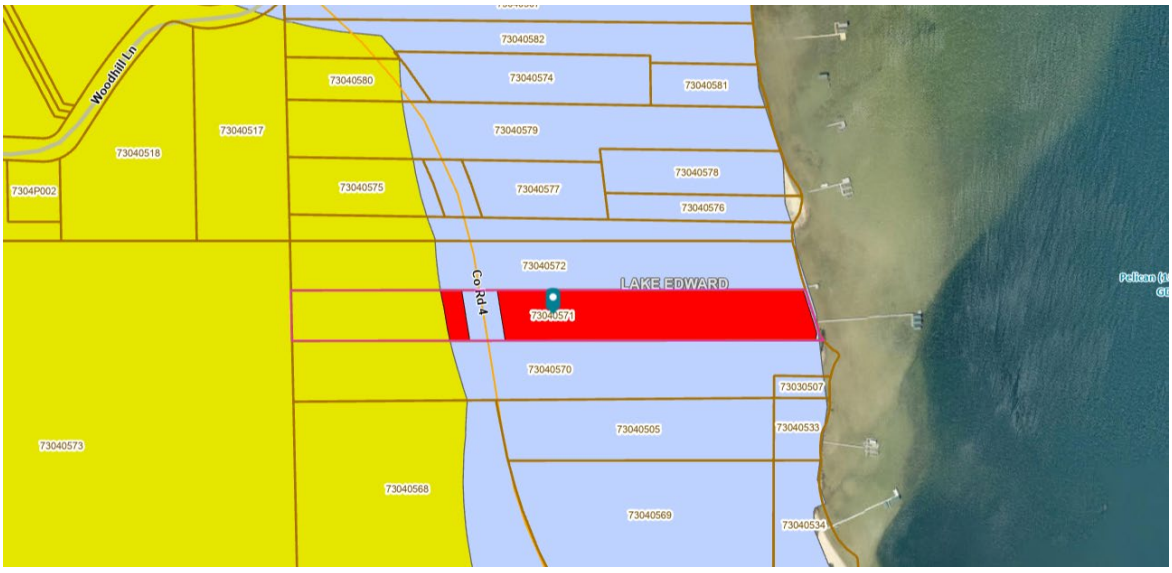
- 10/17/1973 – Public Hearing – 20' setback from the lake where 75' is required for a screened in picnic area. - Postponed
- 11/14/1973 – Land use permit for 12x20 porch addition to mobile home & septic
- 7/08/1974 – Sewer certificate
- 8/30/1974 – Land use permit for 28x34 garage
- 5/09/1978 – Land use permit for 2nd story addition to garage
- 9/08/1980 – Land use permit for 10x12 addition to dwelling
- 2/02/1983 – Public Hearing for conditional use permit – Planned Unit Development and conditional structure.
- 2/04/1983 – Land use permit for 26x30 dwelling and reposition mobile home
- 6/01/1983 – Sewer certificate
- 3/25/1986 - Land use permit for septic
- 8/20/1986 – Land use permit for 20x30 cabin
- 6/22/1988 – Public Hearing for variance, conditional structure/use and planned unit development –approved
- 7/05/1988 – Land use permit for Sewer System, two side-by-side duplexes, 8x30 porch addition
- 05/01/1991 – Public Hearing – Conditional Use permit to add onto existing resort.
- 06/19/1991 – Public Hearing – Amendment to Conditional Use permit approved 05/01/1991 removing conditions 1, 13, 14 and 16.
- 10/25/2001 – Public Hearing to amend zoning from rural residential to waterfront commercial – approved
- 9/21/2005 – Land use permit for 36x48 pole building
- 8/29/2008 – Land use permit for dwelling, detached garage and septic system
- 11/12/2008 – Sewer certificate
- 10/07/2020 – Compliance inspection
- 11/20/2020 – Wetland delineation
- 8/23/2024 – Compliance inspection

Agencies Notified and Responses Received:
CWC Highway Department: No comment received as of 5/14/2026
MN DNR: Comment received 3/23/2026
SWCD: No comment received as of 5/14/2026
Lake Edward Township: No comment received as of 5/14/2026
Pelican Lake Association: No comment received as of 5/14/2026

Public Hearing notifications:
Mailing notification sent on 5/08/2026 to owners in a ½ mile radius of parcel.
Published in the Brainerd Dispatch on 5/09/2026

Per findings of fact discussed 5/21/2026, the application submitted 4/03/2026, the staff report, on-site conducted 5/07/2026, public testimony, and as shown on the Certificate of Survey dated 5/13/2026; Located in Lake Edward Township, Crow Wing County, Minnesota



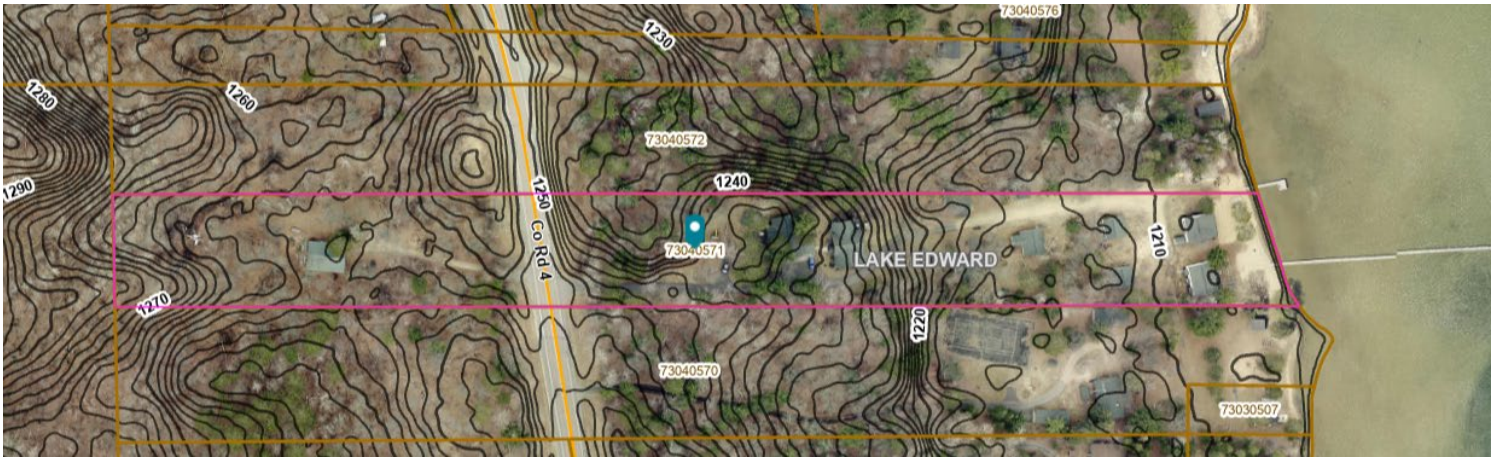


Land Use Map

Land_Use_Classification

- Agricultural/Forestry District
- Commercial District
- Commerical Industrial District
- Rural Residential - 1
- Rural Residential - 2.5
- Rural Residential - 5
- Rural Residential - 10
- Shoreland District
- County Administered
- Waterfront Commerical
- Other


73040576
73040572
Co Rd 4
73040571
LAKE EDWARD
73040570
73030507
Pelican (19-308 P)
GD


73040576
1230
1280
1260
73040572
1290
1240
1250
Co Rd 4
73040571
LAKE EDWARD
1210
1270
1220
73040570
73030507


73040576
73040572
Co Rd 4
73040571
LAKE EDWARD
73040570
73030507

PELICAN BEACH RESERVE


A PRELIMINARY PLAT
PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 4, AND PART OF GOVERNMENT LOT 4, SECTION 3, ALL IN TOWNSHIP 135 NORTH, RANGE 28 WEST, LAKE EDWARD TOWNSHIP, CROW WING COUNTY, MINNESOTA
TOTAL AREA = 240,934 SQ. FT. ± / 5.5 ACRES ±

OWNER / DEVELOPER

Pelican Beach Holdings, LLC.
24090 Smiley Road
Nisswa, MN 56468
ATTN: Brent Anderson

SURVEYOR

Stonemark Land Surveying, Inc.
P.O. Box 874
Pequot Lakes, MN 56472
ATTN: Cynthia M. Hidde



PELICAN LAKE

GENERAL DEVELOPMENT CLASSIFICATION

ORDINARY HIGH WATER ELEVATION = 1208.1

BENCHMARK: ZERO GAUGE READING AT DAM, AT THE INTERSECTION OF CR 11 AND THE CHANNEL BETWEEN PELICAN LAKE AND OSSAWINNAMAKEE LAKE, HAS AN ELEVATION = 1205.28 PER MN DNR BASED ON NAVD 88 DATUM

EXISTING BUILDING HEIGHTS

LOT	HEIGHT (FT)
Lot 1	24
Lot 2	24
Lot 3	24
Lot 4	14
Lot 5	14
Lot 6	14
Lot 7	14
Lot 8	14
Lot 9	14
Lot 10	26
Lot 11	14

IMPERVIOUS CALCULATIONS OVERALL

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Buildings	12,602	240,934	5.2%
Bituminous	7,390	240,934	3.1%
Gravel	5,756	240,934	2.4%
Concrete	794	240,934	0.3%
Total	**26,542**	**240,934**	**11.0%**

Net area = total area less road right-of-way

IMPERVIOUS CALCULATIONS WEST OF CR 4

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Building(s)	1,744	80,036	2.2%
Gravel	2,148	80,036	2.7%
Total	**3,892**	**80,036**	**4.9%**

Net area = total area less road right-of-way

IMPERVIOUS CALCULATIONS EAST OF CR 4

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Buildings	10,858	144,334	7.5%
Bituminous	7,390	144,334	5.1%
Gravel	3,608	144,334	2.5%
Concrete	794	144,334	0.6%
Total	**22,650**	**144,334**	**15.7%**

Net area = total area less road right-of-way

PROPOSED LOT AREA CALCULATIONS

LOT	BLOCK	AREA SQ. FT.
Lot 1	Block 1	989
Lot 2	Block 1	989
Lot 3	Block 1	1,929
Lot 4	Block 1	1,444
Lot 5	Block 1	1,800
Lot 6	Block 1	1,680
Lot 7	Block 1	1,804
Lot 8	Block 1	1,206
Lot 9	Block 1	1,599
Lot 10	Block 1	5,572
Lot 11	Block 1	4,721
Lot 12 Common Area	Block 1	120,601
Lot 1	Block 2	80,036
CR 4	---	16,564
	Total	240,934

DENSITY CALCULATIONS

TIER	SUITABLE AREA*	DENSITY FACTOR	DENSITY ALLOWED	DENSITY REQUESTED
1	35,295	27,000	1	5
2	109,039	22,500	4.8	6

*Suitable area is area east of County Road 4

LEGAL DESCRIPTION PER DOC. NO. 944746

SOUTH HALF (S½) OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE¼-NE¼), SECTION FOUR (4), TOWNSHIP ONE HUNDRED THIRTY-FIVE (135), RANGE TWENTY-EIGHT (28): BEGINNING AT A POINT ON THE LINE BETWEEN SECTIONS THREE (3) AND FOUR (4) EXTENDED ON THE BEACH OF PELICAN LAKE 1,328 FEET NORTH OF THE QUARTER SECTION CORNER; THENCE SOUTH ON THIS LINE 332 FEET; THENCE NORTH 89 DEGREES 13 MINUTES WEST TO THE WEST LINE OF LOT ONE (1); THENCE NORTHERLY ALONG THIS WEST LINE OF LOT ONE (1) TO A POINT FROM WHICH A LINE RUNNING SOUTH 89 DEGREES 37 MINUTES EAST WILL STRIKE THE PLACE OF BEGINNING; THENCE SOUTH 89 DEGREES 37 MINUTES EAST ALONG THIS LINE TO THE PLACE OF BEGINNING,
AND THAT PART OF GOVERNMENT LOT FOUR (4), SECTION THREE (3), TOWNSHIP ONE HUNDRED THIRTY-FIVE NORTH (135N), RANGE TWENTY-EIGHT WEST (28W), CROW WING COUNTY, MINNESOTA, LYING BETWEEN THE EXTENSION EASTERLY TO THE SHORE OF PELICAN LAKE OF THE NORTH AND SOUTH LINES OF TRACT DEEDED TO AVENSON AS EVIDENCED BY WARRANTY DEED DATED AND FILED SEPTEMBER 20, 1983, IN BOOK 339 OF DEEDS, PAGE 352 AT THE COUNTY RECORDER'S OFFICE IN AND FOR SAID CROW WING COUNTY, MINNESOTA.

PLAT NOTES:

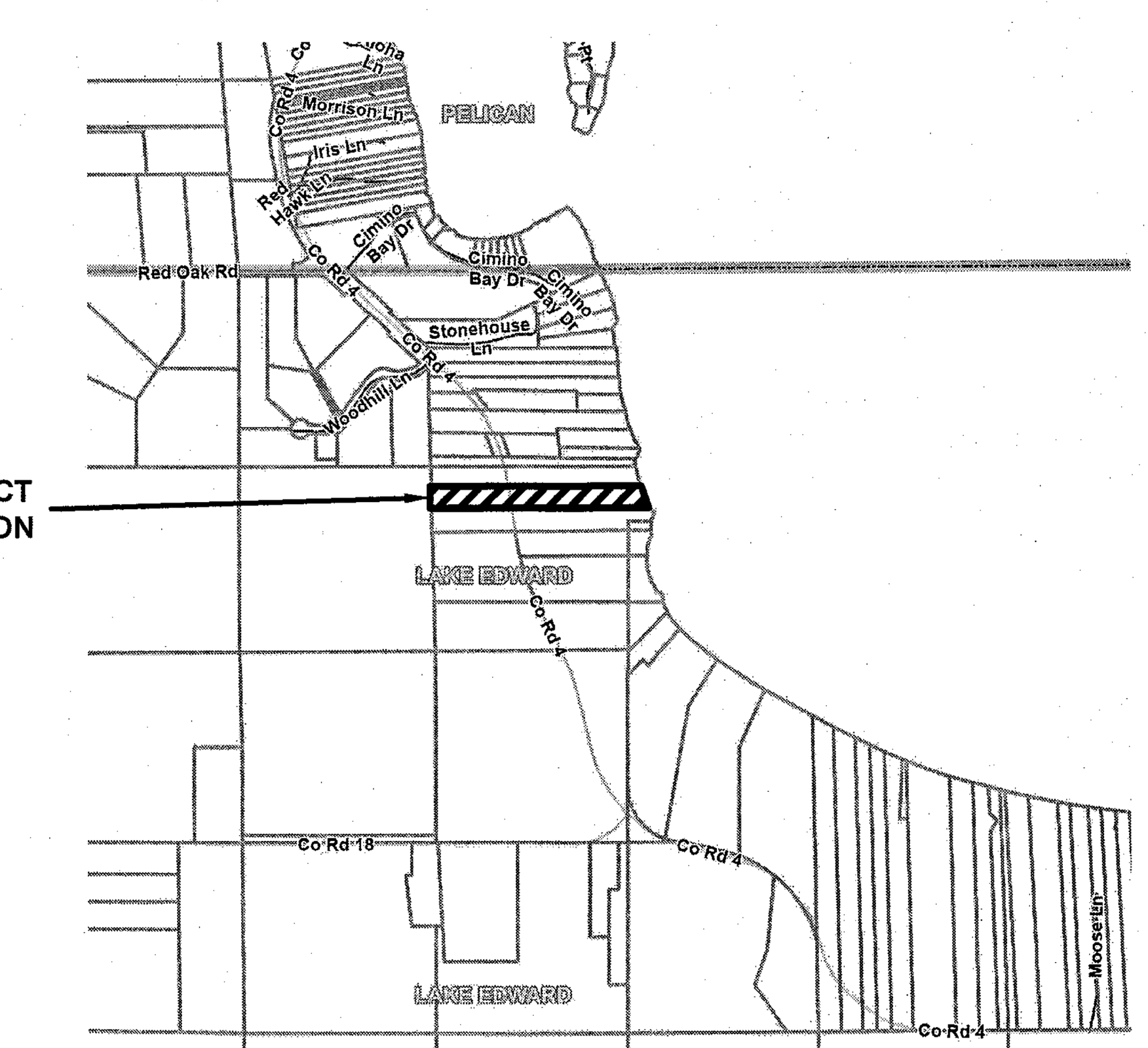
1. Boundary and improvements as shown were provided by Lakes Area Surveying, LLC. Field verified by Stonemark Land Surveying Inc. on 4/23/2026.
2. Contour interval as shown = 2 foot. Based on NAVD 88 datum. Contours shown have been obtained using Crow Wing County GIS information.
3. Zoning for subject tract = Waterfront Commercial. Requested rezone to Shoreland District.
4. Parcel ID of subject parcel: 73040571
5. Setbacks as shown can be subject to interpretation. Verification of setbacks by the governing body is advised prior to building.
6. The plat will consist of 11 lots for Residential purposes, and 2 common lots. Lots will be served by existing common wells and septic systems as shown on this plat.
7. Wetland delineation was completed on 11/19/2020, by Mitch Brinks, Brinks Wetland Service. MN Certified Wetland Delineator #1007. Verified on 4/29/2026.
8. Stonemark Land Surveying, Inc. has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
9. The USDA Web Soils Survey indicates soil in the proposed platted area to be classified as "Eutrudepts-Graycalm-Rollins complex, pitted, 10 to 20% slopes (D83D), and Wurtsmith-Meehan-Beach complex, 1 to 8% slopes."

LEGEND

Symbol	Description	Symbol	Description
— x — x —	DENOTES EXISTING FENCE LINE		DENOTES EXISTING LP TANK
	DENOTES EXISTING RETAINING WALL	P	DENOTES EXISTING PHONE PEDESTAL & PHONE BOX
	DENOTES EDGE OF EXISTING BITUMINOUS	SAT	DENOTES EXISTING SATELLITE
	DENOTES EDGE OF EXISTING GRAVEL	W	DENOTES EXISTING WELL
	DENOTES EDGE OF EXISTING CONCRETE	HB	DENOTES EXISTING HOSE BIB
	DENOTES EDGE OF EXISTING WOODEN DECKING	PVC SCO LID	DENOTES EXISTING SEPTIC VENT, SEPTIC CLEANOUT, & SEPTIC TANK LID
1208	DENOTES EXISTING INTERMEDIATE CONTOURS		DENOTES EXISTING MOUNTED LIGHT
1210	DENOTES EXISTING INDEX CONTOURS	RFPE	DENOTES REGULATORY FLOOD PLAIN ELEVATION
	DENOTES WET LAND(S)	BFE	DENOTES BASE FLOOD ELEVATION
	DENOTES EXISTING UTILITY POLE		BENCHMARK: HIGH POINT OF WELL ELEV. = 1230.10 BASED ON NAVD 88 DATUM
OHE	DENOTES EXISTING OVERHEAD ELECTRIC CABLE		
EM	DENOTES EXISTING ELECTRIC METER	●	DENOTES MONUMENT FOUND
GT	DENOTES EXISTING GROUND TRANSFORMER		

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE SYSTEM

PROJECT LOCATION



VICINITY MAP

NOT TO SCALE

60 0 60 120

SCALE IN FEET ON 22" X 34" SHEET

30206 Rasmussen Road
Suite 1
P. O. Box 874
Pequot Lakes, MN 56472
218-568-4940
www.stonemarksurvey.com
STONEMARK LAND SURVEYING, INC.

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

CYNTHIA M. HIDDE PLS#44881

DATE 5/13/2026 LIC. NO. 44881

REVISIONS		
DATE	DESCRIPTION	BY
4/30/2026	REVISED PER COUNTY COMMENTS	ICL
5/6/2026	UPDATED OHW	ICL
5/13/2026	ADDED EXISTING BUILDING HEIGHTS	ICL

DATE: 4/2/2026 | SCALE: HORZ. 1" = 50' VERT. NONE

PROJECT No.: 26031 | FILE NAME: PL26031.DWG | FIELD BOOK: BOOK PG.

PROJECT MANAGER: CMH | CHECKED BY: CMH | DRAWN BY: ICL

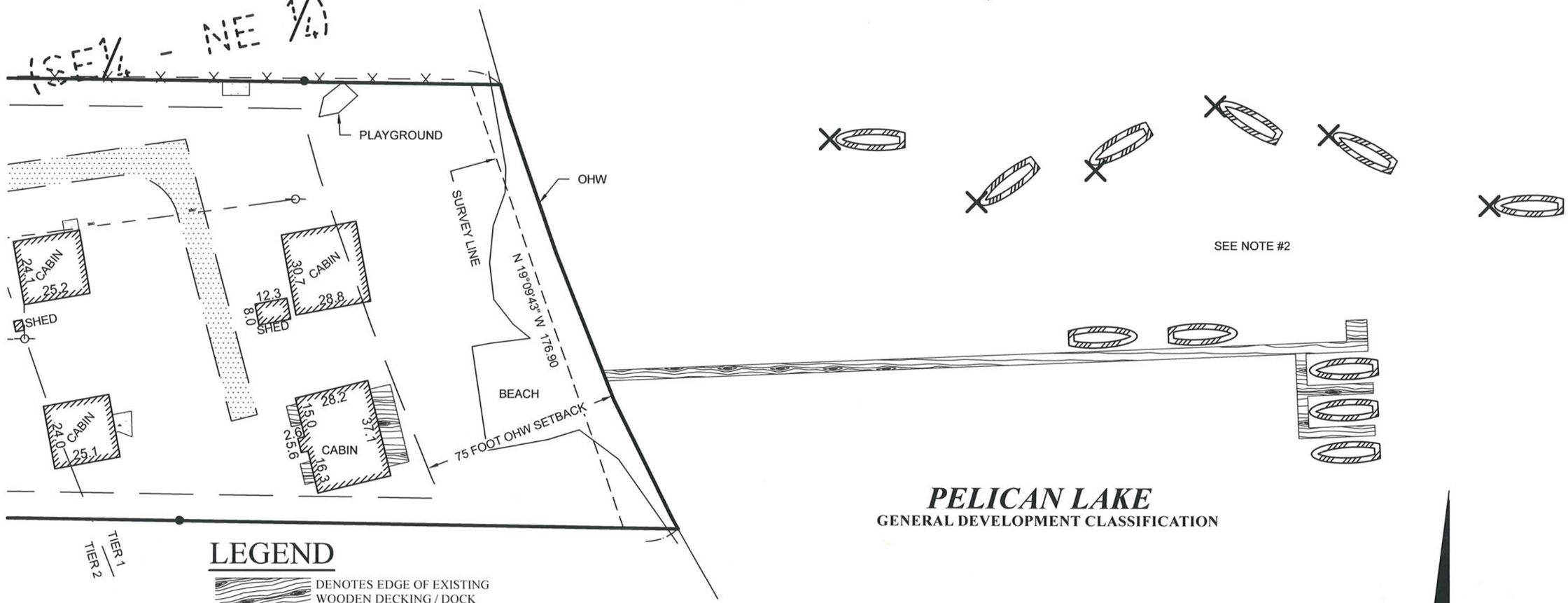
Preliminary Plat
PELICAN BEACH RESERVE
Pelican Beach Holdings, LLC.
ATTN: Brent Anderson
24090 Smiley Road
Nisswa, MN 56468

SHEET 1 OF 1

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EXISTING DOCK EXHIBIT

**PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER,
SECTION 4, TOWNSHIP 135 NORTH, RANGE 28 WEST,
PELICAN TOWNSHIP, CROW WING COUNTY, MINNESOTA**



LEGEND

- DENOTES EDGE OF EXISTING WOODEN DECKING / DOCK
- DENOTES BOAT (8' x 30')
- DENOTES CONCRETE PILLAR / BOAT TIE
- DENOTES EDGE OF EXISTING GRAVEL
- DENOTES EDGE OF EXISTING CONCRETE
- DENOTES EXISTING FENCE LINE
- DENOTES EXISTING UTILITY POLE
- DENOTES EXISTING OVERHEAD ELECTRIC CABLE (OHE)
- DENOTES MONUMENT FOUND

PELICAN LAKE
GENERAL DEVELOPMENT CLASSIFICATION

N

40 0 40 80

SCALE IN FEET
ON 11" X 17" SHEET

NOTES:

1. This sketch is NOT a boundary survey.
2. The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery.
3. Boundary and improvements as shown on parcel 73040571 are from Lakes Area Surveying LLC., and have not been field verified by Stonemark Land Surveying, Inc.

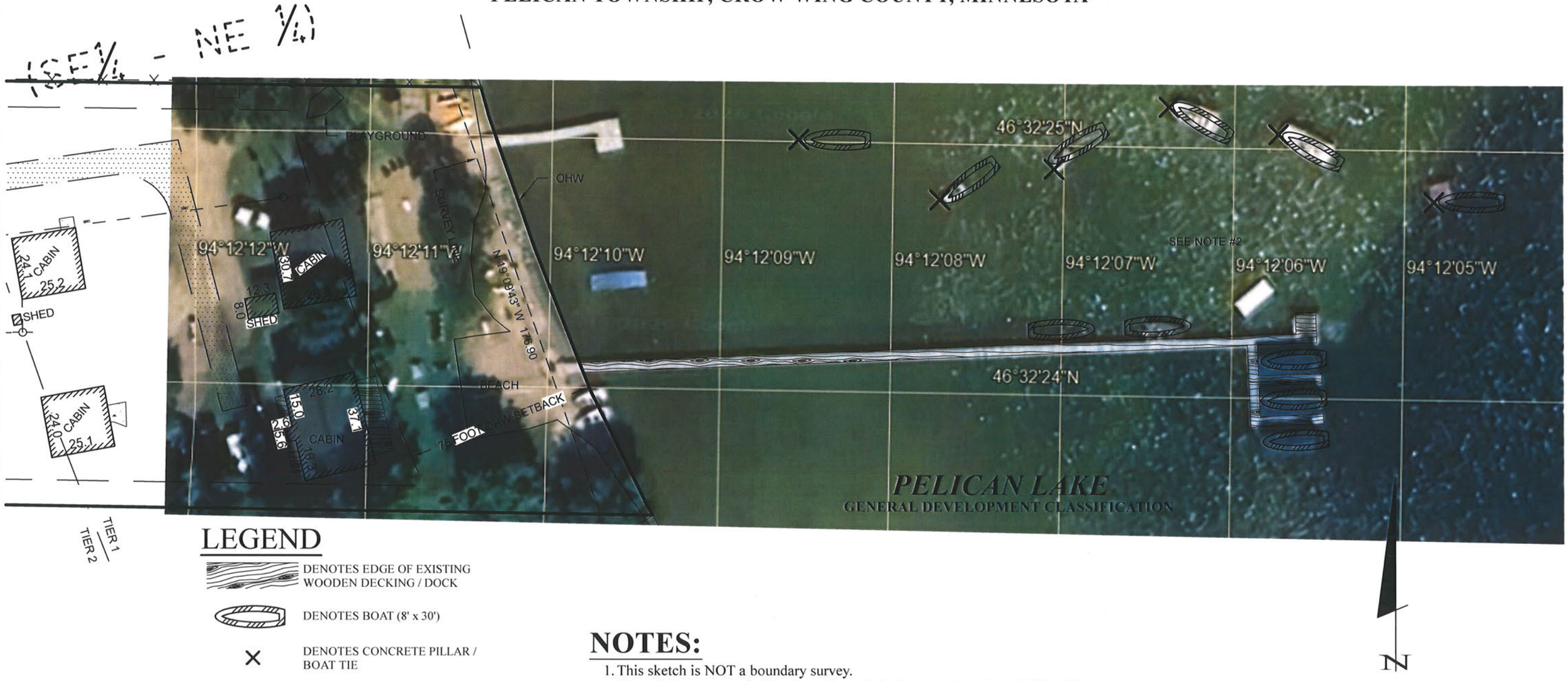
PELICAN BEACH HOLDINGS, LLC.
BRENT ANDERSON
PROJECT #: 26031
E911#: 26746 COUNTY ROAD 4
DATE: 3/11/2026

STONEMARK LAND SURVEYING, INC.
30206 Rasmussen Road
Suite 1
P. O. Box 874
Pequot Lakes, MN 56472
218-568-4940
www.stonemarksurvey.com

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EXISTING DOCK EXHIBIT

**PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER,
SECTION 4, TOWNSHIP 135 NORTH, RANGE 28 WEST,
PELICAN TOWNSHIP, CROW WING COUNTY, MINNESOTA**



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- DENOTES EXISTING UTILITY POLE
- DENOTES EXISTING OVERHEAD ELECTRIC CABLE
- DENOTES MONUMENT FOUND

NOTES:

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PELICAN BEACH HOLDINGS, LLC.
BRENT ANDERSON
PROJECT #: 26031
E911#: 26746 COUNTY ROAD 4
DATE: 3/11/2026

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www.stonemarksurvey.com

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5











DECLARATION

THIS DECLARATION, made as of this _____, 2026 by Pelican Lake Holdings, LLC, the (the "***Declarant***") PURSUANT TO THE PROVISIONS OF Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "***Act***"), for the purpose of creating a planned community under the Act.

RECITALS

A. Declarant is the owner in fee simple of the real property situated in Crow Wing County, MN legally described on Exhibit A attached hereto and incorporated herein by reference (the "***Subject Property")***.

B. Declarant is not reserving and additional real estate to add this planned community.

C. Declarant has deemed it desirable for the preservation of the value of the Subject Property to submit the same, together with the buildings, structures, improvements and other permanent fixtures thereon to the provisions of the Act, and to incorporate under Chapter 317A of the laws of the State of Minnesota for the purpose of administering the Subject Property. The Subject Property is not subject to a master association. The Subject Property does include lakeshore and riparian rights.

D. Declarant is about to sell, dispose of and convey interests or estates in and to the Subject Property, together with the buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and any and all rights and privileges belonging to or in anyway appertaining thereto, and to accomplish this purpose desires to submit the Subject Property to the requirements of the Act.

E. Declarant desires and intends that the owners, mortgagees, occupants, and other persons hereafter acquiring any interest in the Subject Property shall at all times enjoy the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of the planned community form of ownership of the Subject Property and are established for the purposes of enhancing and perfecting the value, desirability and attractiveness of the same.

NOW, THEREFORE, Declarant, as the sole owner of the Subject Property for the purposes above set forth, hereby submits the Subject Property to the Act as a planned community under the name Peaceful Harbor and declares as follows:

ARTICLE I.
DEFINITIONS

The following words, when used in the Declaration (unless the context shall prohibit) shall have the following meanings:

a) "***Additional Property***" – n/a

(b) "***Association***" shall mean and refer to the Pelican Beach Reserve Homeowner's Association, Inc., a Minnesota nonprofit corporation, its successors and assigns.

(c) "***Common Area***" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners and such other persons to whom the Owners may

delegate this right pursuant to this Declaration and to all improvements located thereon and owned or otherwise held by the Association for the common use and enjoyment of said persons.

The Common Area owned or to be owned by the Association is legally described on Exhibit C attached hereto.

(d) "***Consumer Price Index***" means the Consumer Price Index – All Items, Minneapolis/St. Paul Average, All Urban Consumers as published by the United States Department of Labor's Bureau of Labor Statistics or a similar government index of inflation in the event such index is no longer published.

(e) "***Declarant Control Period***" n/a

(f) "***Declaration***" shall mean this document and all amendments and supplements hereto.

(g) "***Dwelling***" shall mean and refer to any portion of a building or mobile home situated upon the Subject Property designated and intended for use and occupancy as one residential unit.

(h) "***Governing Document***" shall mean and refer to this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Subject Property

(i) "***Member***" shall mean and refer to all Owners who are members of the Association as provided in Article III, Section 1, hereof.

(j) "***Owner***" shall mean and refer to the record Owner or contract vendee, whether one or more persons or entities, of a fee simple title to any Unit situated upon the Subject Property but excluding contract vendors, unless the contract provides otherwise, and others having such interest merely as security for the performance of an obligation.

(k) "***Planned Community***" shall mean the real estate, portions of which are designated for separate ownership as Units and the remainder of which is designated as Common Area which is subject to this Declaration. Specifically, as the term is used herein, it means and refers to Peaceful Harbor, the Planned Community established by this Declaration.

(l) "***Plat***" shall mean the recorded plat depicting the Subject Property pursuant to the requirements of Section 515B.2-110(d) of the Act, and complying with Minnesota Statues Chapter 505 including any amended or supplemental Plat recorded from time to time in accordance with the Act.

(m) "***Subject Property***" shall mean and refer to all properties that are subject to this Declaration as defined in Article II, Section 1.

(n) "***Unit***' shall mean and refer to a dwelling together with the parcel of property or percentage interest in the parcel of property upon which the Dwelling is situated, as legally described in the instrument of conveyance in favor of the current Owner. Unit shall not be construed to include Common Area as herein defined.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION AND USE THEREOF

Section 1. EXISTING PROPERTY.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of Crow Wing and State of Minnesota, and is legally described as shown on Exhibit A, all of which real property shall hereinafter be referred to as the "Subject Property".

Section 2. UNITS

There are 11 Units. No person may create additional Units by the subdivision or conversion of Units pursuant to Section 515B.20-112 of the Act.

Each Unit constitutes a separate parcel of real estate. The Units shall each be improved with one Dwelling and all Units and Dwellings will be restricted to residential use.

Unless stated otherwise in this Declaration, an Owner shall be responsible for maintenance of the Unit and the Dwelling thereon.

No short term rental of any units, any rental period must be a minimum of 30 days.

The identifiers and locations of the Units are shown on the Plat, which is incorporated herein by reference. The identifier for a Unit shall be its lot and block numbers and the subdivision name. The front, rear and side boundaries of each Unit shall be the boundary lines of the Platted lot upon which the Dwelling is located or intended to be located as shown on the Plat.

Section 3. COMMON AREA.

The Common Area shall be owned by the Association and used for open space, private utilities, shoreland use and related activities. Maintenance, replacement and repair of the road, sanitary sewer, storm sewer, security lighting, pressure tanks, well and water lines on the Common Area are the responsibility of the Association. The Common Area shall be conveyed to the Association as of the date of conveyance of any Unit to an Owner other than Declarant.

The Common Area shall include the dock system that shall be maintained by the Association but each Unit Owner shall be assigned one slip of the same number as their Lot which shall be used exclusively by that Unit Owner.

Section 4. STATEMENT PURSUANT TO SECTION 515B-105 OF THE ACT.

The Condominium does include shoreland, as defined in Minnesota Statutes, § 103F.205. Zoning authorities may further restrict or control the use of said shoreland.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCATION. POWERS OF THE ASSOCIATION.

Section 1. MEMBERSHIP.

Every Owner of a Unit which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to assessment by the Association. The foregoing is intended to exclude persons or entities holding an interest merely as security for the performance of an obligation including contract vendors (unless the contract for deed provides otherwise) until such time such person acquires a fee simple interest in such Unit by foreclosure or by a proceeding in lieu thereof, or as to a contract under, until such time as the contract for deed is cancelled. Ownership of such Unit shall be the sole qualification for membership.

Membership and voting rights are as set forth in Exhibit D.

Section 2. VOTING RIGHTS.

Each Member shall be entitled to one vote for each Unit owned. When more than one (1) person holds the interest in a Unit, all such persons shall be Members but the vote for such Unit shall be exercised by and among themselves as they shall determine, subject, however, to limitation that the voting power for any Unit may not be split. The vote for any Unit which is owned by more than (1) Member may not be cast at any meeting unless such members have filed with the Secretary of the Association prior to such meeting the Name of One (1) of their number who then shall be the only person authorized to cast such vote at such meeting. In lieu of such filing prior to every meeting, such Members may file a document executed by all of them, designating one (1) of their number as the persons authorized to cast their vote at all future meetings and such authorization shall continue to be valid until such time as such authorization shall have been rescinded in writing by all such Members.

Section 3. SUSPENSION OF RIGHTS.

The right of any Member, the Member's family or guests to use any recreational facilities that may be acquired by the Association shall be suspended during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for any infraction of any rules or regulations adopted by the Association.

Section 4. POWERS OF THE ASSOCIATION.

Declarant hereby delegates to, and the Association hereby is permitted to exercise all powers described in the Governing Documents, the Act and the statute under which it was incorporated. Neither this Planned Community nor the Association is subject to any Master Association.

ARTICLE IV.
PROPERTY RIGHTS AND OBLIGATIONS IN THE COMMON AREA

Section 1. MEMBERS' EASEMENT AND ENJOYMENT.

Subject to the provisions of Section 2 below, every Member shall have a non-exclusive easement of ingress and egress over the Common Area and a non-exclusive easement and right of enjoyment in and to the Common Area, and such easements shall be appurtenant to and shall pass with the title to every Unit.

Section 2. EXTENT OF MEMBERS' EASEMENTS.

The rights and easements in favor of the Members created herby and the title of the Association to the Common Area shall be subject to the following and as further provided herein:

(a) The right of the Association, as provided in the Governing Documents, to borrow money for the purpose of improving, repairing and maintaining the Common Area or any improvements thereon, and in aid thereof to mortgage said properties, which rights of such mortgagee in said properties shall be subordinate to the rights of the Members hereunder;

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

(c) The right of the Association, as provided in the Governing Documents, to suspend the voting and enjoyment rights of any Member for any period during which any assessments remain unpaid, and to suspend the said enjoyment rights for any period not to exceed sixty (60) days and to impose a fine not to exceed Ten Dollars ($10.00) for each infraction of its published rules and regulations, each day during which infractions exist being deemed a separate and distinct infraction; provided, however, that nothing contained in this Section 2c shall be deemed to deny an Owner access to and from his or her Unit or Dwelling located on the Subject Property;

(d) The right of the Association to charge reasonable admission and other fees to Members for the Use of the Common Area;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members. Except for the installation of utilities pursuant to the easements created by Article X hereof, no such dedication or transfer shall be effective unless an instrument signed by all Members ahs been recorded agreeing to such dedication or transfer, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken. The consent requirements of Article CII, Section 5, must also be met to effect a valid dedication or transfer;

(f) Rights, if any, of Crow Wing County to maintain the Common Area in the event of failure by the Association to do so;

(g) Utility and drainage easements to install sewer, water, gas, electric and telephone lines, transformers, towers, poles, lighting fixtures, pipes, conduits, cables, wires, internet, tv cable, drainage channels and other utility facilities, including the right of access thereto for the purpose of constructing, installing, repairing, maintaining, altering and modifying any such facilities;

(h) Encroachments, if any, created pursuant to Section 5 of this Article.

Section 3. DELEGATION OF USE.

Any Owner may delegate, in accordance with the bylaws, his or her right of enjoyment to the Common Area and facilities to the members of his or her family who reside on the Subject Property, subject to the limitation contained in Article X, Section 9 regarding rental and use of Dwellings.

Section 4. TAXES, UTILITIES AND MUNICIPAL SPECIAL ASSESSMENTS ON COMMON AREAS.

Taxes, utility charges and special assessments that would normally be levied against the Common Area shall be divided and levied against the individual Units in the Subject Property in equal proportion, or as the governmental taxing authorities shall determine, which levies shall be a lien against said individual Units.

Section 5. ENCROACHMENTS.

Nothwithstanding any other provisions contained herein, in the event any Dwelling or garage or any fireplace, roof, air conditioner, flower box, deck, patio, balcony, eaves, or other appurtenance on any Unit as originally constructed (or as reconstructed or added to in accordance with the provisions of Article VIII herein) encroaches upon or overhangs upon any part of the Common Area, then a perpetual easement appurtenant to such encroaching or overhanging Unit shall exist for the continuance of such encroachment or overhang upon the Common Area.

Section 6. PARKING RIGHTS.

Ownership of each Unit shall entitle the Owner to the right of ingress and egress in and to the Owner's Lot and the right to exclusive use of the driveway/parking pad located within their Lot.

Section 7. ASSOCIATION'S EASEMENTS.

The Association or its agents or employees shall have the right to go upon any Lot in Connection with the maintenance or repair of the Common Area or any improvements thereon or in connection with its maintenance responsibilities set forth in Article XIII.

ARTICLE V.
SPECIAL DECLARANT RIGHTS

none

ARTICLE VI.
COVENANTS FOR MAINTENANCE ASSESSMENT

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS.

The Declarant, for each Unit owned by it within the Subject Property, hereby covenant, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges: and (b) special assessments. Such assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them, but may continue to be a lien on the Unit. No Owner may avoid the lien of, or personal liability for, such assessment by nonuse of the Common Area or abandonment of the Owner's Unit. All assessments shall be fixed, established and collected in the manner provided in this Article. A lien created under this Article is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the

Declaration, (ii) any first mortgage encumbering the fee simple interest in the unit, (iii) liens for real estate taxes and other governmental assessments or charges against the unit.

Section 2. PURPOSE OF ASSESSMENTS.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Subject Property and for the improvements and maintenance of the Common Area and other areas that the Association is obligated to maintain as provided herein. The annual assessments shall be payable in regular installments and shall be used for (but not limited to) hazard insurance for Common Area and Dwellings; maintenance to be performed by the Association pursuant to Article XIII; an adequate reserve fund for maintenance, repairs and replacement of the Common Area and improvements thereon and other areas that must be replaced on a periodic basis; and use, maintenance, repairs and replacement of water, sewer and utility lines and fixtures that are not the responsibility of local governmental authority, which serve the Common Area and any Unit. Said annual assessments shall be used for maintenance and replacement of lawn, landscaping and shrubbery on Common Areas, for snow removal from paths and sidewalks located on Units and Common Area and public boulevards and exterior maintenance of the Dwellings situated upon the Subject Property.

Section 3. BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

Except as provided in Section 8, below, annual and special assessments shall be levied equally between all the Units and may be collected as determined by the Board, provided, however, that assessments arising out of the negligence or nonperformance of any obligation of an Owner shall be for additional nonuniform amounts and shall be immediately due in full from the Owner and assessments against fewer than all Units shall be set pursuant to Section 7 below. In addition, upon determination by the Board the costs of insurance may be assessed in proportion to risk or coverage of the Unit being assessed.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of Members holding at least seventy-five percent (75%) of the voting power of the Association and who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

The limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as incident to a merger or consolidation in which the Association is authorized to participate. The consent requirements of Article XII, Section 5, must also be obtained to effect a valid change in the method of determining the assessments

Section 6. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.

Written notice of any meeting of the general membership required for an action authorized under Sections 3, 4, or 5 shall be sent to all Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to

cast sixty percent (60%) of the entire voting power of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. ANNUAL AND SPECIAL ASSESSMENTS

Except as provided in Section 8, below, both annual and special assessments must be allocated equally between all the Units. This requirement shall to apply to:

(a) common expenses or portions thereof benefiting fewer than all of the Units, which may be assessed exclusively against those Units benefited in equal portion;

(b) reasonable attorney's fees incurred by the Association in connection with the collection of assessments or the enforcement of the Governing Documents or the Rules against a Member, which may be assessed against the Member's Unit;

(c) fees and charges, interest, fines and late charges for: services provided to specific Units, late payments of assessments, violation of the Governing Documents or Rules, fees for preparation of Association documents, resale certificates, etc; and

(d) willful or negligent acts as set forth in Section 11 hereof.

Section 8. ALTERNATIVE ASSESSMENT PROGRAM FOR DECLARANT.

The Declarant shall not exercise any special assessment rights.

Section 9. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS, DUE DATES.

The first annual assessment shall be made for the balance of the calendar year and shall become due and payable in equal installments on payment dates to be established by the Board of Directors.

The amount of annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 shall be fixed by the resolution authorizing such assessment.

Section 10. DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors of the Association shall fix the amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period.

Written notice of the assessment shall be sent to every Owner subject thereto, provided, however, that the failure to send such written notice shall not render any assessment invalid.

The Board shall have the right to collect any annual or special assessment on a monthly basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a given Unit have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 11. ASSESSMENT OF COST DUE TO WILLFUL OR NEGLIGENT ACTS.

If the need for maintenance or repair is due to the willful or negligent acts of an Owner or the Owner's family, guest, tenants or invitees, the cost of such maintenance less the net insurance proceeds received by the Association due to such act or neglect, if any, shall be assessed against such Owner's Unit and shall be added to and become a part of the current annual assessment against that Unit and, at the option of the Board, shall be payable in full with the next monthly installment of the then current annual assessment, or divided equally over the remaining months for the then current annual assessment and payable with and in addition to the monthly installments of the then current annual assessment.

Section 12. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring (a) an action at law against the Owner personally obligated to pay the assessments, and/or (b) foreclose its lien for the amounts owned by the Owner.

To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit and file or record the same, but such notice of lien shall not be recorded until such assessment has been wholly or partially unpaid for at least thirty (30) days from the due date. Such lien may be enforced and foreclosed by the Association in the same manner in which mortgages on real property may be foreclosed by action or by advertisement under a power of sale in Minnesota. Each Owner, by acceptance of a deed for any Unit, does further hereby give full and complete power of sale to the Association and does consent to a foreclosure of the assessment lien as if such lien were a mortgage containing a power of sale. In the event of any such foreclosure, and in the further event that the Association shall prevail in any such foreclosure, the person personally obligated to pay the same shall be required to pay all costs of foreclosure, including but not limited to, reasonable attorneys' fees. The person personally obligated to pay such lien shall also be required to pay the Association any assessments against the Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, encumber, use, and otherwise deal with the Unit as the Owner thereof. Prior to reselling the Unit after foreclosure, no assessments shall be levied against the subject Dwellings. A release or satisfaction of the notice of lien shall be executed by an officer of the Association and recorded upon payment of all sums secured by such lien.

Section 13. SUBORDINATION OF LIEN TO MORTGAGES.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon a Unit. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof (including the delivery of a deed in lieu thereof) shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall release such Unit from

liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

All other parties acquiring liens on any Unit after this Declaration is recorded shall be deemed to consent that their liens shall be and remain inferior to future liens provided for herein.

The Association shall, upon written request, report to any first Mortgagee or other encumbrancer of a Unit the amount of the assessments remaining unpaid for a period longer than ninety (90) days after the same shall become due.

Section 14. EXEMPT PROPERTY.

The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties dedicated and accepted by the local public authority and devoted to public use;

(b) All properties exempted from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemptions; and

(c) All Common Area as defined in Article I hereof.

(d) Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII.
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units and is placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for Property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and it is not covered by insurance, any Owner who has used the wall may restore it, and shall contribute to the cost of restoration thereof in proportion to the Owner's use, without prejudice, however, to the right of any such Owner to call for a larger contribution from other Owners under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title.

Section 5. Encroachments. Some of the Units may in fact be originally so placed or located because of survey difficulties or inaccuracies that the center of a party wall is not centered in fact on a dividing line. During the life of such building in such instance the offended lot shall be fully subject to an easement for maintenance of the wall as so located and for all purposes the wall shall

be treated as if centered precisely upon the lot line.

Section 6. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII.
ADDITIONAL PROPERTY

Declarant reserves no rights hereunder.

ARTICLE IX.
ARCHITECTURAL CONTROL COMMITTEE

No exterior additions, removals or alterations (including changes in color or appearance) to any building on the Subject Property, additional fences, hedges, walls, walkways, and other structures shall be commenced, erected or maintained except such as are installed or approved by the Declarant in connection with the initial construction of the improvements on the Subject Property, until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings erected upon the Subject Property by an architectural committee composed of the Board of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval shall be deemed to have been given. If no application has been made to the architectural committee or their representatives, or if such application has been rejected, a suit to enjoin or remove such additions, alterations or changes may be instituted at any time by the Association or any Owner, in which suit the Association or any Owner shall have the right to collect reasonable attorneys' fees, costs and expenses. None of the members of the architectural committee shall be entitled to any compensation for their services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by such committee. During the Declarant Control Period, all decisions of the architectural committee may be vetoed by the Declarant.

Finally, the architectural control committee shall set standards for existing units to ensure each unit meets minimum safety and appearance standards and may give notices to owners (said notice being up to two years depending upon the violation) to comply with any violation of these standards. If the owner fails to so comply, the committee may recommend to the Board to commence enforcement proceedings.

ARTICLE X.
BUILDING AND USE RESTRICTIONS

Section 1. LAND USE.

No Unit shall be used except for residential purposes.

Section 2. NUISANCES.

No noxious or offensive activities shall be carried on upon any Unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. PETS.

No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Dwelling or in the Common Area, except that dogs, cats or other household pets may be kept in the Dwellings subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose, and provided further.

Section 4. GARBAGE AND REFUSE DISPOSAL.

No Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers and no exterior burning of household refuse shall be done

Section 5. PROHIBITED STRUCTURES, WINDOW TREATMENTS AND LAWN ORNAMENTS.

Park model units shall not be allowed within the Association. No structure of a temporary character, basketball hoop, trailer, tent, shack, boat house, barn or other out-building shall be constructed on any Unit. No garage shall be used at any time as a residence either temporarily or permanently. Window treatments must be in harmony with the design of the Dwelling and the surrounding area and must be properly installed. No blankets, sheets, loose fabric or excessively-brightly colored window treatments shall be permitted. The Architectural Control Committee shall be the final arbiter of any disputes under this Section.

Section 6. STORAGE.

No boats, snowmobiles, trailers, camping vehicles, recreational vehicles, unlicensed or inoperable automobiles or trucks or other vehicles (except vehicles belonging to the Owner or an Owner's guest) shall at any time be stored or parked on any Unit outside of a house or garage. No such boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall be stored or parked on any part of the Common Area without the express written approval of the Board of Directors.

Section 7. SEWER FACILITIES.

The sewer disposal facilities in the Subject Property are located in the Common Area and shall be maintained by the Association. The Owner shall be responsible, however, for the lines from the clean out access port to their dwelling.

Section 8. TIME SHARES.

The time-share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

ARTICLE XI.
EASEMENTS

Section 1. UTILITIES AND DRAINAGE EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are hereby created and dedicated in, over and upon the Common Area owned by the Association. Within these easements, no structure, fence, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, or which may interfere with snow plowing or snow storage within these easements.

Section 2. WATER AND ELECTRICITY EASEMENTS.

The rights and easements of enjoyment by the Owner of each Unit and the title of such Owner in said Unit shall be subject to the rights of the Association to an exclusive easement on and over said Unit for the purpose of installing and maintaining a source of water and electricity from Dwellings to serve the Common Area.

If water or electricity taken from such Unit is used to serve the Common Area and such water and electricity is not separately metered, the Association and the Owner of the affected Unit shall agree on a reasonable method and amount of compensation payable therefore by the Association to the Owner. In the event that the parties cannot agree on a reasonable method and amount of compensation, each party shall choose one arbitrator and the two (2) arbitrators shall choose a third arbitrator and the decision of the majority of all arbitrators shall be final and conclusive of the method and amount of compensation to be paid.

ARTICLE XII.
INSURANCE

Section 1. REQUIRED COVERAGE.

The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

(a) Property insurance in broad form covering all risks of physical loss for the full insurable replacement costs of the improvements on the Common Area, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association and shall name the Association as the named insured. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverages, deductibles and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.

(b) Comprehensive public liability insurance covering the ownership, existence, use, operation or management of the Subject Property, with minimum limits of $1,000.000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location, and use to the Subject Property. Unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, operation or management of the Common Area. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an owner or occupant of a Unit because of the negligent acts of the Association or other owners or occupants and shall cover claims of one or more insured parties against other insured parties. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as ay be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

(c) Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the board or required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulation of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.

(d) Worker's compensation insurance, as required by law.

(e) Policies carried pursuant to subsections (a) and (b) shall provide that:

(1) each Member and any secured party of the Member's Unit is an insured person under the policy with respect to liability arising out of the Member's interest in the Common Area or the Member's membership in the Association;

(2) the insurer waives its rights to subrogation under the policy against any Member (or members of Member's household) and against the Association and Directors;

(3) act or omission by any Member or secured party, unless acting within the scope of on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and

(4) the Association's policy shall be the primary insurance if, at the time of a loss under he policy, there is other insurance in the name of a Member covering the same property covered by the Association's policy.

Section 2. <u>ASSOCIATION COVERAGE OF UNITS.</u>

In addition to casualty insurance on the Common Area, the Association, through the Board of Directors, may elect to obtain and continue in effect, on behalf of all Owners, adequate broad-form blanket casualty and fire insurance in such form as the Board of Directors deems appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Dwellings, including the structural portions and fixtures thereof but exclusive of land, footings, excavation and other items normally excluded from coverage, owned by such Owners. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be an expense of the Association to be included in the regular annual assessments of the Owners, as levied by the Association. The insurance coverage with respect to the Dwellings shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the Owners.

Section 3. REPLACEMENT OR REPAIR OF PROPERTY.

Any portion of the Subject Property that has been damaged or destroyed by a loss covered by the Association's insurance shall be promptly repaired or replaced by the Association unless (i) the Community is terminated; (ii) such repair or replacement would be illegal; or (iii) Members holding at least 80% of the voting power of the Association (including every Member and first mortgagee on a Unit which shall not be rebuilt) vote not to rebuild. If less than the entire Subject Property is repaired or replaced, the insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Community, the proceeds attributable to Units which are not rebuilt shall be distributed to the owners of those Units and the secured parties of those Units, as their interests may appear, and the remainder of the proceeds shall be distributed to all Unit Owners and secured parties as their interests may appear, in proportion to their common expense liability. The cost of repair or replacement of Common Area in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a Unit in excess of insurance proceeds shall be paid by the respective Unit Owner.

Section 4. CANCELLATION: NOTICE OF LOSS.

All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least 30 days prior written notice to the Association, all of the insureds, and all mortgagees of Units (including, if applicable, the FHA or FNMA).

Section 5. REVIEW OF POLICIES.

All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

Section 6. BLANKET CASUALTY INSURANCE BY OWNER.

If the Association does not elect to maintain blanket casualty and fire insurance pursuant to Section 2 of this Article, then any Owner of a Unit shall carry, maintain, and timely pay the premium or premiums on a policy of fire, extended coverage, vandalism, and malicious mischief, with all risk endorsement insurance. Said insurance shall cover a minimum of the entire replacement cost of the improvements on such Unit and shall provide for at least ten (10) days' notice to the Board of directors of the Association before cancellation or material change in such insurance.

Section 7. REALLOCATION OF INTERESTS FOR DESTROYED UNITS.

If, pursuant to Section 3, a Unit is not rebuilt after a casualty, that Unit's entire interest in the Common Area, votes in the Association and common expense liability are automatically reallocated upon the vote as if the Unit had been condemned, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

ARTICLE XIII.
SPECIAL PROVISIONS

Section 1. OVERRIDING PROVISIONS.

The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. NOTICE OF DEFAULT.

A first mortgagee of a Unit, upon request, is entitled to written notification from the Association of any default in the performance by the Owner of any obligation under the Governing Documents known to the Association which is not cured within sixty (60) days.

Section 3. LIABILITY FOR UNPAID ASSESSMENTS.

Any first mortgagee of a Unit who obtains title to a Unit pursuant to the remedies provided in its mortgage or by foreclosure of its mortgage shall not be liable for the unpaid assessments of the Unit which accrue prior to the acquisition of title to such Unit by the mortgagee.

Section 4. RESTRICTED ACTIVITIES.

Until the Association has received written approval from all of the first mortgagees of Units, all Owners other than the Declarant and, during the Declarant Control Period, the Declarant, the Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Units. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be a deed or transfer within the meaning of this subsection;

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwellings, the maintenance of the Common Area, party walls or common fences and driveways, or the upkeep of lawns and plantings;

(d) Fail to maintain first and extended coverage on insurable Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value, based on current replacement costs; or

(e) Use hazard insurance proceeds received for losses to any Common Areas other than for the repair, replacement or reconstruction of such Common Areas.

Section 5. EXAMINATION OF BOOKS AND RECORDS.

First mortgagees shall have the right to examine the books and records of the Association.

Section 6. RIGHT TO CURE DEFAULT.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums in hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 7. PRIORITY OF FIRST MORTGAGEES.

No provision of the Declaration or By-Laws shall be construed as giving to the Owner or to any other party priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

Section 8. FORECLOSURE OF FIRST MORTGAGES AND CONTRACTS.

The sale or transfer of any Unit pursuant to the foreclosure of a first Mortgage, or pursuant to any other proceeding or arrangement in lieu of such foreclosure or cancellation, shall extinguish the lien of all other assessments as to the installments which became due prior to the effective date of such sale, transfer or acquisition by the Mortgagee to the end that no assessment liability shall accrue to an acquiring Mortgagee except with respect to installments of assessments becoming due after possession has passed to such acquiring Mortgagee, whether such possession has passed at the termination of any period of redemption or otherwise; provided, however, that if a first mortgage on a Unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581 or 582, than the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115 (a), (e)(1) to (5), (f), and (i) of the Act, which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption. In the event of the extinguishment of such assessment lien as aforesaid, the entire amount of such unpaid assessment shall be reallocated and assessed against, and payable by the Owners of all other Units in the Association, exclusive of such encumbered Unit. No such sale, transfer or acquisition of possessions shall relieve an Owner of a Unit from liability for any assessments thereafter becoming due or from the lien thereof, nor shall it relieve the person personally obligated to pay the assessments which were levied prior to the transfer of such Unit from the personal obligation to pay the same.

ARTICLE XIV.
MAINTENANCE

Section 1. MANDATORY MAINTENANCE.

The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all

improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair (consistent with its natural character).

Each Owner is responsible for the maintenance, repair and upkeep of any building within their Unit and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

Section 2. ACCESS AT REASONABLE HOURS.

For the purpose solely of performing the maintenance and repairs authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter any Dwelling and upon any Unit which such persons and material as the Association deems necessary at reasonable times during the day.

Section 3. EMERGENCY ACCESS.

For the purpose of performing emergency action to seal a Dwelling from weather or otherwise to prevent damage or destruction to any Dwelling, the Association through its duly authorized agents or employees, shall have the right to enter any Dwelling, and upon any Unit at any time, without notice, with such persons and materials as the association deems necessary to accomplish such emergency repairs or to take such emergency action.

Section 4. LAWN AND PLANTING MAINTENANCE.

The Association shall mow, water, rake and maintain, to the extent the Board deems necessary or desirable, the irrigation system and all lawns and exterior plantings; except that the Association may, but shall not be required to, water gardens and plantings established by Owners, and to the extent the Association undertakes to do so, it will not be responsible for any damage to such gardens and plantings due to overwatering, underwatering or improper watering. In lieu of maintaining separate water lines for the Common Area, the Association may draw water for such common purposes from exterior sill cocks on each Dwelling, provided that it rotates such drawing among all Dwellings by a schedule or other reasonable means so as to approximately equalize the amount of water taken from each Dwelling over the course of a season.

ARTICLE XV.
EMINENT DOMAIN

Section 1. TOTAL TAKING OF UNIT AND DWELLING.

If a Unit and Dwelling is acquired by eminent domain, or if so much of a Unit and Dwelling is acquired by eminent domain as to effectively leave the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award, including severance damages, shall compensate the Owner of the Unit and Dwelling and holder of a first mortgage other security interest of record as their interests may appear. Any such remnant of a Unit and Dwelling remaining after part of a Unit and Dwelling is taken shall be conveyed to the Association and shall thereafter be Common Area. The voting rights and liability for expenses attributable to the Unit and Dwelling acquired by eminent domain shall be reapportioned among the remaining Units.

Section 2. PARTIAL TAKING OF UNIT AND DWELLING.

Unless treated as a total taking under Section 1, if part of a Unit and Dwelling is acquired by eminent domain, the award shall compensate the Owner and first mortgagee of the Unit and Dwelling as their interests may appear for the reduction in value of the unit and Dwelling. A partial taking of a Unit or Dwelling shall not affect the voting rights or liability of that Unit or Dwelling for common expenses.

Section 3. TAKING OF COMMON AREA.

If part of the Common Area is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Area among the Owners and first mortgagees as their interest may appear in proportion to their votes in the Association before the taking.

ARTICLE XVI.
GENERAL PROVISIONS

Section 1. ENFORCEMENT.

The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. RULES AND REGULATIONS.

The Association may make reasonable rules and regulations governing the use of the Units and of the Common Areas, which rules shall be consistent with the rights and duties established in this Declaration. The declaration shall supersede any conflicting rules by the Association.

Section 3. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 4. ENFORCEMENT AND AMENDMENT.

The covenants and restriction of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Association or the Owner of any Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Except as provided in the Act or as hereinafter provided, the covenants and restrictions of this Declaration may be amended only by the assent of Members holding at least seventy-five percent (75%) of the voting power of each class of Members. Any amendment must be properly recorded and a recorded certificate of the Secretary of the Association certifying that the amendment was approved by Members holding at least 75% of the voting power of each class of Members shall be sufficient evidence of such fact. The prior written approval of all the first mortgagees of Dwellings or Owners other than the Declarant shall be required for any amendment of this Declaration which would affect the right of the Association to do any of the acts specified in Article XIII, Section 5(a), (b), (c), (d) and (e).

Section 5. NOTICES.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been property sent when mailed postage-paid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of mailing.

Section 6. MERGERS.

Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or additions to the covenants established by this Declaration within the Subject Property except as hereinabove provided.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto caused these presents to be executed this _____ day of _____, 2026.

PELICAN BEACH HOLDINGS, LLC

__Review_____
By Joshua Miles, its chief manager

STATE OF MINNESOTA)
)ss.
COUNTY OF CROW WING)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026 by Joshua Miles, the chief manager of Pelican Beach Holdings, LLC, a Minnesota limited liability company, on behalf of the company.

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
J. Brad Person
Breen & Person
Box 472
Brainerd, MN 56401
(218) 828-1248

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

EXHIBIT A

Subject Property

Pelican Beach Reserve, as on file with the Crow Wing County Recorder.

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

EXHIBIT B

Additional Property

NONE.

EXHIBIT C

Common Area
Lot 12, Block 1, Pelican Beach Reserve

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

EXHIBIT D

Unit	Percentage interest in Common Area
1	1/11th
2	1/11th
3	1/11th
4	1/11th
5	1/11th
6	1/11th
7	1/11th
8	1/11th
9	1/11th
10	1/11th
11	1/11th

Outlook

RE: Stonemark 26031 Pelican Beach Holding

From Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Date Mon 3/23/2026 3:35 PM
To Chris Pence <Chris.Pence@crowwing.gov>; Cindy <Cindy@stonemarksurvey.com>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Cc Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>

1 attachment (3 MB)
EX26031 3-11-2026.pdf;

Good afternoon all:

We have reviewed the existing mooring exhibit provided for Pelican Beach Holdings. We have also looked at some other historical aerial photos of resort mooring in general.

We agree that there is a history of consistent continuous mooring of 11 watercraft at the resort.

Given the above information, early-coordination comments from MN DNR include the following:

- The number of allowable continuous watercraft mooring spaces should not exceed one space for each approved dwelling unit lot, not to exceed 11 total.
- A single, centralized dock with multiple mooring slips should be used to accommodate mooring of watercraft. No individuals docks should be allowed. Mooring slips should be placed in the deepest practice and feasible location of the lake as possible in order to limit boat props from kicking up sand/sediment in shallow areas, which could affect fish spawning areas.
- Uncontrolled beaching of watercraft should be prohibited as part of open space preservation, in harmony with Article 33.7 B of the Land Use Ordinance.
- All existing mooring areas that consist of concrete blocks and ropes/chains on the bed of the lake, should be removed prior to operation as a residential development.
- Look for opportunities to limit the impacts of this high density conversion (i.e., a residential density higher than what would be allowed with a new residential PUD) by improving vegetative cover in SIZ 1 and 2 in harmony with Article 34.13 of the Land Use Ordinance. For example, the existing sand blanket area size and width should match (or be smaller than) the existing “beach” area depth as shown in the COS at the time of the last (2021) public hearing request for conversion. Areas larger than that size should be returned to a natural condition.

Thank you.

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov





From: Chris Pence <Chris.Pence@crowwing.gov>
Sent: Monday, March 16, 2026 7:40 AM
To: Cindy <Cindy@stonemarksurvey.com>; Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Cc: Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>
Subject: RE: Stonemark 26031 Pelican Beach Holding

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Thanks Cindy -

From: Cindy <Cindy@stonemarksurvey.com>
Sent: Thursday, March 12, 2026 11:18 AM
To: 'Frie, Jacob (DNR)' <Jacob.Frie@state.mn.us>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>; Chris Pence <Chris.Pence@crowwing.gov>
Cc: Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>
Subject: Stonemark 26031 Pelican Beach Holding

Per the DRT meeting on Monday, see attached Existing Dock Exhibit. Please let me know if there are any questions or concerns on what is currently being used for docks.

Cindy

Cynthia M. Hidde, PLS, DTM
Stonemark Land Surveying, Inc.
30206 Rasmussen Rd, Ste#1
PO Box 874
Pequot Lakes, MN 56472

Office: 218-568-4940
Cell: 218-232-8046

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Nicholette Dunlap

From: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Sent: Thursday, May 14, 2026 10:02 AM
To: Nicholette Dunlap
Cc: Chris Pence; Stacy Westhoff
Subject: RE: NOTICE - PRELIMINARY PLAT - Pelican Beach Reserve
Attachments: PL26031 4-2-2026.pdf; EX26031 3-11-2026.pdf

Good morning Nicholette:

The Minnesota DNR offers the following comments concerning the proposed plat of Pelican Beach Reserve:

- We have reviewed the existing mooring exhibit provided by the applicants for Pelican Beach Holdings (attached – "EX26031 3-11-2026"). We also reviewed other historical aerial photos of the resort mooring in general. After review, we agree / concur that there is a history of consistent continuous mooring of 11 watercraft at the resort.
- Given the above information, and in consideration of the existing resort condition, the County's Land Use Ordinance, and MN Shoreland Rules (6120), we offer the following additional comments:
    - The number of allowable continuous watercraft mooring spaces should not exceed one space for each approved dwelling unit lot, not to exceed 11 total.
    - A single, centralized dock with multiple mooring slips should be used to accommodate mooring of watercraft. No individuals docks should be allowed. Mooring slips should be placed in the deepest practice and feasible location of the lake as possible in order to limit boat props from kicking up sand/sediment in shallow areas, which could affect fish spawning areas.
    - Uncontrolled beaching of watercraft should be prohibited as part of open space preservation as a condition of the plat, in harmony with Article 33.7 B of the Land Use Ordinance.
    - All existing mooring areas that consist of concrete blocks and ropes/chains on the bed of the lake, must be removed prior to operation as a residential development.
    - Look for opportunities to limit the impacts of this high density conversion (i.e., a residential density higher than what would be allowed with a new residential PUD) by improving vegetative cover in SIZ 1 and 2 in harmony with Article 34.13 of the Land Use Ordinance. For example, the existing sand blanket area size and width should match (or be smaller than) the existing "beach" area as shown in the COS dated 4/2/2026 and part of the proposed plat application. Areas larger than that size (2025 aerial photo seems to indicate a larger size) should be returned to a natural condition prior to operation as a residential development.

Thank you for your time in this regard.

Sincerely,

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov

DEPARTMENT OF NATURAL RESOURCES

From: Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Sent: Friday, April 10, 2026 4:14 PM
To: Rob Hall <Rob.Hall@crowwing.gov>; Matt Kallroos <Matt.Kallroos@crowwing.gov>; Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>; Melissa Barrick <melissa@cwswcd.org>; Loni Burnard <Lakeedwardtwnshp@gmail.com>; gerrycainemail@gmail.com; Rosemary Franzen <Rosemary.Franzen@crowwing.gov>
Cc: nichole.stotz <nichole.stotz@crowwing.gov>; Maggie Young <Maggie.Young@crowwing.gov>; Chris Pence <Chris.Pence@crowwing.gov>; Gary Griffin <Gary.Griffin@crowwing.gov>; stacy.westhoff <stacy.westhoff@crowwing.gov>
Subject: NOTICE - PRELIMINARY PLAT - Pelican Beach Reserve

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Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Patrick Trottier, Stonemark Surveying

Parcel Number: 73040571

Township: Lake Edward

Preliminary Plat for:

1. **Preliminary Plat – "Pelican Beach Reserve" with 13 total lots**

A hard copy of this information is available at the Land Service Office. If you would like to review a hard copy of this information, please let us know and a copy will be mailed to you.

Attached for your review is a copy of the preliminary plat information. This property is scheduled for consideration by the Planning Commission at the Meeting on Thursday May 21, 2026. The Crow Wing County Land Use Ordinance allows a 30-day review process for all agencies involved. We would sincerely appreciate your prompt review of the proposal. If you do have any comments, please submit them by 3:00 pm Wednesday, May 20, 2026.

If you have any questions or if you need additional information, please feel free to contact Land Services.

Attached: Preliminary Plat of Pelican Beach Reserve

To:
Crow Wing County Highway
Crow Wing County Land Services
Crow Wing County Soil and Water Conservation District
Minnesota Department of Natural Resource (DNR)
Minnesota Department of Transportation (MNDOT)
Commissioner Franzen

Thank You,

Nicholette Dunlap
Sr. Environmental Services Specialist
Office: (218) 824-1010
Direct: (218) 824-1354
Cell: (218) 232-3701

www.crowwing.us

Land Services
322 Laurel Street Suite 15
Brainerd, MN 56401

Excellent customer service is our top priority. Please let me know if I was helpful!
Customer Service Survey

Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

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Meeting Minutes – Development Review Team (DRT)

Date: March 9, 2026
Time: 12:00 pm
Attendees:

- Nicholette Dunlap – Senior Environmental Specialist
- Stacy Westhoff – Planning Coordinator
- Jake Frie – Minnesota DNR
- Cindy – Stonemark Planning
- Josh Miles – Partner/Applicant
- Brent Anderson – Partner/Applicant
- Chris Pence – Environmental Services Manager

Project Summary

Project: Conversion of an existing lakeside resort into a residential plat consisting of 12 existing cabin units, with potential garage/storage units across the road.

Applicant Direction (Updated):

- Returning to the original plan, not enlarging structures or redeveloping the resort.
- Discussion of garage units: whether they can be sold separately or must be tied to the lakeside units.

Discussion Highlights

Garage Units Must Be Tied to the Resort Lots

- Applicants asked whether garage units across the road could be:
    - Must remain tied to the residential units
- County conclusion:
    - Garage units cannot be sold as stand-alone commercial storage due to density limitations and the small size of the west lot.
    - All storage/garage units must remain tied to the lakeside units as part of a single unified development/HOA.

Chris emphasized that:

- The parcel does not have enough lot width to support both a resort conversion and separate commercial storage use.
- Splitting the parcel into two separate lots would likely make the project not workable under zoning and density requirements.

Resort Conversion to Residential

- Applicants decided to:
    - Not eliminate existing cabins.
    - Abandon the earlier idea of rebuilding bigger cabins.
    - Proceed with a conversion of existing structures only under the new statewide resort-to-residential rules.

Dock & Mooring Space

DNR must determine the allowable permanent mooring spaces for the converted development.

Key points:

- Historical mooring use appears to be 1 boat slip per cabin.
- Resort has:
    - 200+ ft dock where guests tie boats
    - 6 permanent concrete mooring buoys placed in the lake by previous owners
- Applicants stated these have been used for many years, overnight and weekly.
- DNR requested evidence of historical mooring use (photos, maps, documentation).

Jake (DNR) explained:

- Allowed mooring = greater of
    - historical designated use, or
    - allowable mooring for a new residential PUD
- DNR needs:
    - Site plan showing current mooring locations
    - Explanation of historical use
    - Proposed future mooring layout, showing changes or reductions

Applicants confirmed:

- Dock configuration is central to the viability of the conversion.
- Without guaranteed slips (~1 per unit), conversion does not make sense and resort operation may continue instead.

---

4. Shoreline Condition & Vegetation

- DNR noted sand has expanded toward cabins in recent years.
- Recommendation to potentially restore vegetative buffer in certain shoreline areas.
- No structural shoreline violations identified.

Next Steps

Applicant Must Provide:

- Mooring documentation package, including:
    - Evidence of concrete mooring anchors
    - Map showing historic mooring slips
    - Explanation of long-term usage patterns
    - Proposed mooring layout for conversion
- Confirm survey numbers, lot drawings, and impervious surface calculations for entire parcel.

Timeline

If applicant submits by April 8:

- PC/BOA Hearing: May 21
- County Board Final Approval: June 9
- Final Plat Approval (if preliminary & final submitted consecutively): As early as June 23

Decision Summary

Applicants intend to proceed with conversion, but only if mooring/dock capacity meets expectations.
They will:

- Drop the idea of separate lots across the road
- Keep garage units tied to lakeside units
- Provide mooring evidence before official submittal

LUMA - 73040571 - Land Surveying, Inc - Saved
Application

Application Summary | LUMA | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) * 73040571

Parcel number *	73040571
Owner name	PELICAN BEACH HOLDINGS L...
Physical address	26746 COUNTY ROAD 4
Physical city	NISSWA
Physical zip	56468
Township	LAKE EDWARD TOWNSHIP

Shoreland District	Yes
Shoreland Protection Zone	Yes
Riparian	Yes
Within 500ft of the Mississippi	No
Lake/River	PELICAN
Deeded acres	4.88
Zoning	SD

Owner Information

Name *	PELICAN BEACH HOLDINGS LLC	Mailing Street 1 *	24090 Smiley Rd
Phone Number *	[redacted]	Mailing Street 2	---
Email *	[redacted]	Mailing City *	Nisswa
		Mailing State *	mn
		Mailing Zip code *	56468

Application Type: Land Use Map Amendment (LUMA)

Applicant Information

Applicant *	Stonemark Land Surveying, Inc
Is Applicant the Property owner *	I am not the owner.
Authorized Agent Name	---
Public Hearing Agent Type	Surveyor
Contractor License Number	44881
Email	[redacted]
Phone	[redacted]
Assisted at Counter	No
Customer Service Rep	
Application Submit Date	4/3/2026

Project Specifics

Current Land Use District	Waterfront Commercial
Proposed Land Use District	Shoreland District
How is the property accessed	Public Road

Findings of Fact

Is the reclassification in accordance with the County's Comprehensive Plan? Why?	Yes ARTICLE 34.13
Is the reclassification warranted due to changed land use circumstances or a need for additional property in the proposed land use district? Why?	Yes coverting a resort to residential lots
Is the subject property suitable for development in general conformance with land use standards under the proposed land use district classification? Why?	All structures are in place - no development to be done
Will the reclassification be detrimental to uses or property in the immediate vicinity of the subject property? Why?	shoreland residential properties lie north and south of property.
Does the reclassification promote the health, safety, and general welfare of the public? Why?	Yes, going from a rental situation to single ownership.

CROW WING COUNTY MINNESOTA

NOTICE OF DECISION

Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Stonemark Land Surveying

Parcel Number: 73040571

Physical Address: 26746 County Road 4, Nisswa, MN 56468

Township: Lake Edward

Your application to amend the Official Land Use Map from Waterfront Commercial to Shoreland District has been recommended for approval to the County Board of Commissioners on May 21, 2026, by the Planning Commission. Your application will be placed on the June 9, 2026, County Board Meeting Agenda.

Date: 5/22/2026

Chris Pence

Chris Pence - Environmental Service Manager

Please contact Crow Wing County Land Services (218)-824-1010 with any questions you might have.

CROW WING COUNTY STAFF PRELIMINARY FINDINGS OF FACT SUPPORTING/DENYING A LAND USE MAP AMENDMENT

Name of Applicant: Pelican Beach Holdings LLC Date: May 21, 2026

PID: 73040571

FINDINGS OF FACT:

1. ***Is the reclassification in accordance with the County's Comprehensive Plan?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

   - Goal 2: Plan a balanced approach to growth that supports economic growth and focuses on commercial and industrial development along existing infrastructure.
     - Policy 1: Drive development towards existing infrastructure and service capacities.
   - The proposed amendment aligns with policies promoting orderly development, protection of natural resources, and compatibility with existing uses.

2. ***Is the reclassification warranted due to changed land use circumstances or a need for additional property in the proposed land use district?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

   - The historic resort use has diminished, and the current owner proposes a residential subdivision consistent with surrounding residential shoreland development
   - The Waterfront Commercial designation is no longer reflective of future planned use patterns. Reclassification allows appropriate regulation of residential development rather than continued classification for commercial water-oriented use that is no longer intended.

3. ***Is the subject property suitable for development in general conformance with land use standards under the proposed land use district classification?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

   - The property is an existing resort and desires to convert to a residential use which is allowed by Article 34.13 and MN Rules 6120.3800 Subp. 5 D
   - The proposed residential use can generally meet Shoreland District standards including impervious limits, stormwater management and septic system compliance.

4. ***Will the reclassification be detrimental to uses or property in the immediate vicinity of the subject property?***
   Yes ☐ ***No*** ☒ ***Why or why not?***

   - Adjacent land use to the north and south is Shoreland District and primarily residential. Reclassification ensures consistency with nearby properties and reduces compatibility conflicts that may arise under a commercial classification.
   - The change eliminates future potential for intensified commercial activity inconsistent with the neighborhood.

- Commercially zoned property allows potentially intense commercial uses on a property. Reclassification of commercially zoned property to shoreland residential property reduces future commercial impacts on this property.

5. ***Does the reclassification promote the health, safety, and general welfare of the public?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Changing from Waterfront Commercial to the Shoreland District allows for regulation under Article 11 intended to protect surface water quality, manage stormwater, septic system compliance and maintain the natural character of Pelican Lake, all aligned with public health and welfare objectives of Article 1.2.

6. ***Township Recommendation:*** **None as of 05/14/2026**

RECEIVED
By Stacy Westhoff at 9:44 am, May 19, 2026

Stacy Westhoff

To: Chris Pence
Subject: RE: Pelican Beach Resort Conversion Application

From: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Sent: Monday, May 18, 2026 4:25 PM
To: Brad Halberstadt <brad@szjlaw.com>
Cc: Chris Pence <Chris.Pence@crowwing.gov>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Subject: RE: Pelican Beach Resort Conversion Application

Good afternoon Brad:

I have provided my responses to your questions in **RED**, below. As an aside, you'll see I refer you to contact Crow Wing County – Land Services for answers / perspectives on many of the questions you ask. Chris Pence, the Crow Wing County Environmental Services Manager – can be reached at 218-824-1124 or chris.pence@crowwing.gov should you wish to speak with him directly about these and other matters related to resort conversion application.

Sincerely,

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov

From: Brad Halberstadt <brad@szjlaw.com>
Sent: Monday, May 18, 2026 2:53 PM
To: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Subject: Re: Pelican Beach Resort Conversion Application

You don't often get email from brad@szjlaw.com. Learn why this is important

This message may be from an external email source.
Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Hi, Jake. Thanks for taking the time on Friday to discuss the above-referenced application and explaining the reversal of the DNR's objections to the last application in 2021. To summarize, you indicated that: (i) the Land Use Ordinance had changed in the last 5 years and such changes allowed you to drop the objections set forth in the prior DNR response; (ii) all of the evidence that you relied upon to support your conclusions was contained in the application packet for hearing on May 21st; and (iii) the prior DNR position related to mooring was changed because you believe this evidence (contained in the application packet) was adequate to demonstrate a "history of consistent continuous mooring of 11 watercraft at the resort" - as set forth in your email of March 23, 2026 (as documented at p. 137 of the application packet).

Regarding the evidence of historical consistent continuous mooring of 11 watercraft at the resort, the application packet states that the Applicant stated there were 6 permanent concrete mooring buoys placed in the lake by previous owners (Packet at p. 148) and the DNR needed evidence of historical mooring use (Packet at p. 148). Unless I missed something, the only evidence in the application packet appears to be an Existing Dock Exhibit on page 53 of the application packet with markings of the purported concrete pillars and boat ties that Note 2 states "The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery. I did not see any of the 2023 Google Earth aerial image nor any other evidence of mooring of historical consistent continuous mooring of 11 watercraft at the resort. And that is completely at odds with what the residents stated in the comments from the 2021 application and the statement in the last DNR report that "Historical photos suggests that a single dock with no more than three mooring slips have been used." Moreover, the property has been for sale in both 2024 and 2025 - and I haven't seen mooring of anything close to 11 watercraft at the resort in the last 2 years (or since 2020). I understand some of those points should be raised at the public hearing - but I have the following questions related to the evidence of historical consistent continuous mooring of 11 watercraft at the resort:

1. I see the limitation for mooring under the Shoreland Regulations 6120.3800 Subp. 5.B.(3)(c) and Land Use Ordinance Article 33.11.B.(5) - 1 mooring spot per dwelling in Tier 1 - but where is the exception for grandfathering of mooring spots under the Shoreland Regulations and the Land Use Ordinance? I'm sure it's there, I'd just like to see it. Doesn't the ability to "grandfather" lapse if there use discontinues for a period of 12 months? See, e.g., Minn. Stat. Sec. 394.36.

It would seem that Statute 394.36 fits here, but ultimately interpretation of this statute in context with the use of the existing resort and proposed use is up to Crow Wing County to determine. I encourage you to contact the County for questions related to this topic.

2. I know you mentioned that you looked at the 2023 Google Earth Map and said other maps were kind of grainy, but can you provide a list of all evidence that you reviewed to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort and, for transparency purposes, provide that evidence in a return email?

I perused the exhibits provided by the applicant as well as Google Earth images as far back as 2008.

3. Can you explain how the evidence described in 2. above demonstrates a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the images and observed what appeared to be concrete anchors and/or boats moored in open water in addition to boat lifts and boats physically attached to a single dock facility.

4. Over what years did you conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the exhibits provided by the applicant as well as Google Earth images dating as far back as 2008.

5. What evidence was provided to demonstrate exactly when the concrete pillars were installed by the previous owner?

I have not received any evidence about their placement nor by whom or when.

6. Does the DNR have any records of the previous owner seeking permission to install concrete pillars for mooring boats in the lake? If so, please provide such records.

I have not received any evidence about their placement nor by whom or when. We do not have written records of the concrete pillars being placed in the lake.

7. Are there specific buoy requirements for attaching to mooring locations? Was there any evidence of the historical consistent continuous placing of buoys on the concrete pillars? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when. As to how concrete pillars/buoys are regulated – if placed seasonally and removed seasonally, that would seem to be under the pervue of the County's Water Surface Ordinance for regulation. If placed permanently and not removed seasonally, that would seem to be a structure regulated by DNR through a permit. In this case, if placed permanently, those small individual structures appear to have been in place for quite some time and we have no plans to require removal of the structures at this time. Should the resort conversion be approved, the DNR will require removal of the concrete pillars/buoys with placement of watercraft at mooring spaces proposed on the single docking facility prior to its operation as a residential use.

8. Was there any evidence of the permitting for placement of buoys for mooring? Isn't that a requirement under Rule 6110.1500 Subparts 1 and 4? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when.

As stated in the prior DNR report, "Mooring standards are intended to reduce the impact on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards." In the last report, the conclusion was:

> "The tiering analysis states that only one dwelling unit is allowed in the first tier. In order for the plat to be corrected to meet this inconsistency, the number of mooring spaces must be reduced to 1."

I believe your conclusion was the same unless "grandfathering" was available (page 91, application packet). As such, I would imagine that any claimed "grandfathering" would be likewise strictly

scrutinized. And I'm sure it was - but for purposes of transparency, I think it would be beneficial to all parties involved to get that evidence on the table for everyone to review. Especially in light of the changed DNR position from 2021.

Finally, can you let me know if the DNR is considering the current application as a conversion to a (i) conventional development or (ii) conservation development? The lack of clarity on that issue was key to the last DNR recommendation to deny the application.

It is Crow Wing County who makes a determination as to what the current application is being applied for. In this case, it appears that the application is for a Resort Conversion, which addressed in Article 34.13 with all requirements listed in that section and requires a Conditional Use Permit (CUP) pursuant to Article 10.3 E.

Jake, I really appreciate you looking into this and I stand my my comments made in my submission dated April 16, 2021 at page 4 "Mr. Frie, by the way, is a GREAT asset for the County. I can't imagine how he managed to pull this needle out of the proverbial haystack of documents from 30+ years ago." In fact, after our discussion on Friday, my impression has only gone up. I just want to make sure we are all looking at the same information. Opinions may differ, but facts certainly can impact those opinions. So, I look forward to your response. If I got anything wrong, feel free to correct me. The older I get, the less my memory seems to work..... Look forward to a response - no need for another call that would probably take more time than an email response. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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On 5/15/2026 12:28 PM, Brad Halberstadt wrote:

> Hi, Jacob. Can you explain how the DNR position changed so drastically from the attached position taken 5 years ago? I'm confused in a number of areas including compliance with the Land Use Ordinance and the mooring allowance. I thought the DNR investigated those issues and was clear 5 years when it filed their attached comments. What am I missing? Has this been escalated at the DNR in light of these inconsistent postitions? The hearing is on May 21st, so I'd appreciate a quick response. Thanks
>
> .....
>
> Bradley J. Halberstadt
> Stewart, Zlimen & Jungers, Ltd.
> 2860 Patton Road
> Roseville, MN 55113
> Phone: (612) 870-4100 x 111
> Fax: (612) 870-8758
> Email: brad@szjlaw.com
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RECEIVED
By Stacy Westhoff at 3:26 pm, May 20, 2026

Stacy Westhoff

From: PCBOA
To: LandservicesVM
Subject: RE: Comments for Public Hearing on 5/21/26 Related to Applications by Pelican Beach Holdings LLC - 1 of 4

From: Brad Halberstadt <brad@szjlaw.com>
Sent: Wednesday, May 20, 2026 2:33 PM
To: LandservicesVM <Landservices@crowwing.gov>
Subject: Comments for Public Hearing on 5/21/26 Related to Applications by Pelican Beach Holdings LLC - 1 of 4

You don't often get email from brad@szjlaw.com. Learn why this is important

Good afternoon. I am sending four emails with 5 attachments to be added to the record in the above-referenced matter - because of concerns over file size. The attachments in each of these emails are named:

This email - Comments Opposing 2021 - Pelican Beach March 1-May 2, 2021Bates1.pdf (10.4 MB)

2nd email - Comments Opposing 2021 - Pelican Beach March 1-May 2, 2021Bates2.pdf (7.2 MB)

3rd email - Document69089.pdf and Document69090.pdf (each around 2 MB)

4th email - Memorandum of Comments and Objection 05212026.pdf (still working on this one - but likely around 2 MB)

I will send the first 3 emails out before 3:00 and hopefully the last one before 5:00. Please confirm that you receive these 4 emails. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758

Email: brad@szjlaw.com

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RECEIVED
By Stacy Westhoff at 3:27 pm, May 20, 2026

RECEIVED
By Kirstin Lindbery at 9:33 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Impute for Planning Commission Meeting, March 18, 2021.
Response to Application: Pelican Beach Holdings LLC – Josh Miles - Variances

From: KATHERINE K. ALLEN <softart@mac.com>
Sent: Monday, March 15, 2021 5:04 PM
To: Landservices <Landservices@crowwing.us>
Subject: Impute for Planning Commission Meeting, March 18, 2021. Response to Application: Pelican Beach Holdings LLC – Josh Miles - Variances

Subject:
Response to the following variance application:

Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances
Address: 26746 County Road 4, Nisswa, MN 56468
Site Location: LOCATED ON THE SOUTH 1⁄2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE 1⁄4 OF THE NE1/4 OF SECTION 4, BEGINNING AT A POINT ON A LINE BETWEEN SECTION 3 & 4, EXTENDING ONTO THE BEACH OF PELICAN LAKE...;, SECTION 4, TOWNSHIP 135, RANGE 28; LAKE EDWARD TOWNSHIP; CROW WING COUNTY, MINNESOTA

Dear Commissioners,

I wish to state my very strong objections to granting the Josh Miles variance referenced above.

My issues with this application are threefold:

1)The notice given to affected property owners and interested parties has been rushed and incomplete.

2)This variance request is outsized and enormous
If granted this variance would be a huge departure from existing land use regulations on Pelican Lake.

3)A variance of this magnitude would create an appetite for increased density on other properties around the lake.
I believe that this variance would cause irreparable harm to current Pelican Lake water health, wildlife sustainability and general quality of life.

Katherine Kerr Allen
Owner
27247 Kerrs Point Road
Pequot Lakes MN 56472-3242
954-253-5224
softart@me.com

Katherine Kerr Allen
Artist
www.KatherineKAllen.com

RECEIVED
By Kirstin Lindbery at 9:04 am, Mar 17, 2021

March 16, 2021

To: Planning Commission/Board of Adjustment

Re: Request for variance by Pelican Beach Holdings LLC

After reviewing the request for variance by the new Owners, I have many questions and because my questions are unanswered, I don't know what comments I should make regarding this.

I question the process that the Board is using to evaluate variances. Why is there a hearing for neighbors before the Board has stated their opinion of the request? The public does not know all of the regulations. We don't know how the Board is going to apply the regulations to the request.

Is this request going to be opposed by the Board? If so, those in opposition could simply support the decision. Or, if the Board is supporting the request for variance, those opposing would know what regulations they could site to support their opposition.

This request for variance is so far from what I believe the County standards are. If it was a vacant lot, there is no chance that it would be approved.

Recently, I observed the County's enforcement of regulations for a "guest cabin" for a neighbor of mine. The regulations were clearly listed and required to be followed.

This isn't a request for a second cabin.

This isn't a request for a third cabin.

This isn't a request for a fourth cabin.

This isn't a request for a fifth cabin.

This isn't a request for a sixth cabin.

This isn't a request for a seventh cabin.

This isn't a request for an eighth cabin.

This isn't a request for a nineth cabin.

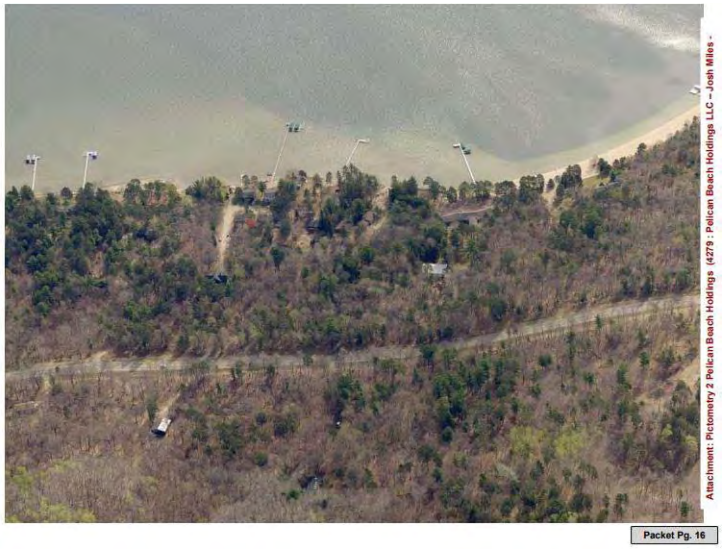
This isn't a request for a tenth cabin.

This isn't a request for an eleventh cabin.

No, this is a request for twelve cabins on a "lot" with six of the cabins in zone one.

Additionally, have you looked at the dock diagram? It shows twelve slips, but there is no depth shown. Unless they put the lifts in eighteen inches of water they would need to spread them out North to South as the water drops off too fast.

From the Agenda Packet: "*Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed"* and *"Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion. Frie will follow up with legal counsel, Scott Anderson, for feedback. A docking plan should be shown on the survey".*





There are currently only three "mooring spaces" or lifts on this dock. The dock is this long because it is too shallow for lifts in closer.



The picture above shows another location on the NE side of Pelican where a resort was converted to individual cabins. It has over twenty "mooring spaces". Whatever the current limit is set at, it will likely expand in the future.

"*Property owner would like to get out of the resort business*". I don't think that the current owner has ever been in the resort business!

The conversion of this property from WD to SD would be a reasonable request for a conversion from resort to private use, but not for twelve owners to share one lot. The age of the white cabins that exist, and the statement that they desire year round use, indicates that new owners will likely want to demolish and rebuild.

I believe that if the conversion is made from WD to SD the Owners should be required to remove the white cabins and the lakefront cabins and use the newer large cabin that the Swensons' built and the guest cottage West of it (labeled lot 11 and 12 on the drawing). Then it would conform to the regulations. The purchase price of $1,525,000 for the newer cabin with this much land is comparable to other sales. The property owner has enough value after removing the old resort cabins. The desire to "develop" the property is wrong and should be denied.

Paul Arnesen

RECEIVED
By Kirstin Lindbery at 11:47 am, Mar 18, 2021

From: Donna Boe <dboe@boeelectrical.com>
Sent: Thursday, March 18, 2021 8:05 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments for 3/18/21 Public Hearing
Attached are our comments regarding Pelican Beach resort conversion. We oppose the conversion. Thank you.

Donna Boe
BOE Electrical Contractors Inc.
20975 Elk Lake Rd NW, Elk River, MN 55330
Office: 763-241-8922 | Mobile: 612-309-4557

March 18, 2021

To: Crow Wing County Planning Commission/Board Adjustment
landservices@crowwing.us

Re: Comments for March 18, 2021 Public Hearing
Property owner: Miles, Joshua; Pelican Beach Holdings LLC
Parcel: 73040571
Site location: 26746 County Rd 4, Nisswa, MN 56468

After reviewing the lengthy information packet provided regarding the three requests for the Pelican Beach Resort conversion, we are writing to oppose the resort conversion. We hope you will take the following comments into consideration.

Land Use Map Amendment – from Waterfront Commercial Zoning to Shoreland District Zoning
The purpose of the shoreland district zoning is to "preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shorelines, protect drinking water sources, and provide for the wise use of water and related land resources". The reclassification and numerous variances could possibly create a negative impact to preserving and enhancing Pelican Lake. How will the extra number of people on the site preserve and enhance the natural environment?

The shoreland district zoning standards should be met before any rezoning should occur. Currently, the waterfront commercial zoning standards are not met.

Variances for Lot Area and Lot Width for proposed Lots
The lot area is only 1,792 square feet where 30,000 square feet is required. Pelican Beach Holdings is asking for a variance for all (13) lots for dwelling units Where would potential residents store their items if no additional structures will be added (to avoid junk piling up)?

The lot width is only 23 feet where 100 feet is required. Again, Pelican Beach Holdings is asking for a variance for (13) lots for dwelling units and (1) common lot for open space.

Density calculations are over what is allowed in Tier 1. Variance is asking for six dwelling units to be approved in Tier 1 where one is allowed.

Preliminary Plat consisting of 14 total lots: (13) lots for residential dwelling units and (1) common lot for open space
The public notice received in the mail states a total of 13 lots. The final information packet states 14 total lots.

Thank you for your consideration and the opportunity to comment.

Chris and Donna Boe
26832 County Rd 4, Nisswa, MN 56468
Mailing: 20975 Elk Lake Rd NW, Elk River, MN 55330
dboe@boeelectrical.com

RECEIVED
By Kirstin Lindbery at 2:48 pm, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort

-----Original Message-----
From: Chuck Carter <chuckc7@tds.net>
Sent: Monday, March 15, 2021 2:38 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: Bill Etmund <bill@etmund.com>; paul.arnesen <paul.arnesen@comcast.net>
Subject: Pelican Beach Resort

Hello Kiki,
I am writing to share my opinion on the rezoning and variance request for parcel #73040571, known to me as Pelican Beach Resort. I oppose the plan to convert resort cottages into single family, privately owned dwellings. The density issue alone is enough for denial. After looking at the photos of the existing cottages it doesn't take much imagination to conclude these are basically tear down buildings. As new owners want to upgrade the variance process seems unjustifiable to me. I don't think this plan is in the best interest of the health of Pelican Lake going forward.

Chuck Carter (long time owner on Pelican Lake).

Sent from my iPad

Kirstin Lindbery

From: Sam Dally <sdally@gqlaw.net>
Sent: Wednesday, April 14, 2021 9:51 AM
To: Kirstin Lindbery
Cc: Jacob Frie; lakeedwardtwnshp@gmail.com
Subject: For the Record - Pelican Beach Holdings
Attachments: Lake Edward Township Objection.pdf



Hi Kiki,

I attended the Lake Edward Township board meeting last night. Virtually everyone at the meeting was concerned about the number of people possible on so small a parcel of land, the lack of proposed limitations or management plan submitted, the lack of submission of any evidence to justify such an extreme deviation from the Land Use Ordinance and the loss of another Resort in Crow Wing County.

The township asked that I deliver this formal objection to the county on its behalf. I have copied the township on this email so they are aware that the objection has been sent. Please confirm receipt and include this in your upload on the meeting portal.

Thank you,

Samuel J. Dally
Attorney at Law

Gammello-Pearson
Attorneys at Law

P.O. Box 2629
14275 Golf Course Drive, Suite 200
Baxter, MN 56425
Tele: 218-828-9511
Fax: 218-824-8545

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RECEIVED
APR 14 2021
BY:_____

April __, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Lake Edward Township recommends denial of Pelican Holdings LLC Zoning Application

Dear Board Members:

Thank you for the opportunity to comment on and reply to this matter.

The Lake Edward Township Board has reviewed the information provided by the county and recommends that the application of Pelican Holdings LLC, as submitted, be denied.

The Lake Edward Township Board recommends denial of the Application, as submitted, for the following reasons:

1. **This is not a Resort Conversion.** The application is advanced as a Resort Conversion. The Applicant has failed to provide proof of licensure by the state of Minnesota and, at the last meeting of the Planning and Zoning Board of Adjustment, Attorney James Gammello asserted that according to his contact with the Department of Health, no Resort License has been issued to the Applicant for the property. According to the Land Use Ordinance (the "Ordinance") definitions of "Resort", whether it is the "Resort, Traditional" or "Resort, Shared Capital", (p. 172 of the Land Use Ordinance) the following is required:

> The entire parcel of land must be owned, controlled and managed by the **single business entity** which comprises the **commercial establishment**. In order to qualify as a resort pursuant to this definition, the commercial establishment shall also be fully **licensed** and permitted under the appropriate state and local regulation.

If a Resort License has been issued by the Minnesota Dept. of Health, please send us a copy for our records. However, even if a Resort license is produced, the Applicant's submission should still not be treated as a Resort. The proposed use does not comprise a "commercial establishment". Rather, this is simply a developer's effort to divide a parcel of land into as many Lots for resale as possible and to justify the request by the assertion that this is a Resort Conversion. The Ordinance definition of "COMMERCIAL" is set out at p. 157. "Any use or establishment pertaining to commerce or mercantile for the sale, lease, rental or trade of products, goods and services". This definition does not include "real estate, Lots or Units".

not meet the Ordinance's subdivision requirements but rather seeks a total deviation of the lot standards and requirements.

3. **The non-conformities on this property do not justify granting a lot for each existing structure.** Regarding the existing non-conformities, some of our board members recall cabins being moved from a nearby resort to a property near this location on Pelican Lake over 20 years ago. If any buildings were moved onto this property without a permit, they are not legal, since the county passed its zoning controls around 1971.

This board fully understands the balancing interests of private land rights and neighbor concerns. However, this property can be put to reasonable use without this extensive re-development. It is inconsistent with the Ordinance to allow this gross deviation from the Ordinance while requiring neighbors to comply with the Ordinance. The Ordinance states clearly:

> 2.2 CONFORMITY WITH THIS ORDINANCE All land uses shall conform to the provisions of this Ordinance as follows:
>
> A. All new buildings or structures constructed, converted, enlarged, or moved shall conform to the provisions of this Ordinance.
>
> E. No lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. **Lots created after the effective date of this Ordinance shall meet all minimum requirements established by this Ordinance.**

It would be arbitrary and capricious to approve this application with its substantial deviations from the Ordinance.

4. **Variances should not be used to justify this Application**. We have been informed that the standard for granting variances is "practical difficulties". We set out below our answers (underlined) to the practical difficulties questions:

> (1) how substantial the variation is in relation to the requirement: this application's requested plat does not appear to meet any of the subdivision requirements of the Ordinance and therefore would require virtually a total disregard and deviation of the Ordinance. The Ordinance permits one (1) unit in the first tier, this application originally requested six (6) and now seeks five (5); the lot area requirement requires 27,000 sq ft and this application requests less than 2,000 sq ft in most cases and the biggest lot proposed is 6,287.6 sq ft. Proposed lot widths are 23 ft when 100 ft are required. The application indicates that the impervious coverage will not be changed yet the application proposes additional building footprints that will increase the building envelopes, and impervious coverage.
>
> (2) the effect, if the variance is allowed, of the increased population density thus produced on available governmental facilities * * *; nominal effect.
>
> (3) whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created; the proposed development

In short, contrary to the Ordinance, the requested variances are too extensive, are not in harmony with the purpose or intent of the Ordinance, are contrary to the comprehensive plan of favoring resorts, the difficulty or circumstances are just now being created by the landowner in order to sell individual lots, and involves merely economic considerations, not for purposes of running a resort, and the issuance of the requested variances would change the essential character of the neighborhood or locality and in our opinion would be arbitrary and capricious.

Thank you for your consideration.

Lake Edward Township

By: George R Burnard 4-13-21

George Burnard /Township Supervisor Chairman

RECEIVED
By Kirstin Lindbery at 8:25 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort Conversion Objections
Attachments: Resort Conversion Letter.docx

-----Original Message-----
From: John R Elkins <elkjc1972@gmail.com>
Sent: Monday, March 15, 2021 7:51 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Pelican Beach Resort Conversion Objections

Kirstin, attached please find our public comments regarding the proposed Pelican Beach resort conversion. Please distribute as appropriate prior to the Planning Commission/Board of Adjustment meeting March 18, 2021.

Also, please confirm your receipt of this email and attachment.

Thanks, Kirstin.

To: Crow Wing County Planning Commission/Board of Adjustment
From: John and Carol Elkins, 26826 County Road 4 (year-round resident)
Date: March 15, 2021

After reading and reviewing carefully the lengthy packet of information provided by the board, we are writing to submit our comments regarding the request of Pelican Beach Holdings LLC for the proposed resort conversion. As year-round residents who live two properties north of Pelican Beach Resort, we are opposed to the resort conversion and would offer the following comments:

1. The proposed resort conversion does not comply with Crow Wing County's Comprehensive Plan. For example, the county's plan currently encourages that we "protect, preserve and improve the county's lakes, streams and wetlands and that we try to minimize the adverse effects of development county-wide on Crow Wing County's water resources." However, in the request to amend the official land use map for parcel 73040571, the variances are so extreme that they may actually cause adverse effects to Pelican Lake.
2. Not only does the parcel not conform to the county's current Waterfront Commercial zoning standards, it will also fall far short of meeting the standards of the Shoreland District zoning, the predominant zone for this section of Pelican Lake. For example, the variance requests would:
    a. Drastically minimize the required lot area,
    b. Significantly minimize the required lot width, and
    c. Allow six lots in Tier 1 where current regulations would allow only one lot.
3. If approved, the reclassification of this parcel would negatively impact the health, safety and general welfare of area residents and the public. Without more information, we don't know how many people could occupy this parcel at any given time. But with residents of 12-13 dwellings of various sizes as well as their guests, there is potential for a substantial increase in people using the property. Further complications could result if property owners are allowed to rent out their dwellings to "tenants" as referenced in the community's association articles. Examples of negative impacts could be:
    a. Devaluation of property values in our lake area
    b. Safety hazards related to increased vehicle traffic
    c. Noise resulting from significantly more people and pets
    d. Noise and watercraft traffic related to additional jet skis
    e. Considerably more boat traffic due to 12 lifts (*Note: In the past 7 years, we have seen only 3 boat lifts at the resort, one of which was used by the*

owner.) Thus 9 additional lifts will change both the appearance, noise and traffic in this section of Pelican Lake.

4. The potential for adverse environmental impact as a result of excess people on one land parcel is a grave concern. Again, how will more people on this parcel affect storm water, erosion and sediment control, wetlands, the floodplain, the shoreland and the septic systems?

We remain extremely concerned about the proposed resort conversion. We waited and saved 43 years to retire to our dream property. We enjoy all four seasons here, and consider ourselves lucky to be surrounded by the peace and quiet of nature. Thank you for your consideration.

John and Carol Elkins
26826 County Road 4
Nisswa, MN 56468
Elkjc1972@gmail.com

RECEIVED
By Gina.Roach at 3:34 pm, Apr 16, 2021

Gina Roach

Subject: FW: Public Hearing Comments: Pelican Beach Holdings LLC
Attachments: Resort Conversion Comments #2.docx

-----Original Message-----
From: John R Elkins <elkjc1972@gmail.com>
Sent: Friday, April 16, 2021 3:13 PM
To: Landservices <Landservices@crowwing.us>
Cc: John Elkins <elkjc1972@gmail.com>
Subject: Public Hearing Comments: Pelican Beach Holdings LLC

Note: Please reply that you have received my comments and that they will be part of the public record for the April 19 meeting. Thank you.

RECEIVED
By Gina.Roach at 3:34 pm, Apr 16, 2021

To: Crow Wing County Planning Commission/Board of Adjustment

RE: Pelican Beach Holdings LLC Zoning Requests for Parcel #73040571

Date: April 15, 2021

Comments: John and Carol Elkins, 26826 County Road 4

As year-round residents who live two properties north of the resort, we strongly oppose the resort conversion as currently proposed for the following reasons:

1. The 3.35-acre parcel east of County Road 4 provides inadequate land for 11 individually owned dwellings. Theses condominium units could be occupied by upwards of 100 people on a potentially year-round basis. The resulting congestion on land, water and roadways presents safety hazards to owners and neighbors.
2. If approved, the re-zoning would set a dangerous precedent for the lake. Applicant requests the property be re-zoned from Waterfront Commercial to Shoreland District and be given extreme variances for density, lot area and lot width. The applicant wants the financial benefits of Shoreland District while requesting the density of Waterfront Commercial.
3. The applicant has provided no further evidence or plan to satisfy the legitimate concerns of neighbors. Dozens of property owners put time and effort to submit comments for the first public hearing, and 34 or so people attended the March 18 Zoom, speaking with passion about Pelican Lake and their desire to protect it. The vast majority of these comments opposed the resort conversion as proposed. While the notes of the April 1 onsite review of the property state that the concerns of neighbors will be addressed in the Declaration/Covenants of the Association, that gives us inadequate assurance now as the applicant's requests are being considered.
4. The resort conversion introduces numerous concerns for Pelican Lake water quality. From the April 1 onsite comments, the "Owner noted that he is aware of septic concerns." However, there is no evidence of a plan to address it. Also, has an engineered storm water management plan been submitted with the application?

5. The resort conversion introduces numerous safety concerns. Has the Highway Department been consulted again to determine if a turn lane is indeed required or other safety measures incorporated, especially with the potential for parking across County Road 4? Has the DNR been asked to review the dock plan, given that 11 or 12 property owners since all have a slip at the dock? Will there be a limit of additional watercraft for the property considering there is only 166 feet of shoreline?

We have many additional concerns regarding this resort conversion request, many of which have been expressed by other property owners. In closing, we are asking the Planning Commission/Board of Adjustment to consider what the outcome will be if this request is approved. A parcel of land that is not big enough for two residential lots will have 11/12 postage-size lots/dwellings filled to maximum capacity all summer and potentially longer. The result could ultimately cause an adverse affect to Pelican Lake.

Thank you for your consideration.

Carol and John Ekins

RECEIVED
By Kirstin Lindbery at 12:07 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

From: WILLIAM ELMQUIST <welmquist@comcast.net>
Sent: Thursday, March 18, 2021 10:57 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

William Elmquist & Jill Brubaker (seasonal residents)
Chequemates
26708 County Rd 4
Nisswa, MN. 56468
Parcels #73040505 & 73040533

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Re: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

To whom it may concern,

I was saddened to hear about the closure and sale of Pelican Beach Resort. It was inevitable, I suppose, that the resort owners would eventually move on. The decision to subdivide and develop an entire neighborhood on the resort property, however, is not inevitable and would absolutely be detrimental for the surrounding properties.

This proposal goes far beyond legitimizing the existing non-conformity of the property and would undermine the zoning ordinances which serve to provide consistency and stability to the whole region. The degree of the requested variances is unreasonable and grossly inconsistent with other properties in the area. Specifically, reducing the minimum lot size by almost 1,700% narrowing lot width by 400% and potentially increasing the concentration of dwellings by 600%!

Additionally, there are a couple of items on Page 4 of the Agenda Packet which I challenge. First, there are not currently 12 mooring slips at this location, as stated. By my count, there are barely three. The lake is so shallow at that location that 12 mooring slips wouldn't even be possible. Secondly, it is misleading to say that the "Property owner would like to get out of the resort business". The current property owner has not been "in" the resort business. The new owner chose to buy the resort with the apparent intention of converting/subdividing into smaller lots to be sold off, presumably at a profit. By pursuing this plan, the property owner has created the need for these variances.

If any or all of these requests are approved, a dangerous precedent would be set by encouraging additional sub-divisions in the future and over-development of this area. Cramming in these "postage stamp" lots around Pelican Lake will absolutely not promote health, safety or general welfare of the public.

I request, at the very least, a continuance in this matter so the issues here can be thoroughly considered.

Respectfully,
William Elmquist
Jill Brubaker

RECEIVED
By Kirstin Lindbery at 12:12 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: objection to Pelican Holdings LLC zoning application
Attachments: Objection to Pelican Holdings LLC Application.pdf

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Thursday, March 18, 2021 11:25 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; Jacob Frie <Jacob.Frie@crowwing.us>
Cc: Bill Brekken <Bill.Brekken@crowwing.us>; Jim Gammello <jgammello@gqlaw.net>
Subject: objection to Pelican Holdings LLC zoning application

Good Morning Kiki and Jake
I submit the objection on behalf of my clients who own the property to the north and immediately adjacent to the Applicant's parcel.
Can you send me any updated information since our last correspondence and can you send me the Agenda for tonight's meeting and the sign in link for the video meeting.
I am having some problems with my system and I would like to check to make sure everything is working correctly.
Finally, **the property has not been issued a resort license for 2021**, according to my conversation with the MN Dept of Health.
Resort licenses are issued annually and run from Jan 1-Dec 31 of each year.
I am expecting a call back to confirm when the last resort license was issued. I believe the last license was issued to the former owners.

Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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Certified ▲ Specialist
Real Property Law

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

March 17, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

I have been practicing in Crow Wing County for many years. Over those many years, I have seen a lot of zoning applications and watched as the rules and administrations have changed. The current Land Use Ordinance of Crow Wing County is very good, thoughtfully deals with environmental protections and also gives due regard to the commercial and business interests of the community.

I represent, Pelican Holdings LLC, landowners immediately adjacent to the Applicant who only expect a more reasonable development plan that complies with state and county zoning standards. I have had a brief conversation with the Planning and Zoning staff regarding my clients' concerns. Prior to submitting this objection, I also reached out to the Applicant's surveyor representative to ask for a meeting to attempt to resolve my clients' concerns.

This Application is like none other I have seen. It attempts to bend the Crow Wing County Land Use Ordinance (the "Ordinance"), which supports resorts, to the breaking point. This Applicant seeks the benefits of the resort considerations, requests residential zoning and further requests permission to create for sale 13 residential lots. All of the Applicant's requests need several variances (none of which comply with the Ordinance subdivision or platting requirements) and also requires increasing the existing nonconformity of the land by asking for six (6) residential lots in Tier 1 where only one (1) is allowed.

Pelican Holdings LLC (hereafter "Applicant") is erroneously attempting to re-zone a parcel of land previously operated as a "resort," to a residential zone RR 5 but then is also seeking to retain the commercial waterfront density of a preexisting legal nonconformity. As properly stated in the staff report, Applicant's change of use requires compliance with the Ordinance including, without limitation, Article 33, Article 41 and Article 11. The fact that the property was previously a resort, does not entitle the Applicant to have the same benefits of a resort use in a residential zone or to avoid compliance with the subdivision requirements of the Ordinance. This is simply a developer

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trying to take advantage of the favorable treatment of resorts to obtain 13 residential lots for sale when the land mass is not sufficient for Two Residential Lots. Applicant is seeking to terminate a resort, not retain a resort.

THE APPLICATION ITSELF IS DEFECTIVE

Regarding rezoning, Applicant seeks to rezone the property from Commercial waterfront to RR5. My client has no objection to the proposed zoning change; provided that Applicant's Plat and development plan comply with requirements of RR5 zoning. However, the Application does not appear to meet the requirements of Article 14.1 C or 14.2 of the Ordinance.

There are also significant issues with the Plat. The Applicant proposes lot width to be 23 feet where 100 ft is required for a single-family residential lot and for a duplex residential lot, 200 feet is required. Applicant proposes that all lots only meet 23% and 11.4% of the minimum lot width requirements. This is a deviation of 76% and 88.5% respectively.

Lot size and characteristics are also a glaring problem with the Application. The Applicant proposes that lot area be as follows: Lot 1, Block 1, 1791 sq ft, Lot 2, Block 1, 1980 sq ft, Lot 3, Block 1, 1873.4 sq ft, Lot 4, Block 1, 2063.8 sq ft, Lot 1, where a minimum of 40,000 is required for a duplex and 30,000 sq ft and where the buildable area for a single-family residential lot is 12,000 sq ft and a duplex residential lot is 27,000 sq ft. The Applicant proposes that lot area be as follows: Lot 5, Block 1, 4026.7 sq ft, Lot 6, Block 1, 3575 sq ft, Lot 7, Block 1, 2640 sq ft, Lot 8, Block 1, 2913.8 sq ft, Lot 9, Block 1, 2452.7 sq ft, Lot 10, Block 1, 3063.2sq ft, Lot 11, Block 1, 3752 sq ft, Lot 12, Block 1, 6287.6 sq ft where a 30,000 sq ft is required and where the buildable area for a single-family residential lot is 12,000 sq ft.

Applicant is proposing that none of the proposed residential lots in the proposed plat meet the buildable area or lot square footage requirements of the Ordinance. Regarding required lot square footage, applicant proposes only between 5% and 20% of the Ordinance minimum square footage requirement. This is a deviation between 95% and 80% respectively. Seven (7) of the twelve (12) residential lots are under 3,000 sq ft or 10% of the Ordinance square footage requirement. More than half of the proposed residential lots deviate 90% from the Ordinance square footage requirements. None of the residential lots meet the 12,000 sq ft minimum buildable area requirement. The Applicant proposes six (6) dwelling units in Tier 1 where one (1) is allowed. This is 6 times more than what is permitted. This is more than a substantial deviation from the Ordinance requirements.

The Applicant must meet the subdivision requirements set forth in the Land Use Ordinance. The applicable standard that must be followed is the technical requirements of the Land Use Ordinance. Pursuant to Minnesota law, failure to comply with the technical requirements of the Land Use Ordinance is fatal. Minnesota cases make clear that the minimum requirements of the platting ordinance must be followed. Regulatory standards must be sufficiently precise to ensure the application of objective standards to all similarly situated property, to adequately inform landowners of the requirements they must satisfy to gain subdivision approval, and to allow a reviewing court to evaluate noncompliance. *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567, 572 (Minn. Ct. App. 2003). A local government reviews an application for a permitted use to determine only

whether the proposed use complies with those standards. *Chanhassen Ests. Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 340 (Minn. 1984); *Chase v. City of Minneapolis*, 401 N.W.2d 408, 413 (Minn. Ct. App. 1987).

These minimum standards are paramount. County policy or the County's Comprehensive Plan visionary statements are informative, but always subordinate to the technical requirements of the Land Use Ordinance, including the plat or subdivision requirements. In the case of *In re Skretvedt's Application for Preliminary Plat Approval*, No. A05-2358, 2006 WL 2348499, at *1 (Minn. Ct. App. Aug. 15, 2006), Morrison County denied a plat application that met the technical requirements of the ordinance based on the principals of the comprehensive plan. In *Skretvedt*, the court made clear that "under Minnesota law, when an ordinance specifies minimum standards to which subdivisions must conform, local officials lack discretionary authority to deny approval of a preliminary plat that meets those standards" *Id.* In *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567 (Minn. Ct. App. 2003), the County relied on its vague statements in its comprehensive plan to deny a plat that met the technical requirements of the subdivision ordinance. The court stated:

> "The comprehensive guide plan in this case provides that the county's agricultural goals are to protect long term agriculture as a vital element in the County economy, prevent the unnecessary conversion of prime farmland to non-farm uses, and prevent incompatible land uses in the agricultural areas. (Chisago County Comprehensive Guide Plan at 28.) Like the provisions of the comprehensive plan in *C.R. Invs. Inc.*, the provisions of the Chisago County Comprehensive Guide Plan are unreasonably vague and subjective for the purposes of furnishing a basis for denying approval of PTL's preliminary plat." *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567, 575 (Minn. Ct. App. 2003)

In *Skretvedt*, the court stated: "We also considered whether the comprehensive plan provided an independent basis upon which a denial may rest.. Because the comprehensive plan is a guide, not an ordinance; because even if the comprehensive plan had regulatory effect, its general provisions are too vague to form the basis of a legally sufficient denial; and because the board had already exercised its discretion in implementing the comprehensive plan with the zoning and subdivision ordinances, we reversed and remanded." As was true in *PTL and Skretvedt*, the Crow Wing County Comprehensive Plan is not a basis to approve a plat application that does not meet the subdivision ordinance. The relevant provisions of the Comprehensive Plan state:

"The Comprehensive Plan provides a vision and framework for development in Crow Wing County over the next 20 years and will be reviewed annually for changes and updates. The Comprehensive Plan is an official document adopted by the County Board to guide decisions about the physical development of the County. Any ordinances or other regulations adopted by the County are expected to reflect and support, and otherwise be consistent with, the policies outlined within this Comprehensive Plan. The Plan sets broad policies to direct the future growth and development in the following areas: land use, transportation, utilities, parks, housing, employment and economics, natural resources, and county government. For each topic the Plan identifies specific issues, assigns policies to each issue, establishes a framework to achieve the policies, and identifies implementation strategies for the policy to resolve the issue." (Crow Wing County Comprehensive Plan Pg. 7). The Comprehensive Plan goes on to state that,

> "Tourism is likely to take on a more prominent role in the County's economy. Lakes and other natural resources are key components that attract people to Crow Wing County, as are small resorts, which are slowly being forced out due to increased property values of waterfront property. COMPREHENSIVE PLAN ADOPTED ON 4/27/04 29 The number of resorts in Crow Wing County has declined from 126 in 1985 to 97 in 1998 (source: MN Dept. of Revenue). This is a 30% decrease in just 13 years. In Crow Wing County, the resort industry recorded gross sales of $45,127,052 in 2000 and contributed $2,864,853 in sales and uses taxes (Source: MN Dept. of Revenue). For every dollar spent on lodging by a Minnesota tourist, $2.41 is spent on other items (Source: Minnesota Office of Tourism) resulting a net gross sale in Crow Wing County of $153,883,242 from resort guests. When a resort is sold for individual seasonal use, the local economic impact is severe. A commercial resort cottage contributes 10 times more in local revenue than if the cottage is sold for seasonal home ownership (Source: University of Minnesota)." (Crow Wing County Comprehensive Plan Pg.28-29.)

As in the cases cited above, Crow Wing County's Comprehensive Plan's general provisions are too vague to form the basis of a legally sufficient denial or approval; and the County has already exercised its discretion in implementing the Comprehensive Plan when it adopted the zoning and subdivision ordinances. Moreover, this Application is not an effort to retain an existing resort, rather it is to terminate an existing resort. Finally, these vague policy statements do not justify deviating from the mandatory language of the subdivision ordinance and its technical requirements.

Because this Application does not meet the technical requirements of the subdivision components of the Ordinance, these technical requirements cannot be passed over or disregarded because of the vague references in the Comprehensive Plan. Because this Plat application does not meet the specified minimum standards for subdivision, the County lacks discretionary authority to approve the application. This is true even if there is a policy in the Comprehensive Plan favoring resorts. Merely because there are existing structures on a parcel of land previously used as a resort, the Applicant is not entitled to a residential lot or unit for each existing structure or in this case multiple lots or units for each structure.

Attaching conditions to the Plat is also not appropriate in this case. The Application deficiencies are so extreme and numerous that any attempt to correct the deficiencies by conditions would be meaningless. For example, assume a condition were attached requiring future owners who want to expand a structure to apply for a variance. Once the preliminary plat is approved, the County would be obligated to issue variances, since preliminary plat approval is tantamount to final plat approval, and because the then owners could honestly assert that they were not responsible for the lot being substandard and not compliant with the Ordinance and the County would have already approved a lot of record.

THE BOARD SHOULD ALSO NOT APPROVE ANY VARIANCES

With regard to **existing nonconforming lots in a shoreland area**, the state of Minnesota directs county authority. Minnesota Statutes § 394.36, subd. 5 (a) is clear: "This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local

shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision." Subd. 5(f) further requires: "**(i)in evaluating all variances**, zoning and building permit applications, or conditional use requests, the zoning authority **shall require** the property owner to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions." In this Application, all these issues should be addressed or reasons why they are not appropriate should be stated. Each and every variance should be addressed pursuant to this state statutory requirement.

The extent and number of variances in this application are overwhelming.

Variance is defined in the Ordinance as "Any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause a practical difficulty." (p. 180 of the Ordinance).

PRACTICAL DIFFICULTY, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. (p. 170 of Ordinance).

8.4 VARIANCE CRITERIA

A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.27 subdivision 7. No variance shall be granted that would allow any use that is prohibited in the land use district in which the subject property is located. In considering a variance request, the board of adjustment must consider the following factors:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?
2. Is the variance consistent with the Comprehensive Plan?
3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?
4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?
5. Will the issuance of a variance maintain the essential character of the locality?
6. Does the need for a variance involve more than economic considerations?

STATE STATUTES: Minnesota Statutes § 394.27, subd. 7, governs a county's power to grant variances and provides: Variances shall **only** be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

CASE LAW: In re Stadsvold,754 N.W.2d 323, 332 (Minn. 2008) sets out the six (6) factors for consideration under the "practical difficulties" standard : (1) how substantial the variation is in relation to the requirement; (2) the effect the variance would have on government services; (3) whether the variance will effect a substantial change in the character of the neighborhood or will be a substantial detriment to neighboring properties; (4) whether the practical difficulty can be alleviated by a feasible method other than the variance; (5) how the practical difficulty occurred, including whether the landowner created the need for the variance; and (6) whether, in light of all of the above factors, allowing the variance will serve the interests of justice.

This Application requires a complete deviation from the platting or subdivision requirements of the Ordinance. The variances would totally eclipse or undermine the requirements of the subdivision Ordinance. This Application is not a case where the width of a lot is off by a few feet or small percentage of what is required. This Application would require the County to totally disregard the technical requirements of the subdivision Ordinance and would require a substantial variation from the Ordinance requirements. **This is not a practical difficulty.** Furthermore, the Applicant has created the need for the variance. The property can also continue to be used as it has for many years as a legal non-conforming commercial waterfront property. Only because the Applicant seeks permission to sell 13 residential lots is there a need for extensive and numerous variances. The "need" for the variance is solely the doing of the Applicant. **This is not a practical difficulty**.

Granting the variance would set an untenable standard. It would be untenable to the County since it would allow developers to request all manner of deviations from the subdivision Ordinance (as in this case) regardless of whether even one of the proposed lots or units meet the technical requirements of the Ordinance. It would also be untenable to neighbors, since such a deviation is arbitrary and capricious, and leaves neighbors without a specific measurable basis to properly object to such an application. It also is untenable because neighbors wishing to object are essentially told that when a new owner wants to expand a structure, they can voice their concerns in a future hearing where future variances will be considered; when such concerns become weak and meaningless once the county approves a lot of record. Allowing the variances will not serve the interest of justice. **This is not a practical difficulty.**

CONCLUSION

In summary, this is not a resort. This is not intended to be a resort conversion to a shared equity form of ownership. **This is a former resort parcel purchased by a private developer trying to get approval of 13 residential lots for sale to private individuals when the land mass is not sufficient** and where the Application does not and cannot comply with the technical requirements of the Ordinance. The County's Comprehensive Plan is not a legitimate basis of justifying the Application. The Application does not comply with the technical requirements of the Ordinance and must be denied. Attaching conditions to any approval is insufficient where the deficiencies are so extreme and numerous and would undermine the ability of the County or neighbors to object to the deficiencies. Once preliminary plat approval is granted, the County would be obligated to issue variances. Variances should likewise not be granted because the Application does not meet the "practical difficulties" legal standard. The "need" for the variance is solely the doing of the Applicant. **This is not a practical difficulty**. The extent and number of variances requested totally

eclipse the requirements of the ordinance. **This is not a practical difficulty.** Allowing the variances will not serve the interest of justice, rather, to the contrary, would take away the County's ability and the ability of neighbors to meaningfully object to future variances. **This is not a practical difficulty.**

Sincerely,



James M. Gammello

JMG/lmb

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Objection to Pelican Holdings LLC application final.docx

Kirstin Lindbery

Subject: RE: building permits for alleged duplexes on Pelican Beach Holdings property

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Friday, March 26, 2021 2:49 PM
To: Jacob Frie <Jacob.Frie@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: building permits for alleged duplexes on Pelican Beach Holdings property

Hi Jacob
I have reviewed all the on line permits for the above application. Some of the writings are a bit difficult to read.
I have not been able to locate any building permits for the alleged duplexes. Could you please send me the permits, if they exist or confirmation that you do not have any building permits for the alleged duplexes. Please also let me know what it would cost to obtain better copies of the permits of record. I am happy to pay the cost for the reproduction or to send someone over to the county to make copies.

If there are no permits for the alleged duplexes, said structures are not legal non-conformities. In fact, these structures are a potential violation of the ordinance and if there are existing violations the application cannot continue unless the Applicant agrees to remove any structures that are not properly permitted.

According to the county records, these alleged duplexes simply appear on illustrations in the fall of 2001 when rezoning to CW was requested. Prior to that date no application for this property even illustrates any structures in the first tier, except a 18 x 20 boathouse, a 14 x 20 screened picnic area(permit issued 1973) and a mobile home that was moved by CUP in 2.2. 83 when the then owner requested permission to build a 2 x 30 cabin meeting all setbacks.

Please also add this letter to the public record for this application.

Thank you

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

P.O. Box 2629 *100 First Street Southeast*

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RECEIVED
By Kirstin Lindbery at 11:48 am, Apr 13, 2021

Kirstin Lindbery

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Tuesday, April 13, 2021 11:39 AM
To: Kirstin Lindbery; Jacob Frie
Cc: Gary Griffin
Subject: RE: For the Record Pelican Beach Holdings
Attachments: Frie, Jacob - CW County RE Pelican Beach Resort.pdf

Thank You Kristin.
Please find my attached correspondence.
I have been trying to understand the zoning record regarding this parcel and am at a loss to make sense of it. I suspect others, likewise are finding the zoning record confusing.
Consequently, I request that this matter be removed from the April 19, 2021 Agenda until the zoning record is clear and verified.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

April 13, 2021

Via email: Jacob.Frie@crowwing.us

Jacob Frie
Planning Commission and Board of Adjustment
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Objection to Pelican Holdings LLC Zoning application
Our File Number: 20521.003

Dear Mr. Frie:

Please let this letter serve as a formal request that this matter be taken off the Board of Adjustment agenda for April 19, 2021, based on the lack of opportunity to review the complete zoning history of this parcel. It is a fundamental principal that the purpose of a hearing is for the presentation of all relevant facts and information and the opportunity to be heard. Without a clear zoning record and history, any decision would be arbitrary and capricious.

I also request that zoning staff summarize the zoning history for the board members, the public, Lake Edward Township, and others who need this information to properly prepare for the hearing. The recent posting of the zoning history raises new questions. Document numbers 69089 and 69090 are very confusing. I presume because of the document number that 69089 came first, but 69089 appears to come after 69090 because the court orders the Zoning Office's issuance of the CUP with conditions as directed by the judgment of the court in February 1993. Document numbers 42628 and 52897 are also confusing. How many conditions were attached to the CUPs, what were those conditions, and were they ever amended?

I further suspect, since these documents were recently discovered after permitting questions were raised, that this entire application has been premised on inadequate and incomplete information. I presume all the staff comments and on-site reviews were premised on less than the full zoning record. Likewise, I suspect that decisions made by the Planning and Zoning Commission or Board of Adjustment after 1993 were also made without the benefit of the recent permits posted to the website.

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† Real Property Law Specialist
▲ Rule 114 Qualified Neutral

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Little Falls, MN 56345
T: (320) 632-3606 F: (320) 632-3567

In the interest of a just and fair legal process and a meaningful hearing, this application should not proceed until the zoning history is comprehensively understood and verified. Moreover, because the hearing is scheduled in less than one week, even if you are able to summarize and verify the complete history of this property in time for the hearing, the members of the Board of Adjustment and others concerned with this application should be given a reasonable amount of time to review and respond to the new information.

I also request that you prepare a link to all these documents as part of the posting today, which may be helpful or informative to all concerned.

Finally, please make this letter part of the record of this application.

Sincerely,

James M. Gammello

JMG/lmb

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Fric, Jacob - CW County RE Pelican Beach Resort.docx

RECEIVED
By Kirstin Lindbery at 1:38 pm, Apr 12, 2021

Kirstin Lindbery

From: Landservices
Sent: Monday, April 12, 2021 12:55 PM
To: Kirstin Lindbery
Subject: FW: Pelican Lake Parcel #73040571 Resort Conversion

From: Dennis Gartner <dwg@ecs-sales.com>
Sent: Sunday, April 11, 2021 4:02 PM
To: Landservices <Landservices@crowwing.us>; Jay Pansing (jep@jaypansinglaw.com) <jep@jaypansinglaw.com>; Patty Pansing (pattypansingbrooks@brookspanlaw.com) <pattypansingbrooks@brookspanlaw.com>
Subject: Pelican Lake Parcel #73040571 Resort Conversion

TO: Crow Wing County Commissioners

Why do you even consider a request of this type?

You have developed rules and regulations for the purpose of controlling density, environmental pollution, esthetics and safety. The existing resort violates many of these rules, and now we are considering approving further gross violations of the existing regulations. For what reason or hardship to the existing owner? I guess the answer has to be, they plan to make a quick bundle of money and without the approval of these ridiculous requests, that won't be as easy.

I will leave it up to the lawyers to point out all of the past violations and the additional ones that would occur if this plan goes forward.

As a nearby property owner I am totally opposed to these requested variances.

Sincerely,
Dennis Gartner

RECEIVED
By Kirstin Lindbery at 1:48 pm, Mar 12, 2021

From: Amy Gorton
To: Kirstin Lindbery
Subject: Pelican Beach Conversion
Date: Friday, March 12, 2021 1:47:21 PM

Hello Kirstin:

I wanted to reach out to voice my concerns about the proposed changes to Pelican Beach Resort. I am concerned about the impact of such a conversion, with multiple dwellings, on the neighborhood and Pelican Lake itself. It seems very much out of character with the quiet, family cabins surrounding the property and I am therefore against such a conversion. I'm also concerned about the short timeline for the community to voice their concerns.

Thank you for your attention.

Amy Gorton
26888 County Road 4 N
Nisswa, MN

RECEIVED
By Kirstin Lindbery at 8:20 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Parcel 73040571 Pelican Beach Holdings LLC

From: Ann Groover <agroover12@gmail.com>
Sent: Monday, March 15, 2021 5:18 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Parcel 73040571 Pelican Beach Holdings LLC

To: Kirstin Lindbery
From: Ann Groover

Re: Parcel 73040571 Pelican Beach Holdings LLC

Dear Kirstin,

First and foremost, I am a long time summer resident who loves the lake and its clear waters. However, my concerns about this proposed conversion are many.

The setbacks on the property are way out of compliance and variances have been permitted that should not have been. The front two buildings should be removed.

The proposed density would put stress on the lake, the septic system and the water aquifer. The dozen or more cars would add to pollution.

The plat shows 12 slips that were never there before. Waterfront commercial regulations allow for only transient docking, not constant.

Many of the cabins have not been updated and are much as they were when I stayed in them 54 years ago. What improvements would be allowed?

This conversion in zoning should not be permitted as proposed.

Sincerely, Ann M Groover

RECEIVED
By Kirstin Lindbery at 11:32 am, Mar 17, 2021

Kirstin Lindbery

Subject: FW: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)
Attachments: Halberstadt Variance Response.pdf

-----Original Message-----
From: Landservices <Landservices@crowwing.us>
Sent: Wednesday, March 17, 2021 11:11 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: FW: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)

-----Original Message-----
From: Brad Halberstadt <brad@szjlaw.com>
Sent: Wednesday, March 17, 2021 11:01 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)

Attached please find my written comments related to the above-referenced request scheduled for hearing on March 18th. Thank you for your consideration.

.....
Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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RECEIVED
By Kirstin Lindbery at 11:32 am, Mar 17, 2021

Memorandum of Comments and Objection to
the Requests of Joshua Miles and Pelican Beach Holdings, LLC
for the Land Use Map Amendment, Variances and Preliminary Plat
Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 8375 80th St. N, Stillwater, MN 55082

RE: Submission of Comments for Public Hearing scheduled March 18, 2021

DATE: March 17, 2021

INTRODUCTION

This Memorandum is submitted in response to the notice for Public Hearing regarding various requests of Joshua Miles and Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be a chorus of legitimate concerns and attendant objections to these requests – as well as an objection to the limited time allowed to submit such responses.

STANDING AND PRELIMINARY REASONS FOR COMMENTS AND OBJECTION

My connection to Pelican Lake undoubtedly pales in comparison to many of the existing land owners - it began nearly 40 years ago when my former in-laws purchased a house on the south side of the lake. From the moment I first saw it, I was instantly in awe of the beauty, serenity and inherent charm of what seemed to be a little slice of Heaven on Earth.

As the years passed, I dreamed about escaping the hustle and bustle of Minneapolis and returning to the lake and live that dream into retirement. As fate would have it (with the able assistance of Mary Nolan), I was lucky to find and purchase an undeveloped lot situated four properties to the north of the Pelican Beach Resort. Like others on the lake, my wife and I decided to put down roots and make a major investment (both monetarily and personally) on this remarkable location. Part of what convinced us to make that investment was the continued beauty, serenity and peacefulness of the lake that seemed undisturbed from the previous 40 years – and our hope that the protection of this jewel by the County, lake association and land owners would continue for future generations.

So, that's my story for standing to submit these comments and, ultimately, the reason for joining in the chorus of comments and objections to the Applicant's requests. I am encouraged to be surrounded by others that have much deeper roots but share the same commitment to preserve this special place for future generations – not by selfishly blocking development, but simply requiring compliance to both the letter and purposes of the existing rules set forth in County's Land Use Ordinance that exist to protect the lake and surrounding properties from the negative consequences that will likely result from the radical deviations from the established rules requested by the Applicant.

COMMENTS REGARDING LIMITED NOTICE

Prior to setting forth substantive comments, I am concerned with the limited time for submission of comments. While I did receive the notice at my house in Stillwater a few days ago, I can't help but wonder whether that is true for owners that are avoiding winter in states outside of Minnesota. Mail has certainly been less reliable since COVID – especially when it crosses long distances and state lines. I can't help but wonder if many of these outstate landowners even received the notice during our winter of continued COVID. Accordingly, I question whether the timing of consideration for the request is appropriate at this time.

Even if the notice was timely received, the notice promised that the information packet containing the request would be available after March 11, 2021 – only a week prior to the Public Hearing. I have a feeling I was not alone in continuously pounding the keyboard on March 12, 2021 - attempting to obtain the promised information packet. The link to the information packet did not show up until Saturday, March 13th. While March 13th is technically after the March 11th date set forth in the notice, I have a feeling that many less compulsive people gave up their quest after exhausting their efforts on March 12th.

All that said, the information packet is an eye-popping 110 pages containing an incredible amount of detail, drawings and pictures – all to digest in a mere few days. Not to mention the time required to pour over the County's Land Use Ordinance to find the applicable provisions, rules and purposes. Quite a daunting task just to digest all this material within such a limited time – much less to cobble together a lucid response to three requests with multiple parts involving what appears to be radical deviations from existing rules. To my knowledge, the Applicant has not previously discussed with any of the neighboring landowners any of the radical deviations set forth in the request since purchasing the property – meaning that the neighbors and all stakeholders on the lake had no idea this was even on the table or any opportunity to consider the risks and impact related to such changes. Everyone would benefit from additional time for further analysis and consideration – not only because what is in the request but, as described below, what is missing from the request. For that reason, I again question whether the timing of consideration for this request is appropriate at this time.

SUBSTANTIVE FACTS INCLUDED (AND NOT INCLUDED) IN THE REQUESTS

Facts Set forth in the Information Packet

As noted by the notice of Public Hearing, Applicant has teed up three requests for consideration to be addressed at the Public Hearing, purportedly related to a resort conversion:

- Land Use Map Amendment – from Waterfront Commercial (WC) Zoning to Shoreland District (SD) Zoning
- Variances for Lot Area and Lot Width for proposed lots
- Preliminary Plat consisting of 13 total lots: (12) Dewlling Units and (1) Common Lot

The information packet (if you managed to get to Packet Page 97) expands the detail of the two variance requests in the notice of Public Hearing and contains a new variance request that was not included in notice of Public Hearing:

- Minimum Lot Area of 1,792 square feet where 30,000 feet is required
- Minimum Lot Width of 23 feet where 100 feet is required
- To allow six (6) dwelling units in Tier 1 where one (1) is allowed

The survey on Packet Page 8 (the "Survey"), at least on paper, provides some indication of what is really being proposed by Applicant. They are drawing lines around existing structures to create individual lots. The Survey, however, does not propose to bring the property into compliance (as required by the rules) but demonstrates admitted violations connected to the proposed conversion.

First, the Survey shows the following proposed individual "postage stamp" lot sizes for the twelve dwelling units on Block 1:

Lot 1	1792.1 square feet
Lot 2	1980 square feet
Lot 3	1873.4 square feet
Lot 4	2063.8 square feet
Lot 5	4026.7 square feet
Lot 6	3575 feet
Lot 7	2640 square feet
Lot 8	2913.8 square feet
Lot 9	2452.7 square feet
Lot 10	3063.2 square feet
Lot 11	3752 square feet
Lot 12	6287.6 square feet

Second, the survey notes shows the following Lot Density Table resulting from the proposed lot division:

Tier	Density Allowed	Density Proposed
1	1	6
2	6	6

The Survey indicates approximately 165 feet of lakeshore to be shared by these 12 individual dwelling units – or just under 14 feet of lakeshore per unit. At least one of the duplexes is only 67.6 feet away from the lake. Finally, the Survey shows 12 slips – one for each dwelling unit.

The implied purpose for the requested rezoning, multiple variances and replatting is to convert the resort into a "planned community" – as evidenced by a draft of a planned community document included in the information packet.

Facts NOT Set forth in the Information Packet

Peter Drucker once said, "The most important thing in communication is hearing what isn't said." This applies in at least six important omissions in this request.

First, there is no mention of any prior discussion by Applicant with the neighbors about any of these plans or solicitation of comments/inputs. Trying to push this through on short notice during the winter when many of the neighbors are absent is also suspect.

Second, while there are exterior pictures of the property, they fail to demonstrate the current non-compliant nature of the property and the condition of each of the existing structures. Most of these structures aren't in the best condition – undoubtedly one of the reasons for the resort ceasing operation. There is no doubt that this could not be built today. That is why the Applicant is seeking the radical variances from the existing rules. They don't disclose that at least one of the structures also violates the current setback restrictions. But more about that later…..

Third, there is no discussion of why the property should be treated as a resort or the extent of the prior use of the resort when it was operating (as Applicant has never run the property as a resort). For example, what was the previous actual use of the resort? How often were these structures actually occupied? How much lake activity was generated on the lake? What was the maximum number of slips used by the resort? I know I have never seen 12 slips on that property. None of these facts are contained in the information packet. But they are important in determining whether the proposed use is reasonable or even close to the activity from the resort in the past.

Fourth, there is no discussion of the real intent behind the requests or what happens if the variances are granted. In other words, what will become of this nonconforming property if the radical variances are granted? We are left to guess what will happen to the existing non-compliant properties. Is the plan to tear them down and rebuild? Why cut a duplex in half? What is the plan to handle all the extra traffic from individual ownership? How is it possible for a new lot to comply with the existing rules if/when replacement were to take place? Will they be torn down? What will they be replaced with? How will the variances and or the planned community benefit the neighborhood? What protections will be in place to insure the protection of the lake and shoreland as a result of increased use and traffic from the

planned community? Why shouldn't the rules be enforced and the non-compliant parts of the property be addressed at this time instead of perpetuated by dividing up the existing lot into "postage stamp" lots? What impact will there be from individual ownership on the shared resources of the community and increased density on the property?

Fifth, there is a vacuum of facts to support any of the requests for variance. There is no description of how the proposed reclassification is in accordance with the County's Comprehensive Plan. There are no facts to support a reclassification due to changed land use circumstances. There are no facts to support why the property isn't suitable to conform with the exiting density rules. There are no facts to demonstrate how the request wouldn't result in a detrimental impact to property in the immediate vicinity. There are no facts to support how the request would promote the health, safety and general welfare of the public. There are no facts to support how the requests for variance is in harmony with the purpose and intent of the Land Use Ordinance. There are no facts to demonstrate that the requests for variance will result in the Applicant using the property in a reasonable manner not permitted by the Land Use Ordinance. There are no facts to support the need for the requests for variance are due to circumstances unique to the property and not created by the Applicant. There are no facts to support that the requests for variance will maintain the essential character of the locality. There are no facts to support that the need for the requests for variances involve more than economic considerations. The plat request fails to adequately address the environmental issues, including septic, and shoreland protections.

Sixth, there are not facts to support why the Applicant won't follow the existing rules and bring the property into compliance as required upon a resort conversion. Nor is there a claim for practical difficulties on why the existing rules cannot be followed. Instead, the requests for variance lead to the conclusion that Applicant simply purchased the property to cut it up and sell off the parts – and seek variances to get around the existing rules. Perhaps that isn't the case – but there is nothing in the information packet that describes an alternate conclusion.

In short, there is more that is not said than what is said……..

ANALYSIS OF THE REQUESTS

At the outset, it is important to note that I have no knowledge of the Applicant and I am certainly not against development – assuming that development follows the rules. If the property truly is a resort, Applicant is well within their rights to seek to convert the resort as set forth in Article 34.13 of the Land Use Ordinance – assuming, again, that Applicant complies with the rules on conversion (more about those rules later).

In fact, I was hoping that the purchaser of the resort would develop the property in a way that enhanced the treasure that we all share by following these rules and improving the property. Unfortunately, the requests set forth in the information packet don't evidence a plan to either develop according to the rules or enhance our shared treasure by bringing into compliance or improving the structures on the property. Instead, the requests demonstrate radical deviation from carefully formulated

rules to balance the rights of individual and collective ownership and to protect this amazing land for future generations.

I do not mean to imply that all planned communities are inherently evil. Just the opposite. I would not be submitting these comments if the survey followed the rules related to lot density, minimum lot sizes and minimum lot widths – most importantly the Tier 1 density rules. But the survey and requests do little more than subdivide duplexes, draw lines around the existing questionable structures, seek radical variances for nonconforming minimum lot sizes, nonconforming minimum lot widths and, most important, nonconforming minimum lot densities – just to announce that it is all really being done so the resulting nonconforming lots can be sold off as part of a new planned community. In short, it looks more like Applicant purchased the property solely for the purpose of exploiting the fact that it used to be a resort in order to make a quick buck by flipping the property. But that is probably my opportunistic side rearing its ugly head. I can't deny that thought crossed my mind when the property went up for sale…… I lacked the confidence that I could get the required variances to capitalize on that thought and, in good conscience, expose the lake, shoreland or neighborhood to the risks I describe herein.

But I digress…... We are here to consider Applicant's various requests for variance. While these requests are individually listed, they probably should be treated together. I assume that the Applicant wouldn't really want the property to be rezoned from commercial to residential if there is not granting of all of the requested variances. I can't imagine the replatting would make sense if the variances weren't granted and or the rezoning were denied. So, I'm going to focus on what gives me the greatest pause – which are the three requests for variance.

Purpose of the Land Use Ordinance

Before analyzing the requests for variance, though, it is important to recognize the stated purpose and goal in the County's Land Use Ordinance. Article 1.2 of the Land Use Ordinance describes its purpose and how it is to be used to promote the health, general welfare and orderly development of Crow Wing County:

> It is the purpose of this ordinance to protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations. Further, it is the goal of this ordinance to promote the health, safety, general welfare, and orderly development of Crow Wing County by:
>
> A. Regulating land use in accordance with the County Comprehensive Plan.
>
> B. Promoting orderly development of the residential, business, industrial, recreational and public areas of Crow Wing County.
>
> C. Dividing the County into land use districts.
>
> D. Regulating the location, height, and bulk of structures.

E. Preserving the economic and natural environmental values of shorelands.

F. Regulating setbacks.

G. Regulating sizes of lots, yards, and other open spaces.

H. Preventing overcrowding of land and undue concentration of structures.

I. Encouraging compatible developments of different land use and the most appropriate use of land within the County.

J. Maintaining and enhancing the quality and condition of natural resources within the County.

K. Providing adequate access to air, direct sunlight, and convenience of access to property.

L. Bringing all non-complying subsurface sewage treatment systems into compliance.

This ordinance is also intended to protect the shoreland of public waters and the shorelands of the Mississippi River and Headwaters Lakes it flows through, and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use and protection of waters and related land resources.

Limited Nature of Variances

Before analyzing the requests for variance, it is also important to recognize the limited nature of variances. After all, variances are nothing more than requests to break the rules that are meant to govern all property owners. Exceptions to rules should be just that – exceptions. Article 8.4 of the Land Use Ordinance reflects the limited nature of variances and requires specific findings in order to break the rules implemented to "protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations":

A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.27 subdivision 7. No variance shall be granted that would allow any use that is prohibited in the land use district in which the subject property is located. In considering a variance request, the board of adjustment must consider the following factors:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

5. Will the issuance of a variance maintain the essential character of the locality?

6. Does the need for a variance involve more than economic considerations?

Finally, Minn. Stat. Sec. 394.27, subdivision 7 entitled "Variances; Practical Difficulties" provides:

> The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Comments on Individual Requests for Variance

With those things in mind, it is relatively easy to see why each of the requests for variance fail to meet either the general purposes and intent of the Land Use Ordinance or the other requirements necessary for the granting of a variance.

1. <u>Request for Variance on Minimum Lot Area</u>

There are at least two applicable rules set forth in the Land Use Ordinance that deal with lot area. Applicant acknowledges that Article 11.3 requires a limited lot area of 30,000 square feet. In addition, Article 2.2.E. states that:

> No lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots created after the effective date of this Ordinance shall meet all minimum requirements established by this ordinance.

Nevertheless, Applicant requests a variance for each of the 12 lots with a dwelling unit – the magnitude of which is a quite extreme deviation. The smallest proposed lot size is only 1792.1 square feet – nearly 17 times below the required minimum. The average lot size of the 12 lots is approximately 3,000 square feet – 10 times below the required minimum. To say these are "postage stamp" lots is really an understatement. The same is true with dividing the duplexes into separate lots. This deviation isn't just bending the rules – it is so far off the required minimum to literally obliterate the rule.

While it might be argued that these dwellings presently exist in the context of the resort – that argument suffers from two main flaws. First, a resort is under the sole control of the resort owner. Having a single owner with responsibility over multiple dwellings is far different than having twelve separately owned dwellings with such extremely small lot sizes. Second, Applicant has never used the resort in this manner and there is no evidence that it was ever used to this extent. These "cabins" located on the property are non-compliant and certainly haven't been occupied for some time. Does it really make sense to create lots around uninhabited structures with questionable habitability and no plan to improve them – just to maximize the number of lots in the planned community – especially when the lot size deviates so far from the rule?

In order to meet the goals of the Land Use Ordinance, one of the stated actions is to regulate the sizes of lots (Article 1.2.G.). It hardly promotes the general welfare by turning a blind eye to the lot size requirement – especially when the request for the variance on the lot size is being sought only to flip an old resort into a planned community to sell off the individual "postage stamp" lots. Imagine what the lake would look like if everyone sought a waiver of the minimum lot size.

2. Request for Variance on Minimum Lot Width

The request for a variance on minimum lot width suffers from the same problems as minimum lot area – especially on a lake. The rule is that the minimum lot size is 100 feet. The property at issue has approximately 165 feet of lakeshore – within the 100 feet requirement set forth in Table 11.1. The request for variance acknowledges the minimum lot width is 100 feet, but seeks a variance to reduce that requirement by over 75% - down to only 23 feet.

In reality, the request is that 165 feet of lakeshore be shared by 12 lots with 12 dwelling units. That is less than 14 feet of lakeshore for each dwelling. Stated another way, each dwelling will be using the equivalent of less than 14 feet of lakeshore – hardly consistent with anything in the neighborhood. That is extremely taxing not only on the property itself – but upon the shared resources of the lake and upon the shared water resources, electricity, dispersion of sewage, damage from runoff, etc.

Again, there might be an argument that the resort was previously taxing the resources in the same manner. There is no evidence of that argument. Instead, the Applicant has never run the resort and I am confident that the longer term residents could provide insight on that previous use. Such evidence, however, ignores that any such prior use by the resort was under the enforcement of a single resort owner with usage restrictions consistent with a resort. Twelve independently owned "postage stamp" dwellings in such a small area with such a limited amount of lakeshore is simply too far from the rules to allow a variance.

3. Request for Variance on Tier 1 Lot Density

If the violations on the minimum lot area and minimum lot width weren't troublesome enough, the request for variance on the Tier 1 dwelling allowance is nothing short of shocking. Lot density is hugely important for a number of critical reasons. In fact, the Land Use Ordinance recognizes the importance of lot density by having a stated directive of preventing overcrowding of land and undue concentration of structures to promote the health, safety, general welfare and orderly development in the County (Article 1.2.H).

In order to protect the lakes and shoreland, the Land Use Ordinance divides shoreland properties into 2 tiers. Tier 1 is the land within the first 200 feet from the shore (Article 33.10.A.1). The number of dwelling unit lots allowable in each tier is calculated by diving the suitable area in square feet within each tier by the density factor for the shoreland class in Table 33.1 (Article 33.10.A.2). The Survey demonstrates that the property at issue is allowed only 1 allowable dwelling unit in Tier 1 pursuant to the density factor calculation. Stated differently, the rule says you are allowed only 1 dwelling unit within the first 200 feet from shore on this property to protect the lake and attendant shoreland.

Instead of bringing the property into compliance and protect the lake and shoreline, Applicant requests a variance. This request for variance seeks to expand the maximum density by not just doubling,

tripling, quadrupling or even quintupling the maximum density – but seeks to blow out the maximum density by a factor of 6. The request for a variance seeks to allow a total of 6 dwelling units within 200 feet of the lake when the carefully drafted rule only allows 1. To propose such a radical deviation in such a sensitive area borders on the absurd. Instead of protecting the most valuable shared asset (i.e., the lake) and the attendant shoreland, the request for variance seeks to establish 6 dwelling units in 6 independently owned lots within less than 35,500 square feet in the most critical tier of the land. Imagine what the shoreline would like – and the impact on the lake – if every property had 6 dwelling units where only 1 was allowed.

Looking closer, at least one if not both the duplexes are in violation of the setback requirements (which would now be 4 separate lots and independent dwelling units). Not only does that cause limited drainage - but think about the number of cars parked on each of these closely packed lots, the storage that each lot owner will undoubtedly seek, the traffic upon the limited amount of land, the coverage from each dwelling owner - all within 200 feet of the lake. Then you have boats, lifts, water toys, etc. from not only each of the owners of the 6 dwelling units – but add 6 more sets of "stuff" from the other 6 dwelling units in Tier 2. There is a reason for limiting the dwelling unity density in such close proximity to the lake. It is to protect not only the neighboring landowners but all that enjoy the lake. While these structures may presently exist, they really shouldn't. As part of any resort conversion, the rules say they must be removed and be brought compliant. Article 34.13.B. explicitly requires that dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots. Not only should the requested density variance be denied, but the owner should be encouraged to fix the nonconformities to protect the shoreland and the lake if there is going to be any use of these Tier 1 dwellings in the future.

Failure of Requests for Variance to Meet Statutory Requirements

Applicant bears the burden of demonstrating why the variances should be granted – after all, they are the ones seeking an exception to the rules. That is an uphill battle – especially when the requests impact such a pristine, shared natural resource.

To obtain a variance, Applicant must satisfy the statutory requirements, as embodied in Section 8.4 of the Land Use Ordinance, by obtaining affirmative answers to each of the following questions:

1. **Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?**

   The stated purpose of the Land Use Ordinance is to "protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms." The requests for variance propose radical deviations from the regulated size and density of lots and dwellings and far exceed those limits within critical areas of the lake. Further, the requests for variance do not conserve the economic and natural environmental values of

shorelands or provide for the wise use and protection of waters and related land resources. Instead, the requests for variance are merely aimed at dividing the property for purposes of sale.

2. Is the variance consistent with the Comprehensive Plan?

Development should be encouraged as part of any land use plan – but there are valid reasons for the regulations set forth in those plans. The regulations exist to support the underlying purpose of protecting the shoreland properties and shared lakes. Planned communities can provide greater access to these shared lakes – but should comply with the rules for their implementation. The requests for variance in their current form drastically fail to meet those rules. So, the requests for variance are not consistent with the Comprehensive Plan.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

The radical deviations sought in the requests for variance demonstrate that the property is not proposed to be used in a reasonable manner. The lot density violation is perhaps the best example of this unreasonableness. The request for variance seeks a density that is 6 times the allowed density. The extent of this variance in the most critical area of the shoreland and lake not just unreasonable, it borders on absurd. The same is true with 12 independent dwelling units sharing 165 feet of lakeshore on this property – not to mention 12 boat slips and who knows how many other motorized and unmotorized lake toys within that 165 feet of shoreline for the 12 independent dwelling units. A new development would not be approved with these requests for variance. The requests for variance completely fail to demonstrate how this planned community with "postage stamp" lots will operate or make improvements. There has been no discussion of the development within the neighborhood. None of this seems reasonable.

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

There is no reason that the property cannot be brought into compliance or that these requests for variance are necessary. There is no evidence to support the fact that variance is required because of physical problem with the property. Instead, the requests for variance really came about because Applicant just purchased the property and doesn't want to, and most likely never intended to, operate a resort. These requests for variance were really created by Applicant desire to subdivide and sell the nonconforming, newly created lots. Instead of requesting radical deviations from the rules, some of the existing structures really ought to be removed and develop the property within the existing rules.

5. Will the issuance of a variance maintain the essential character of the locality?

Just the opposite – the creation of 12 "postage stamp" lots and 12 individually owned dwellings and 12 boat slips packed within 165 feet of lakeshore will substantially change the essential character of the neighborhood. Nothing like what is proposed exists in this locality. The sleepy resort (when it was a resort) was never operated in this fashion or created the traffic that will result from these requests for variance. There is a reason that there is a chorus of nearby property owners crying foul over these requests. Everyone knows that these requests for variance results in nonconformity with the rules that were put in place to protect the shoreland and the lake and change the essential character of the locality. The commitment to preserve and protect this pristine area is nothing short of remarkable – and is evidence that these requests will change the essential character of the locality.

6. Does the need for a variance involve more than economic considerations?

The requests for variance are solely about economic considerations. The requests say they aren't changing any of the existing structures, just drawing lines around them so they can be sold as individual units as part of a planned community – by someone that just purchased the property and never operated it as a resort. The timing of these requests and the fact that the property was just purchased and never operated as a resort leads to the conclusion that the requests for variance are being driven by only economic concerns.

LAST WORDS

Personally, I welcome Applicant's desire to develop this newly acquired property – as long as the property is developed in compliance with the existing rules. Unfortunately, the requests for variance fall so far outside the established rules designed to protect the shoreland and lake that I cannot support the proposed development for 12 dwelling units – especially when 6 of them are proposed to be located within 200 feet of the lake with only 165 feet of shoreline. For me, that is a bridge too far and perpetuates an unacceptable level of risk.

I am grateful that the Land Use Ordinance has protected this great natural resource that we share and believe we owe it to future generations to maintain that stewardship going forward. For those reasons, I must respectfully object to the requests for variance. It is my hope, however, that the Applicant will consider developing the property in a way that conforms with the existing rules.

Gina Roach

RECEIVED
By Gina.Roach at 1:49 pm, Apr 16, 2021

Subject: FW: Renewed Response to Application by Pelican Beach Holdings, LLC Related to Parcel Number 73040571

Attachments: Halberstadt Renewed Variance Response041621.pdf

-----Original Message-----
From: Brad Halberstadt <brad@szjlaw.com>
Sent: Friday, April 16, 2021 1:15 PM
To: Landservices <Landservices@crowwing.us>
Subject: Renewed Response to Application by Pelican Beach Holdings, LLC Related to Parcel Number 73040571

Good Friday afternoon! Attached please find my comments and objection to the renewed requests of Joshua Miles and Pelican Beach Holdings, LLC related to Parcel Number 73040571 scheduled for Public Hearing on April 19, 2021 at 5:00 pm. Please confirm receipt. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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RECEIVED
By Gina.Roach at 1:49 pm, Apr 16, 2021

Memorandum of Comments and Objection to
the Renewed Requests of Joshua Miles and Pelican Beach Holdings, LLC
for the Land Use Map Amendment, Variances and Preliminary Plat
Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 8375 80th St. North, Stillwater, MN 55082

RE: Submission of Comments for Public Hearing scheduled April 19, 2021

DATE: April 16, 2021

INTRODUCTION

This Memorandum is submitted in response to the notice for Public Hearing regarding various renewed requests of Joshua Miles and Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be another chorus of legitimate concerns and attendant objections to these renewed requests – as well as an objection to the limited time allowed to submit such renewed requests. In addition, please allow me to renew my previous comments by incorporation.

At the outset, I apologize for both the length and sloppiness of this Memorandum. There are quite a number of moving parts and complexities that have recently come up – and there was only 3 days to cobble this together after the Agenda Packet was put online. I wish I had more time to smooth out the edges and apply a lot more polish – it certainly needs it……

SUMMARY OF THE ARGUMENT

1. There has been inadequate notice and time to respond – especially since the permit records for the former resort property have only been recently updated and the Agenda Packet containing the revised application was posted online only 3 business days prior to the Public Hearing.

2. The record is not complete. There appear to be conditions on the former resort property that were imposed 30 years ago in connection with a CUP related to the former resort expansion that need to be investigated prior to moving forward as they appear to preclude the requests for variance and Applicant's other requests – which do not appear in the Permit History in the Agenda Packet.

3. Applicant does not qualify for a resort conversion as the former resort ceased operation in 2020.

4. Applicant has failed to meet the heavy burden required to obtain the requests for variance under the Land Use Ordinance:

    a. Applicant's requests for variance is not in harmony with the purposes and intent of the Land Use Ordinance,
    b. Applicant's requests for variance are not consistent with the Comprehensive Plan,
    c. Applicant is not proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance,
    d. Applicant has failed to show that the need for variances are due to circumstances unique to the property and not created by Applicant,
    e. Applicant has failed to show that the issuance of a variance maintain the essential character of the locality, and
    f. Applicant has failed to show the need for variances involve more than economic considerations.

5. Applicant is not entitled to the number of mooring spaces listed on the survey. The former resort had only 3 mooring spaces on the dock and the Rules and Land Use Ordinance allow less.

6. The facts submitted by the neighbors are directly at odds with the allegations of Applicant in connection with the application in connection to the previous mooring spaces and Applicant's prior operation of the former resort.

7. This application is VERY DIFFERENT than other resort conversions. These differences include the fact that: (i) this is no longer a resort; (ii) there were restrictive conditions put on the former resort resulting from a hotly contested expansion that recognized the risks to the health, safety and general welfare of the shoreland, lake and its residents; (iii) the application seeks to greatly expand what previously existed (in both mooring spots and no limits on rebuilding and already overbuilt property); (iv) the absolute number of dwelling units, bedrooms and concentration of people on such a small shoreline of a pristine area of a highly prized lake, and (v) several others set forth below.

YET ANOTHER REASON FOR STANDING

Call it fate – but a few weeks ago I was reminded of our collective obligation to protect Pelican Lake's shoreland and water. It was mid-morning on a beautiful Saturday and I was in the back yard picking up pine cones that endlessly fall from the trees. My wife opened a sliding door and said that there was a strange car that drove through our driveway and was now parked at the neighbors – and a stranger was looking around in their yard. Being of relatively slight stature and having a penchant to avoid conflict, I debated whether I should go on with the pine cones or address the intruder and protect the neighbor's property. Needless to say, I dropped the pinecones and headed up the hill to see what was about.

Sure enough, there was a middle-aged, white haired man standing in the neighbor's yard. I started up a conversation and it turns out that he was trying to remember if his grandmother owned the neighbor's lot or mine. He said he had spent most of his childhood enjoying summers at that house before it burned down, but he and his sister shared the desire of getting a place on what they considered to be the most pristine lake in the country. Turns out that he now lived in Chicago – but felt Hayward had become too commercialized and he and his sister longed to return to the peaceful spot in this exact area of the lake.

Of course, I had to ask him whether the Pelican Beach Resort was very busy back then – and he hesitated for a minute and recalled that the former resort was quiet and fit in nicely with the surrounding properties. I also asked him how many boats he remembered being moored at the dock – he responded no more than a few in all the years he could remember.

After several minutes of talking, the door to the car opened and out popped an elderly white haired man that turned out to be his father. He added to the story and memories at the lake and the privilege that we all had in our connection with this great lake and the unique beauty of the south side of the lake.

After they left, it made me even more convinced that we all have an obligation to protect this lake – not just for ourselves and our future generations, but for the countless others that have the great fortune of having fond memories of this lake and those yet to come. That doesn't mean we stop development – but it does mean we make sure that the development is properly regulated by the well-crafted rules set forth in the Land Use Ordinance and other applicable rules and regulations to protect these great natural resources. Once again, I am glad to be surrounded by good people that share that commitment to this lake.

PRELIMINARY PROCEDURAL OBJECTIONS

Prior to addressing the arguments against the requests for variance, there are two preliminary objections to even considering the application at this time.

1. Timely Notice

Once again, there is virtually no time to prepare for this Public Hearing. The Notice of Public Hearing was received little over 10 days prior to the scheduled hearing date and the Agenda Packet was not available on the website until after 5:00 pm on Tuesday. That leaves only 3 business days to cobble together a response to a new application. Compounding that problem in this case is the problem with the online permits described below and the relatively short period of time that new permits were added to the website that are directly related to the application.

Further compounding this short notice is the fact that many of the lake residents are away from their property in the winter and experience COVID related delays with receiving mail.

2. Recently Updated and Incomplete Online Public Records

In addition to the limited time to respond, there have been very recent additions to the online permit history on the property – that are fairly complex and not completely answered yet. This is described in the following "Mystery of the Missing Permit and Remaining Unanswered Question" section below.

Certain stories take some unfold – and unfortunately, this story is one of them. Why is it important? Because, as described below, everyone needs to know how the story ends before we can move forward on the present application. Lurking behind the scenes are less than clear conditions that arose 30 years ago related to the former resort expansion CUP. None of these lurking conditions are described in the Permit History of the first or most current Agenda Packets. Here goes……

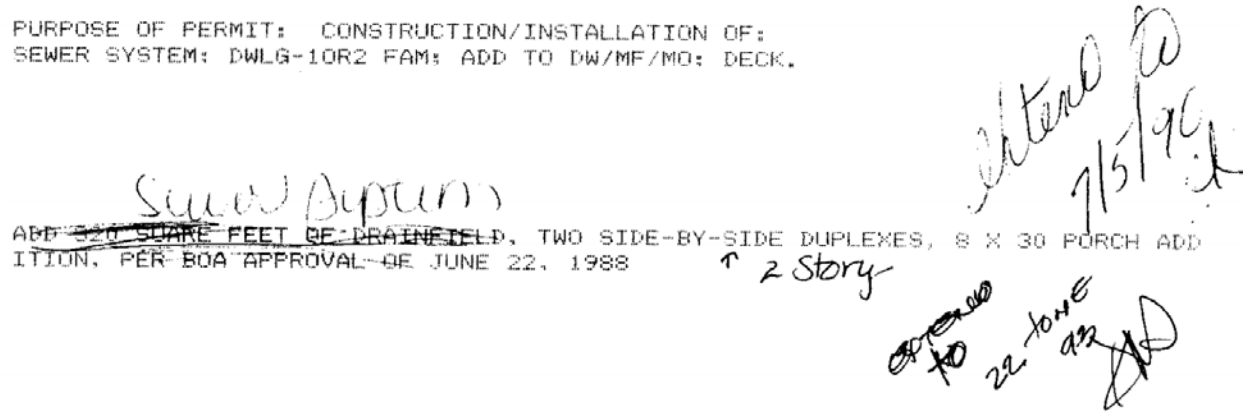
Mystery of the Missing Permit and Remaining Unanswered Question

a. The Duplexes

The story begins with a question raised at the last public hearing regarding when and how the duplexes were placed on former resort property. Sometimes, you just have to scratch an itch – and this was no exception.

After the public hearing, I decided to play Inspector Gadget and examine the permit history available on the County's GIS website (which is a fantastic feature). I reviewed a number of Mr. Swenson's permits - but there was no permit for those duplexes. That seemed odd….. So I sent an email to the County and was told that Mr. Frie was researching it. Mr. Frie, by the way, is a GREAT asset for the County. I can't imagine how he managed to pull this needle out of the proverbial haystack of documents from 30+ years ago.

Shortly thereafter, I learned that the duplex permit was located and placed on the County's GIS website. Sure enough, there was now an entry labeled "Duplexes" as number 42628. I opened the link and found an application dated July 5, 1988. This application was not like the other applications on the website. This was just a few page document and didn't contain any description of the duplexes – like how big they were or where they would be located on the property, etc. This is all the application said about the duplexes:


PURPOSE OF PERMIT: CONSTRUCTION/INSTALLATION OF:
SEWER SYSTEM: DWLG-1OR2 FAM: ADD TO DW/MF/MO: DECK.

Sewer System

ADD ~~320 SQUARE FEET OF DRAINFIELD~~, TWO SIDE-BY-SIDE DUPLEXES, 8 X 30 PORCH ADDITION, PER BOA APPROVAL OF JUNE 22, 1988

↑ 2 Story

7/5/88

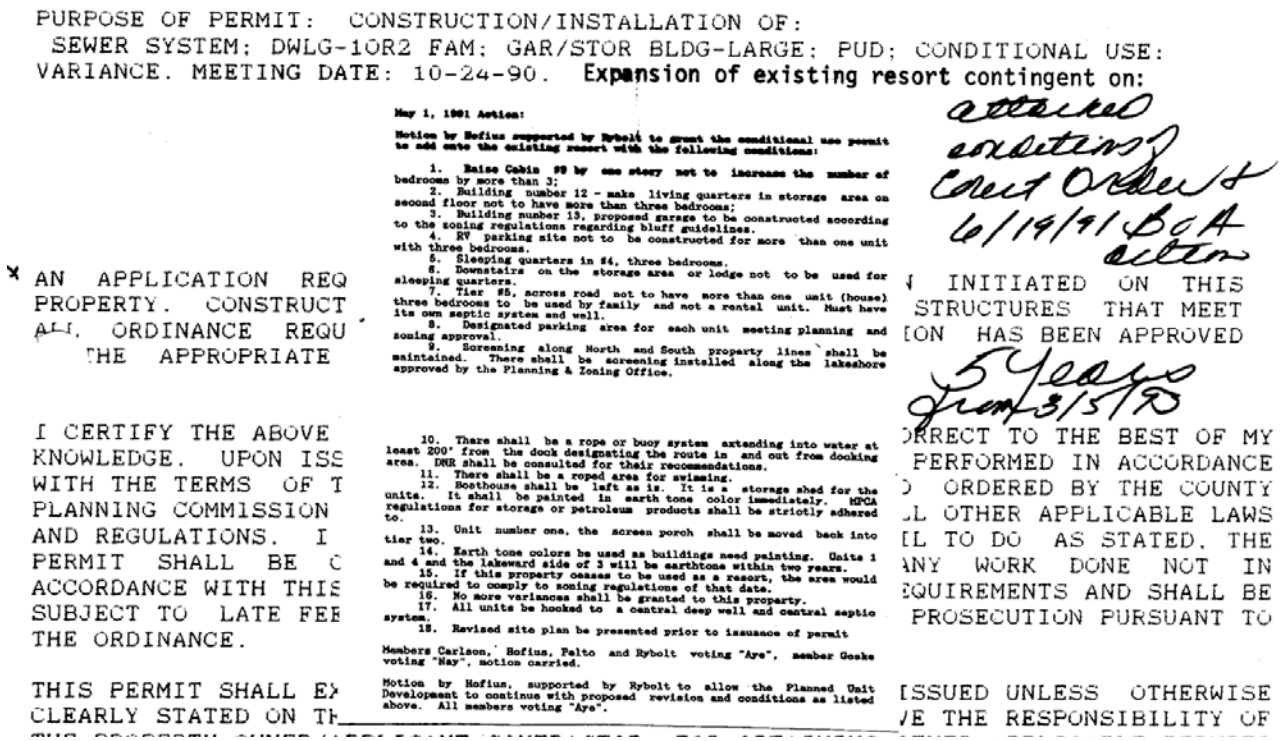
Again, no pictures drawings, no dimensions, no survey – nothing……

In addition, there were no variance requests to place the duplexes in Tier 1 or to put them closer than 75 feet from the lake. All the other permit applications had maps describing in detail how big the buildings would be, the number of bedrooms and a map on where the buildings would be placed on the lot. That just didn't seem right……..

After receiving the notice for public hearing a few days ago, I again checked the website to prepare this response. To my surprise, there were <u>additional</u> entries under Mr. Swenson's name on the permit screen that were not there before – a new building permit link as document number 52897 and two Conditional Use links as document numbers 69089 and 69090. You know what they say – "curiousity kills the cat." So, of course, I couldn't help but look……

b. <u>The Former Resort Expansion of 1990-91</u>

First, I opened up the building permit link of 52897 – it, too, was just a 3 page document dated September 10, 1990 with no drawings or dimensions. It described as another new sewer system, another dwelling, a garage and conditional use variance as set forth in the following summary - but something was superimposed on top of it:



PURPOSE OF PERMIT: CONSTRUCTION/INSTALLATION OF:
SEWER SYSTEM; DWLG-1OR2 FAM; GAR/STOR BLDG-LARGE; PUD; CONDITIONAL USE;
VARIANCE. MEETING DATE: 10-24-90. **Expansion of existing resort contingent on:**

attached conditions? Court Order 6/19/91 BOA action

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be striotly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Palto and Rybolt voting "Aye", member Goske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

5 years from 3/15/90

I couldn't make out the text on superimposed image on the document (getting old really impacts the eyes), so I zoomed in and discovered that the permit had been granted on May 1, 1991 – but was subject to 18 conditions, two of which seem pretty relevant:

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
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7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

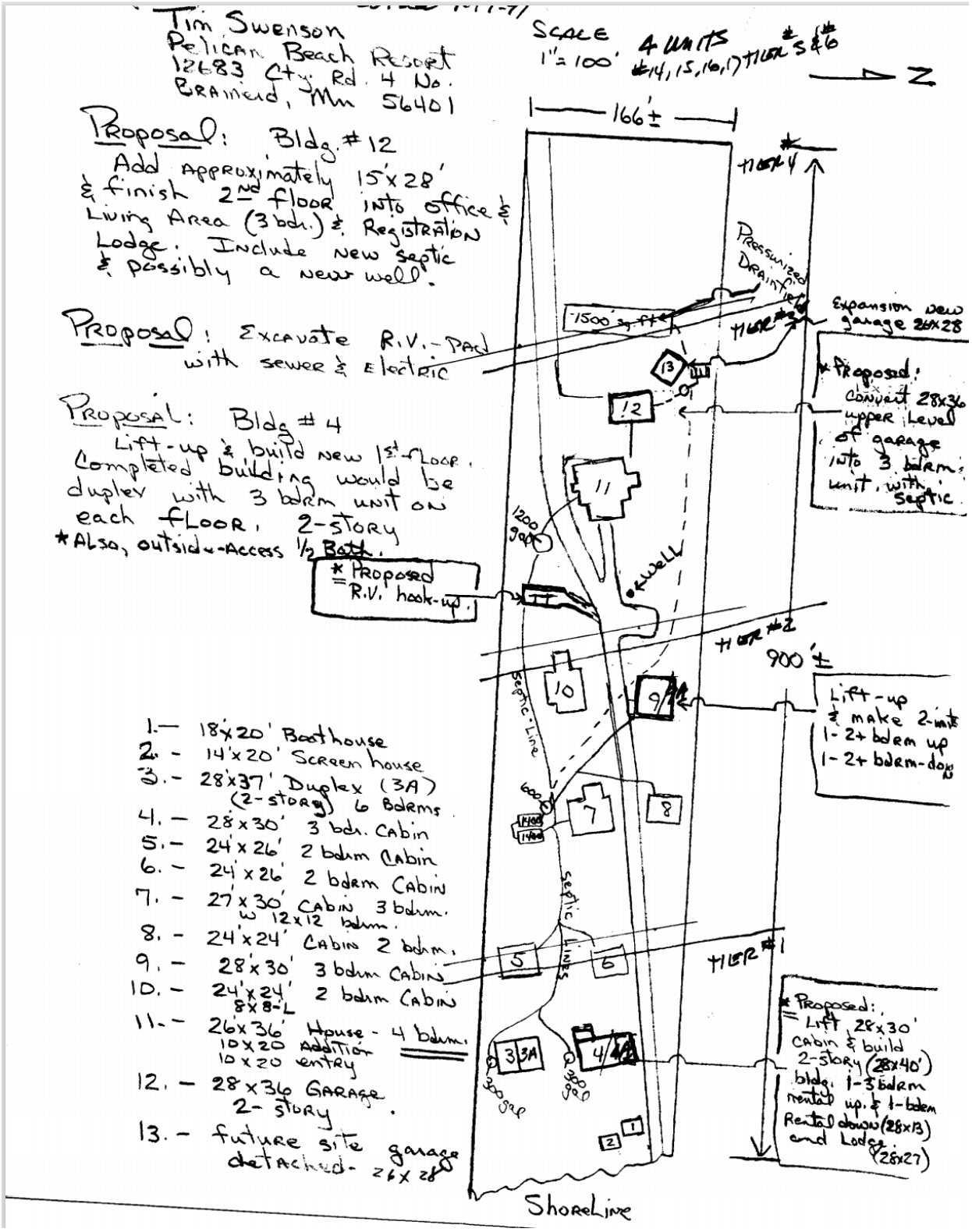
Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Condition 16 says “No more variances shall be granted to this property” and Condition 15 states that “If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.” Since the property ceased to be used as a resort in 2020 and no variances were to be granted on the property, I thought this would be a pretty short public hearing…….

But, alas, that was not the end of the story. Turns out, it was just the beginning. There were still those 2 links for the Conditional Use (69090 and 69089) that I hadn't looked at yet – so I opened them up as well. Talk about opening Pandora's Box……..

Link 69090 provided all the detail for a proposed 5 year former resort expansion that was summarily described in the September 10, 1990 permit – but with LOTS of detail. Finally, we see the source of the drawings with all of the proposed buildings with the number of bedrooms on the property that appeared on subsequent requests for permit labeled as "from previous application":



Needless to say, the neighbors from 30 years ago were less than thrilled with this proposed former resort expansion – and that is an understatement. Reading through the comments is like déjà vu to reading the comments to the current application. Many of these comments predicted the exact

position we would be in today. The comments from the Thirty Lakes Watershed District said "The proposed expansion of the Pelican Beach Resort will increase the density of 'Lake Users' in a residentially zoned area of the lake. This increase in lake users on a 166 foot frontage will impact the residents along the shoreline and jeopardize the safety of local residents as well as resort guests." Link 69090 at p.17.

The neighbors from 30 years ago expressed the exact same environmental, density, aesthetic and safety concerns both on the shoreland and the lake as are being raised today – including the impacts in Tier 1. One neighbor even commented that "This space that is being created to provide for a game room and meeting place could very easily, at some point, be turned into even further rental units!" Link 69090 at p. 22. Talk about prophetic…….

On May 1, 1991, the Board approved the CUP – but imposed 18 conditions that were superimposed on the permit above – in response to the concerns raised by various parties. These are very restrictive conditions that clearly were meant to limit any future expansion while a resort and also clearly deal with what was to happen when the property ceased to be used as a resort. All parties relied on these conditions to limit the proposed current AND FUTURE resort expansion.

c. Mr. Swenson's Motion for Reconsidertation

But the story doesn't end there. There are two other chapters yet to unfold – and they are found in the final link listed as 69089 on the website. First, it appears that Mr. Swenson wasn't entirely pleased with the conditions that had been placed on the expansion and thereafter sought reconsideration. He also expressed in a letter to the governor his displeasure with the Board and the shoreland rules. More about that letter to the governor later……. Second, one of the neighbors appealed the approval and it ended up in the District Court that further altered the conditions.

Let's start with the actions of Mr. Swenson. Link 69089 first contains a notice of public hearing on a request for reconsideration of the conditions imposed on the former resort expansion. It appears that on June 19, 1991, the Board did change some of the conditions that were imposed on May 1, 1991. Those changes appear to include:

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

Line 69089 at p. 9. So, that appears to be the status of the conditions as of June 19, 1991.

Apparently not happy with that result, Mr. Swenson wrote a letter to the Governor dated July 8, 1991 complaining about not only the restrictions imposed by the Board in his former resort expansion plan, but also the shoreland restrictions that since the Planned Unit Development Rules limit the number of spaces for watercraft to the number of dwelling units in the first tier. Mr. Swenson stated that in his case, that meant that his former resort that had 11 cabins would only be allowed "4.7 mooring spaces for watercraft to be continually beached, moored or docked." Link 69089 at p. 14. Remember this when we talk about the dock issue later……..

d. The Neighbor's Appeal

Mr. Swenson wasn't the only person that was unhappy with the Board's approval of the CUP related to the former resort expansion. One of the adjacent neighbors, Lulubel Pansing, appealed the Board's decision.

In connection with the appeal, Mr. Swenson submitted an Affidavit stating that "It is obvious that the several conditions established by the board of adjustment on May 1 and June 19, 1991, are fairly related to the health, safety, and general welfare, were plainly within the competence and direction of the board to determine under Section 8.6 of the Crow Wing County Zoning Ordinance." Line 69089 at pp. 28-29. Guess Mr. Swenson didn't dispute those revised conditions after all……..

The parties eventually resolved their differences. On February 25, 1993, the Court entered Findings of Fact, Conclusions of Law, Judgment and Entry of Judgment (the "Order") that contained the following provisions impacting the conditions imposed related to the CUP:

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

Link 69089 at p.7.

As set forth above, the Order changes and retains certain conditions – that are to be incorporated in a Conditional Use Permit to be delivered to the Swensons by the Crow Wing County Zoning Office. Finally, we arrive at the missing piece of the puzzle!

This Court ordered CUP with conditions is NOT on the website (unless I missed it) – and I've requested that the document from the County – but have been told that everything is on the website. Prior to taking any further action on this application, I believe the Applicant and the neighbors – but especially the Board – needs to see that Court ordered CUP with conditions that was issued from the Zoning Office so it can be determined whether the conditions prevent the application from moving forward and whether Applicant is willing and able to live with those conditions.

I'm sure the Board can imagine what will happen if we don't get a clear understanding of the existing conditions that apply to this property. This part of the story has gone on long enough. It's unfortunate that these documents weren't available in the beginning so the issues could have been addressed previously – but better to take care of them now and avoid the parade of horribles that could result from not clearing the deck before moving on. *See Mutch v. County of Hubbard* (Minn. App. April 30, 2012) (unpublished) *citing In re Stadsvold*, 752 N.W.2d 323, 332 (Minn. 2008) ("a 'decision predicated on insufficient evidence or arising from a failure to apply relatvant provisions of the ordinance would be arbitrary and capricious.'").

The end of the story – 1) we need to see the conditions that were set forth in the Conditional Use Permit delivered to the Swensons by the Crow Wing County Zoning Office and 2) we need to know whether those conditions have been altered in the past 30 years or remain today. Given what is on the website, I assume the current conditions would be those attached to the granting of the former resort expansion permit from May 1, 1991 as amended by the conditions of June 19, 1991 with the two additional conditions added by the Order of February 25, 1993. But you know what they say about the meaning of "assume"…….. There is nothing about these conditions in the Packet Agenda – but I think any existing conditions on the property need to be spelled out. Those conditions may very well end this application – or impact Applicant's desire to move forward.

It's my understanding that the County paid an attorney to review the zoning history on this property in connection with this application. If that is the case, then perhaps there is a simple way to get current status of these conditions. It's only fair to the Applicant and all other parties to both know and have time to consider the current status of these conditions – whatever they might be. For that reason, the application should be tabled until everyone knows what these conditions are and has an opportunity to analyze their impact.

SUBSTANTIVE OBJECTIONS

FACTS

Little has changed in the revised application – even though it was a great opportunity for Applicant to address many of the valid concerns raised at the last Public Hearing. Instead, the revised application simply removes a dividing line in one of the claimed duplexes next to the lake and removes one of the mooring spaces on the dock. While removing that line in the duplex reduces the technical number of lots and dwelling units, the "Lodge" was not divided like the other duplex – and cutting it down the middle really wasn't going to happen anyway. In the end, it's really a hollow concession.

The application shows that Applicant purchased the property in November 2020 – and the property has not been operated as a resort by Applicant. Applicant says they want to get out of the resort business – even though Applicant has never operated the property as a resort. There is certainly no evidence that Applicant purchased the former resort business – just the property.

The application demonstrates that the proposed lots still are radically under the minimum lot size (23 ft where 100 feet is required) and lot area (1,800 sq ft where 30,000 sq ft is required) requirements. And Applicant admits the lot densities are still radically over the allowed densities in both Tiers 1 and and now also exceed the density allowed in Tier 2:

DENSITY CALCULATION TABLE				
TIER	SUITABLE AREA	DENSITY FACTOR	DENSITY ALLOWED	DENSITY REQUESTED
1	35,485 SQ. FT.	27,000 SQ. FT.	1	5
2	120,670.3 SQ. FT.	22,500 SQ. FT.	5.3	6

The Agenda Packet describes another site visit - although it didn't result in any solid responses to the concerns of the neighbors – other than the Applicant believes they can address some of those things in the Planned Unit Agreement – which, of course, can be changed at any time.

Finally, the Agenda Packet adds some additional information on the Permit History related to the property – but mentions nothing about the very restrictive conditions resulting from the former resort expansion permit. This additional permit history in the Agenda Packet was the result of questions regarding the missing permitting related to the duplexes as more fully described below. Other than that, it's pretty much the same application dressed in slightly different clothes.

There are some additional facts, however, that can be gleaned from new permitting information that was recently placed on the County GIS website. There is a disclosure of the number of bedrooms in each of the dwellings. There are approximately 30 bedrooms in the existing structures and will likely be at least 3 more in the "Lodge"and who knows how many more in the other dwelling units if the requests for variance are granted.

At the end of the last public hearing, Applicant was asked whether there were any responses made to concerns brought up by the neighbors. Applicant stated that resort conversions were allowed under Minnesota Rule 6120.38 [sic]. Public Hearing Recording at 1:23:45.

Finally, the record has been supplemented with uncontroverted facts from the neighbors showing:

1. The former resort has at most 3 lifts at the end of the dock. This is supported by the following County GIS maps from 2016 and 2019:

2019 GIS Map



2016 GIS Map



2. Applicant has never operated the former resort.

3. The former resort ceased operations in 2020.

4. The County GIS maps also show there are no other properties on the south side of the lake that have anything near the proposed lot density in Tier 1, lot width or lot area as requested by Applicant.

5. The former resort was only operated as a seasonal operation – not year round.

6. The GIS maps and Applicant's survey show there are no unique features related to the property that either cause the requests for variance or preclude removal of the non-conforming structures.

Applicant has provided no evidence that controvert these facts – although Applicant has apparently claimed (again without evidence) that the former resort had 12 mooring spots and that Applicant desires to get out of the resort business (even though Applicant has produced no evidence that it was ever engaged in the resort business).

Finally, the permit information online (links 52897, 69090 and 69089) – which only recently became available - provide that the following conditions, among many others, still exist on the property based on the Order described above:

> Condition 15: "If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."
>
> Condition 16 (as amended on June 19, 1991): "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied."

More time is needed to determine whether some of these other conditions may have also been violated. I know I have not seen any ropes or buoys extended from the former resort dock as required under Condition 10 or a roped off swimming area under Condition 11. There really hasn't been enough time to see if any of the Conditions related to the buildings have also been violated – which might render those buildings not just non-conforming, but also illegal.

ARGUMENT

I. APPLICANT'S BURDEN TO OBTAIN VARIANCES UNDER THE LAND USE ORDINANCE

These applications have been a real learning experience. Plenty of emotions – but also an opportunity to appreciate the complex framework that is set up to balance development, protect property rights and, most importantly, preserve our awesome natural resources. At 100,000 feet, we have a set of rules that are interpreted by the Board and subject to appeal in the Courts. The Land Use Ordinance is part of these rules – and has been developed in conjunction with various directives from state statutes, administrative rules and regulations.

The rules, however, are not absolute. The Land Use Ordinance allows the rules to be broken – through a request for variance. But breaking the rules isn't an easy thing to do. After all, existing property owners have relied on these rules in investing in their properties and share in interest in the protections provided by these rules. For that reason, the Minnesota Supreme Court has consistently stated that "Because a variance allows an applicant to use his property in a manner originally forbidden by the official control, an **applicant bears a 'heavy burden'** in demonstrating that granting the variance is permissible." *Davis v. Le Sueur Cnty. Planning* at p. 14 (Minn. App. 2018) (unpublished) (emphasis added) *citing Luger v*. *City of Burnsville*, 295 N.W.2d 609, 612 (Minn. 1980).

When considering these requests for variance, we need to focus on the requests. The requests for variance are NOT for permission to effectuate a resort conversion. If this is in fact a resort (which seems unlikely), then Applicant has the right to convert the former resort. But, the requests for variance are to lot size, lot area and lot densities. That is where Applicant must meet this heavy burden against breaking those rules (not just to say they are entitled to convert the resort).

II. THIS IS NOT A RESORT CONVERION – AND THAT HAS CONSEQUENCES……

Applicant states that they no longer wish to be in the resort business. The facts from the last hearing make it clear that Applicant was never in the resort business and has never operated this former resort since buying it. It appears that Applicant is not licensed to operate a resort. Consequently, this really can't be treated as a resort conversion. The former resort ceased operations well prior to the sale and, at the very latest, on the date of the sale last year. There is no evidence in the record that Applicant purchased the former resort business versus just purchasing the property. In some ways, it doesn't matter since the former resort stopped operating in 2020 and Applicant admits there is no plan to operate as a resort.

A. Two Important Consequences From No Longer Operating as a Resort

There are two important consequences that are triggered from no longer operating as a resort. One is unique to this former resort property while the other consequence disqualifies Applicant from special treatment under resort conversion provisions. Each of these consequences is described below:

1. Condition 15 From the Former Resort Expansion Permit

The cessation of operations as a resort triggers Condition 15 imposed in connection with the former resort expansion permit finally issued in 1993 that mandates that:

> **"If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."**

Note what that condition doesn't say – that the area would be required to comply to the zoning regulations of that date – but you can get around those zoning regulations by seeking further variances. The zoning regulations in effect in November 2020 require that the minimum lot width is 100 feet, the minimum lot area is 30,000 square feet, the maximum density in Tier 1 is 1 dwelling unit and the maximum density in Tier 2 is 5 dwelling units. The application admits that the smallest lot is 23 feet, the smallest lot area is 1,800 square feet, it seeks 5 dwelling units in Tier 1 and 6 dwelling units in Tier 2. These proposals are all failures to comply to the zoning regulations of the date that the former resort ceased operating and must be denied.

Condition 15 makes sense from a historical perspective. Thirty years ago, the neighbors were afraid not only of what might result from the former resort expansion – but what would happen if it ceased to operate as a resort. See Link 69090 of the Online Permits – also included in the Agenda Packet. The compromise that was adopted by the Board was to place a condition that said if you are no longer a resort, then the property had to convert back to what the zoning regulations required – minimum lot sizes, minimum lot areas and maximum densities. Reading these comments, you can understand why the neighbors were concerned about this expansion and that the Board dealt with these concerns by adding Condition 15. Almost prophetic as the application seeks to do exactly what people feared – expand the former resort even more after it ceased operations……

The application should be denied for this reason alone.

2. Losing the Benefits of Resort Conversion Provisions

Since the property no longer qualifies as a resort, the Applicant should not benefit from the special provisions applicable to resort conversions – namely Article 34.13 of the Land Use Ordinance and Minn. Rule 6120.3800 Subp. 5.D.

The proposed revisions to the Land Use Ordinance seem to give resort conversions a pass on lot width and lot area restrictions – but the requirement for lot densities remain. Those benefits don't apply to a property that is not a resort. So, the lot width, lot area and lot density requirements should be strictly construed.

At first blush, Minnesota Rule 6120.3800 Supb. 5.D. seemingly suggests a pass on lot density requirements by providing:

D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments **if all of the following standards are met**:

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part **may be allowed to continue but must not be allowed to be increased**, either at the time of conversion or in the future. Efforts **must** be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

But this is not a free pass. First, the Rule says "may" and not "must". Two important conclusions follow from the word "may." First, these existing densities may continue **ONLY IF** the Board decides that a density variance should be granted. After all, that is what Applicant has requested. It is a circular argument to say that I am here requesting a variance that the Rule says I'm entitled to…… Second, the Land Use Ordinance may be stricter than the Minnesota Rules – and Crow Wing County's Land Use Ordinance certainly is stricter when it comes to density. In addition, while the proposed amendments to the Land Use Ordinance appear to eliminate the lot width and lot area requirements in conjunction with a resort conversion, the **requirement for lot density is specifically retained** in the proposed changes to the Land Use Ordinance. And that's a good thing…….

Of course, Minnesota Rule 6120.3800 Subp. 5.D. is of questionable applicability if we are not talking about a resort and is really is of questionable applicablility since the Land Use Ordinance contains more strict density provisions – and Counties clearly have the right to provide more restrictive provisions than the Rules.

III. THE RULES FOR VARIANCES

Applicant seeks to characterize this as a resort conversion and proposes to cut the property into small pieces and create a planned community. Applicant could comply with the existing rules by removing some of the existing structures. Most of them are in marginal condition – the pictures submitted with the application fail to show the interior of any of the existing structures. Instead, Applicant has sought to maximize the number of lots by cutting up the property in tiny pieces – purportedly to maximize the return from future sales and or additional development.

By cutting so thin, Applicant breaks at least 3 rules and is asking the Board to approve breaking these rules in conjunction with a proposed resort conversion – even though Applicant hasn't operated the property as a resort. There is no question that this subdivision would not be approved on an undeveloped parcel.

To obtain a variance from these rules, Article 8.4.A. of the Land Use Ordinance (which encompasses the statutory requirements of variances under Minn. Stat. Sec. 394.247, subd. 7) requires that the Applicant convince the Board that the following 6 questions are true:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?
3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?
4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?
5. Will the issuance of a variance maintain the essential character of the locality?
6. Does the need for a variance involve more than economic considerations?

As set forth above, this is a heavy burden for Applicant to meet. Each of these questions are discussed below:

A. Is the Variance Request in Harmony with the Purposes and Intent of the Land Use Ordinance?

The Land Use Ordinance contains many different purposes and intents. At base, these goals are really to balance development while protecting our natural resources for future generations. Unrestricted development results in destroying these natural resources – so these purposes and intents are really designed to regulate development while protecting natural resources.

1. Purposes of the Land Use Ordinance

The purposes of the Land Use Ordinance are set forth in Article 1.2 and Article 11 are set forth below with Applicant's violations highlighted:

1.2 PURPOSE

It is the purpose of this ordinance to protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations. Further, it is the goal of this ordinance to **promote the health, safety, general welfare**, and orderly development of Crow Wing County by:

A. Regulating land use in accordance with the County Comprehensive Plan.
B. Promoting orderly development of the residential, business, industrial, recreational, and public areas of Crow Wing County.
C. Dividing the County into land use districts.
D. Regulating the location, height, and bulk of structures.
E. **Preserving the economic and natural environmental values of shorelands**.
F. Regulating setbacks.
G. **Regulating sizes of lots, yards, and other open spaces**.
H. **Preventing overcrowding of land and undue concentration of structures**.
I. Encouraging compatible developments of different land use and the most appropriate use of land within the County.
J. **Maintaining and enhancing the quality and condition of natural resources within the County**.
K. Providing adequate access to air, direct sunlight, and convenience of access to property.

L. Bringing all non-complying subsurface sewage treatment systems into compliance.

This ordinance is also intended to protect the shoreland of public waters and the shorelands of the Mississippi River and Headwaters Lakes it flows through, **and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use and protection of waters and related land resources**.

ARTICLE 11--SHORELAND DISTRICT STANDARDS
11.1 PURPOSE AND INTENT
The purpose of this district is to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, protect drinking water sources, protect wetlands, steep slopes, bluff areas, riparian habitat, **filter stormwater runoff and control nutrient movement and provide for the wise use of water and related land resources**.

2. Reinforcement by the DNR of the Purposes of the Land Use Ordinance

The Minnesota DNR not only supports these purposes and intents, but takes it one step further in "A Guide for Buying and Managing Shoreland" available at https://www.dnr.state.mn.us/shorelandmgmt/guide/watersheds.html (highlighting added):

Section 1: Introduction

Water is one of Minnesota's most valuable resources. Lakes, rivers, and wetlands are important assets to Minnesotans. The "Land of 10,000 Lakes" actually has 11,842 lakes over 10 acres in size and more than 63,000 miles of natural streams and rivers. An adequate supply of clear fresh water is vital to life, agriculture, commerce, and industry. Recreational use of waters provides enjoyment and contributes to the state's economy.

Water provides many benefits to Minnesotans, and it is important to protect and manage it. High-quality water is essential for a healthy state economy. Managing public waters and adjacent shorelands helps maintain and improve water quality. Careful management also protects and improves visual and scenic values -- qualities not easily measured until they are lost.

Water and near shore areas are critical to health and well being of fish, wildlife, and native plants. Fish and wildlife are highly dependent on vegetated shorelines to provide healthy spawning areas, as well as habitat for feeding, resting, and mating life stages. Fishing and hunting are benefits of good shoreline management practices. Wildlife observation is best along riparian areas with healthy vegetation.

Education, legislation, and good environmental practices by Minnesotans are important to maintaining and improving water quality and scenic resources in Minnesota.

Section 2: The Importance of Shoreland Management

Shoreland management is important. The consequences of uncontrolled and unplanned development can be disastrous to our land and water resources. Overbuilt and poorly designed shoreland areas degrade the value of the entire water body. Increasing demand for shoreline building sites has led to skyrocketing land costs. Without controls, land with water frontage tends to be divided into smaller parcels. Scattered cottages, homes, and resorts merge to form a continuous ribbon of buildings and structures along shores of lakes and rivers, resulting in the destruction of natural vegetation and scenic beauty. A first row of crowded structures may be followed by a second and third until the entire watershed is overbuilt. Marginal lands with high water tables, severe flooding hazards or steep slopes fall under increasing development pressure after suitable lands are taken.

The consequences of overdevelopment are increased risks of flooding, pollution and scenic degradation. Nutrients like nitrogen and phosphorous, other pollutants, and improperly designed sewage treatment systems can contaminate wells and surface waters. Development in or near floodplains can reduce the natural storage capacity of the watershed, causing increased flooding threats to life and property.

Degraded property values, polluted lakes and wells, flood damages, and increased public service costs result when short-sighted thinking places immediate profits above long-term impacts and goals.

The Minnesota Legislature has long recognized the important value of the state's water resources and has taken action to preserve and protect these waters and their adjacent lands. In 1969, it enacted the Shoreland and Flood Plain Management Acts, and in 1973, the Minnesota Wild and Scenic Rivers Act. These statutes enabled the Minnesota Department of Natural Resources (DNR) to establish standards and criteria that are periodically reviewed and amended. On July 3, 1989, the revised statewide standards for shoreland management were adopted. Check the revised standards (link is external) offered by the Minnesota State Legislature - Office of the Revisor of Statutes. Other programs such as Local Water Planning and the Pollution Control Agency's Clean Water Partnership also help to address the challenge of watershed management at the local government level.

The DNR is warning us against doing exactly what the application seeks: "A first row of crowded structures may be followed by a second and third until the entire watershed is overbuilt." The

application would allow these structures to grow in width, length, height, seasonality – and **MAKE THINGS WORSE**. What happens after the watershed is overbuilt? Nothing good…….

3. Minnesota Rules Support the Purposes of the Land Use Ordinance

The Minnesota Rules also demonstrate the increased risks from planned unit developments on the shorelands and lakes:

> **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:
>
> A. existing recreational use of the surface waters and **likely increases in use associated with planned unit developments**;
> B. physical and aesthetic impacts of increased density;
> C. suitability of lands for the planned unit development approach;
> D. level of current development in the area; and
> E. amounts and types of ownership of undeveloped lands

Minn Rule 6120.3800, Subp. 2.

4. Evidence in the Application Supporting Purposes of Land Use Ordinance

Applicant provides no evidence demonstrating how the application is in harmony with the purposes and intent of the Land Use Ordinance – especially the highlighted ones above. Instead, the application seeks to change a seasonal sleepy former resort with a maximum of 3 mooring spaces and replace it with year round planned community with 11 separate lots containing waves and waves of dwelling units containing at least 30 bedrooms on only 166 feet of lakeshore with the unrestricted right to expand the footprints and nearly quadrupling the number of mooring spaces – resulting in violations of the lot width, lot area and lot density rules.

If the existing situation isn't bad enough – the proposal means **THINGS CAN GET MUCH WORSE**. This was made clear at the initial public hearing, when it was confirmed that the purchaser of any of these lots could both build them out to the new lot lines and up 35 feet – creating **EVEN MORE** stress on the shoreland and lake and also **GREATLY INCREASING** people density on this already overbuilt property. Yes, it is development and yes, it makes more space available for even more people – but at what cost? Much too high of a cost. And certainly not in harmony with with the balances struck in the Land Use Ordinance. These radical deviations from the rules puts the shoreland and lake at substantial risk. The Lake Association noted its concern with the impact on the lake from the proposal as did many neighbors raising environmental and safety concerns.

Applicant provided no evidence of any protections designed to protect the shoreland or the lake – just the opposite. Breaking the density allowance in Tier 1 by a factor of 5 that are designed to protect the shoreland and lake – not to mention blowing out the lot width and lot area rules are further evidence that the application is not in harmony with the Land Use Ordinance.

This is exactly the reason that Condition 16 was placed on the property 30 years ago. The former resort expansion pushed density passed the limits – not just in the number of structures, but the number of people. The small property had to support over 30 bedrooms within those dwelling units. If you assume 2 people per bedroom, that's 60 people. If each brings a friend, that's 120 people – all within only 166 feet of lakeshore. And don't forget the pets. Or the parties and bonfires and other things that people do while at the lake. All the activity – and all these people – is right on the beach and eventually in the lake. 120 people on 166 feet of shoreline all summer long. The impacts on the septic, groundwater, pollution, drainage, etc. is nothing short of a nightmare and hardly complies with the Land Use Ordinance.

In addition, there is plenty of evidence of real safety and general welfare issues from the application. The application now shows that there is going to be substantial activity crossing County Road 4 for storage of trailers, guest parking, storage of other lake items, etc. It is hardly safe for adults, much less children to be constantly running across a winding road when the speed limit is 50 miles per hour. It is an invitation for disaster.

The lake activity is not much better. The application proposes 11 boat slips in shallow water where both owners and neighbors routinely swim. Over 30 years ago, an adjacent resident (Lulublel Pansing) submitted the following:

> 2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

and ended with:

> There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.
>
> Respectfully submitted,
>
> Lu Pansing
>
> Lu Pansing

Link 69090 at p. 30.

This is consistent with the warning from Thirty Lakes Watershed District concerning the former resort expansion:

THE PROPOSED EXPANSION OF PELICAN BEACH RESORT WILL INCREASE THE DENSITY OF "LAKE USERS" IN A RESIDENTIALLY ZONED AREA OF THE LAKE. THIS INCREASE OF LAKE USERS ON A 166 FOOT FRONTAGE WILL IMPACT THE RESIDENTS ALONG THE SHORELINE AND JEOPARDIZE THE SAFETY OF LOCAL RESIDENTS AS WELL AS RESORT GUESTS.

Link 69090 at p. 17.

In response, the Board added a condition for a roped off swimming area and a rope or buoy system that would direct traffic from the end of the dock out to the lake to try to limit the dangers of boats zipping between swimmers of all ages. See Conditions 10 and 11 at Link 69090 at p. 50.

In order to limit this danger today, the Ordinance and Minnesota Shoreland Rules limit the mooring spaces for resorts and planned unit developments to one mooring space per allowable dwelling unit in Tier 1. (See "Docks" below). Proposing 11 mooring spaces when the former resort had a maximum of 3 is hardly promoting the health, safety and general welfare of either the lot owners of the former resort or the neighbors. That was a valid concern 30 years ago and remains a valid concern today – especially with the changes to watercraft in the intervening period. This concern is real.

The size and scope of the proposed development on this relatively small piece of property and narrow shoreline is not in harmony with the Land Use Ordinance. While there have been some neighbors that have called for environmental studies, that burden is really on the Applicant to show that their application is in harmony with the safety and other concerns of the Land Use Ordinance. That burden is not met when there is a septic compliance certificate that was issued when the former resort had no activity compared to the proposed development under the application. These structures could grow in both lateral size and height. The number of bedrooms and people could increase even more under the application. Is the septic system and other environmental concerns addressed for that explosive growth? Isn't that precluded under Condition 16 (recommending that the Board deny any variances that might increase the density of people on the property)?

Not only has Applicant failed to meet their burden under this question, but all of the evidence supports the opposite conclusion – that the requests for variance are not in harmony with the Land Use Ordinance.

This conclusion is supported by the Minnesota Court of Appeals in the case of *Davis v. Le Sueur Cnty. Planning* at p. 14 (Minn. App. 2018) (unpublished):

> There is a difference between neighborhood opposition to a conditional-use permit based on noise and traffic worries, *see id*., and environmental concerns raised in an email from the DNR. And, in arguing that the email does not satisfy the substantial-evidence standard or that the Board should have requested more information about the implications of runoff, Davis forgets that he bears the burden in showing that the variance is permissible and consistent with the zoning ordinance. *See Luger*, 295 N.W.2d at 612. He did not present any evidence at the August 2016 hearing that would alleviate the concerns regarding runoff. Based on the evidence supplied in the DNR's email, we conclude that it was reasonable for the Board to determine that

> Davis's variance request, with its risks of runoff, conflicted with Le Sueur County's interest in minimizing environmental pollution. *See* LSZO § 1(A).

Id. at 18.

The Court also relied upon the provisions in the ordinance's requirement for the Board to consider the impact on neighboring property owners and the goal to preserve the natural and scenic beauty.

> zoning ordinance directs the Board to consider the impact of the development on neighboring property owners. *See* LSZO § 13, subd. 3(B)(1) ("In considering a variance request, the Board of Adjustment must also consider . . . the characteristics of development on adjacent properties."). For example, the zoning ordinance provides that in order for a swimming pool to be a permissible accessory structure, the lighting for the pool must not cast light onto adjacent properties and a five foot fence must enclose the pool area. *See* LSZO §13.2, subd. 4(B) (2013). We also reiterate that one of the zoning ordinance's overarching land use goals is to preserve the natural and scenic beauty of the area. *See* LSZO § 1(A).

Id. at 19.

The Court found the Board's review of photographs and on-site visit gave them enough evidence to make findings on the impact to the adjacent properties and retention of natural and scenic beauty as directed by the ordinance. The GIS maps as well as the testimony of people from the south side of Pelican Lake demonstrate the impact to the adjacent property and the retention of scenic beauty directed by Crow Wing County's Land Use Ordinance. There is no other property on the south side of the lake that has even close to the Tier 1 density proposed in the application. No other residential property with similar shoreline on the south side has close to that many mooring spaces (nor did the former resort). The same is true with lot widths and lot densities on the south side of Pelican Lake.

Taken together, there is no question that these facts demonstrate that the application is not in harmony with the Land Use Ordinance.

B. <u>Is the Variance Consistent with the Comprehensive Plan</u>?

At the last meeting, a Board member cited **<u>only one</u>** of the purposes of the Comprehensive plan – ie, to encourage residential development that provides housing options – but didn't really address how the requests for variance are at odds with the overwhelming number of environmental purposes set forth in the Comprehensive Plan……..

1. Purposes of the Comprehensive Plan – Environmental Concerns

The Comprehensive Plan is loaded with issues, findings, policies, goals, strategies to protect the surface waters and shorelands in the County (relevant ones are highlighted).

Comprehensive Plan Policies (pp. 5-6)

Encourage residential development that provides housing options for different socio-economic groups – particularly the aging population - **while protecting the characteristics that people value, a sense of community**, as well as a plan to provide all citizens reasonable access to a diversity of recreational and open space opportunities.

Protect, preserve and improve the quality of Crow Wing County's lakes, streams, and wetlands.

Minimize the adverse effects of development county-wide on Crow Wing County's water resources.

Provide safe drinking water for County residents and business by protecting groundwater quality and quantity.

Plan for wastewater needs throughout the County and the surrounding region in a manner that minimizes environmental impacts.

Purposes (Page 7)

Crow Wing County has vast forests, beautiful lakes and wetlands, large areas of public land and open space, interconnected trail systems, and a diversity of rural and urban areas. The County is also growing rapidly, particularly in high amenity areas rich with natural resources. Since the last Comprehensive Plan update in 1994, the County's population has grown over 25 percent. Its total population in 2000 was 55,099, more than the 49,690 projected for the County in 1994. As it grows, Crow Wing County must develop in a strategic manner that provides high quality jobs, housing, education, and recreation to its residents **without degrading the natural and scenic amenities that draw people to it**.

Crow Wing County's rich natural resources and scenic beauty distinguish it from other Minnesota counties. Preserving them is integral to maintaining the County's economy, identity, and unique character.

Water Resources (Page 49-50)

Issues

Lakes, rivers, streams, and wetlands are the County's life blood. They are the focal point for the economic and revenue base for the County, providing its residents and visitors with breathtaking scenery, excellent fishing, a host of

recreational opportunities and a treasured quality of life. Healthy groundwater provides residents with safe and clean drinking water. Because land use activities impact water quality, it is imperative that the County consider water resources in its development of zoning ordinances.

At every community meeting, citizens voiced their support for protecting the County's water resources. However, many citizens are unaware of the cumulative impact that increasing development throughout the County has on the water of the County.

Findings

Crow Wing County is rich with water resources. They are the drawing card bringing the increased population to Crow Wing County. Surface water (lakes, rivers and streams) cover 14 % of Crow Wing County's surface area and wetlands make up an additional 14 % (figure 3a). **While the quality of the County's water resources is generally of good quality now, it is vulnerable to degradation as development and population continues to increase**. To insure that future planning and land use decisions do not compromise the quality of lakes, rivers, and streams, Crow Wing County must educate citizens about how their land use practices contribute to the quality of the water resources. Crow Wing County has a great resource in local citizen-based lake associations and other sporting and conservation groups that can help to carry out educational and planning duties.

Contrary to what many people believe, a lake ecosystem does not begin at the water's edge, but at the top of a watershed. The native forests within our County's watersheds are critical to maintaining the water quality that our lakes have had for thousands of years. Forests, especially mixed hardwood forests, protect water quality by containing stormwater (a single tree can take up to 300 gallons of water per day), absorbing nutrients, cooling runoff that does enter the surface water, and preventing erosion and sedimentation. It is important that we take the importance of our native forests into consideration when planning land use, whether they be directly on the lakeshore, or merely at the top of a watershed.

Most of the high quality lakeshore property in Crow Wing County is developed. With development, the condition of wastewater treatment systems (septic systems) can threaten water quality if not designed, constructed, operated, and/or maintained properly. There are an estimated 60,000 septic systems in Crow Wing County. Recent inspections of lakeshore septic systems have shown up to a 20 percent non-compliance rate with county regulations. Redevelopment of priority lakeshores is rapidly occurring, replacing the cabin, tree-lined shores, and abundant fish and wildlife that attracted people for years, with suburban-style homes and lawns. With these new upscale and upsized homes, shoreline development has dramatically increased the percentage of impervious surface per lot while at the same time reducing the native vegetation that had the capacity to absorb water runoff to the lake. **Increased runoff increases the potential for water pollution, shoreline erosion, loss of habitat, poor groundwater discharge, and flooding. Marginal lakeshore and river shoreland of shallow,**

ecologically sensitive lakes are facing increasing development pressure as people seek more affordable and available shoreland properties.

Comprehensive Plan p. 49

"**At every community meeting, citizens voiced their support for protecting the County's water resources**."

Policy (p. 56)

Minimize the adverse effects of development county-wide on Crow Wing County's water resources.

Strategies on Water Resources (p. 57)

3. Revise, strengthen, and enforce the County Shoreland Ordinance to address current and anticipated development patterns.

Implementation:

How:

- Update the Shoreland Zoning Ordinance using performance-based standards to define development requirements and conditions in the shoreland zone, including conditions that **discourage high density shoreland development**.
  - **Decrease high density development** (as stated in the 1994 Comprehensive Plan, pages 10,24).
  - Reduce impervious surface
  - Limit manipulation of the vegetation in the shoreland impact zone and the construction impact zone.
- Encourage the County to retain adequate staffing to respond to citizen complaints in a timely, professional, and consistent manner. Work with all LGUs to adopt uniform shoreland ordinances throughout the County (and region) that protect water resources and provide for uniform enforcement.
- **Prioritize high value lakes, rivers, bays, and streams in the county based on vulnerability to cumulative impacts of development using appropriate models to assess cumulative impacts**.
- Develop standards for variances and CUPs that require planting of native vegetation, wastewater treatment incentives, and shoreline enhancements.

Who: Crow Wing County Planning and Zoning, DNR, LGUs.

2. Application Evidence related to the Comprehensive Plan

These highlighted provisions really speak for themselves. The Comprehensive Plan is supposed to discourage high density shoreland development – and prioritize high value lakes. That doesn't mean no development, but it does mean that the development should even more closely follow the rules. The requests for variance in the application is so far off these rules – especially in Tier 1 and the docking in the lake – that it is inconceivable to even consider any variance from these rules is consistent with the Comprehensive Plan.

In order to protect the characteristics that people value, you must look to the established rules that were put in place to determine those values. Area restrictions such as minimum lot size and lot widths were put in place to protect…… Maximum densities were put in place to protect ……. Minimum setbacks and maximum impervious were put in place to protect…… Drawing these lines around the structures will not provide all citizens reasonable access. This is not an over 60 planned community – so it has nothing to do with development that provides housing options for an aging population.

In short, while the application proposes development of residential units – that simply isn't enough. Surrounding the lake with hotels would also meet the purpose of encouraging development of residential units. But it would destroy the lake and fail to satisfy the other stated goals of the Comprehensive Plan – namely, to protect our incredible natural resources.

C. Is the Property Owner Proposing to Use the Property in a Reasonable Manner Not Permitted by the Land Use Ordinance?

1. Meaning of "Reasonable Manner"

Merriam-Webster defines a "reasonable" request as "one that is not extreme or excessive." Following this idea, courts have found that the **degree** of variance may be considered in whether the proposed use is reasonable. *See Davis v. Le Sueur County Planning* (Minn. Ct. App. May 29, 2018) unpublished at p. 21.

Reasonableness must also include context. Offering an ice cube to a person in the desert means something totally different than offering an ice cube to a person at the North Pole. So, too, it is with Applicant's proposal. We can't lose sight of the characteristics of the property, the lakeshore, the lake area and neighborhood when determining whether the proposal is reasonable. While it might be reasonable to propose 5 dwelling units in Tier 1 when there is 1,000 feet of shoreline, it is not reasonable to propose 5 dwelling units in Tier 1 when there is only 166 feet of shoreline. And you can't ignore the waves of structures behind the overbuilt status in Tier 1. It was true 30 years ago and it is only proposed to **GET WORSE** under the application from subdividing the property that will allow both build outs and build ups.

2. The Applicant is Not Proposing to Use the Property in a Reasonable Manner

The degree of variance in the 3 requests for variance demonstrate a complete lack of reasonableness. The request for lot width is over 4 times the minimum (100:23). The request for lot area is nearly 17 times the minimum (30,000:1,800). The request for density in Tier 1 is five times the maximum allowed (5:1). These requests are not off by a fraction – but by several multiples. As set forth above, the degree of variance is a factor in determining reasonable. The lot width, lot area and, most importantly, lot density numbers aren't even close.

Context also matters. The request for density variance is extreme in Tier 1 – the most sensitive area of the property and to the health of one of the most prized lakes in the County. While some may argue, the south side of Pelican Lake contains some of the nicest shoreline, scenic beauty, prized residences and peaceful areas of the lake. To me, it's as close to heaven as you get.

In addition, the requests for variance fly in the face of conditions that were imposed against the property over 30 years ago in connection with the former resort expansion and in response to neighbor concerns. Condition 15 says that if you cease to use it as a resort then you must comply with the existing zoning restrictions. The application is not complying with existing zoning restrictions – they are requesting variances so they don't have to comply with these zoning restrictions. In addition, Condition 16 recommends denial of any requests for variance if the requests might increase the density of people on the property – and these requests for variance are certainly going to increase the density of people on the property. It's hard to imagine how it is reasonable to propose to use this property in violation of these conditions.

Finally, three other unreasonable requests – density, mooring spaces and seasonality - are addressed below.

a. Unreasonable Proposal For Density Variance

In order to protect the shoreland and lake, lot density is a big deal. Especially close to the lake. For this reason, the Land Use Ordinance provides a precise mathematical formula to determine the number of dwelling units in Tier 1.

The Land Use Ordinance requires that any resort conversion (assuming this really still qualifies as a resort) meet these important density standards. See Article 34.13.B Resort Conversions ("**Dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots**."). While the proposed amendments to the Land Use Ordinance presently under consideration do away with the lot width and lot area requirements in resort conversions, the density standards are specifically retained as follows:

> **34.13 RESORT CONVERSIONS**
> Resorts may be converted to a residential development, or shared capital resort if all of the following standards are met:
>
> A. For conversions to residential developments, proposed conversions shall be evaluated using the same procedures and standards in Article 33. All

inconsistencies between existing features of the development and these standards shall be identified and corrected, except ~~. For conversions to residential lots, all inconsistencies between existing features of the development and the standards required in Article 11 of this ordinance and/or requirements in the Subdivision Ordinance must be identified and corrected~~there shall be no minimum lot size or width requirement for lots created to contain existing dwellings or dwelling units.

B. Dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots.

Applicant acknowledges that the Land Use Ordinance **allows only one** dwelling unit in Tier 1 – and also admits that they are also subject to the minimum lot width and lot area restrictions. This time around, Applicant doesn't propose to reduce the number of structures within the Tier 1 – they just draw the lines a different way on one of the structures and claim that the number of dwelling units and lots in Tier 1 has magically been reduced from 6 to only 5 – exceeding the limit by a factor of 5. And it really doesn't get better in Tier 2 – they seek the maximum number of 6 dwelling units in Tier 2. That is a total of 11 dwelling units on only 165 feet of lakeshore on little over 2.5 acres.

Sometimes, you need to get a bigger picture. The buildings only tell part of the story. By looking at the permits on file, you get a better indication of what is going on. The charts below show the number of bedrooms from the survey and number of people that are being proposed with these 12 dwelling units on this relatively small piece of property. If each dwelling unit had 2 people per bedroom and they each brought a friend, there would be **116 people** on the lot. If the single story dwelling units were maintained in size but just built up a story, that would mean that number would increase to **192 people**. Those numbers are **shocking** for a lot of only 165 feet of lakeshore and approximately 2.5 acres.

What Tier 1 (Lots 1-5) looks like:

	Existing			Build Up		
Unit	Bedrooms	(2 per BR) People	Bring a Friend	Bedrooms	(2 per BR) People	Bring a Friend
#1	3	6	12	3	6	12
#2	3	6	12	3	6	12
#3	3	6	12	6	12	24
#4	2	4	8	4	8	16
#5	3	6	12	6	12	24
Totals	**14**	**28**	**56**	**22**	**44**	**88**

Lots 1-11 on East Side of County Road 4) Bedrooms and people on lot with only 165 feet of shoreline and about 2 acres:

	Existing			Build Up		
Unit	Bedrooms	(2 per BR) People	Bring a Friend	Bedrooms	(2 per BR) People	Bring a Friend
#1	3	6	12	3	6	12
#2	3	6	12	3	6	12
#3	3	6	12	6	12	24
#4	2	4	8	4	8	16
#5	3	6	12	6	12	24
#6	2	4	8	4	8	16
#7	2	4	8	4	8	16
#8	2	4	8	4	8	16
#9	2	4	8	4	8	16
#10	4	8	16	4	8	16
#11	3	6	12	6	12	24
Totals	**29**	**58**	**116**	**48**	**96**	**192**

Stats per 165 feet of lakeshore:
Existing without friends = 2.8 feet per person (165 feet / 58 people)
Existing with friends = 1.4 feet per person (165 feet / 116 people)
Buildout without friends = 1.7 feet per person (165 feet / 96 people)
Buildout with friends = .86 feet per person (165 feet / 192 people)

If the structures are built out and up to the new lot lines, the numbers **get even bigger!!!** There isn't enough room for people to stand sideways on the entire beach. Under COVID standards of 6 feet apart, there are 8 rows deep of 26 people along the beach – which goes just under 50 feet back from the lake. And that is assuming that everyone just brings one friend. The math isn't too difficult to figure out if there are multiple friends…… And that is just people. Start adding up the cars, the pets, the lawn chairs, the toys, the runs to get food and liquor, the bonfires on the small beach, the different music – and all the trips to the bathroom and stresses on the existing septic system that dates back decades. Unlike before, there is no owner of the former resort to regulate or limit any of this activity. The sleepy former resort is changed into nightmare of massive proportions…… Of course, all those people want to go in the water and zip around on jetskis and boats. What is the impact on the shoreland and lake from all that activity from all those people without a former resort owner to limit and regulate that activity?

Which brings us back to the reasons for the density rules that are for the protection of the shoreland and the lake. It is also the reason that the surrounding property owners have cried foul. The testimony from these existing property owners have made clear that even though these structures have been on the property, they were hardly used and the activity at the former resort was tightly controlled. The total number of mooring spots never exceeded 3 and the rental activity was very limited over the years and practically non-existing in the near past. Indeed, Applicant didn't operate the former resort at all. In short, the property has a long history of very limited activity.

The unreasonableness doesn't stop there. The resulting stacks of lots on such a narrow shoreline are exactly what the DNR warns against – "A first row of crowded structures may be followed

by a second and third until the entire watershed is overbuilt." The result – again according to the DNR – "Degraded property values, polluted lakes and wells, flood damages, and increased public service costs result when short-sighted thinking places immediate profits above long-term impacts and goals." Not exactly proposing to use the property in a reasonable manner by requesting these variances that result in a direct contradiction to the DNR's warning……

It's no wonder that Condition 16 has a trigger that recommends that any variances "**that might increase the density of people"** should be denied. These requests for variance lead to that exact result. Dividing these lots and re-selling them as part of a planned unit development will increase the density of people in at least 2 ways. First, there has been a limited number of people at the former resort over the last several years. It isn't even a resort today – so technically the variances are bound to result in an increase in the density of people. But these postage lots will be purchased and the purchasers will grow out and up – resulting in an increase in the density of people. If granted, there will be an increase of density of people resulting from the increased numbers of mooring spots on the lake. The whole purpose of these variances is to drive more people onto the property by selling the lots as individual lots instead of running it as a resort. Condition 16 recommends, in no uncertain terms, that the Board deny these requests for variance.

Not only is all of this unreasonable – it's nothing short of shocking…

b. Unreasonable Proposal For Mooring Spaces

The application seeks to have a centralized dock with 11 mooring spaces – one for each dwelling unit on the property. The number of mooring spaces in a residential development is of critical importance to maintaining the shoreland and lake – as well as protecting the safety and general welfare of the residents. For this reason, there are specific limitations for the number of allowable mooring spaces in the Minnesota Rules and the Land Use Ordinance. In addition, this Board has added conditions to other resort conversions that limit the number of mooring spaces. Finally, the application misrepresents the number of mooring spaces at the former resort.

1) Restrictions on Mooring Spaces under Minnesota Rules

The Minnesota Rule relied upon by Applicant to support there requests for variance as a resort conversion contains the following limitation for the mooring spaces in planned unit developments:

> Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. **The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier**. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

Minn. Rule 6120.3800 Subp. 5.B.(3)(c)

There have been claims that Minn. Rule 6120.3800 Subp. 5.D.(4) overrides Subp. 5.B.(3)(c)'s limit. Minn. Rule 6120.3800 Subp. 5.D. provides:

> D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments **if all of the following standards are met**:
>
> (1) Proposed conversions **must be initially evaluated using the same procedures and standards presented in this part** for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
>
> (2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and **shore recreation facilities must be corrected as part of the conversion** or as specified in the conditional use permit.
>
> ….
>
> (4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts **must** be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, **centralizing shore recreation facilities**, **installing new sewage treatment systems**, or other means.

The claim that Subp. 5.D.(4) trumps Subp. 5.B.(3)(c) is wrong for at least 2 reasons.[1] First, Minn. Rule 6120.3800 Subp. 5.D. requires that conversions must be evaluated using the same procedures for new construction (ie, must meet width, area, density, impervious, setbacks, **shoreland restrictions**, PUD requirements of Subp. 5.B.(3)(c), etc.). Second, Subp.5.D.(2) specifically says that resort deficiencies with **shore recreation facilities** must be corrected as part of the conversion. Those shore recreation limits are set in Subp. 5.B.(3)(c) – with a limit of no more than one mooring space per allowable dwelling unit in Tier 1.

In short, Subp. 5.D.(4) actually supports the argument that only one mooring space is allowed as it specifically refers to centralizing shore recreating facilities – and the way to centralize the shore recreation facilities is provided for in Subp. 5.B.(3)(c) above –providing for only one mooring space for each allowable dwelling unit in Tier 1.

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[1] Even if Subp. 5.D.(4) does apply, it says "may" – not must. Otherwise, there would be no need for a variance and no need to evaluate anything under the existing rules. The only "must" is that they must not be allowed to be increased. The only way they may be allowed to continue is if they prove they are entitled to a variance – by showing ALL variance requirements are met. Speaking of "must", they also must correct shore recreation facilities as part of the conversion – and shore recreation facilities for resorts converted to PUDs are set forth in 5.B.(3)(c) – which says you only get one mooring spot per allowable dwelling unit in Tier 1…….

2) ***Restrictions on Mooring Spaces under the Land Use Ordinance***

This limitation on resorts or PUDs for only one mooring space for each allowable dwelling unit in Tier 1 should not be a surprise. This same limitation is found in both the existing and the proposed amendments to the Land Use Ordinance. See existing Article 33.11.B.(5) Residential Development Standards / Centralization and Design of Facilities (**allowing one watercraft mooring space per "allowable dwelling unit lots in the first tier**") and proposed Article 34.8.E.(3) Resort Standards / Resort Design Criteria (new addition - "**The number of allowable continuous watercraft mooring spaces abutting public waters shall not exceed the number of allowable dwelling unit lots in the first tier**.")

3) Restrictions Mooring Spaces by the Board

In the very recent past, this Board has imposed restrictions on mooring spaces in connection with resort conversions. In November of 2019, the Board imposed the following condition limited mooring spaces in the Fishtales' resort conversion on Lake Hubert:

Conditions Limiting Mooring Spaces in Fishtale Resort Converion on Lake Hubert

CONDITIONS (marked items apply):

- ☑ A developer's agreement meeting the requirements outlined in Article 9 must be submitted with the final plat.
- ☑ A signed and notarized Declarations document must be submitted with the final plat.
- ○ Stormwater management plan (SWM) must be separately approved by County staff and implemented by the time of final plat approval. Or financial assurance for the construction of the SWM must be submitted to the County at the time of final plat and a timeline for completion for the SWM must be identified in the developer's agreement and approved by the County.
- ☑ No increase in impervious surfaces shall be allowed on the development / plat without an approved variance allowing for the increase.
- ☑ No increase in the number of docks or mooring spaces shall be allowed without an approved variance allowing for the increase

11-21-19 — Date

Rebecca Best — Board of Adjustment, Chair

See https://gis.crowwing.us/link/reports/DocViewer/showdoc.aspx?docid=168819&appname=PZ_PERMITS at page 9. This appears to limit the number of mooring spaces that existed prior to the conversion – which may or may not have been within the limits under the Minnesota Rules or Land Use Ordinance. But, the limiting the number of mooring spaces was a condition.

4) Mooring Spaces at the Former Resort

Applicant claims that the former resort had 12 mooring spaces (although maybe that claim is now down to 11 in the current application). Applicant provides no evidentiary support for that claim.

This claim conflicts with the overwhelming public testimony as well as the GIS maps and number pictures submitted by the neighbors. At the last public hearing, numerous people testified that the former resort never had more than 3 mooring spaces. That number is confirmed by the following aerial pictures from the 2019 and 2016 County GIS maps:

2019 GIS Map



2016 GIS Map



In addition, it seems unlikely that the former resort had 12 mooring paces when Minn. Rule 6120.3800 Subp.6.B.(2)(e) "Commercial planned unit development density evaluation steps and design criteria" contains the same limitation of one mooring space per dwelling unit in Tier 1:

> (e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. **The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in**

the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

The GIS maps from 2019 and 2016 show exactly that – the former resort had only 3 mooring spaces and a separate small dock for loading and unloading for the other tiers.

Applicant's claim also conflicts with the former owner's complaint letter to the Governor dated July 8, 1991 regarding, among other things, the conditions imposed by the Board and the shoreland rules under Minnesota Rule 6120.3800:

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Permit Link 69089 at p. 13.

The former owner's position is entirely consistent with the 3 mooring spaces on the dock that have been shown over the years. Ironically, Minnesota Rule 6120.3800 cited by Mr. Swenson is the same Minnesota Rule cited by the Applicant when asked if they wanted to add anything to address the concerns raised by the neighbors. Applicant stated that Minnesota Rule 6120.38 [sic] allowed resort conversions. See Recording of first hearing at 1:23:45.

5) Conclusion on the Mooring Spaces

Applicant's current proposal of eleven mooring spaces (without a request for variance) when the Rules state that you are only allowed one mooring space for each allowable dwelling unit in Tier 1 is unreasonable. That proposal is also unreasonable when the evidence shows that there were at most 3 mooring spaces over the years and the former owner acknowledged that limitation.

Besides the numbers, Applicant's request for the 11 mooring spaces is also unreasonable as it drastically increases the risk of injury on this part of the lake. We heard from neighbors that swim throughout the summer in these shallow waters nearly 200 feet from the shore and the dangers of watercraft from the former resort. In connection with the former resort expansion 30 years ago (that at most allowed 5 mooring spaces according to the owner), the Board imposed Condition 10 and 11 to protect the former resort vacationers and the neighbors from watercraft traffic from those 5 maximum mooring spaces. Condition 10 required buoys or ropes to extend from the end of the dock to funnel boats into the mooring spaces. Condition 11 required a roped in area for swimming at the former resort. Applicant seeks to more than double the number of mooring spaces from the former resort expansion, more than triple the number of the existing mooring spaces (proven to be 3 by the evidence

in the record). Increasing the mooring spaces will mean exponentially more watercraft traffic in a very shallow area that has frequent swimmers from neighboring properties and as well as the former resort property – without recognizing these past conditions or proposing any safety measures related to this radical increase. That is also not reasonable when it comes to mooring spaces.

c. Unreasonable Year-Round Request

The application proposes that the dwellings be year-round instead of seasonal. The former resort was only operated during the summer. This is important for a number of reasons – mostly environmental. The septic systems were allowed to clear and not be stressed. No insulation was necessary for the septic as it was not being used in the winter. Same for any water running to the "cabins". The property was allowed to heal. Vegetation was allowed to re-establish. The shoreline and lake was allowed to heal from lack of activity in the spring, fall and winter.

More importantly, allowing these lots and future buildouts will not only stress the septic – but cause much more environmental issues from the lack of seasonality alone. For this reason, the Minnesota Rules mandate the need to limit the effect of any conversion by "continuing to require **only seasonal use**. See Minn. Rule 6120.3800 Subp. 5.D.(4) ("Efforts must be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.")

Proposing that the dwelling units be allowed to be year-round in spite of the Rules and prior use is unreasonable. It also violates Condition 16 recommending variances that might increase the density of people should be denied.

3. *What Is Reasonable?*

So, what would be reasonable? That's a tricky question – and I doubt that everyone will agree on that one. It's easy to say when something is unreasonable, but much more challenging to say what is reasonable. Nevertheless, I'll toss in my two cents…….

At one extreme would be to simply follow the rules that everyone else must follow and abide by the conditions that were put on the property 30 years ago. Is that so unreasonable? Reduce the density down to one dwelling unit in Tier 1 by removing the old structures that are likely to be removed anyway. Remove a few dwelling units from Tier 2 – they are going to be demolished anyway. Increase the lot sizes and widths of the remaining dwelling units.

At the other extreme, well – that would be the existing application……

Is there a middle ground that could be reasonable? In concept, the approach taken by the Minnesota Rules seems to be "Do no harm." See Minn. Rule 6120.3800 Subp. 5.D.(4) ("Efforts must be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, **centralizing shore recreation facilities**, installing **new sewage treatment systems**, or other means."). In other words, don't make it worse than it already is and try to make it better. That

seems reasonable and is based in the rules. In this case, the following list of conditions seems to be reasonable:

a. Retain and specifically repeat in writing all conditions that are currently on the property (that would be the conditions from May 1, 1991, as revised by the June 19,1991 action and as further added to by the February 25, 1993 court order).

b. Require a centralized dock with no more than the 3 mooring spaces (same number as the former resort) and a launching dock for everyone else.

c. Limit any rebuilding of structures to the same height and dimension as the existing units with no additional bedrooms.

d. Reinforce the conditions related to the funneling of boat traffic into the centralized dock and have a roped off swimming area.

e. Maintain the seasonality of the property (April through November) other than the main house and require periodic septic inspections.

f. If the "Lodge" is rebuilt, move it back to the current setback requirements.

g. Establish a limit the total number of people on the property.

h. No greater overnight occupancy in any dwelling unit with more than 2 people per bedroom.

i. Provide a safe crossing for the storage and parking facilities across County Road 4 (although I am not sure what that would be – blinking light when someone want to cross?)

j. When the number of people on the property hits 40, a new septic survey is required to determine if a new sewage system should be installed.

k. Require a person that is assigned monitor the beach and lake when more than 20 people are present to enforce compliance with the conditions above.

Again, the concept with these conditions is to try to bend a little – but still be reasonable while respecting the concerns of the neighbors – who may have additional ideas. And it is just as important today to consider the general health, safety and welfare of the residents – especially in the lake and crossing that dangerous spot on County Road 4 as it was 30 years ago when a grandmother expressed concern for her grandchildren swimming in the lake. Boats today are much more dangerous but children and their parents not so much. Especially when there is not a resort owner keeping a watchful eye on what is happening at his property……

D. Is the Need for a Variance Due to Circumstances Unique to the Property and Not Created by the Property Owner?

A quick review of the survey and other mapping demonstrates there are no circumstances unique to the property that cause the need for a variance. This property is relatively flat, there are no wetlands that are causing the need for a variance, no bluff or other protected areas that are causing the need to limit the lot width, lot size or exceed the maximum density allowances. What is causing these requests is that an owner decided to pack in as many dwelling units on the property as possible.

In addition, the requests for variance are only being caused because the new owner (who never operated the former resort or has disclosed that he operated any other resort) wants to subdivide the property and sell off the individual units to make a profit. The property isn't causing the requests for variance – the new owner created the need for variance when he purchased the property with the sole intention of subdividing it.

I suppose an argument might be made that the existing structures on the property are what is unique and the variances are needed to sell the lots. But the structures aren't the property. More importantly, that argument really doesn't work when the owner created that unique circumstance by placing those structures on the property in the first place. Granting the requested variances would simply be rewarding bad behavior and ignoring the conditions placed on the property when the expansion was done.

Applicant has pointed to no circumstances unique to the property that causes the need for a variance. The application just says they don't want to run the former resort – but want to subdivide the property and sell the newly created lots after getting variances for lot width, lot area and density. The facts demonstrate that was always the plan. The property was purchased in November 2020 and the request to subdivide came a only a couple months after the purchase.

Bottom line, there is nothing unique about the property that is causing these requests for variance that were not caused by either the present or past owner.

E. Will the Issuance of a Variance Maintain the Essential Character of the Locality?

This question reminds me of a line from the movie "Tommy Boy" that seems to apply to this question – "You can get a good look at a t-bone by sticking your head up a bull's ***, but wouldn't you rather take the butcher's word for it?"

In this case, you can get a good look at the character of the neighborhood by a quick trip through the GIS maps – but hearing from the neighbors is certainly more descriptive. All of the neighbor comments have provided examples of how the issuance of these variances will FAIL to maintain the essential character of the locality. It's pretty easy to see how this character will negatively change.

The starting point, of course, is to describe the current character of the locality. This former resort has been a quiet, sparsely operated resort over the past several years. Despite the big expansion

plans over 30 years ago, the former resort – like many others – have been in a long period of decline. By the end of 2020, it's fair to say that the former resort was hardly a resort at all. We've seen that the former resort had only 3 mooring spaces on the dock and we've heard that the boat activity on the lake was minimal.

The former resort is surrounded by quiet residential properties. In fact, there is no other property on the entire south end of the lake that has even close to the requested density, limited lot width or lot area numbers that are sought in the requests for variance. Nor does any residential property on the south side of the lake have anywhere close to the number of mooring spaces on a dock. In addition, the south side of Pelican has relatively little boat traffic on the lake from residents.

The existing structures on the former resort are out of scale, out of place and otherwise inconsistent with the surrounding area – and the requests for variance that will allow for building out and building up will only make this inconsistency worse. The "lodge" on the former resort (which is already an eyesore) will be torn down and expanded – taking it even closer to the lake. No doubt it will be turned into a rental unit with constant traffic from the front door right into the lake. Nothing like the surrounding properties. The same is true with all 5 of the proposed lots in Tier 1 – when only 1 is allowed under the Land Use Ordinance.

The Minnesota Rules also demonstrate the increased risks from planned unit developments on the shorelands and lakes:

> **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:
>
> A. existing recreational use of the surface waters and **likely increases in use associated with planned unit developments**;
> B. physical and aesthetic impacts of increased density;
> C. suitability of lands for the planned unit development approach;
> D. level of current development in the area; and
> E. amounts and types of ownership of undeveloped lands

Minn. Rule 6120.3800, Subp. 2.

This is one of the reasons that the neighbors cried foul 30 years ago and the neighbors are again crying foul today. The expansion of the former resort was bad enough – but subdividing it into postage stamped lots and flipping it outside the context of a resort that gives the buyers the right to build out and up and occupy year round is maddening. Especially when the expansion was capped 30 years ago and it was supposed to convert back to the zoning restrictions when it no longer operated as a resort. Instead, the requests for variance will result the property being even more at odds with the essential character of the locality.

Again, Applicant has failed to provide any evidence to meet his heavy burden on this requirement as well. Applicant has provided no other proof of any similar properties in the whole south side of the lake. Applicant has provided no evidence of any other residential properties on entire south

side of the lake that have anywhere near the number of mooring spaces on a similar sized lot. Remember, it is **Applicant's heavy burden** to show that the issuance of the variances will maintain the essential character of the locality.

The argument that these buildings already exists misses the mark. Applicant is not proposing to just continue the existing buildings. Applicant is proposing to subdivide the property and sell off the lots. These existing buildings won't be repaired. They will be replaced with much bigger structures on the newly created postage stamped lots with the 11 mooring spaces with exponentially increased volumes of people, pets, parties, garbage, noise, etc.

In short, Applicant has failed to carry the heavy burden on this question.

F. Does the Need for a Variance Involve More than Economic Consideration?

This begs the question – why does Applicant need these variances? Obviously, they are not saving the former resort. There is no mention of granting the variances so they can build an over-60 planned community. And we can't forget that part of the slicing and dicing initially included a proposal to maximize the profit even more by selling off the land across County Road 4. Nor can we forget that this property was purchased by Applicant in November and the requests to subdivide were filed just a couple months later. The plan has been from the beginning just to take advantage of the fact that this property used to be operated as a resort and money could be made by subdividing the property and selling it off – in hopes that the parts were collectively worth more than the whole. Not to make things better – just to make money.

Unfortunately, making money that way comes at a cost. And the cost in this case is that it expands and overdeveloped property – putting at risk the environmental, scenic balance that the residents have all come to enjoy. In short, these requests for variance in order for an economic gain simply go too far. We ought to encourage development – but limit that development to honor the purposes and intent of the Land Use Ordinance, rights of other property owners and, most importantly, preserve and protect the shoreland and remarkable Pelican Lake.

IV. THIS RESORT CONVERSION (ASSUMING IT'S STILL A RESORT) IS DIFFERENT

Unfortunately, the resort business isn't what it used to be and there are a number of resorts that have a difficult time of keeping their doors open. That sad fact is one of the reasons that the Minnesota Rules and the Land Use Ordinance have provisions dealing with resort conversions. It is certainly true that the Board has approved a number of resort conversions in the past.

While it might be tempting for the Board to say that "they've heard it all before," this application is VERY DIFFERENT than other resort conversions. The restrictive conditions that were placed on this property in connection with the former resort expansion make this property unique. That uniqueness is amplified when you look at the conditions that were placed upon it – especially Condition 15 and 16 analyzed above. Adding to the uniqueness is the fact that this is no longer a resort and it was

purchased with the sole intent to subdivide and profit. Add to that the fact that this resort already sticks out like a sore thumb on this lake and there are no other properties on the entire south side of the lake that have the proposed lot width, lot area or shockingly proposed Tier 1 densities. Add to that the radical degree of variances sought. Add the substantial safety and environmental concerns pointed out by the neighbors. Add to that the number of bedrooms and the potential build out and up on a relatively narrow shoreline. And finally add to that the risks to such a precious shoreland and pristine lake if this application are granted.

This application is truly unique. There are some that would say a mistake was made 30 years ago when the former resort was allowed to expand. We should not say blindly add this one to the resort conversion pile. This is DIFFERENT and great care and consideration must applied to both respect the past by honoring the conditions placed on the property 30 years ago and following the rules applicable to the requests for variance.

CONCLUSION

I am not against development – I couldn't have recently built my dream house on the lake if I was. Nor am I against resort conversions. While we may want to reminisce about the past, the fact is that the resorts are dying off and we need to figure out something to do with the property when they close. This former resort is no exception. Nor am I against planned communities. These play an important role both today and in the future.

My only concern is that we deal with these according to the carefully balanced rules and regulations that exist to protect our precious natural resources. Long ago, we allowed our lakes to be ruined by the desire to make money by cutting down century old trees and put our lakes at risk. The damage caused by that desire to make money was a stain on the area for 100s of years – and remains a stain today. That is not to say we stop development. But it should remind us that we need to be very careful in how we develop and what should be done to protect the shoreland and lakes for today and the future. That is the very reason for the Land Use Ordinance, Comprehensive Plan and myriad of existing rules and regulations.

In this case, I think it is in everyone's interest to **SLOW DOWN** and make sure we have all the facts on the table related to the current conditions existing against this property. That is only fair to the Applicant and all parties involved – including the Board. It also might avoid protracted and expensive litigation if we address these things now and get everyone on the same page.

Until that happens, I believe this application should be tabled. Alternatively, I believe the application simply goes too far on this property and must respectfully object. If the Board does consider granting the variances, then all prior conditions must continue and there must be new conditions added that comply with the Minnesota Rules, the Land Use Ordinance and – most importantly - protect the health, safety and general welfare of the shoreland, waters and its residents.

RECEIVED
By Kirstin Lindbery at 1:15 pm, Apr 14, 2021

Kirstin Lindbery

From: Bill Hodder <sue.bill.hodder@gmail.com>
Sent: Tuesday, April 13, 2021 9:00 PM
To: Kirstin Lindbery
Subject: Pelican Beach Resort. Parcel Number 73040571

Crow Wing County Planning Commision. attn: Kirstin Lindbergh

I am a lake property owner on Pelican Lake (PID 73030503,504,505) and very concerned re: the proposed development of Pelican Beach Resort. This is an addition to previous concerns I submitted on 3/15/21.

These additional concerns are:

1- The entire resort appears to be " nonconforming " with a number of existing structures that were not approved by CWC. Specifically, there is no" known" documented application nor approval for the 2 duplexes that are located in Tier 1. If true, this is a major violation the "law".

2-Land Services Staff Notes (part of the info packet provided for the 3/18/21 meeting)
(4.2. Packet Page 98)
Requested Variances to Zoning Code for Shoreland District
1-Minimum Lot Area requested. 1772 sq ft. Required 30000 sq ft.
2-Minimum Lot Width requested 23ft. Required. 100 ft.
3-Request 6 dwelling units in Tier 1. Required maximum of 1 is allowed.
These requested variances are such a "gross" violation of the code, I do not understand "why" the request was not denied "up front". Are we no longer concerned about the very negative impact of density on the environment, water quality, boat traffic, etc. ? Why is the reclassification of a nonconforming resort to Shoreland Residential not subject to same code limits that all the neighbors are?

3-Future Oversight
From a realistic point of view (if the request is approved) the only oversight/control of the development of the ""site" going forward (the number and size of the buildings ,the number of boat slips,etc.), will be the Home Owners Association Board which will "act" in their own "interest ". The County, Thirty Lakes Watershed, DNR don't. have the "resources " to "police " this type of very dense development.

Thank You for your consideration of my "opinions ".

William Hodder
26290 Cty Rd. 4
Nisswa, MN. 56468
Email. sue.bill.hodder@gmail.com

Acc

Sent from my iPad

RECEIVED
By Kirstin Lindbery at 11:20 am, Mar 15, 2021

Kirstin Lindbery

From: Bill Hodder <sue.bill.hodder@gmail.com>
Sent: Monday, March 15, 2021 10:56 AM
To: Kirstin Lindbery
Subject: Parcel Number 73040571

Dear Ms. Lindbery

As a property owner on Pelican Lake (PID 73030503), 504; 505), I am very concerned about the proposed development of the former Pelican Beach Resort by Pelican Beach Holdings LLC. I just learned about the proposed development last week and have not been able to read or evaluate the full proposal, which only became accessible this past Friday afternoon. Given the significant scope of this proposed development, the potential land use and environmental implications, and the potentially negative impact on nearby property owners, I need more time to study and analyze the details of the Proposal. Having less than a week to evaluate this proposal is not reasonable. Therefore, I request that the Planning Commission Hearing set for March 18, 2021, be continued to a later date. If a continuance is not granted, then I now submit my strong objection to this proposed development and pledge my active and continuing opposition through all available channels.

Thank you for your consideration.

William Hodder
26290 Cty. Rd. 4
Nisswa, MN 56468
Email: sue.bill.hodder@gmail.com

Sent from my iPad

RECEIVED
By Kirstin Lindbery at 8:48 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Proposed zoom meeting to be held 18 March 2021

-----Original Message-----
From: Platt Hubbell <hubbpd2fly@gmail.com>
Sent: Friday, March 12, 2021 11:54 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed zoom meeting to be held 18 March 2021

Dear “Kiki”,

On Thursday, 11MAR21, I was forwarded an email about a zoom meeting to be held next Thursday, 18MAR21, regarding “a proposed change to parcel number 73040571”.
This property is known to me as Swenson’s Pelican Beach Resort. I’m assuming ,“The entire packet” to be made available “ by Friday, 3-12-2021 (many pages, and LOTS of information)”, is available now at the counties web site. Perhaps but this brings me to the purpose of this contact. I am Trustee of our families trust that owns 56 acres comprising four individual plats. One of these is separated by only one other landholder from the petitioners property. My family is collectively very concerned that there would be any variances even considered on a property that is obviously already non-conforming and apparently the proposed changes would compound as opposed to remediate existing problems. Furthermore, I have received no notification from the County of anything regarding this. Even if properly notified, buy your own quoted email, I’ll only have three working days to review and prepare for the hearing. Also it is well known that the vast majority of our neighbors are hundreds if not thousands of miles away durning winter months. This includes me as well.
Please consider this communiqué my request that this entire matter be tabled until such time properly notified concerned parties, at a minimum land holders abutting this property, could reasonably be reasonably expected to have the opportunity of appearing in person.
This short notice is unacceptable, the timing inappropriate and apparently circumspect.

Thank you for your prompt consideration. “Hubb”

Nevah Hubbell Trust dtd 29DEC92
Platt T Hubbell TTEE
26482 Co Rd 4
Nisswa, MN 56468

RECEIVED
By Kirstin Lindbery at 3:11 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Holdings Resort Conversion Request

From: B-J Jewett <jewettpr@yahoo.com>
Sent: Thursday, March 18, 2021 3:08 PM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Holdings Resort Conversion Request

Dear Crow Wing County Planning Commission/Board of Adjustment Members:

We have reviewed the information posted on the county website regarding the resort conversion request by Pelican Beach Holdings LLC to rezone and repurpose the former Pelican Beach Resort.

While we do not directly oppose the zoning change request, we do, however, wish to share with you our concerns:

1. **Increased traffic along that stretch of CSAH 4.** We support the suggestion of the Crow Wing Co. Highway Dept. that a right turn lane be installed at the entrance to the new Peaceful Harbor Planned Community and encourage the Planning Commission/Board of Adjustment to do all that they can to ensure a turn lane is installed as quickly as possible.

2. **Increased environmental impact on the lake** when what are now seasonal cottages are replaced with year-round or three-season dwellings by the new owners of the postage-stamp lots. While there was nothing in the Peaceful Harbor Planned Community information to indicate this was imminent, replacing seasonal cottages has been the trend on the lake.

Our property has been in our family since 1949 and is one of the few remaining original seasonal cottages on the lake. Through the decades we have observed the changes in lake quality to the lake overall as well as our 300 feet of shoreline, the increased boating and watercraft use, and the increased traffic on CSAH 4 as the area has developed and as shorefront seasonal cottages were replaced with year-round and three-season homes. We want to ensure that future generations of our family will be able to enjoy all that makes Pelican Lake special.

Sincerely,

Barbara and Jeffrey Jewett
1201 W Frances Dr.
Mahomet, IL 61853

Owners of Crow Wing Co. Property Address 9197 Red Hawk Lane (on Jones Bay)
Parcel IDs:
82330535
82330536
82330537
82330538
82330539

RECEIVED
By Kirstin Lindbery at 10:18 am, Mar 18, 2021

From: Carolyn Kerr <carolyn@carolynkerrart.com>
Sent: Wednesday, March 17, 2021 3:39 PM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing - Josh Miles

Please see my attached letter concerning the upcoming Public Hearing.
Thank you,
Carolyn Kerr

Response to the following application:

Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

Dear Commissioners,

I would like to state my strong objection to the request by Josh Miles. I believe this plan that includes 13 Residential Dwelling Units will have an adverse impact on Pelican Lake. There would be a lasting negative effect on the lake, the wildlife and the quality of life of the inhabitants of Pelican Lake.

This plan would bring increased traffic on the lake and would negatively affect the environment of the lake.

We have enjoyed Pelican Lake for many generations, it has always been a quiet lake. The increased density proposal for this property is not in line with current land use regulations.

Carolyn Kerr
27357 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Kirstin Lindbery at 11:31 am, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Holdings LLC - Josh Miles - Variances

-----Original Message-----
From: NANCY KERR <nancylkerr@me.com>
Sent: Wednesday, March 17, 2021 6:29 PM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Holdings LLC - Josh Miles - Variances

Dear Planning Commission Board,

We very strongly object to granting the variance to Pelican Beach Holdings LLC - Josh Miles.

We are concerned about the impact multiple dwellings on one property would have on neighbors and other homeowners on Pelican Lake. In addition, this variance would set a dangerous precedent, because other property owners might want to do something similar, which would destroy the current quality of life we cherish on Pelican Lake. The residual damage to water quality, wildlife, and other property owners on the lake would be devastating.

My family and extend family have been property owners on Pelican Lake for many decades, to my knowledge a variance like this has never been approved. Thanks for your consideration of our objections this variance, and Please do not allow this conversion to happen on Pelican Lake.

Kind Regards,

Nancy and Mike Kerr
27296 Kerr's Point Road
Pequot Lakes, MN 56472

Sent from my iPad

RECEIVED
By Gina.Roach at 9:18 am, Apr 16, 2021

Gina Roach

Subject: FW: Public Hearing for 4-19-21 at 5.00 PM, Parcel # 7304051, Property Owner Pelican Beach Holdings LLC; miles, joshua

From: Linda Martz <linda.martz@gmail.com>
Sent: Thursday, April 15, 2021 6:26 PM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing for 4-19-21 at 5.00 PM, Parcel # 7304051, Property Owner Pelican Beach Holdings LLC; miles, joshua

I, Max L Martz, am writing a letter of concern for parcel #7304051. My wife, four children and I have ownership of two lots, 4 and 5, in Jones Bay listed as Martz Family Partnership LLC. (27178 County Rd 4, Pequot Lakes MN, 56472).

Our concern is the development of eleven dwelling units and two common lots. In approximately 2008, Joan Mondale, past president of The Pelican Lake Association, informed the board (of which I was a member) that A and W Research of Brainerd had information and a film of a flyover that had found green algae plume due to a leaking septic system that had spread out into Pelican Lake onto the same approximate parcel and spread into Pelican Lake for some considerable distance.

I believe this development could affect the purity and congested traffic of the Lake due to eleven or twelve docks for large pontoons and fishing boats. I would believe that the number of residents could add to considerable waste and pollution in Pelican Lake. The Pelican Lake Conservation Club and the Pelican Lake Association have always tried to keep Pelican a very clear and healthy Lake for future generations to swim, boat and fish.

Sincerely,

Max L Martz
General Partner, Martz Family Partnership LLC

RECEIVED
By Gina.Roach at 8:46 am, Apr 13, 2021

Gina Roach

From: Jeff Maus <jeff_maus@yahoo.com>
Sent: Friday, April 9, 2021 4:39 PM
To: Gina Roach
Cc: Lori Maus
Subject: Re: Link to Crow Wing County BOA Packet

Follow Up Flag: Follow up
Flag Status: Flagged

Gina,

Thank you for forwarding this information, and for the phone call today.

There is obviously a great deal of information here, but one of the first things that caught our eye:

From agenda on March 18th, it is stated
"Timothy and Patricia Swenson (former owners) - sold this property to Pelican Beach Holdings LLC (Josh Miles) on 11-23-2020"
"Property owner would like to get out of the resort business" (assume this would be Mr. Miles, as he is filing this request)

Mr. Miles bought this resort late November, and immediately requested converting it to residential properties in January.
Pretty obvious he was intending to do the conversion when he bought the resort.

As Pelican Lake property owners, we do not support this request, for many reasons. Here are just 2 of them...
1) It severely overcrowds a very small tract of land on Pelican Lake. This will cause further zoning issues within this area.
2) It would set a legal precedent for future landowners that would use this decision to further overcrowd property around Pelican Lake.

Regards,

Jeff & Lori Maus

On Friday, April 9, 2021, 04:02:16 PM CDT, Gina Roach <gina.roach@crowwing.us> wrote:

http://crowwingcountymn.iqm2.com/citizens/calendar.aspx

Gina Roach

Customer Service Specialist

Office: (218) 824-1010

Direct: (218) 454-7473

www.crowwing.us

Land Services

322 Laurel Street Suite 15
Brainerd, MN 56401

RECEIVED
By Stacy Westhoff at 3:28 pm, May 20, 2026

Excellent customer service is our top priority. Please let me know if I was helpful!

Customer Service Survey

Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

This e-mail and any attachment is intended to be read only by the intended recipient. This e-mail may be legally privileged or protected from disclosure by law. If you are not the intended recipient, any dissemination of this e-mail or any attachments is strictly prohibited, and you should refrain from reading this e-mail or examining any attachments. If you received this e-mail in error, please notify the sender immediately and delete this e-mail and any attachments. Thank you.

RECEIVED
By Kirstin Lindbery at 10:17 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort

-----Original Message-----
From: judy mellinger <jnmellinger@hotmail.com>
Sent: Saturday, March 13, 2021 2:50 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; kristin.lindbery@crowwing.us
Subject: Pelican Beach Resort

Hello Kirsten,

We've received the notice of zoning change and variances wanted by the new LLC owner of Pelican Beach Resort. They are asking for too much density of duplexes/cabins for the lot east of County 4 and too much sewage to be handled by such an apparently small drainfield. Pollution of the lake with e. Coli might well result. Runoff from 13 roofs onto land that slopes down to the lake will also carry other pollutants.

Where is the parking area(s)? How large is the dock going to be to allow each unit to have a boat or other watercraft? How much noise will this property engender for the neighbors on each side? We're two properties south of the current resort but still fear for the lake pollution, noise and congestion at the SW corner of Pelican Lake.

Thank you for 'listening' to us.

Jim and Judy Mellinger
Summer address:
26708 CR 4
Nisswa, MN 56468

Sent from my iPhone

RECEIVED
By Kirstin Lindbery at 12:19 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Public Hearing Comments for Parcel 82100789 (Otten/McGann)

From: Jodi Morrison <jodimorrison@yahoo.com>
Sent: Thursday, March 18, 2021 11:03 AM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing Comments for Parcel 82100789 (Otten/McGann)

Board Members of the Planning Commission, Board of Adjustment

Thank you for the opportunity to provide comments regarding the requested variance on Parcel #82100789 owned by Randall Otten & Michelle McGann.

We are owners of the adjacent property and have met with Randall and Michelle about their desired use of their newly acquired property. We are in support of their requested variance as noted for this specific hearing.

As mentioned in their application for Variance, we have met with them to ensure that their plans would meet both their needs without compromising our adjacent property.

We remain in support of their requested variance ensuring the following:

1) The Storm Water Drainage plan that limits additional runoff into the road. The road is currently a low spot that pools water during the spring thaw as well as after a rain. The standing water makes for a soft and muddy road. Our request is simply that their storm water draining not add to the water accumulation in the roadway. Their plans for a rock driveway/parking should ensure this is achieved.

2) The structure is not closer to the (main) lake than what they currently have planned. (The main structure/cabin will be 75 feet from the ordinary high water mark and an attached deck will extend up to 12 feet towards the OHM within the 75 foot setback).

Thank you
Jodi & Steve Morrison

Sent from Mail for Windows 10

RECEIVED
By Kirstin Lindbery at 9:13 am, Mar 17, 2021

Kirstin Lindbery

Subject: FW: Objection to Josh Miles Variance/Pelican Lake

From: Lori Moss <loricd8@gmail.com>
Sent: Tuesday, March 16, 2021 4:53 PM
To: Landservices <Landservices@crowwing.us>
Subject: Objection to Josh Miles Variance/Pelican Lake

Dear Commissioners,

My family and I write to you today to communicate our strongest objections to granting the Josh Miles variance for development on Pelican Lake. We speak as three generations of a family who have treasured the natural beauty of the lake for more than 80 years. We are 2nd, 3rd, and 4th generations and remember the fierce and deep love instilled by the first generation. They taught us to respect and protect the gifts that these waters and trees and wildlife are.

The short notice given to those affected around the lake is very troubling, and no decision so consequential should be pushed through without full discussion and transparency and time to consider ramifications. We are concerned about environmental impacts to the water and the wildlife, as well as increased activity on the lake and bay where we live which impacts current homeowners' ability to enjoy the lake as a peaceful retreat.

Lori Moss
Kay Kerr Adair
Christy Price
Hannah Moss
Sanford Price

27201 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Gina.Roach at 1:12 pm, Apr 15, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills - Variance / Zoning

To Whom It May Concern:

I strongly object to the variance because:

1. The size of the lot cannot support the density of the planned development.

2. The increase traffic on the lake will negatively effect the environment of the lake.

3. The plan for 12 boat docks is not realistic because of the depth of the water where they would be located.

4. Pelican Lake has always been a quiet lake, which we have enjoyed for 62 years. We must protect the lake from further development that is not in line with current land use regulations.

Nancy Kerr
27363 Kerrs Point Road
Pequot Lakes, MN. 56472

RECEIVED
By Gina.Roach at 12:25 pm, Apr 16, 2021

Gina Roach

Subject: FW: Opposition to Pelican Beach Holdings, LLC request for resort conversion

-----Original Message-----
From: Richard Nolan <ricknolan112@gmail.com>
Sent: Friday, April 16, 2021 12:18 PM
To: Landservices <Landservices@crowwing.us>
Cc: Mary Nolan <marywielandnolan@gmail.com>; Rick Nolan <ricknolan112@gmail.com>
Subject: Opposition to Pelican Beach Holdings, LLC request for resort conversion

Dear Planning Commission Board of Adjustment,

We want to express our strongest objection and opposition to approval of the proposed Resort Conversion from Pelican Beach Holdings, LLC. After carefully reviewing all the pros, cons, documents, history and issues related to the proposed resort conversion, we are convinced beyond any reasonable doubt that the project would be clearly detrimental to the neighbor's use and enjoyment of their property and set a precedent clearly harmful to the entirety of Pelican Lake, its residents and the environment.

As third generation (over 100 years) property owners on Pelican Lake, we thank you for your consideration of our thoughts and judgement regarding this proposal and urge you to not approve.

Sincerely,

Rick and Mary Nolan

Pelican Lake address: 26591 Ross Point Rd., Nisswa, MN. 56468 Home address: 9120 Garden View Rd., Nisswa, MN. 56468
Email: ricknolan112@gmail.com
Mary's Email: marywielandnolan@gmail.com
Rick: 218-838-9879
Mary: 218-821-7683

RickNolan112@gmail.com

Kirstin Lindbery

Subject: RE: Pelican Beach Holdings, LLC Applications

From: James Pansing <jep@jaypansinglaw.com>
Sent: Wednesday, April 14, 2021 9:47 AM
To: Jacob Frie <Jacob.Frie@crowwing.us>
Cc: JIm De Sena <jcdesena@gmail.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; Patty Pansing Brooks <PattyPansingBrooks@brookspanlaw.com>; Brad Halberstadt <brad@szjlaw.com>
Subject: Pelican Beach Holdings, LLC Applications

Good morning, Jake. I am one of the owners of the property adjacent to the north of the property owned by Pelican Beach Holdings LLC, that has made applications for rezoning, variances and Preliminary Plat Approval. I know Jim has asked you to postpone the Planning Commission hearing scheduled for the 19th based on an incomplete and confusing record regarding the Swenson's "5 year plan" that was approved by the County. I would concur that this matter needs to be postponed for the reasons pointed out by Jim, but also for a different reason.

In 1979, we (the Pansing family) were in a minor dispute regarding a driveway location that appeared to be on our land. We asked Myron Landecker, the local surveyor in Pequot Lakes, to prepare a survey to help us resolve the issue. Myron told us that no surveyor had "run the legals" back to the section markers and in order to get a fully accurate survey he would need to do so. It was quite a bit more expensive but we decided to go ahead with it.

After Myron did this, he informed us that all of the owners in our area were mis-occupying their legal descriptions. In fact, each of the owners along much of the southwest corner of Pelican were occupying 50 to 60 feet of the owner's property to the north of them. Obviously, when we learned that we wanted to rectify the situation. We went so far as to propose quit claim deeds to/from 8 property owners to make it so each of those owners were occupying their property correctly. That went nowhere. Accordingly, we applied for and received a Torrens Certificate to the legal description for the property as we were occupying it. (Please note that a Torrens Certificate of Title does not affect any property except that described in the Certificate.)

The upshot is that, unless a quiet title or other action has been initiated divesting the Pansing family of this 50 to 60 foot strip of land along the southern border of our initially deeded legal description and putting it into the Swenson name (which couldn't have been done without notice to us, which we never received) then the Pansing family continues to hold record title to the north 50 or 60 feet of the property occupied by the old Pelican Beach Resort and for which the Applicant seeks rezoning, variances and preliminary platting.

Because the Applicant's last survey submission specifically stated that the Applicant's survey was prepared without review of the real estate title records, I contacted Stonemark Surveying

last week to make a drawing of the two properties to show where the improvements are located on the ground with reference to the respective legal descriptions. I contacted Stonemark because it bought all of the old Landecker files and records. One of the owners, Cindy, told me that they would not be able to get out to the properties for 4 or 5 weeks. Accordingly, I request that the Commission hearing be postponed to verify this situation and to see what needs to be done to deal with this issue.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

RECEIVED
By Kirstin Lindbery at 2:50 pm, Mar 18, 2021

From: smkoering@gmail.com <smkoering@gmail.com>
Sent: Thursday, March 18, 2021 2:42 PM
To: Landservices <Landservices@crowwing.us>
Cc: Kristin.Lindbery@crowwing.us
Subject: Response letter from Pelican Lakes Association, CWC for Parcel Number 73040571, Meeting 3/18/2021

Hello Kristin,

The attached letter is a statement from the Pelican Lakes Association on Parcel #73040571 due for review today.

Thank you

Susan Koering

President, Pelican Lakes Association of Crow Wing County

612-636-3712

PELICAN LAKES ASSOCIATION OF CROW WING COUNTY

PELICAN LAKES ASSOCIATION OF CROW WING COUNTY

March 18, 2021

Planning Commission/Board of Adjustment
Crow Wing County
326 Laurel Street, 3rd Floor
Brainerd, MN 56401

Planning Commission Members,

The Pelican Lakes Association (PLA) would like to express our reservations regarding the zoning change and planned development of the Pelican Beach Resort Parcel# 73040571.

While our mission does not include advocating for zoning and development, we do represent our 500-plus members in items involving water quality and shoreline issues. As such, PLA has concerns that this re-zoning and move to allow 12 year-round residences on a plat that does not meet current density requirements will put pressure on the shoreline. This area already has had a history of water quality issues. Oversized dock space, septic and drainage integrity, along with impervious changes now, and in the future are issues that have been expressed to the PLA from members around the lake. We have strongly encouraged those members to individually voice those concerns at the hearing scheduled for March 18, 2021.

We ask that you consider all feedback presented and sincerely urge you to vote in a manner that does not present future challenges to Pelican Lake. The PLA Board of Directors remains firmly committed to our stated goal of protecting the water quality, both now and in the future.

With regards,

Susan Koering

Susan Koering
President, Pelican Lakes Association of Crow Wing County

cc: PLA Board of Directors

Kirstin Lindbery

Subject: FW: Response to the following variance Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

From: Shelley Kerr <shelleykerr1996@gmail.com>
Sent: Thursday, March 18, 2021 2:19 PM
To: Landservices <Landservices@crowwing.us>
Subject: Response to the following variance Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

Dear Commissioners,

I strongly object to the variances requested to the minimum lot area, minimum lot width and number of dwellings. I request that the zoning commission DENY these variances, which are out of keeping with the rest of the Pelican Lake community, particularly in this area of the lake which is home to property owners who have been here for decades.

ACTION REQUIRED:
POSSIBLE MOTION: make a recommendation to the County Board of Commissioners to approve/table/deny the following amendment to the Official Land Use Map:

For Parcel 73040571 from Waterfront Commercial (WC) District with Rural Residential 5 (RR 5), to Shoreland District (SD) with Rural Residential 5 (RR 5), involving approximately 4.88 total acres.
AND
POSSIBLE MOTION: To approve/table/deny:
Variances for:
1. Minimum Lot Area of 1,792 square feet where 30,000 square feet is required.
2. Minimum Lot Width of 23 feet where 100 feet is required.
3. To allow six (6) dwelling units in Tier 1 where one (1) is allowed.

Shelley Kerr
27296 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Kirstin Lindbery at 8:00 am, Apr 12, 2021

Kirstin Lindbery

From: Darryl Van Kampen <darrylvk@gmail.com>
Sent: Sunday, April 11, 2021 4:27 PM
To: landserices@crowwing.us; Kirstin Lindbery
Cc: Mom; Craig; Melodie; pattypansingbrooks@brookspanlaw.com; jep@jaypansinglaw.com; Karen Y; treciawiewel@gmail.com; hubbpd2fly@gmail.com
Subject: Public Hearing PCBOA Meeting 4-19-2019 Pelican Beach Holdings

To: Planning Commission / Board of Adjustment
Re: Request for Variance by Pelican Beach Holdings LLC
Parcel # 73040571
Notice – PCBOA Meeting APR 19, 2021 Apr 11, 2021

This email comes from Dolores J. Van Kampen, owner and resident since 1959 at 26730 County Road 4, Nisswa, MN 56468, south adjacent property to parcel 73040571. I, her son, Darryl Van Kampen have prepared it for her. We are opposed to the variance requests.

Topics and photos concerning:

1. Historic number of boat slips
2. Standing Water in Tier 1
3. Lot Density parking in Tier 1
4. Cabin History

1. **Boat slips** - Having pictures of the resort pier and boat slips clearly demonstrate there were only 2 or 3 slips over the years: 2009 – 2 slips, 2010 – 3 slips, 2015 – 3 slips, 2019 – 3 slips, 2020 – 3 slips. **There have never been 12 boat slips**.

A few photos:

July 4th, 2020 – from our dock showing 3 slips



From Pelican Beach Resort Facebook page - summer 2013 showing 3 slips



From August 28, 2010 from our dock showing 3 slips



2. **Standing water** - In Tier 1 standing water after heavy rains around proposed lots 1,2 and 5.



3. **Tier 1 Parking** - the cabin density in Tier 1 creates parking and vehicle volume nightmares. Here 7 cars in the proposed lot 1,2,3,4,5,6 area. I've seen 12 or more vehicles in that area, and have witnessed the constant rotation of cars and trucks to enter and exit. Can't imagine what refuse collection will be like.
From July 2018



4. Cabin History

Originally (1950s) the resort consisted of proposed lot areas 5, 6, 7, 8, + 9, and those cabins are still present. In 1981-83 two single story cabins were moved across the frozen lake from Haze Haven resort onto proposed lot 1/2 + 3/4 During 1983 -1993 the single story cabin on proposed lot 1/2 was moved to proposed lot 10, and a two story duplex was built. In addition, the single story cabin on proposed lot 3/4 was raised and a store/game room built underneath. The 2-story structures have been there since at least 1993.

RECEIVED
By Kirstin Lindbery at 1:29 pm, Apr 12, 2021

From: Landservices
To: Kirstin Lindbery
Subject: FW: Conversion of Parcel Number 73040571 - Notice for April 19th Hearing
Date: Monday, April 12, 2021 12:48:37 PM

From: craigvk@aol.com <craigvk@aol.com>
Sent: Sunday, April 11, 2021 11:29 PM
To: Landservices <Landservices@crowwing.us>
Cc: dvk1528@gmail.com
Subject: Conversion of Parcel Number 73040571 - Notice for April 19th Hearing

Dear Board Members:

I am concerned about the notice that was sent for the hearing on April 19th. The second bullet listed under the request states:

- Variances for Density, Lot Area, and Lot With - for Proposed Lots

Why doesn't this bullet include a variance for the number of boat slips?

As I pointed out in my response for the previous hearing, toward the bottom of page 4 of the original information packet it states:

- Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion.

Near the top of page 4 of the original information packet it states:

- Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed.

The statement that there are currently 12 mooring slips is simply not true. The proof that this statement is false was provided by the applicant in the overhead photograph on page 16 of the application, which shows a very long dock - in excess of 200 feet - with 3 boat slips at the end of the dock - 2 of which are hoists with green canopies. The existing situation bears no resemblance to the drawing of mooring slips provided on page 8 of the original information packet. Since the number of mooring spaces cannot increase with this conversion, why doesn't the bullet for variances include the number of mooring slips?

I am concerned that since the situation with the mooring slips is misleading, what other aspects of the proposed conversion are also misleading? For example, there are calculations provided regarding the percent impervious: who made these calculations - the same person who couldn't count the number of existing mooring slips? If they lied about the number of mooring slips, how do I know they haven't lied about the impervious calculations, or other calculations? Has anyone independently verified the calculations in the original proposal?

Once again, I think that this application should be denied because false information was provided.

Sincerely,

Craig L. Van Kampen
Lake address: 26214 County Road 4, Nisswa, MN 56468
Mailing address: 6881 37th Street North, Oakdale, MN 55128

Gina Roach

RECEIVED
By Gina.Roach at 8:29 am, Mar 15, 2021

From: craigvk@aol.com
Sent: Sunday, March 14, 2021 7:58 PM
To: Landservices
Cc: dvk1528@gmail.com
Subject: Parcel Number 73040571 - Resort Conversion Application

Dear Board Members:

I am the owner of a nearby property at 26214 County Road 4 and my mother has owned the property immediately to the south of Pelican Beach Resort since 1959. Therefore, I am very familiar with the area and very concerned about the impact of the proposed conversion. I will not list all of my concerns here because I'm sure that many other people will be expressing similar concerns; however, I've noticed something in the information packet that raises concern beyond the impact of the proposed conversion on the lake and the neighborhood:

On page 4 of the information packet, near the top of the page, it states:

- Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed.

This statement appears to be deliberately misleading. The property has never had 12 mooring slips. In addition, the drawing on page 8 that depicts the existence 12 mooring slips is a fabrication - these mooring slips do not exist and have never existed. Furthermore, the location in which these 12 mooring slips is depicted does not appear to be feasible given the shallow water in that area. To state that "no additional mooring slips are proposed" is not true if the intent is to have 12 mooring slips as depicted.

Toward the bottom of page 4, it states:

- Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion.

As stated above, there have never been 12 mooring spaces on this property. I believe that there have been at most 3 shore stations and 3-4 mooring buoys, but never 12 mooring spaces as depicted. Since it states at the bottom of page 4 that the number of mooring spaces cannot increase with this conversion, it is impossible for the proposal to include 12 mooring slips without misrepresenting the current number of mooring spaces.

I am very concerned that since the applicant appears to have provided misleading information regarding the number of mooring slips, there may be other misleading or false information in the application which I am not able to so easily uncover. Given the misleading representation that I have pointed out, I believe this application should be denied and the applicant should be prevented from any attempt in the future to obtain approval for converting the use of this property.

Sincerely,

Craig L. Van Kampen
Lake address: 26214 County Road 4, Nisswa, MN 56468
Mailing address: 6881 37th Street North, Oakdale, MN 55128

RECEIVED
By Kirstin Lindbery at 10:49 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Parcel 73040571 Pelican Beach Holdings LLC

From: Trecia Wiewel <treciawiewel@gmail.com>
Sent: Monday, March 15, 2021 10:18 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; Landservices <Landservices@crowwing.us>
Cc: Ann Groover <agroover12@gmail.com>; Jim&Judy Mellinger <jnmellinger@hotmail.com>; Brubaker, Dr. Jill H. <jillbru@comcast.net>; willelmquist@attbi.com; Annie Young <annie55102@gmail.com>; Darryl VanKampen <darrylvk@gmail.com>; Trecia Wiewel <treciawiewel@gmail.com>; Patty Pansing Brooks <pattypansingbrooks@brookspanlaw.com>; Amy Gorton <agcircus@aol.com>; Elizabeth Groover <eagroover20@gmail.com>; David,M. McClendon <dmm0674@yahoo.com>; contact@pelicanlakesassociation.org; bill@etmund.com; marypatnolan@rocketmail.com; RMNolie@gmail.com; pelican@uslink.net; jhampl05@gmail.com; ellamnopea@charter.net; ahubbs4@gmail.com; clarebear424@gmail.com; Platt Hubbell <hubbpd2fly@aol.com>
Subject: Parcel 73040571 Pelican Beach Holdings LLC

3-15-21

Greeting Kirstin,

The request submitted for rezoning and variances for Pelican Beach Resort Parcel# 73040571 is of great concern to surrounding residents of Pelican Lake. We are opposed to the rezoning of the resort to Shoreland District which would allow for permanent residents on the resort property. The resort setbacks are currently non compliant with county setbacks and the proposed restructuring of the resort does not correct this issue. The increased density proposed will be detrimental to the health of Pelican Lake as well as the septic systems and the docking changes that are part of the proposal. We are planning to participate in the virtual meeting on 3-18-21.

Concerned Pelican Lake Residents,
Trecia and Steven Wiewel
26668 County Road 4
NIsswa, MN 56401
218-820-5161

RECEIVED
By Kirstin Lindbery at 11:07 am, Mar 15, 2021

Kirstin Lindbery

From: Karen Young <kdyoung49@gmail.com>
Sent: Sunday, March 14, 2021 9:46 PM
To: Kirstin Lindbery
Subject: Public Hearing Thurs. March 18/Parcel 73040571

Karen Young (Seasonal Resident)
26708 County Road 4
Nisswa, MN 56468

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Attention Kirstin (Kiki) & Crow Wing County Board,

I am writing you today regarding the recent hearing notice for proposed changes to the property/parcel #73040571.
(Formerly known as Pelican Beach Resort)

My comments/ questions are as follows:

1. The Resort Conversion consisting of a : Land Use Map Amendment, Lot Variances & Preliminary Plat, are unacceptable

Kirstin Lindbery

From: Karen Young <kdyoung49@gmail.com>
Sent: Sunday, March 14, 2021 10:41 PM
To: Kirstin Lindbery
Subject: KDY: Public Hearing Comments/March 18, 2021/Parcel #730405571, Former PBResort

Karen Young (Seasonal Resident)
26708 County Rd 4
Nisswa, MN 56468

March14, 2021

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Attention Kirstin (Kiki) & County Board,
I am writing you today regarding the recent hearing notice for the proposed changes to the
property/parcel # 73040571 (Former Pelican Beach Resort)

My comments/concerns at this time are as follows:

1. The short time frame between packet information for hearing & hearing dates (6 days), is rather inconsiderate of those affected by the notice...that being said the **conversion requests make no sense for sustaining a quality of LAKE LIFE on Pelican Lake's South End.**
2. The parcel mentioned already has several building setback violations (two shoreline buildings setbacks are less than allowed) and **should not be allowed more variances on this property.**
3. The **proposed plat diagram has inaccurate drawing of 12 docks slips that were never there in reality** and are mentioned in the packet to stay as is and not increase when they have never been there in the first

place!!! All slip sizes of that nature are unheard of in the neighboring zones of this Lake! Also the water depth will not accommodate that design in that location.
4. The conversion looks like the usage of lake life has a potential increase of activity densities that cannot be safe or sustainable at & in the water. (boat traffic, boat storage, dock space, noise)
5. Only about 1/3 of the buildings on site are updated and this property has 60% more structures on it than neighboring lots.
6. **WHAT does THE ADDITION OF ADDING** (POST STAMP SIZE) **LOTS allow THE OWNER OF THIS PROPERTY TO DO WITH THE LOTS?? What is their intent here?**
7. Are the owner's living on the premises? Is this their only property venture?
8. By addressing our concerns, the new property owners and owners of neighboring properties can protect our beloved lake and the reasons we all live and recreate here.

Note: Kirstin, please confirm that you have received this letter. Thank you.

Sincerely,
Karen Young
mailing address: 907 6th Ave SW, Rochester, MN 55902
email: kdyoung49@gmail.com

--
" Laugh everyday especially right before you sleep "

RECEIVED
By Kirstin Lindbery at 1:34 pm, Apr 12, 2021

Kirstin Lindbery

From: Landservices
Sent: Monday, April 12, 2021 12:52 PM
To: Kirstin Lindbery
Subject: FW: Pelican Beach Holdings LLC Conversion plan (Parcel #73040571)

From: AY <annie55102@gmail.com>
Sent: Saturday, April 10, 2021 12:15 PM
To: Landservices <Landservices@crowwing.us>
Subject: RE: Pelican Beach Holdings LLC Conversion plan (Parcel #73040571)

To: Crow Wing County Planning Commission/Board of adjustment

Hello,

We would like to communicate our strong opposition to the Pelican Beach Resort conversion plan. There are many substantiated facts that have been brought to your attention to support the opposition to the Pelican Beach conversion plan; including the fact that the 2 structures that were placed illegally on the waterfront should be removed; and they should **not** be replaced with new structures. Two wrongs don't make a right.

We appreciate your time and look forward to attending the next board meeting via Zoom on Monday, April 19th at 5:00 p.m.

Sincerely,
Todd and Annie Young
311 Pleasant Ave
Saint Paul, MN 55102

RECEIVED
By Kirstin Lindbery at 11:01 am, Mar 15, 2021

Kirstin Lindbery

From: jay young <jry01@msn.com>
Sent: Sunday, March 14, 2021 9:45 PM
To: Kirstin Lindbery
Subject: 3/18/2021 5PM CST Crow Wing County Planning Commission / Board Of Adjustment - Pelican Beach Holdings LLC – Josh Miles
Attachments: pbr-2021.pdf

I am submitting the attached in preparation for the upcoming meeting this Thursday,
I look forward to learning more about this new development.
Very short notice for what looks like a highly unusual request that directly impacts Pelican Lake and neighbors?

Please confirm that you have received this e-mail and PDF file.

Thank you!

Jay Young
jry01@msn.com

PS - picture of the day
http://www.pelicanlakesassociation.org/
(click on the picture to right of the Loon Cam - looking West toward Breezy Point near Pelican Lake public swimming beach)

Jay Young
26708 County Rd 4 North (seasonal resident)
Nisswa, MN 56468

Kirstin Lindbery
Customer Service Specialist – Lead
Crow Wing County – Land Service
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Dear Kirstin and Crow Wing Planning Commission / Board Of Adjustment,

I am writing you today regarding the recent notice of a meeting this Thursday, March 18, 2021 regarding a proposed change to parcel number 73040571 (formerly Swenson's Pelican Beach Resort). Over the years, as this resort has grown, several variances have been allowed - per Crow Wing County Comprehensive Plan(s) - cabins were moved over the ice from Haze Haven, the old garage was replaced with a lodge, the main house was replaced, the old green trailer 10 feet from the lake was moved... As shown on the old map below, historically there were no residential structures east of the "old road" all the way north to Cimino Bay, just a simple boathouse at the resort and a neighboring boathouse to the north. Everyone in this "neighborhood" meets setback requirements except this plot, now no longer a resort?



~1959 – 5 cabins?



parcel number 73040571 (Swenson's Pelican Beach Resort) – 10 cabins currently?

This is an opportunity to return this plot to sustainable density regarding beds, bathrooms, boats, soil conservation and set-backs. The big picture to us all should be the health of this spring fed, headwater lake of the Mississippi – the requested variances are just too much for this neighborhood and plot to absorb?

Variances for:

1. Minimum Lot Area of 1,792 square feet where 30,000 square feet is required. (17x too small)

2. Minimum Lot Width of 23 feet where 100 feet is required. (4x too narrow)

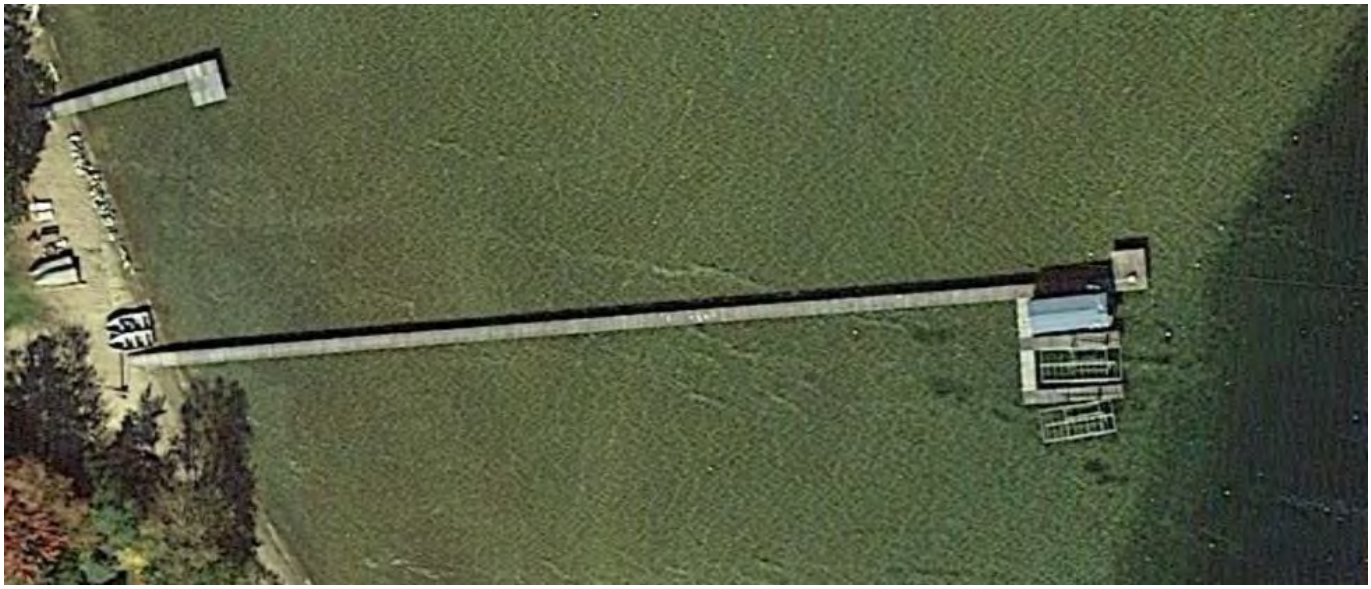
3. To allow six (6) dwelling units in Tier 1 where one (1) is allowed. (6x)

Over the past several years, Pat and Tim Swenson significantly reduced the number of reservations accepted at PBR as they prepared for retirement, we appreciated the reduction of beach parties, inexperienced boaters, and more peaceful lake life. I will miss the Twins games and ice cream and laughter at what was a simple, wonderful little resort.

Steps to improve the shoreline and removal of the firepit would also be welcome. I have enjoyed my time at Pelican Lake for more than fifty years and I hope my family can continue to escape to this wonderful part of Minnesota in the future. Hopefully this transformation from a resort is handled with care and judicious foresight.

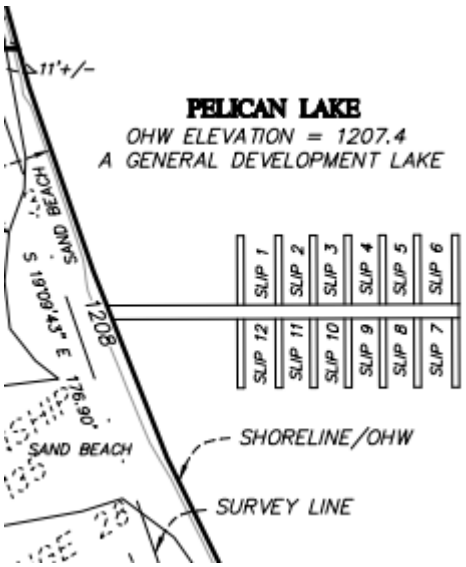
Jay Young
907 6th Ave SW
Rochester, MN 55902
Jry01@msn.com

PS
The statement in the agenda packet (Page 4) is not accurate
"Mooring and docking issues were discussed; currently there are 12 mooring slips"



at the end of the ~100' dock, there are three mooring slips/lifts. Overflow boat parking (never more than three additional) was achieved with mooring balls, which made for some excitement when larger boats detached during storms. Rowboats are kept on-shore as shown.

PSS
The plat map in the packet showing 12 mooring slips is conceptual, not accurate – as shown above – the lake is not deep enough to support twelve full size slips as shown – another variance required?



References:

1959 county map https://ngmdb.usgs.gov/img4/ht_icons/overlay/MN/MN_Pelican%20Lake_805224_1959_24000_geo.jpg
(when was the "old road replaced by CR 4N?)

Crow Wing County Comprehensive Plan 2003 – 2023
https://crowwing.us/DocumentCenter/View/1285/2004_COMPREHENSIVE_PLAN?bidId=

"The number of resorts in Crow Wing County has declined from 126 in 1985 to 97 in 1998 (source: MN Dept. of Revenue). This is a 30% decrease in just 13 years. In Crow Wing County, the resort industry recorded gross sales of $45,127,052 in 2000 and contributed $2,864,853 in sales and uses taxes (Source: MN Dept. of Revenue). For every dollar spent on lodging by a Minnesota tourist, $2.41 is spent on other items (Source: Minnesota Office of Tourism) resulting a net gross sale in Crow Wing County of $153,883,242 from resort guests. When a resort is sold for individual seasonal use, the local economic impact is severe. A commercial resort cottage contributes 10 times more in local revenue than if the cottage is sold for seasonal home ownership (Source: University of Minnesota)."

County Goal:

"Retain existing resorts; assist them with expansion & improvement to allow them to meet growing needs in a manner that doesn't degrade natural resources. Implementation: How: Re-examine the PUD section of the zoning ordinance, insert the Common Interest Community (CIC) statutes in the ordinances, and balance the needs of resorts with the existing local, state, and federal requirements. Who: Crow Wing County Planning Department, Planning Commission, Resorts, Lake Associations, and DNR. When: Fall 2004

Photo #1 - 165' of shoreline with rowboats, kayaks, and non-conforming structures encroaching on the shoreline, water depth is less than 2' at least 50' out from shore



Photo #2 - updated - https://www.facebook.com/pages/Pelican%20Beach%20Resort/108130932561719/



Photo #3 – boat hoists (3 total) and swim raft detail



Photo #4 – boat hoists and mooring balls detail – 100+ feet to drop-off



Photo #5 – Cabin detail (Lot 10?) – looking West – year-round house on hill in background



Photo #6 – interior of "lodge" – not really a duplex? (Lot3/4 – east-most non-conforming structure closest to P Lake)



RECEIVED
By Kirstin Lindbery at 11:20 am, Apr 13, 2021

Gina Roach

RECEIVED
By Gina.Roach at 3:15 pm, Apr 19, 2021

Subject: FW: Response to the following application: Applicant Pelican Beach Holding LLC. Josh Mills: Variance/Zoning Parcel 73040571

From: Shelley Kerr <shelleykerr1996@gmail.com>
Sent: Monday, April 19, 2021 3:06 PM
To: Landservices <Landservices@crowwing.us>
Cc: jep@jaypansinglaw.com
Subject: Response to the following application: Applicant Pelican Beach Holding LLC. Josh Mills: Variance/Zoning Parcel 73040571

To Whom It Concern,

I would like to echo the sentiments of our lake friends and family dating back 30 years. Allowing over development of lots surrounding Pelican Lake would be detrimental to our wildlife, not to mention the environmental impact to the lake.

Pelican Lake has been preserved by many generations. Many families have been diligent in their care of our animal habitat, lessening the impact on the lake and being good stewards of our land. Pelican Beach Holdings proposal to split their lot into "postage stamp" lots

would have a destructive effect on Pelican Lake.

Thank you for your consideration.

Shelley Kerr
27296 Kerrs Point
Pequot Lakes, Minnesota

RECEIVED
By Gina.Roach at 11:32 am, Apr 19, 2021

Gina Roach

Subject: FW: Comments to Planning Board os Adjustments-Josh Miles #73040571 -Land Use

-----Original Message-----
From: Eldon And Nancy <eldonandnancy@aol.com>
Sent: Monday, April 19, 2021 11:21 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments to Planning Board os Adjustments-Josh Miles #73040571 -Land Use

We are sending our concerns to you the Planning Commission/Board of Adjustment about parcel #73040571.
We own land on the south shore of Pelican Lake. This land has been in the family for 105 years.
We understand that a small seasonal resort is not a sustainable business these days. However, we do feel that transferring this parcel into. 11 “year around cabin/homes” is not good use of this property on Pelican Lake.
This proposed plan creates a density of “year around units that would not be in alliance with the Impervious Requirements of this area. Septic needs for the new proposed plan could not be met in an area this size for 11 year around units. The docks and mooring spaces to accommodate the Proposed Plan would far exceed the number of fishing boats, pontoon boats, or any water vehicles that was originally used at this site as a resort.
We recommend the Board to consider that this permit does not meet the Requirements to protect and preserve the quality of Pelican Lake.

Sincerely,
Eldon and Nancy Lindquist
10400 Pine Road
Nisswa Mn. 56468
Or
1737 Eastridge Ave
Seward Ne 68434

Sent from my iPad

RECEIVED
By Gina.Roach at 10:54 am, Apr 19, 2021

Gina Roach

Subject: FW: Pelican Lake Resort Update

From: wgkerr@wyoming.com <wgkerr@wyoming.com>
Sent: Monday, April 19, 2021 10:07 AM
To: Landservices <Landservices@crowwing.us>
Cc: jep@jaypansinglaw.com; pattypansingbrooks@brookspanlaw.com; carok1964@aol.com
Subject: FW: Pelican Lake Resort Update

Dear Commissioners,

Please accept my concerns regarding the change in character being requested by Pelican Beach Holdings LLC, D.B.A. Pelican Beach Resort. My familiarity with Pelican Lake dates to the 1940's and has continued to the present. The south half of the lake has always been distinguishable from the north. Commercial development on Pelican was, and still is, concentrated around Breezy Point with other scattered locations on CR 3 from Crosslake to Merrifield.

An area of higher development density with increased dockage, moorings and automobile traffic on CR 4 would have a significant impact on the historic pattern of activity on south Pelican. Your scrutiny of the applicants new
and expanded commercial utilization on the subject property is sincerely requested.

Best regards,

W.G. Kerr

P.O. Box 54917
Oklahoma City, OK 73154
Phone (307)733-8829
wgkerr@wyoming.com

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: Mn Rules PUD 6120.3800.pdf; Supplemental Objection to Pelican Holdings LLC application _.pdf

From: Jim Gammello <jgammello@gglaw.net>
Sent: Friday, April 16, 2021 5:14 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; Landservices <Landservices@crowwing.us>
Cc: Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Hi Kiki
Please my Supplemental Submission to the above application. Please include this Supplemental Submission in the Packets for Board members. I also attach a copy of the Minnesota Statue I reference in case the Board members wish to review the source materials for my objection. Sorry my computer decided to go on strike for about an hour this afternoon so I apologize. I had planned to submit by 4:30.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

P.O. Box 2629
14275 Golf Course Drive, Suite 200
Baxter, MN 56425
218-828-9511
Fax: 218-824-8545
http://www.gglaw.net

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
Fax: 320-632-3567

Minnesota State Bar Association
Certified a Specialist
Real Property Law

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6120.3800 PLANNED UNIT DEVELOPMENT.

Subpart 1. **Scope of planned unit development provisions.** Local governments must consider incorporating, with approval of the commissioner, provisions into shoreland management controls to allow planned unit developments. The provisions may allow planned unit developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. During the period between adoption of parts 6120.2500 to 6120.3900 and adoption of local government official controls meeting the planned unit development standards in part 6120.3800, preliminary plans for each planned unit development must be reviewed for consistency with part 6120.3800 and approved by the commissioner before final local government approval.

Subp. 2. **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:

A. existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

B. physical and aesthetic impacts of increased density;

C. suitability of lands for the planned unit development approach;

D. level of current development in the area; and

E. amounts and types of ownership of undeveloped lands.

Expansions to existing commercial planned unit developments involving up to six dwelling units or sites, unless the density determined under subpart 6, item A is exceeded, may be allowed as permitted uses under standards developed by local units of government. The date of effect of official controls adopted by each local government under this part must be the base date for determination of expansions. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this part.

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities; and

B. documents that explain how the project is designed and will function. These ordinarily include covenants that require membership in a property owners association,

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various easements, a concept statement describing the project, floor plans for structures, and various other drawings or plans.

Subp. 4. **Dwelling unit or site density evaluation.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards:

A. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes - first tier	200	200
General development lakes - second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

B. The area within each tier is next calculated, excluding all wetlands, bluffs, or land below the ordinary high water level of public waters. This area is then subjected to either the residential (subpart 5) or commercial (subpart 6) planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

Subp. 5. **Residential planned unit development density evaluation steps and design criteria.** The density evaluation steps and design criteria for residential planned unit developments are contained in items A to D.

A. The area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit development are then compared with these data and map of the evaluation. Local governments may allow some dwelling unit or site density increases for residential planned unit developments above the densities determined in the evaluation if all dimensional standards in part 6120.3300 are met or exceeded. Maximum density increases may only be allowed if all design criteria in subpart 5, item B, are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred

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from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

Maximum Allowable Dwelling Unit Or Site Density Increases

For Residential Planned Unit Developments

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

B. The design criteria are:

(1) All residential planned unit developments must contain at least five dwelling units or sites.

(2) Residential planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of minimum open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) Open space may include outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.

(e) The shore impact zone, based on normal structure setbacks, must be included as open space. At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in their natural or existing state.

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

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(g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

(h) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

(3) Centralization and design of facilities and structures must be done according to the following standards:

(a) Residential planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

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(e) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in part 6120.3300, subpart 3, item H, and are centralized.

(f) Accessory structures and facilities may be allowed if they meet or exceed standards in part 6120.3300, subpart 3, item H, and are centralized.

(4) Erosion control and storm water management for residential planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff.

C. Administration and maintenance requirements. Before final approval of all residential planned unit developments, local governments must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.

(1) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

(a) commercial uses prohibited;

(b) vegetation and topographic alterations other than routine maintenance prohibited;

(c) construction of additional buildings or storage of vehicles and other materials prohibited; and

(d) uncontrolled beaching prohibited.

(2) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

(a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

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(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

(d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

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Subp. 6. **Commercial planned unit development density evaluation steps and design criteria.** The density evaluation steps and design criteria for commercial planned unit developments are contained in items A and B:

A. Density evaluation steps:

(1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(2) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios*

Public waters classes

Average unit floor area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes; remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034

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1,400	.142	.072	.036
1,500	.150	.075	.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

(3) Multiply the useable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the area computed in subitem (3) by the average determined in subitem (1). This yields a base number of dwelling units and sites for each tier.

(5) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design standards in item B, and exceed one or more of them. The local unit of government may decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the following table:

Maximum Allowable Dwelling Unit Or Site

Density Increases For Commercial

Planned Unit Developments

Tier	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(6) Allowable densities may be transferred from any tier to any other tier further from the shoreland lake or river, but must not be transferred to any other tier closer.

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B. The design criteria are:

(1) Open space. Commercial planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, or parking areas, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) All shore impact zones within commercial planned unit developments must be included as open space, and at least 50 percent of these areas must be preserved in their natural or existing state.

(e) Open space may include outdoor recreation facilities for use by guests staying in dwelling units or sites, or the public.

(f) Open space may include subsurface sewage treatment systems if use of the space is restricted to avoid adverse impacts on the systems.

(2) Design of structures and facilities must be done according to the following standards:

(a) Commercial planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be designed and installed to meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above surface water features, and maximum height. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or other means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

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(c) Structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer, leaf-on conditions. The structure, dwelling unit, accessory structure, or parking area must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(d) Water-oriented accessory structures and facilities may be located within shore impact zones if they meet or exceed design standards contained in part 6120.3300, subpart 3, item H.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(3) Erosion control and storm water management for commercial planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved storm water management plan and consistency with part 6120.3300, subpart 4.

Statutory Authority: *MS s 105.485*

History: *13 SR 3029*

Published Electronically: *June 11, 2008*

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dolly

April 16, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Supplemental Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

Please let this letter serve as a Supplemental Objection to the above application.

This Application must comply with Minn. Rule 6120.3800 for Planned Unit Developments (PUDs). Crow Wing County must apply these state standards. This rule requires the following:

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. A site plan for the project showing property boundaries, surface water features, **existing and proposed structures**, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities;

Since the Applicant has only illustrated the existing structures, this application in incomplete and must be tabled, or the County must attach a condition that existing structure dimensions shall not change. Suggested conditions are attached as Exhibit A. Moreover, Subd D which deals with resort Conversions specifically requires:

D. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if **all** of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

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▲ Rule 114 Qualified Neutral

100 1st Street SE
Little Falls, MN 56345
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(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and **bluff** impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions **that preclude exterior expansions in any dimension or substantial alterations**. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements **when they are rebuilt or replaced**.

(4) **Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.** Efforts must be made during the conversion to limit impacts of high densities **by requiring seasonal use**, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

To approve this application without establishing the dimensions of future buildings would be arbitrary and capricious.

Proposed Conditions are attached as **Exhibit A**.

The Applicant's calculation of impervious coverage is either accurate and the applicant must be held to it as the maximum amount of impervious coverage permitted or the calculation is erroneous and an additional variance application is necessary or the Board of Adjustment should attach an additional condition prohibiting the expansion of any structural dimensions for any structure.

In this case, the developer is proposing lots with zero lot line set back. It must be presumed that the entire lot is building or impervious coverage. Therefore, the actual impervious coverage, unless a limiting condition is placed on this project by the board, is as follows:

Impervious Calculations East of CR 4:

Potential Buildings: 37,883 sf (per lot 1-11 areas indicated)

Bituminous: 7,329 sf (per table)

Gravel:	3,609 sf (per table)
Concrete:	824 sf (per table)
Wood playground:	100 sf (per table)
Proposed parking:	1,800 sf (per table)
Total:	51,545 sf
Gross area East of CR4:	145,798 sf
Impervious Coverage:	35.35% (51,545/145,798)

In order to limit the impacts on adjoining parcels and properties, significant and clear conditions should be attached to any approval. Although this application should be denied for the many reasons stated in the record, on behalf of my clients, the adjacent property owner, I submit the proposed conditions attached as **Exhibit A** with the express understanding that the advancing of these conditions shall not prejudice my client's ability to raise objections to this application before the Board of Adjustment, the County Board, or Minnesota Court.

Sincerely,

James M. Gammello

JMG/lmb
Attachment: Exhibit A: Proposed Conditions

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Supplemental Objection to Pelican Holdings LLC application_ .docx

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: PROPOSED CONDITIONS 4.16.211_.docx

From: Jim Gammello <jgammello@gglaw.net>
Sent: Friday, April 16, 2021 5:17 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; Landservices <Landservices@crowwing.us>
Cc: 'Brad Halberstadt' <brad@szjlaw.com>; 'Tom Pansing' <tpansing@pheblaw.com>; 'Loel Brooks' <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Sorry this attachment dropped from the last email..

From: Jim Gammello
Sent: Friday, April 16, 2021 5:14 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; landservices@crowwing.us
Cc: Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Hi Kiki
Please my Supplemental Submission to the above application. Please include this Supplemental Submission in the Packets for Board members. I also attach a copy of the Minnesota Statue I reference in case the Board members wish to review the source materials for my objection. Sorry my computer decided to go on strike for about an hour this afternoon so I apologize. I had planned to submit by 4:30.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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ELECTRONIC TRANSACTIONS DISCLAIMER: If this communication concerns negotiation of a contract or agreement, this communication does not indicate agreement to conduct transactions by electronic means under Minn. Stat. § 325L.05 or other applicable electronic transactions law.

EXHIBIT A: PROPOSED CONDITIONS

The following proposed conditions are proposed by the adjacent property owner to the north. This proposal shall not prejudice said landowner's ability to object to or appeal, but are advanced in an effort to comprise the impact on our property.

1. All prior and existing CUP conditions shall be complied with.

2. Applicant must comply with Minn. Rule 6120.3800.

3. The following conditions shall be complied with, in addition to any pre-existing CUP requirements; and if there are any pre-existing restrictive zoning conditions that are more restrictive, said conditions shall take precedence over any of the following conditions to the extent that they are more restrictive:

    a. There shall be no increase in building footprints or building length, height, width or area in any Tier. (Minn. Rule 6120.3800 Subp.5.D. 4) Expansion of nonconformities are not permitted under the Ordinance. Applicant has not offered to reduce any non-conformities. Applicant, by its submission, has also asserted that the impervious coverage will not change or at least failed to request a change.
    b. No additional impervious coverage in Tier 1 and impervious coverage in Tier 2 and Tier 3 shall not exceed 25% (structures, driveways, pads, etc.) and impervious coverage on the portion of the property lying west of HWY 4 shall have no increased impervious coverage. The maximum impervious coverage of each proposed lot shall be as follows: lots in Tier 1 shall not exceed current represented impervious coverage (sq ft): Lot 1: 1792.1, Lot 2: 1980, Lot 3: 1873.4, Lot 4: 2063.8, Lot 5: 4026.7. In Tier 2 Lot 6: 3575, Lot 7: 2641, Lot 8: 2913.8, Lot 9: 2452.7, Lot 10: 3063.2, Lot 11: 3752. **No future variances shall be granted increasing the impervious coverage of any lot or Unit.**
    c. Total occupancy of each unit shall be limited to and shall not exceed no more than 2 persons per the number of bedrooms for each approved lot. The total number of bedrooms on the property shall not exceed __ bedrooms. No additional bedrooms shall be created in any of the structures. More specifically as to proposed Lot 1:_____ ,as to proposed Lot 2:_____, as to proposed Lot 3:_____, as to proposed Lot 4:_____, as to proposed Lot 5 two bedrooms, as to proposed Lot 6: two bedrooms, as to proposed Lot 7: three bedrooms, as to proposed Lot 8: two bedrooms, as to proposed Lot 9: three bedrooms, as to proposed Lot 10: two bedrooms, as to proposed Lot 11: four bedrooms. (The current bedroom count is based on the 1991-1993 zoning approval as represented by the Landecker plan and court order). **No future variances shall be granted increasing the number of bedrooms or permissible occupants.**
    d. Maintain the seasonality of the property (April through November) other than the main house. Minn. Rule 6120.3800 Subp.5.D.(4).
    e. Although the number of boat slips or moorings shall be limited to the number of units allowable in Tier 1, pursuant to Minn. Rule 6120.3800 Subp.5.B.(3)(c), because the prior use has been demonstrated to be 3 boat slips, 3 boat slips are

permitted as well as a day dock, without permit slips or moorings, and no overnight moorings shall be permitted for the day use by guests. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

f. There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area.
g. Applicant shall also provide a lake study to evaluate the centralized shore recreation facilities due to the shallowness of the lake at this location, prior to final plat approval.
h. No occupancy of Recreational Vehicles (RVs), campers and trailers on the property and all RVs, campers and trailers shall be parked on the land located west of HWY 4 and may not remain on the property for more than 3 days, unless stored inside the pole barn.
i. Applicant shall submit for review and approval a centralized septic and well system, as previously required by prior CUP and as required by current Minn. Rule 6120.38 et. seq., prior to plat approval.
j. Applicant shall submit a vegetative plan that includes a vegetative buffer on the lakeshore as required by the Ordinance and additional vegetative screening along the north and south boundary line to limit the visibility of the structures and increased activity on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed vegetative buffer plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance
k. Applicant shall submit a parking plan and pedestrian safety plan that addresses the safety risks associated with pedestrian travel across County Road 4 and the storing of trailers and recreational equipment and parking across Hwy 4. The immediately adjacent neighboring property owners shall be provided a copy of the proposed parking plan and pedestrian safety plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
l. Applicant to submit a set of rules for enhancing safety awareness and safety measures for dealing with fires and other safety issues due to the increased number of people on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed safety rules and allowed to comment prior to final plat approval.
m. A sustainable management plan for the on-going operation of the property shall be submitted prior to final plat approval and to assure the neighbors that a management authority will always be on-site and capable of enforcing reasonable restrictions. The development documents must mandate said plan.
n. No rentals for less than one month.
o. A Bluff analysis must establish no bluff or compliance with bluff standards contained in Ordinance and Minn. Rule 6120.3800 Subp.5.D(3). If any area determined to be a bluff, no expansion at all (prior zoning application or findings have referenced a Bluff).

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Response to Pelican Beach Holding Variance
Attachments: Response to Pelican Beach Holding LLC Variance.docx

From: Lisa Boylan <lisaboy@gmail.com>
Sent: Friday, April 16, 2021 5:38 PM
To: Landservices <Landservices@crowwing.us>
Cc: pattypansingbrooks@brookspanlaw.com; jep@jaypansinglaw.com
Subject: Response to Pelican Beach Holding Variance

April 16, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills: Variance/Zoning

I would like to add my strong objections to the already existing chorus of responses. I believe the size of the lot will not support the density of the proposed development. The suggested plan for 12 docks far exceeds what is realistic and sustainable for the small plot of land. The increased traffic on Pelican Lake will contribute unnecessarily to the erosion of the shoreline and will be detrimental to the ecosystem of the lake, which is among the cleanest lakes in the state.

According to a Crow Wing Country Water Quality fact sheet, the mean trophic state index for Pelican Lake falls in the oligotrophic range. "Oligotrophic lakes are characteristic of extremely clear water throughout the summer and sandy or rocky shores. They are excellent for recreation." Not for detrimental projects that will upset the balance of nature and the lake.

My grandparents built on Pelican Lake in 1939 and my family, the Kerr's, have been coming up every year since then. My grandmother and great aunt were drawn to Pelican Lake all those years ago—over the far busier Gull Lake—because of its tranquility. It would be a shame to compromise its enduring natural beauty and the indigenous plants and wildlife that have always flourished there for such a poorly conceived development.

Sincerely,

Elisabeth Kerr Boylan
Co-owner
27287 Kerr's Point Road
Pequot Lakes, MN 56472-3242

April 16, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills: Variance/Zoning

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Sincerely,

Elisabeth Kerr Boylan
Co-owner
27287 Kerr's Point Road
Pequot Lakes, MN 56472-3242

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Variance Request Pelican Beach Resort

-----Original Message-----
From: Mike Kerr <jmkerr@ccrh2o.com>
Sent: Sunday, April 18, 2021 12:13 PM
To: Landservices <Landservices@crowwing.us>
Subject: Variance Request Pelican Beach Resort

My name is Mike Kerr and my address is 27296 Kerr's Point Road Pequot Lakes, MN. My family have been seasonal residents on the lake since 1939 and I have been since 1962. I am strongly opposed to the variance request currently before the Board/Commission.

The pressure that the proposed project would put on the lake are inappropriate, unnecessary, and extremely detrimental. The integrity of the current septic system is questionable, the current dock does not accommodate 12 boats, and it seems that there are unresolved issues from the previous variance requests 30 years ago including the appropriateness of future requests for variances.

Pelican Lake is not and has never been a commercial Lake on the order of Gull or the lakes in the Whitefish chain. Perhaps this proposed project would be appropriate elsewhere but it is not on Pelican, even beyond the failure on technical reasons.

Respectfully,

JMK

J M Kerr

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APR 18 2021
BY:

Gina Roach

Subject: FW: Pelican Lake Parcel 73040571 Conversion - Apr. 19, 2021 PCBOC Mtg

From: Darryl Van Kampen <darrylvk@gmail.com>
Sent: Sunday, April 18, 2021 1:13 PM
To: Landservices <Landservices@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: dvk1528@gmail.com; craigvk@gmail.com; mbroden25@aol.com; Karen Y <KDYoung49@GMail.com>; Judy Mellinger <jnmellinger@hotmail.com>; hubbpd2fly@gmail.com; treciawiewel@gmail.com; Ann Groover <agroover12@gmail.com>; pattypansingbrooks@brookspanlaw.com
Subject: Pelican Lake Parcel 73040571 Conversion - Apr. 19, 2021 PCBOC Mtg

Re: Pelican Lake Parcel #73040571 Resort Conversion

To: Crow Wing County Commissioners

We are very concerned about the inaccurate Pelican Beach Holdings resort conversion request.

Land Use Amendment:

The Land Use Amendment request from **3-18-21** - from Waterfront Commercial (WC) to Shoreland District (SD) zoning.

The Land Use Amendment request from **4-19-21** - from Waterfront Commercial (WC) plus Rural Residential RR 2.5 to Shoreland District (SD) plus Rural Residential RR 2.5 zoning.

And yet per the Board's Staffing Report, Permit History section (see page 240 of 4-19-21 Agenda meeting packet) states "**September 2001** – Public Hearing to amend zoning map presently zoned Waterfront Commercial, Rural Residential, to be **re-zoned** Waterfront Commercial. **Approved 11-13-2001.**"

The original 3-18-21 request was correct. The 4-19-21 request is incorrect, and more importantly, why was it changed? **The property is zoned Waterfront Commercial (WS).**

Boat Slips and DNR impact:

The Staff Notes (**3-18-21** Agenda meeting packet) indicated "the number of mooring spaces **cannot increase** with this conversion" as well as "currently there are 12 mooring spaces; no additional mooring slips are proposed." Additionally, the DNR had no concerns with the request.

I think the DNR must be contacted for their position of the environmental impact of **increasing** the number of mooring slips from 3 to 12, or now revised from increasing from 3 to 11 (4-19-21 packet). The DNR was not given accurate information to evaluate the request. A **revised DNR impact statement is necessary** based on the **increasing** (+8/+9) number of mooring slips.

Previous Permits and Conditions:

The Planning and Zoning Dept. issued a variance application approval with conditions May 3, 1991 (4-19-91 agenda packet pages 221-228). Focusing on the 18 conditions listed, number 15 and 16 certainly pertain to the pending request.

#15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.

#16. No more variances shall be granted to this property.

In conclusion, the numerous inaccurate, misleading facets of this request warrant a once and forever board denial of these variance requests.

We strongly oppose this request.

Sincerely,

Darryl Van Kampen for
Dolores J. Van Kampen
26730 County Road 4
Nisswa, MN 56468

Owner of South Adjacent property to Parcel # 73040571.

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

From: WILLIAM ELMQUIST <welmquist@comcast.net>
Sent: Sunday, April 18, 2021 11:38:00 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

Will Elmquist & Jill. Brubaker (seasonal residents)
Chequemates
26708 County Rd 4
Nisswa, MN. 56468
Parcels #73040505 & 73040533

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Sunday, April 18, 2021

Re: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

To whom it may concern,

The Board meeting on 3/18/21 didn't alleviate any of my many concerns and objections to the proposed "resort conversion". In fact, my original concerns were proved valid and many new concerns were generated. The haphazard presentation from the developer was a telling display.

What is the primary motive of the new land owner? It appears that he bought the resort for the sole purpose of subdividing and developing the property for his own financial gain, under the guise of wanting to "get out of the resort business". I'm concerned that the developer hasn't yet offered any response to the numerous concerns and overwhelming objections of the neighbors.

I hope that the Board will not allow itself to get bogged down with septic and drainage technicalities. This proposal and its variance requests would completely undermine the zoning rules and ordinances that I always assumed were in place in order to prevent this type of drastic and destructive action. This proposal should be immediately rejected with prejudice.

Respectfully,
William Elmquist
Jill Brubaker

RECEIVED
APR 1 [illegible]
BY:

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: LETTER To Planning Commission from Pansing family.doc; Tim - Letter to Governor.pdf; Pelican Beach lifts and moorings (1).png; Pelican Beach Lifts and Moorings (2).png; LuPansingLetter.pdf

From: James Pansing <jep@jaypansinglaw.com>
Sent: Friday, April 16, 2021 4:18 PM
To: Landservices <Landservices@crowwing.us>
Cc: Jim Gammello <jgammello@gglaw.net>; Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: Applications Pelican Lake Holdings LLC - Parcel #73040571

Please find attached a letter (with attachments) commenting on the Applications for Variances, Rezone and Preliminary Plat Approval for the BOA hearing Monday, April 19, 2021. Please make sure these get in the Board packets ASAP.

Thank you.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

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jep@jaypansinglaw.com
www.jaypansinglaw.com

James E. Pansing, J.D.

April 15, 2021

Planning Commission/Board of Adjustment
326 Laurel Street
Brainerd, MN 56401

Re: Pelican Beach Holdings LLC – Miles, Joshua Applications; Parcel No. 73040571

Dear Commission/Board Members:

I am one of the owners of the parcel immediately north of Pelican Beach Resort which is the subject of a hearing on Monday, April 19, 2021, at 5:00 PM. To begin with, my family is strongly opposed to the Applications for Variances, Rezoning and Preliminary Plat Approval and ask you to deny them. We have had input into the comments submitted by our attorney, Jim Gammello, and our neighbor, Brad Halberstadt, and echo those comments as if stated in this letter.

In my comments in this letter I want to stress the importance of one of one of the Conditions adopted in the May 1, 1991, Actions, as follows:

"15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date." It seems obvious that the Board in 1991 knew the large expansion being requested at that time would be inappropriate for a non-resort. We argue strongly that the requested change to Shoreland District Zoning and this Condition requires this property to be made compliant with the Shoreland District Zoning, which this Application is not. One might argue that by rezoning and obtaining variances that the Applicant would be complying with the zoning regulations. However, if the Board meant to allow the large expansion to remain in place it would not have adopted this Condition to the approval of the expansion. It would make no sense to require the applicant to comply with the current zoning regulations but to allow the applicant to receive massive variances to completely obviate this Condition. The Board obviously meant compliance with the zoning regulations regarding Shoreland District, not Shoreland District completely modified by variances.

If the Board approves the Application, it would beg the question, will any conditions associated with zoning and other approvals ever be enforced? Please note that the Pansing family sued to overturn the approvals granted in 1991, and settled the case relying on the Conditions that were attached, most especially number 15. If this Board ignores this Condition, no objector will be able to rely on conditions applied to any action by the Board.

The second thing I want to address is the number of continuous dock slips, hoists and mooring buoys that will be allowed if the Applications are approved.

We feel that only five should be allowed as provided in Statewide Standards For Shoreland Areas Section 6120.3800 which limits the number to one per Tier 1 Residence. I am attaching a letter from Timothy Swenson to Minnesota Governor A. Carlson in which Mr. Swenson acknowledges that Statewide Standards For Shoreland Areas Section 6120.3800, Item 2e limited him to 4.7 boat slips and moorings.

The Applicant has requested 11 slips on a to-be-constructed new dock. It seems that the Applicant informed the Planning Staff that historically there have been 12 dock slips and/or mooring buoys. I have been to our cabin every year

in the summer for more than 50 years and can tell you unequivocally that there have never been 12 dock slips and/or mooring buoys at Pelican Beach. In fact, the most that I have seen moored or in hoists or in slips is 6. I am attaching a couple of pictures showing the most slips and mooring buoys that I have seen at the Resort. There are 3 boat hoists at the end of the dock and there appear to be 5 mooring buoys. However, I can once again unequivocally state that in more than 50 years, I have seen no more than 3 of the mooring buoys in use mooring boats at any given time.

This requested limitation is necessary for the safety of the neighbors near the Resort. The property that we own is very shallow and when we swim we go out several hundred feet to get into chest deep water. The Resort already has too many boats and they cut across the shallow area where we swim. Please note that when the expansion was approved in May 1, 1991 (as revised on June 19, 1991, by the Board with two conditions added by the court order of February 25, 1993) recognizing this safety issue, this Board placed conditions on the approval relating to these Applications. One of the most important conditions that addresses the safety of the beach, lake shore and boat traffic is that "There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area". See attached letter to the BOA from Lu Pansing (my mother, who is now deceased.)

Once again, if you decide to create 11 single family lots, notwithstanding the express language of the Land Use Ordinance, the safety of the neighbors necessitates limiting the number of continuous slips or mooring buoys to 5 per the Statewide Standards For Shoreland Areas and, at most, 6 per the historical usage.

Because there needs to be control and regulation of the activity and people on such a small lot to reduce the impact on neighboring properties and neighbors, **we also request that other conditions be imposed**. Our attorney, Jim Gammello, has set forth our requests for conditions in his letter in opposition to these Applications.

I appreciate your consideration.

Yours very truly,

[s] Jay Pansing

Jay Pansing

Side-Note: colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards for Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph E, Section 3, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

Co. decide

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seen fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warranted, rather than evaluating on a case by case basis.

SL committee: consensus process

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us how many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

Sincerely,
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

TOTAL P.02

read
5-1-91

2033 South 33rd Street
Lincoln, Nebraska 68506
April 30, 1991

To: The Board of Adjustment
The Court House
Brainerd, Minnesota 56401

From: Lu Pansing, neighbor to the north of the Petitioners,
Tim and Pat Swenson

Dear Members of the Board of Adjustment:

When the Swensons ask that they be given extra space for rentals, it becomes a matter of grave concern to their neighbors. Our concern arises from several causes:

1) The Swensons' 166-foot shoreline is insufficient for the present population. The boats which they now maintain are beached across their property clear to our boundaries.

2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

3) Mr. Swenson has said he will not caution the boaters. This fact, as well, is a matter for concern because health and safety problems will surely occur with increased population.

4) The Swenson property could accommodate the proposed population if the long side of the lot were stretched along the shore. As it is, the lot stretches back across the highway but funnels all the renters onto its tiny beach.

There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.

Respectfully submitted,

Lu Pansing

Lu Pansing





Gina Roach

Subject: FW: <no subject>

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 2:56 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: <no subject>

Hi, Kiki – A couple of hours ago I sent a comment letter for the pelican Beach file. I sent one previously to Jake but it was not addressed to the Board/Commission, but more importantly, it did not contain a very important attachment. I hope you can get it into the packet/record. Thanks.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

Gina Roach

Subject: FW: <no subject>

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 12:10:05 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: <no subject>

Hi, Kirstin – just a heads up. Momentarily, I am going to send an email addressed to the Board. It is basically what I sent Jake on April 14, but addressed to the Board and with a very important attachment that I did not send to Jake. If you can get this into the packet/record, I would be grateful.

Regards,

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Comments to Plan Comm with Attachments to Replace email to Jake
Attachments: Gustafson Title Letter.pdf

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 12:10:57 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: Jim Gammello <jgammello@gglaw.net>; Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: Comments to Plan Comm with Attachments to Replace email to Jake

To Crow Wing County Planning Commission/Board of Adjustment
Re: Pelican Beach Holdings LLC Applications
Hearing Date: April 19, 2021
Parcel

I am one of the owners of the property adjacent to the north of the property owned by Pelican Beach Holdings LLC, that has made applications for rezoning, variances and Preliminary Plat Approval. I know Jim Gammello has asked you to postpone the Planning Commission hearing scheduled for the 19th based on an incomplete and confusing record regarding the Swenson's "5 year plan" that was approved by the County. I would concur that this matter needs to be postponed for the reasons pointed out by Jim, but also for a different reason.

In 1979, we (the Pansing family) were in a minor dispute regarding a driveway location that appeared to be on our land. We asked Myron Landecker, the local surveyor in Pequot Lakes, to prepare a survey to help us resolve the issue. Myron told us that no surveyor had "run the legals" back to the section markers and in order to get a fully accurate survey he would need to do so. It was quite a bit more expensive but we decided to go ahead with it.

After Myron did this, he informed us that all of the owners in our area were mis-occupying their legal descriptions. In fact, each of the owners along much of the southwest corner of Pelican were occupying 50 to 60 feet of the owner's property to the north of them. Obviously, when we learned that we wanted to rectify the situation. We went so far as to propose quit claim deeds to/from 8 property owners to make it so each of those owners were occupying their property correctly. (See attached letter from attorney Glenn Gustafson.) That went nowhere. Accordingly, we applied for and received a Torrens Certificate to the legal description for the property as we were occupying it. (Please note that a Torrens Certificate of Title does not affect any property except that described in the Certificate.)

The upshot is that, unless a quiet title or other action has been initiated divesting the Pansing family of this 50 to 60 foot strip of land along the southern border of our initially deeded legal description and putting it into the Swenson name (which couldn't have been done without

notice to us, which we never received) then the Pansing family continues to hold record title to the north 50 or 60 feet of the property occupied by the old Pelican Beach Resort and for which the Applicant seeks rezoning, variances and preliminary platting.

Because the Applicant's last survey submission specifically stated that the Applicant's survey was prepared without review of the real estate title records, I contacted Stonemark Surveying last week to make a drawing of the two properties to show where the improvements are located on the ground with reference to the respective legal descriptions. I contacted Stonemark because it bought all of the old Landecker files and records. One of the owners, Cindy, told me that they would not be able to get out to the properties for 4 or 5 weeks. Accordingly, I request that the Commission hearing be postponed to verify this situation and to see what needs to be done to deal with this issue.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
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jep@jaypansinglaw.com
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GUSTAFSON AND PLATTO, LTD.
ATTORNEYS AT LAW
510 MAPLE STREET - P. O. BOX 712
BRAINERD, MINNESOTA 56401
218-829-1719

GLEN A. GUSTAFSON
WILLIAM J. PLATTO

PEQUOT LAKES OFFICE:
TELEPHONE 218-568-8481

October 11, 1979

Mr. and Mrs. Pansing
2033 So. 33rd
Lincoln, Nebraska

Mr. and Mrs. Schmid
3987 East County Line Road
White Bear Lake, Minnesota 55110

Mr. and Mrs. Charles Porter
528 Myrtle East
Glendora, California 91740

Mr. and Mrs. Ed Rech
Route #1, Box 51
Davey, Nebraska 68336

Mr. and Mrs. Albert O. Ferber
Route #5, Box 371
Brainerd, Minnesota 56401

Mr. and Mrs. James T. Crosby
Route #5
Brainerd, Minnesota 56401

Mr. and Mrs. Don F. McHale
Route #5
Brainerd, Minnesota 56401

Mr. John Harvey
5100 Eden, Suite 109
Minneapolis, Minnesota 55436

Dear Property Owners:

I have now had a chance to review the legal description and the new, revised plat of survey prepared by Mr. Landecker.

I am enclosing herewith copy of legal descripions prepared by Mr. Landecker describing each parcel as it should have been described and as you are actually occupying the premises at the present time.

In my opinion after reviewing the plat of survey and the legal descriptions from Mr. Landecker, we need the following to accomplish the shifting of the property lines to conform to how each of you occupies the ground:

1. A quit claim deed from Rech to Harvey and a quit claim deed from Rech to McHale. Since there is a possibility that the Rech description overlaps both Harvey and McHale, Rech should give a quit claim deed to each. If Rech has a mortgage on the premises, his bank should give a partial release to the Harvey and McHale descriptions.

2. Harvey gives a quit claim deed to McHale. In addition, any bank who has a mortgage from Harvey should give a partial release to the McHale description. If Harvey's bank wants a new description on its mortgage, a revised mortgage deed should be given to the present Harvey description.

3. McHale will give a quit claim deed to Crosby. If McHale has a mortgage on his property, his bank should give a partial release to the Crosby description. Again, if McHale's bank wants a new mortgage, a revised mortgage deed should be given to the McHale description.

4. Crosby will give a quit claim deed to Ferber. If Crosby has a mortgage, his bank would give a partial release of mortgage to the Ferber description. Again, if Crosby's bank wants a revised mortgage deed, the new Crosby description should be given on a revised mortgage deed.

5. Ferber would give a quit claim deed to both Porter and Schmid. Ferber's bank should give a partial release to Porter of the Porter description, and to Schmid of the Schmid description. If Ferber's bank wants a new mortgage, a revised mortgage deed should be filed with the new legal of the Ferber property.

6. Both Porter and Schmid will give a quit claim deed to Pansing to the Pansing legal description. If Porter and Schmid have mortgages, each of their banks should give a partial release of mortgage to the Pansing legal description. If Porter's bank and Schmid's bank want new mortgage deeds, a revised mortgage deed should be filed with the new Porter description and the new Schmid description.

Giving quit claim deeds in the above fashion to the descriptions as outlined in the enclosed legal descriptions prepared by Mr. Landecker will straighten out all of the problems and re-establish the lines as they should be.

I would estimate my legal fees for accomplishing the above deeding to be somewhere between $300 and $400. I would be charging on an hourly basis, but I would not anticipate my time to go over this estimate. It would be my recommendation that Rech, Harvey, McHale, Crosby, Ferber, Porter, Schmid and Pansing each pay 1/8 of my expense.

I would appreciate a letter back from each one of you approving this method of clearing title and paying of expenses so that I can proceed to draft the necessary deeds. When you write me informing me as to whether I should proceed, I would appreciate knowing whether you do in fact have a mortgage on your property, and I would appreciate some word from your bank as to whether there will be any problem in the bank giving a partial release as above stated.

Please advise.

Very truly yours,
GUSTAFSON AND PLATTO, LTD.

Glen A. Gustafson

GAG:tes
enclosure

Gina Roach

Subject: FW: Variance for Pelican Beach Holdings LLC

From: Rosemary Franzen <Rosemary.Franzen@crowwing.us>
Sent: Saturday, April 17, 2021 7:16:10 PM
To: Gary Griffin <Gary.Griffin@crowwing.us>; Jacob Frie <Jacob.Frie@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Fw: Variance for Pelican Beach Holdings LLC

Please include these in the packet. Thanks

From: Chris Johnson <cmjohnson22@yahoo.com>
Sent: Friday, April 16, 2021 6:36 PM
To: Landservices <Landservices@crowwing.us>; Rosemary Franzen <Rosemary.Franzen@crowwing.us>
Cc: Jacob Frie <Jacob.Frie@crowwing.us>; Stephany Hanson <Stephany.Hanson@crowwing.us>; Richard Nolan <RickNolan112@gmail.com>
Subject: Variance for Pelican Beach Holdings LLC

To Crow Wing County,

I would like to express my objection and opposition to any type of approval for the proposed resort conversion from Pelican Beach Holdings LLC. After reviewing the information packet, I am convinced any granted variance request as currently documented would be absurd and goes against Crow Wing County's implied intent.

The most glaring indicator of intent should raise a red flag with the comment, "property owner would like to get out of the resort business"! The new owner just bought the property in Nov of 2020 and the request was submitted in Jan 2021. Is this individual really getting out of the business and/or did they ever really intend on this continuing as a resort? This is relevant to determine how the board will answer the variance request sheet. Is this a unique situation not created by the owner? It was purchased with the current classification.

In addition, why would Crow Wing County restrict other lake shore owners from rightful property usage through the new short-term rental ordinance via section 5.2 Occupancy (e) which states, “no more than two vacation rental licenses will be issued per parcel” and then allow a developer to portion off land on a small parcel just to sell for a quick profit using reclassification with variances? The buildings existed as a resort before the individual purchased the parcel. What was the county’s intent on only allowing 2 vacation rental licenses per parcel and now possibly shift positions to allow use of variances to help a resort reclassify just to sell multiple buildings on one small parcel for a profit? The ordinance only allows for 2 buildings to be used per parcel and does not differentiate between 4.88 acres or 0.50 acres unless you are a resort with another classification. Moving classifications directly contradicts the county’s intent of the short-term license requirements along with the land use ordinance.

Allowing this property to convert individual buildings to be sold off goes against ordinance and land use regulations currently on the books. The evidence does not support granting of these variances. This parcel should be operated as a resort as grandfathered or convert back to single parcel restrictions without the ability to have buildings sold off individually.

Chris Johnson
26575 Ross Point Road
Nisswa, MN 56468

Gina Roach

Subject: FW: DNR Comments Pelican Beach Holdings Application
Attachments: 2021-04-16-PelicanBeachHoldingsDNRComment.pdf

From: McNeil, Danielle (DNR) <danielle.mcneil@state.mn.us>
Sent: Friday, April 16, 2021 4:54 PM
To: Jacob Frie <Jacob.Frie@crowwing.us>
Cc: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: DNR Comments Pelican Beach Holdings Application

Hi Jake,

Attached is the DNR comment letter for the Pelican Beach Holdings Application to be reviewed at the PCBOA meeting this coming Monday, April 19th. I do apologize for submitting these comments on such short notice.

Please let me know if you have any questions, or would like to discuss these comments in detail.

Thanks,
Dani

Dani McNeil
Hydrologist | Ecological & Water Resources Division

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brained, MN, 56401
218-203-4367*
Danielle.McNeil@state.mn.us

* Please note: DNR staff are currently working from home and may return your call from an alternative number. Contact via email is strongly encouraged at this time.

mndnr.gov

DEPARTMENT OF NATURAL RESOURCES

April 16, 2021

Jake Frie
Environmental Services Supervisor
Crow Wing County Land Services Department
322 Laurel Street, Suite 15
Brainerd, MN 56401

RE: Pelican Beach Holdings – Resort Conversion Application – Pelican Lake (18-308) – Crow Wing County

Dear Mr. Frie:

Thank you for sending the Pelican Beach Holdings application for a resort conversion to residential development including a land use map amendment, variances for density, lot area and lot width, and a preliminary plat.

The DNR has reviewed this application in the context of the county's Land Use Ordinance and has determined that the application has not been properly evaluated under the existing ordinance. The agenda packet isn't clear on how the project should be treated or evaluated. In some instances, it is treated (based on the tiering and density analysis and the variances requested) as a conservation development. In other instances (based on variances requested), it is treated as if it were a conventional development. In both situations, there are inconsistencies that have not been addressed and thus additional variances are required to address these inconsistencies and to approve this project. Preferably, the project should be redesigned to meet the standards so variances are not required.

Evaluation of Project for Compliance with the Resort Conversion Standards of Article 34.13

This preliminary plat is a resort conversion to a residential development and is regulated by Article 34.13. Under these standards, ALL conversions to residential developments (whether conservation design or conventional) must comply with the Standards in Article 33 and inconsistencies between the existing features of the resort and Article 33 standards (which cover both conservation design and conventional development) must be identified and corrected. There are only two types of residential developments in Crow Wing County, conservation developments that allow higher density with no minimum lot size standards or conventional developments that meet minimum lot size standards.

The agenda packet implies that this is a conversion to conventional development and that any inconsistencies between the existing features and the shoreland district standards (Article 11) and the subdivision code (Article 9) must be identified and corrected or addressed through variances. This project must be evaluated for consistency with the conservation development standards in Article 33. This project is repurposing existing structures for residential uses but with higher density and opens space characteristics similar to conservation development standards. The density and structure configuration in no way resembles a conventional development. If the existing structures were to be razed, then the conversion would be evaluated as a conventional development subject to the minimum

lot size standards. Evaluating this project as a conventional development undermines the purpose of the shoreland standards and the county's own conservation development standards for protecting neighborhood character and shoreland resources.

If the preliminary plat and application were to be reviewed as a conventional development, it still needs to be consistent with Article 33. Article 33 also contains standards for conventional development (Articles 33.12 to 33.13). The conventional development standards in Article 33 are administered based on the standards in Article 11. The project is not consistent with these standards either.

Evaluation of Project for Compliance with the Conservation Development Standards of Article 33

This project proposes to retain the existing resort structures and draw condominium lot lines around each structure based on the existing placement of each structure. This project was reviewed against the standards in Article 33 for inconsistencies, including the provisions for conservation development. Following are the major deficiencies that must be corrected or areas where there is not enough information to make a determination.

Article 33.10.2. This Article specifies the density that is allowed in the first and second tier. The preliminary plat includes a tiering analysis consistent with treatment of the project as a conservation development. This analysis shows that only one dwelling unit is allowed in the first tier and 4.9 units are allowed in the second tier. The applicant is requesting 5 units in the first tier and 6 units in the second tier. The applicant has submitted variance requests to allow these density inconsistencies, acknowledging that this is a conservation development.

It is important to note that conservation developments do not have minimum lot area and width standards, only a density standard. Conventional lot and block developments do not use a tiering analysis or density standard, they require plats to meet minimum lot area and width standards. The tiering analysis provided by the applicant recognizes that this is a resort conversion to a conservation development and is the correct approach for seeking approval.

Article 33.11. B.5. This Article states that the number of allowable continuous watercraft mooring spaces for conservation developments abutting public waters shall not exceed the number of allowable dwelling unit lots in the first tier. Individual docks are not allowed.

The preliminary plat proposes 12 mooring spaces. The preliminary plat includes a tiering analysis consistent with treatment of the project as a conservation development. The tiering analysis states that only one dwelling unit is allowed in the first tier. In order for the plat to be corrected to meet this inconsistency, the number of mooring spaces must be reduced to 1. In order to approve this inconsistency, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless variance are approved for any mooring spaces over one.

Historical photos suggests that a single dock with no more than three moorings slips have been used. There is no written record suggesting that more than three spaces have ever existed. Mooring standards are intended to reduce impacts on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards.

Evaluation of Project for Compliance with the Conventional Development Standards of Articles 33, 11, and 9.

This is not the correct way to evaluate the project, but since it appears to be the approach the county is considering, we provide the following comments. The project is not consistent with these standards either.

Article 11.3 states that all new lots in the Shoreland district shall meet the minimum lot area, width and buildable area requirements in Table 11.1. The applicant is proposing variances to lot area and width. The applicant does not show buildable areas and there is no mention of variances to buildable area lot requirements. The fact that buildable area requirements are required under Article 11 reinforces that the purpose of Article 11 is to provide minimum standards for new conventional lot and block subdivisions where there is room (through the buildable area standards) for septic systems. In order to approve the inconsistency with the buildable lot area standards, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless a variance is approved for not requiring that lots meet the buildable lot area.

Article 11.17 prohibits controlled access lots or any lot, tract, or parcel of land, however designated or described, intended to be used to provide accesses to public waters for owners of non-riparian lots within new minor subdivisions or plats. This plat is proposing to provide riparian access for all 12 non-riparian lots through a common association maintained lot. In order to approve this inconsistency, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless a variance is approved for allowing a controlled access lot.

DNR Recommendations:

The plat is incorrectly being reviewed as a resort conversion to conventional development. This is incorrect and undermines the purpose and intent of the shoreland standards and the county's conservation development standards. DNR recommends that the plat be denied as presented. In order to approve as either a conservation development or a conventional development, additional variances must be applied for and approved.

I appreciate the opportunity to comment on this application. If you have any questions regarding my comments, please feel free to contact me at Danielle.McNeil@state.mn.us, or by phone at 218-203-4367.

Sincerely,



Dani McNeil
DNR Area Hydrologist

CC: Seth Goreham, DNR EWR West District Supervisor
Darrell Schindler, DNR EWR Regional Manager
Dan Petrik, DNR Land Use Specialist

RECEIVED
APR 17 2021
BY:

Gina Roach

Subject: FW: Supplemental Objection to Pelican Holdings LLC Zoning Application
Attachments: Supplemental Objection to Pelican Holdings LLC application _.pdf

From: Luanne Baros <lbaros@gglaw.net>
Sent: Saturday, April 17, 2021 2:50:05 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Supplemental Objection to Pelican Holdings LLC Zoning Application

Hi Kiki,

Could you please disregard my Friday submission of the attached Supplemental objection and use this one instead. I lost 1.5 hours on Friday due to computer problems, so I raced to launch my reply rather than take the time it deserved.

Please let me know if you are able to do this. Otherwise circulate this one also as my final Supplemental objection.

Thank you,

Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
320-632-3567 (fax)

14275 Golf Course Drive, Suite 200
P.O. Box 2629
Baxter, MN 56425
218-828-9511 218-824-8545 (fax)

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

April 16, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Supplemental Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

Please let this letter serve as a Supplemental Objection to the above-noted application.

This application must comply with Minn. Rule 6120.3800 for Planned Unit Developments (PUDs). Crow Wing County must apply these state standards. This rule requires the following:

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. A site plan for the project showing property boundaries, surface water features, **existing and proposed structures,** sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities;

Since the Applicant has only illustrated the existing structures, this application is incomplete and must be tabled, or the County must attach a condition requiring that existing structure dimensions shall not change. See suggested conditions attached as **Exhibit A.**

The county must also assure any action taken on this application complies with Minn. Rule 6120.3800 Subd. 3.D.

D. **Conversions.** Local governments may allow existing resorts or other land uses and facilities **to be converted to residential planned unit developments if all** of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

P.O. 2629 • 14275 Golf Course Drive, Suite 200
Baxter, MN 56425
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▲ Rule 114 Qualified Neutral

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(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) **Shore** and bluff **impact zone deficiencies must be evaluated and reasonable improvements made** as part of the conversion. These improvements **must include**, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) **if existing dwelling units are located in shore** or bluff **impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.**

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

To approve this application without insisting on compliance with the above Rules, especially without establishing the dimensions of future buildings would be arbitrary and capricious.

The Applicant's calculation of impervious coverage is inaccurate insofar as it fails to include the proposed lot dimensions in the impervious coverage calculation. In this case, the developer is proposing lots with zero lot line set back. It must be presumed, as a worst-case scenario, that the entire lot is building or impervious coverage. Therefore, the actual impervious coverage, unless a limiting condition precluding exterior expansions in any dimension, is placed on this project by the Board, is as follows:

Impervious Calculations East of CR 4:

Potential Buildings:	37,883 sf (per lot 1-11 areas indicated)
Bituminous:	7,329 sf (per table)
Gravel:	3,609 sf (per table)

Concrete: 824 sf (per table)

Wood playground: 100 sf (per table)

Proposed parking: 1,800 sf (per table)

Total: 51,545 sf

Gross area East of CR4: 145,798 sf **

(**Typically the county does not allow a developer to include lot area on the other side of a Road in this calculation or to include lot area outside of Tier 1 and Tier 2)

Impervious Coverage: 35.35% (51,545/145,798)

If the proposed impervious coverage exceeds 25%, (Table 41.1 of the Ordinance) an additional variance application is necessary, or the Board of Adjustment should attach an additional condition precluding exterior expansions in any dimension for any structure.

Finally, although this application should be denied for the many reasons stated in the record, on behalf of my clients, the adjacent property owner, I submit the proposed conditions attached as **Exhibit A** with the express understanding that the advancing of these conditions shall not prejudice my client's ability to raise objections to this application before the Board of Adjustment, the County Board, or any Minnesota Court. To limit the impacts on adjoining parcels and properties, significant and clear conditions should be attached to any approval.

Sincerely,

James M. Gammello

JMG/lmb
Attachment: Exhibit A: Proposed Conditions

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Supplemental Objection to Pelican Holdings LLC application final.docx

EXHIBIT A: PROPOSED CONDITIONS

The following proposed conditions are proposed on behalf of the adjacent property. This proposal shall not prejudice said landowner's ability to object or appeal, but are advanced in an effort to limit the impacts on the neighboring property.

1. All prior and existing CUP conditions shall be complied with.
2. Applicant must comply with Minn. Rule 6120.3800.
3. The following conditions in addition to any pre-existing CUP requirements and if there are any pre-existing restrictive zoning conditions that are more restrictive, said conditions shall take precedence over any of the following conditions to the extent that they are more restrictive:

    a. There shall be no increase in **exterior expansions in any dimension for any structure** in any Tier. (Minn. Rule 6120.3800 Subp.5 D 4)
    b. No additional impervious coverage shall be permitted. Total impervious coverage shall not exceed 25% (structures, driveways, building pads, etc.) and impervious coverage on the portion of the property lying west of County Road 4 shall have no increased impervious coverage. The maximum impervious coverage of each proposed lot shall be as follows: lots in Tier 1 shall not exceed current represented impervious coverage (sq ft): Lot 1: 1792.1, Lot 2: 1980, Lot 3: 1873.4, Lot 4: 2063.8, Lot 5: 4026.7. In Tier 2 Lot 6: 3575, Lot 7: 2641, Lot 8: 2913.8, Lot 9: 2452.7, Lot 10: 3063.2, Lot 11: 3752. **No future variances shall be granted increasing the impervious coverage of any lot or Unit.**
    c. Total occupancy of each unit shall be limited to and shall not exceed no more than 2 persons per the number of bedrooms for each approved lot. The total number of bedrooms on the property shall not exceed __ bedrooms. No additional bedrooms shall be created in any of the structures. More specifically as to proposed Lot 1:_____ ,as to proposed Lot 2:_____, as to proposed Lot 3:_____, as to proposed Lot 4:_____ as to proposed Lot 5: Two bedrooms, as to proposed Lot 6: Two bedrooms, as to proposed Lot 7: Three bedrooms, as to proposed Lot 8: Two bedrooms, as to Proposed Lot 9: Three bedrooms, as to proposed Lot 10: Two bedrooms, as to proposed Lot 11: Four bedrooms. (The current bedroom count is based on the 1991-1993 zoning approval as represented by the Myron Landecker illustration submitted as part of that zoning request). **No future variances shall be granted increasing the number of bedrooms or permissible occupants.**
    d. The seasonality of the property shall be maintained (April through November) for all cabins except the main house. Minn. Rule 6120.3800 Subp.5D 4.
    e. Although the number of boat slips or moorings shall be limited to the number of units allowed in Tier 1, pursuant to Minn. Rule 6120.3800 Subp.5B(3)(c), because the prior use has been demonstrated to be 3 boat slips, 3 boat slips are permitted as well as a day dock that does not have permanent slips or moorings, and no overnight moorings shall be permitted. Launching ramp facilities, including the above referenced small day dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or lots located in other tiers.

f. There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area.
g. Applicant shall also provide a lake study to evaluate the centralized shore recreation facilities due to the shallowness of the lake at this location, prior to final plat approval.
h. No occupancy of Recreational Vehicles (RVs), campers and trailers shall be permitted on the property and all RVs, campers and trailers shall be parked on the property located west of County Road 4 and may not remain on the property for more than 3 days, unless stored inside the pole barn.
i. Applicant shall submit for review and approval a centralized septic and well systems, as previously required by prior CUP and as required by current Minn. Rule 6120.38 et. seq., prior to plat approval.
j. Applicant shall submit a vegetative plan that includes a vegetative buffer on the lakeshore as required by the Ordinance and additional vegetative screening along the north and south boundary line to limit the visibility of the structures and increased activity on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed vegetative buffer plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
k. Applicant shall submit a parking plan and pedestrian safety plan that addresses the safety risks associated with pedestrian travel across County Road 4 and the storing of trailers and recreational equipment and parking across County Road 4. The immediately adjacent neighboring property owners shall be provided a copy of the proposed parking plan and pedestrian safety plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
l. Applicant shall submit a set of rules for enhancing safety awareness and safety measures for dealing with fires and other safety issues and that address and control noise due to the increased number of people on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed safety rules and rules regarding noise management and allowed to comment prior to final plat approval.
m. A sustainable management plan for the on-going operation of the property shall be submitted prior to final plat approval and to assure the neighbors that a management authority will always be on-site and capable of enforcing reasonable restrictions. The development documents must mandate said maintenance.
n. No rentals shall be permitted for less than one month.

RECEIVED
APR 17 2021
BY:

Gina Roach

Subject: FW: Pelican Beach Resort Conversion/Josh Miles Variance

-----Original Message-----
From: Lori Moss <loricd8@icloud.com>
Sent: Saturday, April 17, 2021 11:32 AM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Resort Conversion/Josh Miles Variance

Dear Board and Committee Members,

We wish to reaffirm our strongest objections to the proposed development of the Pelican Beach resort and to the variance requested by Josh Miles. After attending the last meeting where the issue was discussed, we have only become more troubled by the potential for destructive consequences. We appreciated the opportunity to hear the concerns voiced by the neighbors on adjoining and nearby homes. We are distressed at the thought of a decision being made that threatens the well-being of the wildlife and the water quality and the general peace of the lake. We represent three generations of four that have treasured this precious place. We commit to respecting and protecting it for future generations.

Thank you for your consideration.

Lori Moss
Kay Adair
Hannah Moss
Christy Price
Sanford Price

RECEIVED
By Stacy Westhoff at 3:29 pm, May 20, 2026

June 19, 1991

Mr. Swenson was present. The original decision of May 1, 1991 was reviewed. Mr. Swenson explained the issues and conditions placed on the permit granted on May 1, 1991 he wishes to have changed. Mr. Lothspeich was present representing the Pansings. Also present was Al Cibuzar representing Thirty Lakes Watershed. Discussion ensued regarding the variance granted in 1988 for construction of an addition to Cabin 4 and the length of time the permit is effective for construction of the structure. Mr. Cibuzar showed slides depicting what could happen if lakes are overdeveloped.

June 19, 1991 Action

Motion by Carlson to uphold the action taken on May 1, 1991, with the following exceptions:

- Condition 1 be eliminated.
- Condition 13 be eliminated.
- Condition 14 be eliminated.
- Condition 16 be eliminated.

After further discussion, member Carlson withdrew his motion.

Chairman Geske then passed the gavel to member Pelto.

Motion by Geske to uphold the action taken by the Board of Adjustment on May 1, 1991 in its entirety. Motion died for lack of second.

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

See Lakeshell Zoning File

Name Timothy K. & Patricia Swe son

Address: 12683 Co Rd 4 N
Nisswa, MN 56468

Approved 6/19/91 w/Conditions ✓
Postponed _____ Continuation _____

Denied _____ Appeal _____
By: 2/19/91

Sec. 4, Twp 135N, Rge 28W.,
From , To
PC _____, CB _____, Filed _____

Need Before Permit Release $200.00
$100.00 for Sewer, $100.00 for gaze, ~~$100.00 for~~ Wells Fgo, recledge etc.

Fee $100.00, Rcpt #9005431

PERMIT #9004398
Reviewed for Publication _____
Staff Comments _____

TYPE OF APPLICATION:
- Dirtfill/Shoreline Alteration
- Variance
- Conditional Structure/Use
- Amendment Petition
- Planned Unit Development
- Special Permitted Use
- Zoning Change
- Appeal
- Late Filing Fee Consideration
- Reconsideration 9005431

Fee Assessed _____
To be paid by _____

Notice of hearing date on Application 6/19/91
Publication Date: 6/5/91
Clerk/Chairman Township Notified 6/5/91
Adjacent Property Owner Notified 6/5/91

#Notices Sent 18

Legal Description: Part of SE1/4 NE1/4, 4-135-28

'DATE: NOTICE OF PUBLIC HEARING 'PER/APP/RCPT #:9004398'

PETITION FOR: PLANNED UNIT DEVELOPMENT; CONDITIONAL USE: VARIANCE.

PER THE REQUIREMENTS OF CROW WING COUNTY ZONING ORDINANCE.

APPLICANT: SWENSON TIMOTHY K & PATRICIA 12683 CO RD 4 N.
BRAINERD MN 56401

MEETING DATE: 02/06/91 WEDNESDAY. 6:00 PM.
PLACE: COUNTY SERVICE BLDG. MEETING ROOM, BRAINERD, MN.

LEGAL DESCRIPTION: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE1/4 OF NE1/4 S
SEC 04 TWP 135 RGE 28 TWP: LAKE EDWARD
GENERAL LOCATION: WEST SHORE OF LAKE ON PELICAN-GD.

PURPOSE: TO CONSIDER THE APPLICATION(S) REQUESTED ABOVE:
TO CONSIDER CONDITIONAL USE. PLANNED UNIT DEVELOPMENT. & VARIANCE INVOLVING EXPANSION OF EXISTING RESORT OPERATIONS: TO ADD SEVEN (7) RENTAL UNITS, ONE (1) RV PARKING FACILITY, LODGE/MEETING FACILITY & STORAGE/LAUNDRY BUILDING.

(VARIANCE REQUIRED TO EXCEED FOUR (4) RENTAL UNITS IN TIER #1 (5 requested), PER 1989 DNR SHORELAND MANAGEMENT RULES).

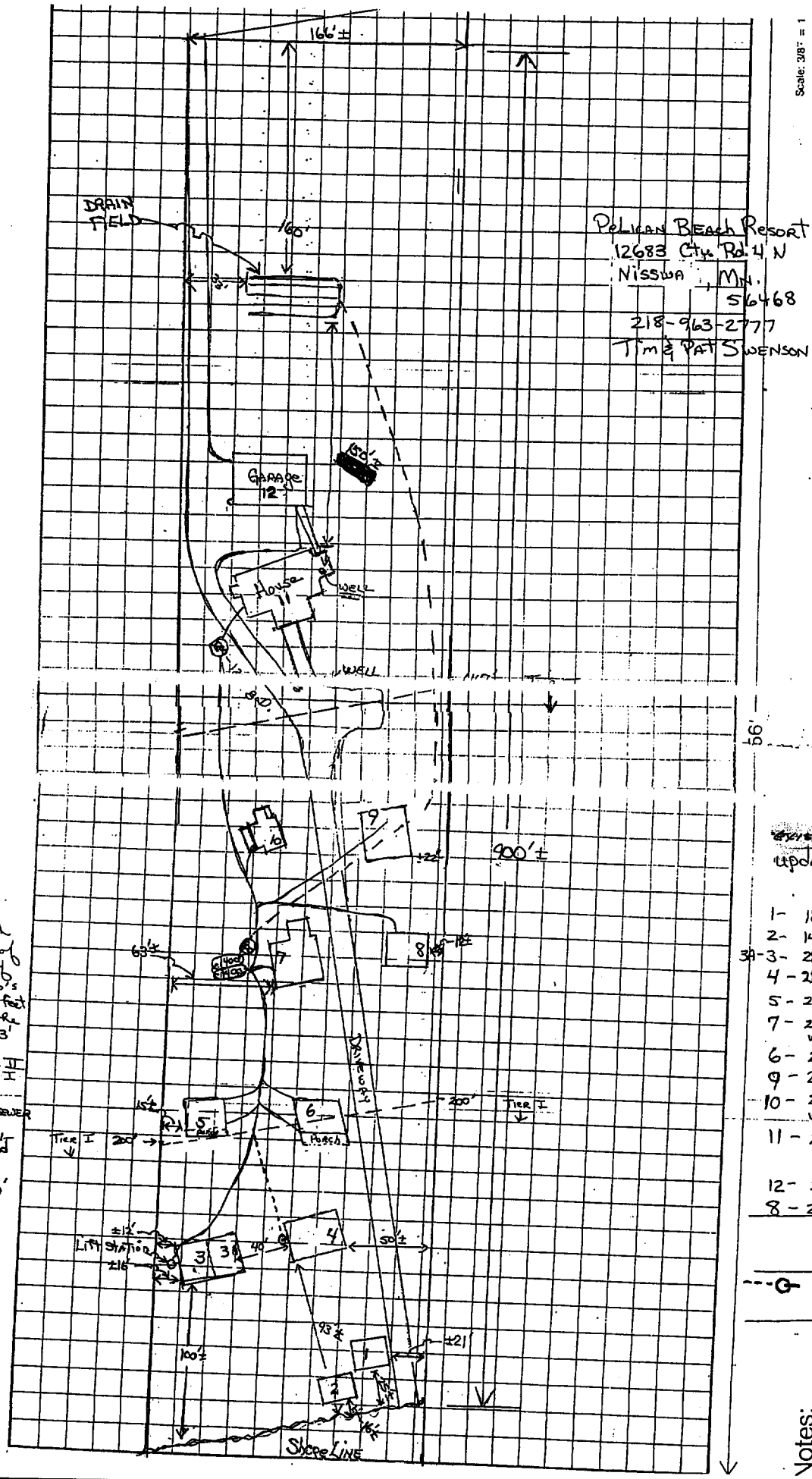
ON PROPERTY ZONED WATERFRONT COMMERCIAL.
REASON FOR REQUEST BEING: ADDITION OF SEVEN (7) RENTAL UNITS, RV CAMPSITE, LODGE/MEETING FACILITY AND STORAGE/LAUNDRY FACILITY

DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

A RECONSIDERATION OF THE PLANNING COMMISSION'S DECISION OF MAY 1, 1991 REGARDING THE ABOVE APPLICATION IS SCHEDULED FOR JUNE 19, 1991 AT 6:00 P.M. IN MEETING ROOM 2 OF THE COUNTY SERVICE BUILDING, BRAINERD, MINNESOTA.

FORM NO. 1

Verndale Custom Homes



Scale: 3/8" = 1

Pelican Beach Resort
12683 Cty Rd 4 N
Nisswa, Minn.
56468
218-963-2777
Tim & Pat Swenson

Existing Structures
Updated 2-26-92

1- 18x20 Boathouse
2- 14x20 Screenhouse
3- 28x37 Duplex
4- 28x30 Cabin
5- 24x26 Cabin
7- 27x30 Cabin w 12x12 Bdr.
6- 24x24 Cabin
9- 28x30 Cabin
10- 24x24 Cabin w- 8x8 Bdr.
11- 26x36 House, 10x20 Addition 10x20 Entry
12- 28x36 Garage 2-story
8- 24x24 2 Bdr. Cabin

W
S N
E

*Note! 2-27-92 Bldg. #5's gable to lines portions of the 200' mark of Tier I. Bldg. #6's south wall is 5 feet into Tier I & the north wall is 13' into Tier I. #6 - 55% in Tier I 45% in Tier II

Existing Sewer Lines
To drain field
Lift-station to existing system

1 square = 16⅔'
6 squares = 100'

Each square equals 1 foot

DEALER NAME

HOUSE NO. (office use only)

Votes:

STATE OF MINNESOTA

IN DISTRICT COURT

CROW WING COUNTY

NINTH JUDICIAL DISTRICT

* * * * * * * * * * * * * * * * *

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson	COURT FILE NO. C6-91-1259 **APPELLANT'S ANSWER TO RESPONDENT'S INTERROGATORIES**

* * * * * * * * * * * * * * * * *

TO: Crow Wing County, and its attorney, John Remington Graham, Crow Wing County Courthouse, Brainerd, Minnesota 56401, and Timothy Swenson, pro se, 12683 County Road 4 North, Nisswa, Minnesota 56468:

Dennis M. Lothspeich, for his answers to the Interrogatories, states as follows:

1. At the hearing on the motion of the appellee for summary judgment on October 26, 1991, the court held from the bench that the appellee had made out a prima facie case showing the appellee had not exceeded density limits in granting the conditional use permit on may 1 and June 19, 1991, but that the appellant had a right to show at the forthcoming hearing, now scheduled for March 3 and 4, 1993, facts and circumstances which might rebut such prima facie case. Please indicated with reasonable specificity what facts and circumstances you may or will establish at the said forthcoming hearing, which might serve to rebut such prima facie case.

ANSWER: That the property located west of County Road 4 owned by Respondent, Timothy Swenson, has no structures on it, and is not used in any fashion as a part of the resort operation. Additionally, there will be expert testimony to the effect that the property to the west of County Road 4 is in a different drainage area, and that it makes absolutely no sense from an environmental stand point to calculate that property in to the density requirements.

The scientific evidence will also show that a high land use density in the shoreland areas can have a negative impact on the health, safety and welfare, as well as have a detrimental effect on the ecology of the lake.

2. At the hearing on the motion of the appellee for summary judgment on October 26, 1992, the court held from the bench that the appellee had given due regard to the public health, safety, and welfare in granting the conditional use permit on May 1 and June 19, 1991, but that the appellant had a right to show at the forthcoming hearing, now scheduled for March 3 and 4, 1993, facts and circumstances which might rebut such prima facie case. Please indicate with reasonable specificity what facts and circumstances you may or will establish at the said forthcoming hearing, which might serve to rebut such prima facie case.

ANSWER: In addition to the information set forth in our answer to Interrogatory Number 1, there will be information and testimony as to how the proposed expansion will result in increased boat traffic, increased usage of the beach, and a negative impact of the use and enjoyment of the surrounding property.

Dated this 28 day of Nov, 1992.

Dennis M. Lothspeich
Attorney for Appellant
611 Oak Street
Brainerd, MN 56401
(218) 828-3398

C:\wp51\TEMPN-Z\PANSING.ANS

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Court File No. C6-91-1259

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson.

FILED
FEB 25 1993
DARRELL M. PASKE
COURT ADMINISTRATOR
CROW WING COUNTY

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT AND JUDGMENT

The above-entitled matter came on before the Court pursuant to the written Stipulation of the parties. The Appellant, Lulubel Pansing, was represented by Dennis Lothspeich, O'Hara, Fossum, Hill and Lothspeich, 611 Oak Place, Brainerd, Minnesota 56401. Respondent, Crow Wing County, appeared by and through Crow Wing County Attorney John Remington Graham. Respondents Timothy and Patricia Swenson appeared pro se. Based upon the written Stipulation of the parties, and upon all the records, files, and proceedings herein, the Court issues the following:

FINDINGS OF FACT

1. That this action is for declaratory judgment and other relief with respect to the granting of a Conditional Use Permit by the Crow Wing County Board of Adjustment at its regular meeting of June 19, 1991.

2. That all parties to this action have entered into a written Stipulation proposing to settle all issues raised by this appeal, said Stipulation has been presented to the Court, the Court now finds that said Stipulation is a just and equitable resolution of all issues raised by this appeal.

CONCLUSIONS OF LAW

1. That the Appeal of Lulubel Pansing, is dismissed, and all claims raised by it, subject to the modifications to the permit, and conditions placed upon Respondents Timothy and Patricia Swenson as more fully set forth below.

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

   a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

   b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

ORDER FOR JUDGMENT

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 02/25/93

Robert E. Kautz
Judge of District Court

JUDGMENT

I hereby certify the above Conclusions of Law constitute the Court's Judgment and Decree herein.

Dated: February 25, 1993

Darrell M. Paske
Darrell Paske
Court Administrator
By: [signature]
Deputy

C:\WP51\TEMPN-Z\PANSING.FND

STATE OF MINNESOTA
COUNTY OF CROW WING

DISTRICT COURT
NINTH JUDICIAL DISTRICT

DENNIS LOTHSPEICH
P. O. BOX 624
BRAINERD MN 56401

JOHN R. GRAHAM
CROW WING COUNTY ATTORNEY
COURTHOUSE
BRAINERD MN 56401

TIMOTHY SWENSON
12683 COUNTY ROAD 4 NORTH
NISSWA, MN 56468

PATRICIA SWENSON
12683 COUNTY ROAD 4 NORTH
NISSWA, MN 56468

Notice of Filing of Order

In Re: IN RE: APPEAL OF LULUBEL PANSING FROM THE DECISIONS OF THE CROW WING CTY. BOARD OF ADJUSTMENTS [KAUTZ ASSIGNED]

Case Number: 18-C6-91-001259

You are hereby notified on this date, an order

FINDINGS OF FACT, CONLCUSIONS OF LAW, ORDER FOR JUDGMENT

JUDGMENT

was filed on the above-entitled matter.

Darrell M. Paske
Court Administrator

BY _____
Deputy

Dated February 25, 1993

June 19, 1991

Mr. Swenson was present. The original decision of May 1, 1991 was reviewed. Mr. Swenson explained the issues and conditions placed on the permit granted on May 1, 1991 he wishes to have changed. Mr. Lothspeich was present representing the Pansings. Also present was Al Cibuzar representing Thirty Lakes Watershed. Discussion ensued regarding the variance granted in 1988 for construction of an addition to Cabin 4 and the length of time the permit is effective for construction of the structure. Mr. Cibuzar showed slides depicting what could happen if lakes are overdeveloped.

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Motion by Carlson to uphold the action taken on May 1, 1991, with the following exceptions:

- Condition 1 be eliminated.
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After further discussion, member Carlson withdrew his motion.

Chairman Geske then passed the gavel to member Pelto.

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- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

ROY A. LUUKKONEN.....AUDITOR
RICHARD D. ROTTSCHAFER, M.D. .....CORONER
DICK ROSS .....SHERIFF
JOHN REMINGTON GRAHAM.....ATTORNEY
LAUREEN E. BORDEN.....TREASURER
KATHY LUDENIA.....RECORDER
SIEGFRIED STIER .....PERSONNEL COORDINATOR
DUANE A. BLANCK, P.E.....HIGHWAY ENGINEER
ANTHONY E. KERICK.....SURVEYOR
THOMAS J. COWELL.....LAND COMMISSIONER
MARTYN SCHMIDT.....ASSESSOR
DARRELL PASKE.....COURT ADMINISTRATOR
CAROL CARLSON.....COMMUNITY HEALTH ADMINISTRATOR
DENNIS JOHNSON.....SOCIAL SERVICE DIRECTOR
DAVID R. SCHULDHEISZ.....VETERANS SERVICE & EMERGENCY MANAGEMENT
DAVID NEIMAN.....PLANNING & ZONING ADMINISTRATOR

COUNTY COMMISSIONERS
STEVE D. SIEVEK, CHAIRMAN CHERYL GELBMANN, VICE CHAIR
JOHN "JINX" FERRARI MARY KOEP BARBARA R. UPPGAARD

TELEPHONE (218)

CROW WING COUNTY
BRAINERD, MINNESOTA 56401

October 18, 1991

David Neiman
CWC Planning and Zoning Office
Courthouse
Brainerd, MN 56401

Rec'd Date 10/21/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

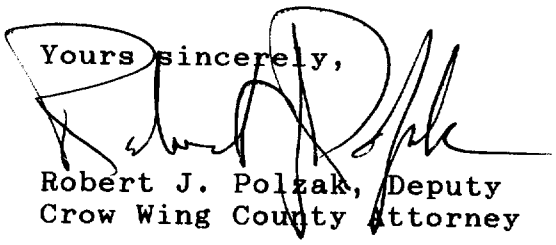
Re: Tim Swensen

Dear Dave:

For your purposes, you should take the approach that in the event that you have an open PUD application that, subject to an appeal either at the Board Adjustment level or the District Court level, you cannot issue a building permit which may be impacted due to the fact that the appeal is focusing on the property, or the buildings, which may well be the subject of the new permit application. In other words, the District Court may make a finding, such as in this case, that the matter can be justifiably permitted, or agreed to, pursuant to the HUD application as it may have an impact on a specific building which is now the subject of a request for a building permit, such that the purpose of the building permit will be totally abrogated or changed by the amended finding by the District Court. Therefore, it is only fair to the applicant to prevent him from getting himself in a position that he will again have to modify the building pursuant to the appeal and may come back at Crow Wing County and argue that the permit should never have been granted in the first place, knowing that the building permit, or the use of the property pursuant to the building permit, may well have been changed due to the appeal process in District Court on the PUD.

Therefore, in direct answer to your questions, at this time it is not timely to issue a permit to Mr. Swensen pursuant to garage modification. It will be timely upon a finding in District Court pursuant to the PUD appeal. Please call if you have any further questions in that regard.

Yours sincerely,



Robert J. Polzak, Deputy
Crow Wing County Attorney

RJP:ao

October 4, 1991

Dave Neiman, Manager
Crow Wing Cty. Planning and Zoning
Brainerd, Mn. 56401

Dave,

As per your request, enclosed is a request for the necessary permit to increase the size of our garage. Currently, our garage is 28x36 feet and we would like to add-on a 16x24 expansion to the north end of the building. (this is bldg. #12 on the enclosed drawing.) The building is currently a two-story block and wood structure and the expansion would be to both levels.

Thank you for your consideration in this matter.

Sincerely,

Timothy K Swenson

Tim Swenson
Pelican Beach Resort
12683 Cty. Rd. 4 No.
Nisswa, Minnesota 56468
963-2777

Side-Note: ... colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards For Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph 6, Section 3, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

p 46 B

Co. decide

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seem fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warrented, rather than evaluating on a case by case basis.

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us hov many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

SL committee: business process

Sincerely.
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

July 18, 1991

Mr. Timothy Swenson
Pelican Beach Resort
12683 County Road 4 North
Nisswa, Minnesota 56468

Dear Mr. Swenson:

Thank you for your letter concerning the management of Minnesota's shorelands. As the recent article in the Minneapolis Star Tribune points out, few issues in Minnesota generate as much interest as the care of our lakes and rivers. The State shoreland rules that are now being implemented by Crow Wing County are the end result of years of work and public involvement that included a committee of twenty-two people representing many diverse interests. This committee had the active involvement of the Minnesota Resort Association which ensured that the interests of resort owners were taken into account throughout the rule development and administrative hearing process.

Counties may adopt more restrictive standards. The requirements for vegetation and selection of color of structures to screen and protect the aesthetics of the area will enhance the lake to the mutual benefit of all, including those people staying at your resort. The shoreland rules are designed to protect the lakes and rivers from unwise development. Setbacks, density standards, vegetation removal, boat mooring, etc. all need to be considered with the impact to the resource in mind. I have asked the Department of Natural Resources to respond to your specific concerns.

In closing, all Minnesotans must do whatever they can to protect our most valuable natural resources, our rivers and lakes. Thank you for your concern.

Warmest regards,

Arne H. Carlson
Governor

RETURN ALL COPIES TO
Thirty Lakes Watershed District
P.O. Box 376
Brainerd, Mn. 56401

P.A. # _____

THIRTY LAKES WATERSHED DISTRICT

Application for permit, permit, and notification of completion

TO BE COMPLETED BY APPLICANT

Name _____

Address _____ Zip _____ Phone _____

Nature of Work _____

Location _____
Lot *Block* *Gov't. Lot* *Sec.* *Twp.* *Rge.* *Lake or Stream*

Procedure to be used to control erosion and sedimentation _____

_____

Sketch of site and work plan must be completed in this space. *(Any changes by the District will be made in red.)*

Rec'd Date 6-28-21
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

_____
Applicant

Date _____

TO BE COMPLETED BY DISTRICT

This permit application is hereby denied ☐ approved ☐ by the Board of Managers of the District this _____ day of _____, 19_____. Reason for denial ☐

Conditions of approval ☐ _____

_____

_____

_____

_____

_____

This permit is permisive only and does not release the permittee from any liability or obligation imposed by Minnesota Statutes, Federal Law or Local Ordinances. Permits expire one year from date of issuance. Keep permit available for inspection.

Board of Managers

By _____

Rec'd Date 5-28-91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

May 27, 1991

Planning and Zoning Dept.
Crow Wing County
Brainerd Mn. 56401

Subject: Appeal of decision for expansion May 1, 1991 for Pelican Beach Resort.

Due to the continued concerns of neighbors and disappointment with regard to the number of conditions placed on us as requirements for expansion we ask for reconsideration.

When we submitted our plan for expansion we understood that the DNR shoreland management guidelines had been adopted by the county and were the reason for all the conditions placed on our expansion. We have since found out differently. Apparently the only justification for these conditions is in the public health, safety and general welfare of the community and the reduced expansion plans we ask for are not a concern of the State DNR and do not apply since we are adding less than six new units. Until the meeting on May 1, 1991, we thought it was necessary to ask for an extension of our 1988 permit and then found out that this is not the case, it is valid until its five year term expires.

Having considered the above new information, we ask you to eliminate those conditions that do not apply to health, safety and public welfare. Keep in mind, that our request for expansion is all within conforming guidelines of the county of Crow Wing and do not require any increase densities over allowable limits and are all conforming. See attached revised final expansion plan(addition of three units and an R.V. hook-up.)

We request you eliminate the following:

- paint color of all bldgs. an earth tone color. Most of these have no impact on the lake and are white or beige. Since the earth in Crow Wing county is white as many months as earth tone, we feel this is not a health, safety or welfare issue.
- Remove requirement of removal of necessary buildings on the shoreline. We understand the desire of the county to eliminate these but feel we have a need for them. If possible we plan to remove one building, (if possible) but wish that it not be a county requirement.
- Plant screening along the shoreline is another condition we request be removed. This is not part of existing ordinance and will solve no complication with regard to health, safety and or public welfare. The building to be improved (#4) under authorization from 1988 is already screened by nine full-sized jack and norway pines.

The last request for elimination of conditions is:

- The restricition of no more variances shall be granted. It is our opinion that this is a right of ownership that goes beyond any notion of a bargaining chip as a condition of improvement. Please remove this as it is arbitrary and difficult to see what affect it could have on future ownership of the property and its marketability.

The following is the requested and required plan for improvement as relates to the approved motion from the May 1st meeting. In an effort to reach the counties aim of minimizing impact on the lake front and a never ending effort to minimize the concerns of neighbors, we request that we build a side-by-side two-story duplex on the site now occupied by building No. 11 and eliminating the expansion of building No. 9. This will accomplish a number of different things. First, there will be no expansion of rental units in the first two tiers. Second, parking for these units will all be above the first two tiers where there is more than adequate space. Third, it eliminates anymore living units in the area most concerning the neighbors. Fourth, this proposal follows the ideal recommendations of the DNR with regard to expanding away from the lakeshore impact area. (The closest new living unit will be approx. 550' from the lake.)
The second part of improvement will be the already approved construction of an R.V. site at location TT on the map, in tier III.
The third part of the improvemnet will be the already approved construction of a three bedroom living unit above the garage in bldg. No. 12.
Fourth, construction of bldg. No. 13, proposed garage in accordance to zoning regulations regarding bluff guidelines.
Fifth, sleeping quarters in No. 4 limited to three bedrooms.
Sixth, Downstairs of bldg. No. 4 not to be used for sleeping qtrs.
Seventh, tier V across road not to have more than one unit (house) three bedrooms to be used by family and not for rental. Must have own septic and well.
Eight, Designated parking area for each unit meeting planning and zoning acknowledgement.
Nineth, Screening along North and South property lines shall be maintained.
Ten, DNR and Crow Wing county approved slow-minimum wake markers 200' off dock.
Eleventh, roped off swimming area.
Tweleve, maintain boathouse storage bldg. No. 2 and meeting MPCA guidelines with regard to fuel storage in building.

Thirteen- if this property ceases to be used as a resort, the area would be required to comply to zoning regulation of that date.
Fourteen- all units be hooked to a central deep well and central septic system.
Fifteen- Revised site plan. enclosed in this document and these words.

This plan strikes a compromise of minimal impact on the surrounding neighborhood, accomplishes our business goals and is devised using the ideals of both the DNR PUD guidelines and the approved Crow Wing County accepted planning and zoning ordinances without the need for variances, excess density problems or environmental stress on the area.

Sincerely,

Timothy K Swenson

Tim and Pat Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

June 13
~~May 27~~, 1991

Planning and Zoning Dept.
Crow Wing County
Brainerd Mn. 56401

Subject: Appeal of decision for expansion May 1, 1991 for Pelican Beach Resort.

Due to the continued concerns of neighbors and disappointment with regard to the number of conditions placed on us as requirements for expansion we ask for reconsideration.

When we submitted our plan for expansion we understood that the DNR shoreland management guidelines had been adopted by the county and were the reason for all the conditions placed on our expansion. We have since found out differently. Apparently the only justification for these conditions is in the public health, safety and general welfare of the community and the reduced expansion plans we ask for are not a concern of the State DNR and do not apply since we are adding less than six new units. Until the meeting on May 1, 1991, we thought it was necessary to ask for an extension of our 1988 permit and then found out that this is not the case, it is valid until its five year term expires.

Having considered the above new information, we ask you to eliminate those conditions that do not apply to health, safety and public welfare. Keep in mind, that our request for expansion is all within conforming guidelines of the county of Crow Wing and do not require any increase densities over allowable limits and are all conforming. See attached revised final expansion plan(addition of three units and an R.V. hook-up.)

We request you eliminate the following:

- paint color of all bldgs. an earth tone color. Most of these have no impact on the lake and are white or beige. Since the earth in Crow Wing county is white as many months as earth tone, we feel this is not a health, safety or welfare issue.
- Remove requirement of removal of necessary buildings on the shoreline. We understand the desire of the county to eliminate these but feel we have a need for them. If possible we plan to remove one building, (if possible) but wish that it not be a county requirement.
- Plant screening along the shoreline is another condition we request be removed. This is not part of existing ordinance and will solve no complication with regard to health, safety and or public welfare. The building to be improved (#4) under authorization from 1988 is already screened by nine full-sized jack and norway pines.

The last request for elimination of conditions is:

- The restricition of no more variances shall be granted. It is our opinion that this is a right of ownership that goes beyond any notion of a bargaining-chip as a condition of improvement. Please remove this as it is arbitrary and difficult to see what affect it could have on future ownership of the property and its marketability.

The following is the requested and required plan for improvement as relates to the approved motion from the May 1st meeting. In an effort to reach the county's aim of minimizing impact on the lakefront and a never ending effort to minimize the concerns of neighbors, we request that we build 28'x40' three units building on the site now occupied by building No. 4 and eliminating the expansion of building No. 9. We would lift No. 4 and make a two-story building with three-bedrooms on the upper level and then construct a one-bedroom unit on the first floor along with a lodge, common meeting area. The one-bedroom would be approximately 14'x 28' and the remaining 26'x 28' would be occupied by the lodge area. This would accomplish a number of things which impact our resort in a positive fashion. First, this would reduce the number of new rental bedrooms to 4 instead of the six that would be created with the expansion of bldg. 9 and bldg. 12. With this proposal, we would create a one-bedroom units in bldg. 4 and a three-bedroom in bldg. 12, with no planned expansion of bldg. 9. Secondly, the only alteration to the buildings on the resort would be in bldg. 4, number 12 is already framed and roughed-in so very little modification would be necessary, with the exception of an entry-way or three season porch/entry. The neighbors concerns would be minimized since only one impact building would have any noticeable change and we would still be able to realize our expansion goals with the addition of two rental units an R.V. site and a three-bedroom units west of county road No. 4.

Fourth, construction of bldg 13, proposed garage in accordance with zoning regulations regarding bluff guidelines.
Fifth, sleeping quarters in bldg. 4 would be limited to four bedrooms.
Sixth, tier V across road not to have more than one unit (house) with three bedrooms to be used by family and not for rental. Must have own septic and well.
Seventh, designated parking area for each unit meeting planning and zoning acknowledgement. (1½ spaces per rental unit)
Eighth, screening along north and south property lines shall be maintained.
Ninth, DNR and Crow Wing county approved slow-minimum wake markers 200' off dock.
Tenth, roped off swimming area.
Tweleth, maintain boathouse storage area bldg.2 and meeting MPCA guidelines with regard to fuel storage in building.

O'HARA, FOSSUM, HILL & LOTHSPEICH
ATTORNEYS AT LAW
611 OAK STREET
P.O. BOX 624
BRAINERD, MINNESOTA 56401

WILLIAM D. O'HARA, JR.*
JAMES P. FOSSUM
DAVID C. HILL
DENNIS M. LOTHSPEICH

TELEPHONE
(218) 828-3398
FAX
(218) 828-2008

✓ Permit 4800082

February 13, 1992

Rec'd Date 2/14/92
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Mr. Dave Neiman
Crow Wing County Planning
and Zoning Administrator
Crow Wing County Courthouse
Brainerd, MN 56401

Re: Timothy Swenson/Pelican Beach Resort

Dear Mr. Neiman:

You will recall that I represent Lulubel Pansing who is the neighbor of the above-referenced resort. The Board of Adjustment granted certain permits to Mr. Swenson, and that decision has been appealed by my client to District Court. That appeal is still pending before the District Court at this time.

It is my understanding from our recent telephone conversation that you're office has issued no permits of any type, other than the Conditional Use Permits issued by the Board of Adjustment for Mr. Swenson to do any work on the subject property. Furthermore, it is my understanding that the Conditional Use Permit granted by the Board of Adjustment will be on hold pending resolution of the District Court action. If I am mistaken in any of the foregoing, please let me know immediately.

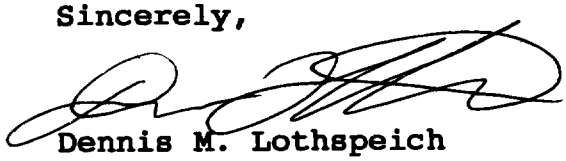
The reason I am seeking clarification on this is that it has come to my attention that Mr. Swenson may believe that he has an existing permit to begin at least some of the work on his property. As I do not believe that is the case, I am now seeking clarification on that.

If I am correct in my belief that Mr. Swenson does not have any permits to commence any work, and he does in fact begin work on his expansion, I do expect the Zoning Office to take whatever action is necessary to prohibit him from doing so.

*ALSO ADMITTED IN COLORADO AND ILLINOIS

If you have any questions about this matter please feel free to contact me.

Sincerely,



Dennis M. Lothspeich

DML:rdl

Enclosures

cc: Jay Pansing
Timothy and Patricia Swenson

Dave

Copy

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Matter of the Appeal of Lulubel Pansing, pursuant to Section 14.1 of the Crow Wing County Zoning Ordinance, from the decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, granting a conditional use permit to Timothy and Patricia Swenson, d. b. a. Pelican Beach Resort

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

No. C6-91-1259

TO THE APPELLANT AND HER COUNSEL, GREETING:

You will please take notice that, at 9:00 A. M. on September 14, 1992, in the public chamber of the district court in the Crow Wing County Courthouse before Hon. John Leitner, Judge, the appellee (viz., Crow Wing County) will bring on for argument the following motion, to wit:

Comes now the appellee, and makes the following motion, to wit:

That the said decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, be affirmed, and summary judgment be granted to the appellee. So moved, because there is no genuine issue of material fact as to the following propositions, to wit:

The conditional use permit granted May 1 and June 19, 1991, does not run against the density requirements set forth in Section 5.4-10-6, including Note 8, as applied by Sections

Rec'd Date 8/4/92
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

2.1-38 and 2.1-39(B) of the Crow Wing County Zoning Ordinance, as those provisions stood on May 1 and June 19, 1991.

The conditions established for the said permit are consistent with the health, safety, and general welfare of the public, and are consistent with law, and were well within the competence and discretion of the said board of adjustment under Section 8.6 of the Crow Wing County Zoning Ordinance, as it stood on May 1 and June 19, 1991.

JOHN REMINGTON GRAHAM
Crow Wing County Attorney
Courthouse
Brainerd, Minnesota 56401
Telephone: 218-828-2938

Counsel for the Appellee

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Matter of the Appeal of Lulubel Pansing, pursuant to Section 14.1 of the Crow Wing County Zoning Ordinance, from the decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, granting a conditional use permit to Timothy and Patricia Swenson, d. b. a. Pelican Beach Resort

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

No. C6-91-1259

STATE OF MINNESOTA

COUNTY OF CROW WING

Timothy Swenson, being first duly sworn on oath, deposes and says:

I am a co-proprietor of Pelican Beach Resort. My wife, Patricia Swenson, is also a co-proprietor of the said resort.

My said wife and I hold the property here in question as joint tenants, and not as tenants in common, as evidenced by a certain warranty deed dated May 1, 1986, a certified copy whereof is attached hereto and made a part hereof as exhibit 1. The said property is taxed as one parcel, as appears in a record on file in the auditor's office, a certified copy whereof is attached hereto and made a part hereof as exhibit 2.

A copy of a map of the said property, which shows the units of our resort both now, and before the conditional use permit granted by the board of adjustment at hearings on May 1

and June 19, 1991, which was introduced by counsel for the appellant during a deposition he took of me on July 17, 1992, and which is conceded by me to represent the said property accurately, is attached hereto and made a part hereof as exhibit 3.

The records of the hearings of the board of adjustment on May 1 and June 19, 1991, of which copies are attached hereto and made parts hereof as exhibits 4 and 5, have been served upon me by the planning and zoning administrator. These proceedings show that the conditional use permit here in question was granted subject to nineteen conditions, of which one was later omitted and three were modified on reconsideration.

The papers filed in behalf of the appellant reveal that she seeks a declaratory judgment finding the board of adjustment "had no legal authority to grant a conditional use permit to Timothy and Patricia Swenson for the expansion of their existing resort operation, because the request was contrary to the density requirements of the Crow Wing County Zoning Ordinance and the DNR Shore Management Rules."

The said DNR Shore Management Rules were adopted as part of the Crow Wing County Zoning Ordinance on November 12, 1991, so as to take effect on December 1, 1991, which was several months after the said hearings of the board of adjustment on May 1 and June 19, 1991. I draw from provisions of the said ordinance as they stood at the time my application was made before the board of adjustment.

The property here in question is zoned waterfront commercial. Section 5.4-10-6 of the Crow Wing County Zoning Ordinance,

including Note 8, as it stood on May 1 and June 19, 1991, sets forth the applicable density requirements, and indicates that the applicable formula for lot area was "20,000 square feet for the first unit, plus 10,000 square feet for the second unit, plus 15,000 square feet for each additional unit."

Section 2.1-38 of the said ordinance says, "For purposes of this Ordinance, a lot is a parcel of land, irrespective of its legal description, which has at least sufficient size to meet the minimum requirements for the zoning district, which it lies within pertaining to use, coverage, area and side yards, as may be required. A lot may consist of more or less than a tract of land as hereinafter defined." Section 2.1-39(B) then ordains that the lot area "for unplatted property" shall mean "the actual area of the lot less any area thereof used for roadway purposes, for public roads or for roads serving other tracts or lots of ten (10) acres less in size."

By the foregoing definitions, a lot includes all the property included in the said deed attached hereto and made a part hereof as exhibit 1, which, as can be seen in reference to the map attached hereto and made a part hereof as exhibit 3, constitutes 228,400 sqaure feet (79,000 square feet to the west of County Road 4, together with 149,400 sqaure feet to the east of County Road 4), exclusive of the 16,600 sqaure feet which makes up that part of County Road 4 traversing the parcel conveyed by the said deed.

Section 2.1-39 of the Crow Wing County Zoning Ordinance removes any doubt that the land on both sides of the said county

road may be included in the calculations to determine lot area. The density requirements may be calculated by dividing 228,400 square feet, which is the whole lot less the roadway, by 15,000 square feet, which is the area required for each unit, -- yielding 15.23 allowable units.

My application was to keep the ten units already on the said property (i. e., the units marked 3, 3A, 4, 5, 6, 7, 8, 9, 10, and 11 on the map attached hereto and made a part hereof as exhibit 3), and to add three additional living units, together with a camp site for one recreational vehicle, so as to constitute no more than fourteen units altogether. My said application was approved, subject to various conditions, on May 1 and June 19, 1991. In any event, it is evident that the density requirements of the ordinance, as it stood when the conditional use permit here in question was granted, have been met.

The papers filed in behalf of the appellant reveal that she seeks a declaratory judgment "that the decision of the Crow Wing County Board of Adjustment to grant a conditional use permit to Timothy and Patricia Swenson to expand their existing resort operation was arbitrary, capricious, and unreasonable, and contrary to law, due to the fact that the said proposal would have an adverse effect on the health, safety, and welfare of the public."

It is obvious that the several conditions established by the board of adjustment on May 1 and June 19, 1991, are fairly related to the health, safety, and general welfare, were plainly within the competence and discretion of the board of

adjustment to determine under Section 8.6 of the Crow Wing County Zoning Ordinance.

Timothy K. Swenson

Timothy Swensen

Sworn and subscribed before me on this 24 day of July, 1992.

Alexa M. Oxley

ALEXA M. OXLEY
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires July 21, 1997

EXHIBIT A

COPY

STATE OF MINNESOTA

CROW WING COUNTY

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

* * * * * * * * * * * * * * * *

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson	COURT FILE NO. C6-91-1259 **APPELLANT'S INTERROGATORIES AND DEMAND FOR PRODUCTION OF DOCUMENTS**

* * * * * * * * * * * * * * * *

TO: Respondent Crow Wing County, and its attorney, John Remington Graham:

YOU WILL PLEASE TAKE NOTICE that the Appellant, and her attorney, demand answers to the following Interrogatories, under oath within thirty (30) days from the date of service of these Interrogatories, pursuant to Rule 33 of the Minnesota Rules of Civil Procedure. These Interrogatories shall be deemed continuing, so as to require the Respondent and its attorney to file supplemental answers if the Respondent or its attorney obtain further or different information between the time their Answers to Interrogatories are served and the time of trial.

In order to simplify the issues and resolve as many matters of fact as possible before the trial, the Appellant further requests that, if any of these Interrogatories or portions thereof cannot be answered fully, such shall be answered to the extent possible, with the reasons for not answering more fully set out.

INTERROGATORIES

1. Identify the person or persons signing your answers to these questions and identify any other person assisting with the preparation of the answers.

2. Please list, and provide copies of, each and every exhibit, photograph, slide, plat, drawing, model, chart, or other physical demonstrative or illustrative evidence of any kind which you intend to offer into evidence at the trial de novo in this matter, or make part of the record of the proceedings before the Board of Adjustment.

3. Identify all person whom you may call at trial to give testimony in the form of expert opinions or conclusions and, for each such person state following:

a. The subject matter in which he or she may be asked to give expert testimony.

b. His or her qualifications to give expert testimony on that subject or subjects.

c. All facts to which the expert will testify.

d. All opinions or conclusions to which the expert will testify.

e. The grounds for those opinions or conclusions.

4. Excepting those persons listed in your answer to Interrogatory Number 3 above, please list any and all witnesses who will be called to give testimony at the trial in this matter, the address and telephone number for each witness, and the substance of the testimony they will be offering at trial.

5. Do you claim, or is it the position of Crow Wing County that Minnesota Law or County Ordinance requires that the land situated west of County Road 4 described as tiers 5 and 6 of the proposed development be included in the density computations of the Crow Wing County zoning ordinance, or the DNR's shoreland management rules. If your answer is yes, please describe with specificity the statute, rule, or ordinance requiring its inclusion.

6. If your answer to Interrogatory Number 5 is no, do you claim that the decision to include those tracts of land in the density calculations is discretionary with the Crow Wing County Board of Adjustment. If you claim it is discretionary, please describe with specificity the findings of fact made by the Board of Adjustment to support its decision to include those portions of property, and the evidence to support those findings.

7. Do you claim, or will you argue at trial that the Crow Wing County Board of Adjustment made specific findings of fact to support its conclusion that the proposed expansion to the resort would not have an adverse impact on the health, safety, and welfare of the surrounding property owners, and the public. If your answer is yes, please list each and every finding of fact made by the Crow Wing County Board of Adjustment.

8. If your answer to Interrogatory Number 7 is yes, please describe with specificity the evidence relied upon by the Crow Wing County Board of Adjustment to support each and every finding of fact listed in your answer to that Interrogatory.

Dated this 29th day of June, 1992.

O'HARA, FOSSUM, HILL &
LOTHSPEICH

Dennis M. Lothspeich
Attorney No. 179401
Attorney for Appellant
Lulubel Pansing
611 Oak Street P.O. Box 624
Brainerd, MN 56401
(218) 828-3398

c:\wp51\tempn-z\pansing.int

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meeting of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson

Court File No. : C6-91-1259

AFFIDAVIT OF SERVICE BY MAIL

COPY

STATE OF MINNESOTA)
) ss.
COUNTY OF CROW WING)

Teresa Hodgman, of the city of Brainerd, county of Crow Wing, in the state of Minnesota, being duly sworn, says that on the 29th day of June, 1992, she served the attached Appellant's Interrogatories and Demand for Production of Documents and Notice of Taking Deposition on John Remington Graham, the attorney for Respondent in this matter, by mailing to him a copy thereof, enclosed in an envelope, postage prepaid, and directed to said attorney at the following address:

Crow Wing County Courthouse, Brainerd, MN 56401

Teresa Hodgman

Subscribed and sworn to before me

this 29th day of June, 1992.

RHONDA D. LOVELL
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Oct. 27, 1997

Rhonda D. Lovell

Notary Public

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meeting of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson

Court File No. : C6-91-1259

AFFIDAVIT OF SERVICE BY MAIL

COPY

STATE OF MINNESOTA)
) ss.
COUNTY OF CROW WING)

Teresa Hodgman, of the city of Brainerd, county of Crow Wing, in the state of Minnesota, being duly sworn, says that on the 29th day of June, 1992, she served the attached Appellant's Interrogatories and Demand for Production of Documents and Notice of Taking Deposition on Timothy Swenson, the Respondent in this matter, by mailing to him a copy thereof, enclosed in an envelope, postage prepaid, and directed to said Respondent at the following address:

12683 County Road 4 North, Nisswa, MN 56468

Teresa Hodgman
Teresa Hodgman

Subscribed and sworn to before me

this 29th day of June, 1992.

Rhonda D. Lovell
Notary Public

RHONDA D. LOVELL
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Oct. 27, 1997

COUNTY OF CROW WING
PLANNING AND ZONING DEPARTMENT
COURTHOUSE BRAINERD, MN 56401-3865
(218) 828-3964 FAX (218) 828-2927

MEMO

File Copy

DATE: September 14, 1992

TO: Jack Graham

RE: TIMOTHY & PATRICIA SWENSON
APPEAL OF LULUBEL PANSING
REQUEST FOR DOCUMENTS

FROM: David C. Neiman
Planning & Zoning Administrator

DN

I am having some difficulty identifying just exactly what it is that you need from our files for the Pansing Appeal. (See attached)

Item #1. - It appears that this is your call. I would anticipate that you would sign the answers yourself, possibly listing myself or my staff as assisting with the preparation.

Item #2. - I have absolutely no idea what information you intend to offer into evidence, above and beyond what you have entered thus far. The P&Z files contain several items that could possibly be used, however, you & I should go through them together to decide what is going to be worthwhile evidence.

Item #3. - Your call.

Item #4. - Your call.

Item #5. - The land west of County Road #4 is a part of the whole parcel owned by the Swensons (Copy of legal description attached), is in fact a part of the resort, and may certainly be used to calculate possible expansion capabilities. There is no specific statement in the County Zoning Ordinance, or in the State's SHORELAND MANAGEMENT RULES, directing that this land be excluded from the calculations. Section 5.404114, SITE "SUITABLE AREA" EVALUATION (See attached copy) indicates how the land proposed for development is to be divided into tiers for calculation of suitable areas for future development. That is exactly what was done when we originally helped Tim figure out what could be accomplished by expanding the resort and utilizing the entire property.

Item #6. - See answer to Item #5.

Item #7. - You have the minutes of the Board of Adjustment findings and motions of their decision. If you need additional information to support their decision(s), it may be necessary to have someone transcribe the tapes of the meetings.

Please contact me at your earliest convenience to discuss this matter further in order for you to give me some additional direction as to what information you are going to need.

Form No. 5-A WARRANTY DEED Minnesota Uniform Conveyancing Blanks (1978) DEWALD PUBLISHING NEW ULM, MINN.
Individual(s) to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value (✓) filed ( ) not required
Certificate of Real Estate Value No. 12677
May 5, 19 86
Conrad A. Bye
County Auditor
by
Deputy

STATE DEED TAX DUE HEREON: $ 302.50

Date: May 1, 19 86

STATE OF MINNESOTA)
County of Crow Wing) ss.

I hereby certify that the within instrument was filed in this office for record on the 5th day of May A.D. 19 86, at 5 o'clock P.M., and was duly recorded in Book 362 of Deeds on page 27
Sharon L. Peterson
County Recorder

362972

10.00

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Bert R. Avenson and Virginia H. Avenson, husband and wife (marital status), Grantor(s),

hereby convey (s) and warrant (s) to Timothy K. Swenson and Patricia A. Swenson, Grantees as joint tenants, real property in County, Minnesota, described as follows:

South Half (S½) of the following described tract of land situated in the Southeast Quarter of the Northeast Quarter (SE¼-NE¼), Section Four (4), Township One Hundred Thirty-five (135), Range Twenty-eight (28): Beginning at a point on the line between Sections Three (3) and Four (4) extended on the beach of Pelican Lake 1,328 feet North of the quarter section corner; thence South on this line 332 feet; thence North 89 degrees 13 minutes West to the West line of Lot One (1); thence Northerly along this West line of Lot One (1) to a point from which a line running South 89 degrees 37 minutes East will strike the place of beginning; thence South 89 degrees 37 minutes East along this line to the place of beginning, and

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Reservations, easements and restrictions of record.

May 5, 19 86 No. MC 1158
Deed tax hereon of $ 302.50
CONRAD A. BYE By
Crow Wing County Auditor/Treasurer

Affix Deed Tax Stamp Here

Bert R. Avenson
Bert R. Avenson

Virginia H. Avenson
Virginia H. Avenson

STATE OF MINNESOTA
COUNTY OF Crow Wing } ss.

The foregoing instrument was acknowledged before me this 1st day of May, 19 86, by Bert R. Avenson and Virginia H. Avenson, husband and wife, Grantor(s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)
Frederick J. Casey, Notary Public
Crow Wing County, Minnesota
My commission expires: 10-24-1988

(NOTARIAL SEAL)

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Timothy K. and Patricia A. Swenson
Swensons Pelican Beach Resort
Route 5, Box 369
Brainerd, Minnesota 56401

Return To:

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
Frederick J. Casey
ERICKSON, CASEY, ERICKSON & CHARPENTIER
Attorneys at Law
319 South Sixth Street
P. O. Box 564
Brainerd, Minnesota 56401
218/829-9226

928

Description continued from front side:

That part of Government Lot Four (4), Section Three (3), Township One Hundred Thirty-five North (135N), Range Twenty-eight West (28W), Crow Wing County, Minnesota, lying between the extension Easterly to the shore of Pelican Lake of the North and South lines of tract deeded to Avenson as evidenced by warranty deed dated and filed September 20, 1983, in Book 339 of Deeds, page 352 at the County Recorder's Office in and for said County. Containing 0.45 acres more or less.

STATE OF MINNESOTA } SS
COUNTY OF CROW WING
I, Kathy Ludenia, County Recorder in and for said County and State do hereby certify that the foregoing is a true and correct copy of the document recorded as Book 342 of Deeds, Page 27 of the public records now remaining in my office.

Dated the 17th day of July 19 92

County Recorder

Deputy

BRAINERD MN 56401

1 LEGAL DESC: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT
OF LAND SITUATED IN THE SE1/4 OF NE1/4 S

D LAKE: PELICAN CLASS: GD

SITE PLN: N

CONTR NAME: SELF

MISS HDWTRS AREA: N S/S INST: AVENSON

ROAD: CSAH #4 EST. ELEV ABOVE G.W.T.: [illegible]

NSTRUCTION/INSTALLATION OF:

R2 FAM: GAR/STOR BLDG-LARGE: PUD: CONDITIONAL USE:

: 10-24-90. Expansion of existing resort contingent on:

attached conditions of Court Order of 6/19/91 BOA action

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to bo used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone oolor immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Goske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

N INITIATED ON THIS
STRUCTURES THAT MEET
ION HAS BEEN APPROVED

5 years from 3/5/90

ORRECT TO THE BEST OF M
PERFORMED IN ACCORDANCE
D ORDERED BY THE COUNTY
LL OTHER APPLICABLE LAWS
IL TO DO AS STATED. THE
ANY WORK DONE NOT I
EQUIREMENTS AND SHALL B
PROSECUTION PURSUANT TO

ISSUED UNLESS OTHERWISE
VE THE RESPONSIBILITY OF
LICANT/CONTRACTOR FOR OBTAINING OTHER APPLICABLE PERMITS
OTHER AGENCIES, UNITS OF GOVERNMENT, ETC.

EMS INSTALLED, ALTERED OR MODIFIED REQUIRE INSPECTION B
OR TO BACKFILLING. ANY DIRT MOVING, SHORE LINE ALTERA
G OF VEGETATION ON WATERFRONT PROPERTY MAY REQUIRE A
EARING. PLEASE CONTACT THE ZONING OFFICE FOR A REVIEW OF
ARTING WORK.

K. Swenson STAFF SIGN: [signature]

2. the visibility of structures and other facilities as viewed from public waters is limited;

3. the site is adequate for water supply and on site sewage treatment; and

4. the types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

B. CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS. The Planning Commission or Board of Adjustment, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Increased setbacks from the Ordinary High Water Level.

2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

3. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas.

8.8 PERMIT ISSUANCE
When the Planning Commission, or such body as the County Board may designate, approves a Planned Unit Development Permit or Conditional Use Permit, such approval constitutes an instruction to the Zoning Administrator to issue the permit, but if the approval includes any special requirements as conditions for issuance, those special requirements shall be written on the face of the permit when issued. The Zoning Administrator shall thereupon, within five (5) days, issue the permit. If a permit is denied, specific findings of fact and the reasons for the denial shall be given. A copy of the approved Permit and final decisions granting the Planned Unit Development or Conditional Use under local shoreland management controls must be sent to the Commissioner and postmarked within ten days of final action. In the case of a Planned Unit Development Permit, the Permit will remain valid until the project is completed or for five (5) years, whichever comes first.

ARTICLE IX (REPEALED)

CROW WING COUNTY SEWER INSTALLATION INFORMATION

D/B/A PELICAN BEACH RESORT

PROPERTY OWNER TIM SWENSON PERMIT NUMBER 90-0398 DATE 4-25-90

SIZE OF HOME 1 NEW 3 BR + EXISTING RESORT NUMBER OF BEDROOMS _____ TYPE OF HOME _____ SOIL PERC. 83

LINE FROM DWELLING TO SEPTIC TANK: Length SEE DIAGRAM Size _____ Type _____

LINE FROM SEPTIC TANK TO LIFT TANK: Length _____ Size _____ Type _____

SEPTIC TANK: Size & make 1 NEW 1350 SATHER LIFT TANK: Size & make _____

LINE FROM ___ SEPTIC TANK ___ LIFT TANK TO ___ DIST. BOX ___ DROP BOX ___ MANIFOLD ___ GRAVEL-LESS.

Length _____ Size _____ Type _____

DRAINFIELDS: Bed size _____ MOUNDS: Bed size _____ BERM GRADE _____

DISTRIBUTION BOX: Type & make _____ NO. OF LINES IN BED _____ TOTAL LENGTH OF ALL LINES _____

TRENCHES: Number 7 Width 3' TOTAL LENGTH OF ALL TRENCHES 640'

DROP BOXES: Type & make _____ NUMBER OF DROP BOXES _____

INCHES OF ROCK UNDERNEATH DRAIN PIPES 18" TOTAL CUBIC YARDS USED 130

PRESSURIZED SYSTEMS:

MANIFOLD: Size 2" Length _____ LINES: Number 7 Size 1½"

TOTAL LENGTH OF ALL LINES 640' HOLE SIZE ¼" HOLE SPACING 5'

PUMP: Size & make EXISTING

GRAVEL-LESS SYSTEMS: Diameter of tubing _____ TOTAL LENGTH OF ALL LINES _____

TYPE OF ROCK COVER MATERIAL: Hay _____ paper _____ both _____ other FABRIC

WELL: Shallow _____ Deep _____ SETBACK FROM TREATMENT AREA OK

Have all other State and County provisions and setbacks from dwellings, lot lines, lakes, rivers, and wells (including neighboring wells) been met? Yes If not, explain.

Have old sewage systems, including outhouses, been terminated and filled in? VALVED
If not, will they be? _____ When? _____

LICENSED/CERTIFIED INSTALLER'S SIGNATURE DAN YANNICK

INSPECTOR'S SIGNATURE Jim Magnuson

OTHER NOTES OR COMMENTS:

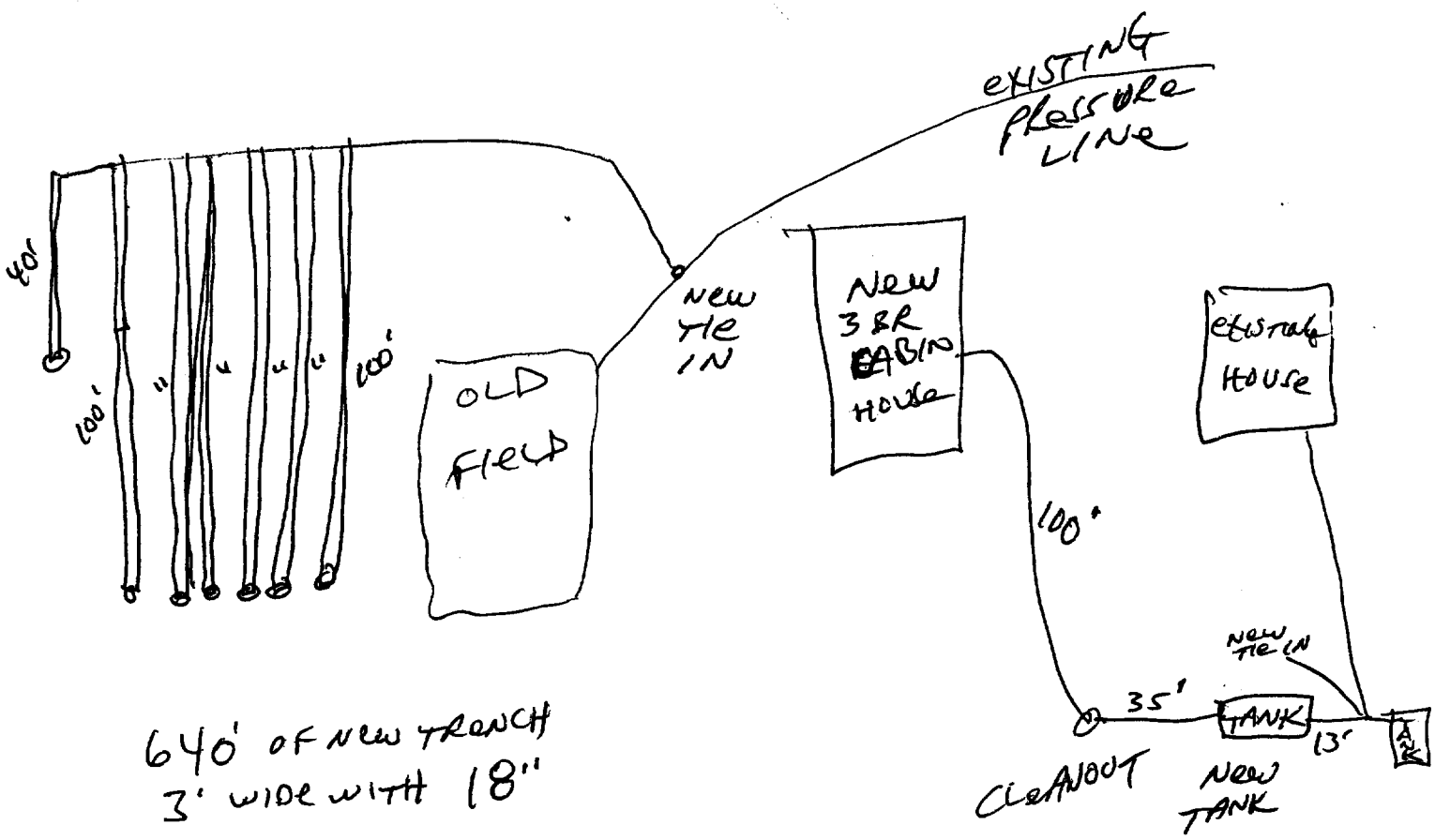
FOR OFFICE USE ONLY

GALS. PER DAY 2352. ÷.83=1952

SQUARE FT. REQ'D. 1288

SQUARE FT. INST'D. 1920

PROVIDE A SKETCH OF THE SYSTEM ON BACK



640' OF NEW TRENCH
3' WIDE WITH 18"

R E CODE: 730041401BA0889

TAXPAYER 59977
NAME/ADDRESS
SWENSON, TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N
BRAINERD, MN 56401

FEEOWNER
SAME

DEEDED ACRES	TAXABLE ACRES	PLATE	SECTION	TOWNSHIP	RANGE
4.96	4.96	5300	004	135	28

S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE1/4 OF NE1/4 S
EC. 4: BEG. AT A POINT ON THE LINE BETWEEN SECTIONS 3 & 4 EXTENDED ON THE BEACH
OF PELICAN LAKE 1328 FT N. OF THE QUARTER SECTION CORNER, THEN S. ON THIS LINE 3
32 FT, THEN N. 89 DEG 13 MIN W. TO THE W. LINE OF LOT 1, THEN N'LY ALONG THIS W.
LINE OF LOT 1 TO A POINT FROM WHICH A LINE RUNNING S. 89 DEG 37 MIN E. WILL STR
IKE THE PLACE OF BEG, THEN S. 89 DEG 37 MIN E. ALONG THIS LINE TO THE PLACE OF B
EG. AND ALSO INCLUDING THAT PART OF GOV. LOT 4 SEC. 3 TWP. 135 RNG 28 LYING BETW
EEN THE EXTENSION E'LY TO THE SHORE OF PELICAN LAKE OF THE N. & S. LINE OF TRACT
DEEDED TO AVENSON AS EVIDENCED BY WARRANTY DEED DATED AND FILED SEPT. 20 1983,
IN BOOK 339 OF DEEDS, PAGE 352 AT THE COUNTY RECORDERS OFFICE.

ONE (1) SINGLES [illegible] for RESORT

Timothy & Patricia Swenson
12682 Co Rd 4 N
Nisswa, MN 56468

Martha Look, Clerk
Lake Edward Twp
11555 Co Rd 4 N
Nisswa, MN 56468

Jay & Lulubel Pansing
c/o Dennis Lothspeich
Attorney
P.O. Box 624
Brainerd, MN 56401

Shirley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

Alan Cibuzar
A&W Research
711 Laurel
Brainerd, MN 56401

Pelican Lake Assoc
HC 87 Box 8110
Merrifield, MN 56465

Jay & Karen Young
12641 Co Rd 4 N
Nisswa, MN 56468

Dr. & Mrs. Alan Plummer
663 Carriage Way NW
Atlanta, GA 30327

Judd Thomas
RR 5
Brainerd, MN 56401

James Pansing, Attorney
885 S. Colorado Blvd
Denver, CO 80222

Russell & Delores Kampen
12655 Co Rd 4 N
Nisswa, MN 56468

Pat & Barbara Wiewel
12578 Co Rd 4 N
Nisswa, MN 56468

Lavonne & John Yound
609 SW 8th Ave
Rochester, MN 55902

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Lu Pansing
2033 S 33rd St
Lincoln, NE 68506

Loel P. Brooks
13th & O St
NBC Center Suite 755
Lincoln, NE 68508-1424

Bob Gnva
12641 Co Rd 4 N
Nisswa, MN 56468

Ron Morriem
DNR
1604 Minnesota Dr
Brainerd, MN 56401

May 1, 1991:

The applicant was present. Dennis Slayton read an overview of the application and two on-site inspection reports into the record. One from Marian Pelto and one from Charles Hofius dated April 18, 1991. There were six letters read into the record, all in opposition to the request. The main concerns were density of development, boat usage and health and safety of neighbors using the lake. Mr. Swenson stated that he does advise boaters of the danger of shallow water in front of the resort. He stated that he must have been misunderstood at the February hearing. He stated that he could not police water skiing. He also stated that they do not have a speed boat. Applicant stated that he would not be adverse to running a buoy line out into the lake to direct boat traffic.

Ralph Jackson was present representing the Pelican Lake Property Owners Association. He read his letter into the record and requested that action be postponed until Thirty Lakes Watershed's concerns can be addressed. Judd Thomas was present representing the Crow Wing County Environmental Protection Association. Questions were discussed

15

regarding the current Ordinance that is in effect. He stated also, as an area resident, that he did not want to see further development of the resort. Al Cibuzar, Thirty Lakes Watershed was present. He stated that Ron Morreim had told him that Pelican Lake is down a foot. He also presented a videotape showing the Resort as it currently exists with infrared photos of nutrient absorption areas. Bruce Yund of Thirty Lakes Watershed was also present. He stated that addition to unit #9 would be eliminated per the applicant's comment from on-site inspection. Bob Griva was present, his concern was with erosion of shoreline on his property and properties adjacent to the resort.

Mr. Swenson stated that they have cut back their expansion plans considerably to try to keep peace with neighbors. Most of expansion is vertical - no or very little dirtmoving would be required as footings are at ground level. Chuck Hofius and Marian Pelto stated that they did not feel that the density would be considerably increased after having attended the on-site inspection. Dennis Slayton read the hearing minutes from June 22, 1988 into the record. John Wallin, Planning Commission member stated that the new DNR regulations have not been adopted, but there is an agreement that if the new DNR regulations are as restrictive they may be used at this point in time, prior to adoption.

May 1, 1991 Action:

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18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Tape 567 1B 5.7-62.5; 2A .1- 62.5; 2B .1-26.1

PLANNING AND ZONING OFFICE
CROW WING COUNTY COURTHOUSE
326 LAUREL STREET
BRAINERD, MINNESOTA 56401-3565

RETURNED TO SENDER
Not Deliverable as Addressed
UNABLE TO FORWARD

BRAINERD
JUN 10 '98
MN

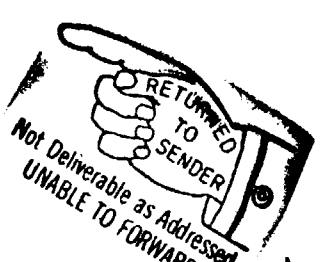
0.32

SHIRLEY & DOUGLAS GREVES
83 RUTTGER RD BOX 125 C
EQUOT LAKES MN 56472

Rec'd Date 6/18/98
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

[redacted]

PLANNING AND ZONING OFFICE
CROW WING COUNTY COURTHOUSE
326 LAUREL STREET
BRAINERD, MINNESOTA 56401-3565



BRAINERD
JUN23'98
MN

U.S. POSTAGE
0.32
H METER 429700

PLANNING & ZONING
CO ORDINATORS OFFICE

Stewart - last known

7/6/98

Redelivered

SHIRLEY & DOUGLAS GREVES
HC 83 RUTTGER RD BOX 125 C
PEQUOT LAKES MN 56472

379

RECEIVED
By Stacy Westhoff at 3:29 pm, May 20, 2026

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Tape 567 1B 5.7-62.5; 2A .1- 62.5; 2B .1-26.1

Extraction Permit Structure/Use

County of Cro... PLANNING ... Court

NameTimothy K. & Patricia Swenson

Address:12683 Co Rd 4 N
Brainerd, MN 56401

Approved 5/14...
Postponed
on site 4/18/91,
NEED BEFORE PERMIT RELEASE

Denied Appeal
By: 5/31/91

Type of

Sec. 4, Twp135N, Rge 28W.,
From ,To
PC_____,CB_____,Filed_____

Fee $200.00, Rcpt #9004398

PERMIT # 9004398
Reviewed for Publication 1/22/91
Staff Comments 1/29/91

Notice o
Notice c
Notice c
Public I
Clerk o
Names

TYPE OF APPLICATION:

Dirtfill/Shoreline Alteration
Variance 9004398
Conditional Structure/Use
Amendment Petition
Planned Unit Development
Special Permitted Use
Zoning Change
Appeal
Late Filing Fee Consideration
APPEAL

Fee Assessed
To Be paid by
RECEIPT #

Notice of hearing date on Application ~~10/24/90~~ 2/6/91
Publication Date: ~~10/10/90~~ 1/25/91
Clerk/Chairman Township Notified ~~10/10/90~~ 1/23/91
Adjacent Property Owner Notified ~~10/10/90~~ 1/23/91

#Notices Sent 36 2 16

Legal D

Legal Description:Pt. of SE1/4NE1/4, 4-135-28

Accomp
F...el P
...lifa

Zip

28W

*DATE: __/__/__

NOTICE OF PUBLIC HEARING *PER/APP/RCPT #:9004398*

PETITION FOR: PLANNED UNIT DEVELOPMENT; CONDITIONAL USE; VARIANCE.

PER THE REQUIREMENTS OF CROW WING COUNTY ZONING ORDINANCE.

APPLICANT: SWENSON TIMOTHY K & PATRICIA 12683 CO RD 4 N.
BRAINERD MN 56401

MEETING DATE: 02/06/91 WEDNESDAY. 6:00 PM.
PLACE: COUNTY SERVICE BLDG. MEETING ROOM. BRAINERD, MN.

LEGAL DESCRIPTION: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN T
HE SE1/4 OF NE1/4 S
SEC 04 TWP 135 RGE 28 TWP: LAKE EDWARD
GENERAL LOCATION: WEST SHORE OF LAKE ON PELICAN-GD.

PURPOSE: TO CONSIDER THE APPLICATION(S) REQUESTED ABOVE:
TO CONSIDER CONDITIONAL USE. PLANNED UNIT DEVELOPMENT. & VARIANCE INVOLVING EXPANSION OF EXISTING RESORT OPERATIONS: TO ADD SEVEN (7) RENTAL UNITS, ONE (1) RV PARKING FACILITY, LODGE/MEETING FACILITY & STORAGE/LAUNDRY BUILDING.
(VARIANCE REQUIRED TO EXCEED FOUR (4) RENTAL UNITS IN TIER #1 (5 requested), PER 1989 DNR SHORELAND MANAGEMENT RULES).

ON PROPERTY ZONED WATERFRONT COMMERCIAL.
REASON FOR REQUEST BEING: ADDITION OF SEVEN (7) RENTAL UNITS, RV CAMPSITE, LODGE/MEETING FACILITY AND STORAGE/LAUNDRY FACILITY

DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

**********FOR OFFICE USE ONLY**********

CHAIRPERSON CWC PC/BOA: _____ APP/DENY __/__/__
CHAIRPERSON CWC BDCMS: _____ APP/DENY __/__/__
APPLICANT SIGN: X Timothy Swenson TEL #: (218)-963-2777 STAFF SIGN D.C. Baumgard

****
* FEE: 200.00
*
* CHK AMT: 200.00
* CHK #: 245700
* CSH RCV: 0.00

*DATE:

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BRAINERD MN 56401

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PURPOSE: TO CONSIDER THE APPLICATION(S) REQUESTED ABOVE:
TO CONSIDER CONDITIONAL USE, PLANNED UNIT DEVELOPMENT, & VARIANCE INVOLVING EXPANSION OF EXISTING RESORT OPERATIONS: TO ADD SEVEN (7) RENTAL UNITS, ONE (1) RV PARKING FACILITY, LODGE/MEETING FACILITY & STORAGE/LAUNDRY BUILDING.

(VARIANCE REQUIRED TO EXCEED FOUR (4) RENTAL UNITS IN TIER #1 (5 requested), PER 1989 DNR SHORELAND MANAGEMENT RULES).

ON PROPERTY ZONED WATERFRONT COMMERCIAL.
REASON FOR REQUEST BEING: ADDITION OF SEVEN (7) RENTAL UNITS, RV CAMPSITE, LODGE/MEETING FACILITY AND STORAGE/LAUNDRY FACILITY

DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

January 2, 1991

Pelican Beach Resort

12683 County Road 4 N.
Nisswa, Mn 56468

Subject: 5- year expansion plan

Tier #1: Bldg. #4 is currently a 28x30 three bedroom cabin. Our proposal would be: lift-up bldg. #4 and add on to the north end (approx. 10'x28') to create a new multiple use bldg. which will contain a second-story three bedroom rental unit with outside deminsions of approx. 28'x40'. The first floor would consist of a one-bedroom rental unit (28'x13') and a common lodge/meeting area (28'x27').

DNR calculation figuring 700 sq. ft. per unit.

#6	624 sq. ft.	
#7	518 sq. ft.	(first floor)
#9	518 sq. ft.	(first floor)
#4	1120 sq. ft.	(first floor) Proposed expansion.
total	2780 sq. ft.	(ave. 700 sq. ft.)

Ratio .082x 33,200 sq. ft. = 2722.4 sq. ft. divided by 700= 3.89 units Maximum density increase for Tier #1 is 50% or 3.89 x 1.5 = 5.83 units. Our plan calls for a total of five rental units with minimized use of space thru vertical expansion

Tier #2: (second tier back from lakeshore. This is the area between 200' and 467' back from the lake.)

Convert bldg. #9 into a two-story rental unit. One 2+ bedroom unit on each floor, with outside stairway access to the second floor rental unit.

DNR calculation figuring 800 sq. ft. per unit.

Bldg. #5	624 sq. ft.	ratio .091 x 44322 sq. ft. = 4034 divided by 800ft/unit = 5.04 allowable. Maximum density expansion for Tier #2 is 100% or 10 units total. This is another vertical expansion to minimize use of land space.
Bldg. #7	954 sq. ft.	
Bldg. #8	576 sq. ft.	
Bldg. #9a	840 sq. ft.	
Bldg. #9b	840 sq. ft.	
Bldg. #10	641 sq. ft.	
total	4475 sq. ft.	(ave. 746 sq. ft.)

Tier #3: (third tier back from the lake. This is an area between 467' and 734' ~~xxx~~' back from the lake.) This area is occupied by the owner's home and office and no current rental units. We would like to create one seasonal recreational vehicle pad with hook-ups. Also, develop the current storage space above the garage (28x36 feet) into a three bedroom rental unit. This would not require any additional space since the building is already roughed in. In space #13 erect a single story garage (26x28 feet)

(# 12)

January 2, 1991

Pelican Beach Resort
5-yr. expansion continued.

Tier #5 & #6 (area off-lake, west of county road 4) Long-range plan

Addition of four living units (1 four season and 3 seasonal) in tier #5 and #6. These units would be a combination of cabins and/or travel trailer campsites. This development will be serviced by its own septic and electrical service with a separate well and water system.

DNR calculation figuring 1000 sq. ft. per unit. Ratio .108 x 79000 sq. ft. equals 8,532 divided by 1,000 ft/unit = 8.532 units allowed in these two tiers without exceeding density limitations.

Included in this development will be a garage/storage/laundry bldg.

This is a remote area across the county road from the lake and back 1000' from the shoreline.

Affidavit of Publication

State of Minnesota)
County of Crow Wing) **ss.**

(Published in The Brainerd Daily Dispatch Jan. 25, 1991. 1t.)

NOTICE OF PUBLIC HEARING

Petition for: Planned Unit Development; Conditional Use; Variance. Per the requirements of Crow Wing County Zoning Ordinance.

Applicant: Swenson, Timothy K. & Patricia; 12483 Co. Rd. 4 N., Brainerd, Mn. 56401. Meeting Date: 02/06/91, Wednesday, 6:00 p.m. Place: County Service Bldg., Meeting Room, Brainerd, Mn.

Legal Description: S. ½ of the following described tract of land situated in the SE¼ of NE¼ S, Sec. 04, Twp. 135, Rge. 28, Twp.: Lake Edward.

General Location: West Shore of lake on Pelican-GD.

Purpose: To consider the application(s) requested above:

To consider Conditional Use, Planned Unit Development & Variance involving expansion of existing resort operations; to add seven (7) rental units, one (1) RV parking facility, lodge/meeting facility & storage/laundry building, maintenance required to exceed four (4) rental units in Tier #1 (5 requested), per 1989 DNR Shoreland Management Rules), on property zoned Waterfront Commercial.

Reason for Request Being: Addition of seven (7) rental units, RV campsite, lodge/meeting facility and storage/laundry facility.

Dated: 01/23/91
CROW WING COUNTY
BOARD OF ADJUSTMENT
By: Chairperson: Russ Caughey

Kari Lake

says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as The Brainerd Daily Dispatch, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed **Notice of Public Hearing**

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for **1** successive weeks; it was first published on **Friday** the **25th** day of **January**, 19**91**, and was thereafter printed and published on every _____ to and including _____, the _____ day of _____, 19___; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

By: Kari Lake

Title: **Agent**

Subscribed and sworn to before me on this **25th** day of **January**, 19**91**

Joyce Caughey
Notary Public, Crow Wing County, Minnesota

(Notarial Seal)

My Commission Expires _____

Publication Fee $ **21.19**

JOYCE CAUGHEY
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Nov. 13, 1993

RATE INFORMATION

(1) Lowest classified rate paid by commercial users for comparable space	$ **5.65** /column inch
(2) Maximum rate allowed by law for the above matter	$ **8.00** /column inch
(3) Rate actually charged for the above matter	$ **5.65** /column inch

Tim Swenson
Pelican Beach Resort
12683 Cty. Rd. 4 No.
Brainerd, Mn 56401

SCALE
1" = 100'

4 UNITS #14, 15, 16, 17 TILER #5 & #6

N

166' ±

TILER #4

Pressurized Drainfield

1500 gal. tk

Expansion new garage 26x28

TILER #3

13

12

11

1200 gal

Well

TILER #2

900' ±

10

9

Septic Line

600 gal

1400

1400

7

8

Septic Lines

5

6

TILER #1

3 3A

4 4A

300 gal

300 gal

2

1

Shoreline

Proposal: Bldg. #12
Add approximately 15'x28' & finish 2nd floor into office & Living Area (3 bdr.) & Registration Lodge. Include new septic & possibly a new well.

Proposal: Excavate R.V.-Pad with sewer & electric

Proposal: Bldg #4
Lift-up & build new 1st floor. Completed building would be duplex with 3 bdrm unit on each floor. 2-story
* Also, outside-Access ½ Bath.

* Proposed = R.V. hook-up.

Lift-up & make 2-unit 1- 2+ bdrm up 1- 2+ bdrm-down

* Proposed: = Lift, 28x30' Cabin & build 2-story (28x40') bldg. 1-3 bdrm rental up, & 1-bdrm Rental down (28x13) and Lodge (28x27)

* Proposed: Convert 28x36 upper Level of garage into 3 bdrm unit with septic

1. — 18'x20' Boathouse
2. — 14'x20' Screen house
3. — 28'x37' Duplex (3A) (2-story) 6 Bdrms
4. — 28'x30' 3 bdr. Cabin
5. — 24'x26' 2 bdrm Cabin
6. — 24'x26' 2 bdrm Cabin
7. — 27'x30' Cabin 3 bdrm. w 12x12 bdrm.
8. — 24'x24' Cabin 2 bdrm.
9. — 28'x30' 3 bdrm Cabin
10. — 24'x24' 8x8-L 2 bdrm Cabin
11. — 26'x36' House - 4 bdrm. 10x20 Addition 10x20 entry
12. — 28x36 Garage 2-story.
13. — future site garage detached - 26x28

THOMAS JOHN JUSTIN
12325 CO RD 4 N.
BRAINERD MN 56401

730033204AA0009

THOMAS JOHN J., ETUX ESTATE
12325 CO RD 4 N.
BRAINERD MN 56401

730033204AA0009

HUBBELL NEVAH
106 W. 14TH STR. 25TH
FLOOR
KANSAS CITY MO 64105
730033204AB0009

CROW WING COUNTY C/O CROW WING CO AUDITOR
CROW WING CO COURTHOUSE
BRAINERD MN 56401

730033204B00009

PELICAN LAKE, INC.
P.O. BOX 71
OKLAHOMA CITY OK 73101

730041102A00009

NORRGARD FLORENCE E.
BOX 379
NISSWA MN 56468

730041102C00009

REFERENCE ONLY; PLATTED PROPERTY
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THOMAS JOHN JUSTIN
12325 CO RD 4 N.
NISSWA MN 56468

730033204AA0009

THOMAS JOHN J., ETUX ESTATE
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CROW WING COUNTY C/O CROW WING CO AUDITOR
CROW WING CO COURTHOUSE
BRAINERD MN 56401

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UNDIVIDED I

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TOTAL NO OF

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UNDIVIDED INTEREST

7313900090A0999

REFERENCE ONLY; PLATTED PROPERTY
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PANSING LULUBEL E C/O JAY PANSING
RETURNED 1990
NO VALID ADDRESS
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730041102H00009

TOTAL NO OF LABELS PRINTED 27

UNDIVIDED INTEREST

Concerned Party Legal 12
excludes Chris & Carla, 3
DNR 15

7313900090A0999

*** THIS LABEL JOB WAS RUN ***
*** AGAINST THE LATEST UPDATE ***
*** OF THE NAME ADDRESS FILE. ***

PELICAN LAKE, INC.
P.O. BOX 71
OKLAHOMA CITY OK 73101

730041102A00009

NORRGARD FLORENCE E.
BOX 379
NISSWA MN 56468

730041102C00009

REFERENCE ONLY; PLATTED PROPERTY
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730041102DAZ009

HARVEY JOHN & DARLENE M
4305 COUNTRY CLUB RD
EDINA MN 55424

730041102DB0009

KITCHEN HAROLD R. & MARCELLA
P O BOX 418
NISSWA MN 56468

730041102DC0009

MC HALE DONALD F. & VIRGINIA
12777 CO RD 4 N
NISSWA MN 56468

730041102E00009

CROSBY JAMES T. AND BETTY J.
12769 CO RD 4 N
BRAINERD MN 56401

730041102F00009

MORGADO PIERETTE TASSE BEACH & TOWN MOTEL
1010 FEDERAL HWY 5 S
HOLLYWOOD FL 33020

730041102G00009

PANSING LULUBEL E C/O JAY PANSING
RETURNED 1990
NO VALID ADDRESS
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730041102H00009

PANSING LULUBEL E.
2033 S. 33RD ST
LINCOLN NB 68506

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DE PAOLI ROBERT & BARBARA
12724 CO RD 4 N.
NISSWA MN 56468

730041102J00009

THE NORTHWEST PAPER CO.
CLOQUET, MN 55720

73004130000009

SWENSON TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N.
BRAINERD MN 56401

73004140180001

VAN KAMPEN RUSSELL & DOLORES
203 S LANCASTER
MT PROSPECT IL 60056

73004140100009

YOUNG JOHN A. ETAL % ANN M.GROOVER,TREA
1065 PLUMMER LANE SW
ROCHESTER MN 55902

73004140100009

WIEWEL BARBARA J.
12578 CO RD 4 N.
NISSWA MN 56468

73004140100009

HARVEY DAVID K. & MARY L.
7010 KNOX AVE S
RICHFIELD MN 55423

73139000900A0D0

ECKARDT KARL E & LIZA LINDMAN
P O BOX 110
NISSWA MN 56468

73139000900A0E0

JOHNSON CURTIS O. ETAL
BOX 248
PEQUOT LAKES MN 56472

73139000900A0F0

GROSS RUSSELL G & ROSE
5453 STEPETZ RD 53
AURORA MN 55705

73139000900A0G0

JENSEN DAVID E.
141 E. WHEELOCK PKWY
ST. PAUL MN 55117

73139000900A0H0

GROSS WAYNE E. & MARY JANE & ROBERT GROSS
3338 FILLMORE ST NE
MINNEAPOLIS MN 55418

73139000900A0I0

HARVEY JOHN & DARLENE M
4603 OAK DR
EDINA MN 55424

730041102DB0009

KITCHEN HAROLD R. & MARCELLA
P O BOX 418
NISSWA MN 56468

730041102DC0009

MC HALE DONALD F. & VIRGINIA
12777 CO RD 4 N
BRAINERD MN 56401

730041102E00009

CROSBY JAMES T. AND BETTY J.
12769 CO RD 4 N
BRAINERD MN 56401

730041102F00009

MORGADO PIERETTE TASSE
1010 S FEDERAL HWY 5
HOLLYWOOD FL 33020

730041102G00009

PANSING LULUBEL E. C/O JAY PANSING
720 S COLORADO BLVD
SUITE 1000
DENVER CO 89222
730041102H00009

PANSING LULUBEL E.
2033 S. 33RD ST
LINCOLN NB 68506

730041102I00009

DE PAOLI ROBERT & BARBARA
12724 CO RD 4 N.
BRAINERD MN 56401

730041102J00009

THE NORTHWEST PAPER CO.
CLOQUET, MN 55720

730041300000009

SWENSON TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N.
BRAINERD MN 56401

730041401BA0001

VAN KAMPEN RUSSELL & DOLORES
203 S LANCASTER
MT PROSPECT IL 60056

730041401C00009

YOUNG JOHN A. ETAL % ANN M.GROOVER,TREA
1065 PLUMMER LANE SW
ROCHESTER MN 55902

730041401D00009

WIEWEL BARBARA J.
12578 CO RD 4 N.
BRAINERD MN 56401

7300414O1E00009

HARVEY DAVID K. & MARY L.
7010 KNOX AVE S
RICHFIELD MN 55423

7313900090A0AD0

ECKARDT KARL E & LIZA LINDMAN
P O BOX 110
NISSWA MN 56468

7313900090A0AE0

JOHNSON CURTIS O. ETAL
BOX 248
PEQUOT LAKES MN 56472

7313900090A0AF0

GROSS RUSSELL G. & ROSE
RTE 2 BOX 34
GARNER IA 50438

7313900090A0AG0

JENSEN DAVID E.
141 E. WHEELOCK PKWY
ST. PAUL MN 55117

7313900090A0AH0

GROSS WAYNE E. & MARY JANE & ROBERT GROSS
3338 FILLMORE ST NE
MINNEAPOLIS MN 55418

7313900090A0AI0

UNDIVIDED INTEREST

7313900090A0999

DATE: FEBRUARY 6, 1991

TO: CROW WING BOARD OF ADJUSTMENT

SUBJECT: PROPOSED VARIANCE APPLICATION FOR THE PELICAN BEACH RESORT

FROM: ALAN W. CIBUZAR
TECHNICAL REPRESENTATIVE
THIRTY LAKES WATERSHED DISTRICT
BRAINERD, MN. 56401

INTRODUCTION

THE THIRTY LAKES WATERSHED DISTRICT HAS MONITORED WATER QUALITY ON PELICAN LAKE SINCE THE EARLY 1970'S AND HAS TRACKED THE IMPACT OF DENSE DEVELOPMENT ON THE LAKE.

THE PROPOSED EXPANSION OF PELICAN BEACH RESORT WILL INCREASE THE DENSITY OF "LAKE USERS" IN A RESIDENTIALLY ZONED AREA OF THE LAKE. THIS INCREASE OF LAKE USERS ON A 166 FOOT FRONTAGE WILL IMPACT THE RESIDENTS ALONG THE SHORELINE AND JEOPARDIZE THE SAFETY OF LOCAL RESIDENTS AS WELL AS RESORT GUESTS.

SUBSEQUENTLY, IT IS IMPERATIVE THAT PROPER, WELL STRUCTURED PLANNING BE IMPLEMENTED TO PRODUCE A RESTRUCTURING OF THE RESORT WHICH IS COMPATIBLE WITH THE ENVIRONMENT, LOCAL RESIDENTS AND THE RESORT OWNERS.

THE FOLLOWING ARE CONCERNS WHICH THE DISTRICT HAS CONCERNING THE PROPOSED EXPANSION OF THE PELICAN BEACH RESORT.

CONCERNS

THE DISTRICT IS UNABLE TO MAKE A DETERMINATION OF IMPACTS DUE TO A LACK OF THE FOLLOWING INFORMATION (WHICH IS REQUIRED TO BE REVIEWED PRIOR TO MAKING A DECISION UNDER SECTION 6120.2800 "PLANNED UNIT DEVELOPMENT" OF THE STATEWIDE STANDARDS FOR MANAGEMENT OF SHORELAND AREAS).

1. A SCALED MAP DEFINING SURFACE WATER FEATURES (DOCKS ETC.)

2. A TOPOGRAPHIC CONTOURS MAP WITH CONTOURS AT TEN FOOT INTERVALS OR LESS.

3. AN EXPLANATION OF HOW THE PROJECT WILL FUNCTION
   A. TOTAL NUMBER OF GUESTS
   B. PARKING AND TRAFFIC PLAN
   C. A BEACH PLAN
   D. A BOATING PLAN
   E. PROPOSED OPEN AND CLOSING DATES

4. THE PARKING AREAS THE SITE PLAN WITH THE AREA OF IMPERVIOUS SURFACE IN EACH TIER.

5. THE LOCATION OF A REPLACEMENT SEPTIC SYSTEM.

6. ALL SETBACKS FOR ALL STRUCTURES TO THE ORDINARY HIGH WATER LEVEL, LOT LINES, WELLS (OLD AND NEW), SEPTIC SYSTEMS (OLD AND NEW),

UNIT - UNIT, ETC.

7. VEGETATIVE SCREENING PLAN.

IT IS RECOMMENDED THAT AN ONSITE INSPECTION BE CONDUCTED DURING THE OPERATING SEASON.

Dr. and Mrs. Alan E. Plummer
663 Carriage Way, Northwest
Atlanta, Georgia 30327

Rec'd Date 2/6/84
Time
PLANNING & ZONING
COORDINATOR'S OFFICE

Dear Board of Adjustment,

It is our understanding that Jim and Pat Swenson, if given permission, intend to rent up to 30 bedrooms in an area that has 166' at the beach line. If one assumes that all bedrooms can sleep at least two people, sometimes three if children are vacationing too, 60-80 renters would have to share the beach.

It is customary at Pelican Beach Resort to moor most of the boats out in the lake, not beside the dock. Adding more guests boats within the 166' water area, bounded by two sets of neighbors, will be very crowded. This creates an extremely dangerous hazard for swimmers as well as other boats.

The green space that is suggested as appropriate for an R.V. pad, a laundry and storage shed, and a meeting facility is in jeopardy. We believe in protecting our environment.

In conclusion, the human density situation that the Swensons

Dr. and Mrs. Alan L. Plummer
663 Carriage Way, Northwest
Atlanta, Georgia 30327

would allow is truly a devastating problem for the area. The lake, the beach, and the forest will suffer.

It is our hope that you will deny the Severson request.

Sincerely,

Virginia P. Plummer
(Mrs. Alan L.)

Alan L. Plummer, MD

Phone: 404-237-4759

February 3, 1991

read
5-1-91

Mrs. John A. Young
609 - 8th Avenue S. W.
Rochester, Minnesota 55902

April 25, 1991

Crow Wing Board of Adjustment
Planning and Zoning Office
Court House
Brainerd, MN. 56401

Dear Board of Adjustment,

This letter is in regard to the proposed development by Jim and Pat Svenson.

We are concerned about adding another 2 story building in Tier #1. While there are many 2 story places on the lake, none are placed so as to block a neighbors view of the lake.

This space that is being created to provide a game room and meeting place could very easily, at some future date, be turned into another rental unit!

We objected before and we object now to development in Tier #1.

adding 2 story buildings right on the lake shore. Loud and clear that the space is being over-used.

There were many questions brought up at the meeting 2-6-91 by Alan Cibuzar & the 30 Lakes Watershed District and by Joel Brooks, Son-in-law of Mrs. Lee Parsons. Has the board addressed these issues? We feel they are important and need answers before any decision is made.

Please do not allow any more development in Tier #1.

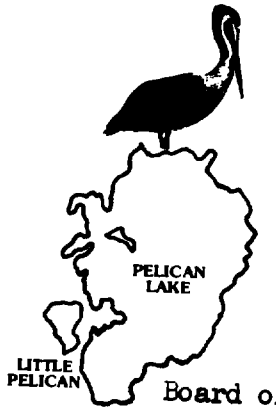
Thank you -

Sincerely,

Jarvonne Young

Jack Young

Summer address:
12641 County 4 N. Nisswa, MN. 56468



PELICAN LAKES PROPERTY OWNERS ASSOCIATION

Box 823 Nisswa, Minnesota 56468

May 1, 1991

Rec'd 5/1/91 @ Mtg

Read by R. Jackson

Board of Adjustment
Crow Wing County Courthouse
Brainerd, MN 56401

Re: Pelican Beach Resort Application
Pat and Tim Swenson

Dear Board Members:

My name is Ralph Jackson, and my address is HC 87, Box 8110, Merrifield, 56465. I am here to represent the Pelican Lakes Property Owners Association regarding the subject application. This association has 185 individual property owner members on Big and Little Pelican Lakes.

We first learned of the application for proposed changes at this resort by means of the notice of hearing to be held on February 6, 1991. I attended the hearing and asked to be invited when an on-site inspection was the action taken.

The on-site inspection revealed some interesting things about the resort. The rental units are mostly located on the gentle sloping land from the lake westward to the hill or bluff on the property. In other words, the guests seem to be somewhat concentrated in a comparatively small part of the total resort area. The lake shore here and on adjacent properties seems to be suffering noticeable erosion from wind, wave, and boat action. The adjacent properties are zoned residential and have seasonal houses. The number of people in this shoreland area during the summer, including the resort, could easily present a density problem for beach, swimming, and boating activities.

We support the need for addressing the concerns set forth on February 6 by the Thirty Lakes Watershed District. Most of these items relate directly to guest activities in the relatively concentrated cabin and lakefront areas. It is our request that no action be taken until these concerns have been satisfactorily answered.

Our association also wonders about the future of resorts like this one. Are the owners willing to agree to the Staff Comments of February 6? Such an agreement should be made a part of any permit.

Last of all, under what ordinance is this application being considered? Because the new Shoreland Management Ordinance has not been adopted, any permits issued at this time must be in compliance with the existing ordinance.

For the Board of Directors,

Ralph A. Jackson

Ralph A. Jackson, President

LICHTENFELS, PANSING & MILLER
ATTORNEYS AT LAW
885 SOUTH COLORADO BOULEVARD
DENVER, COLORADO 80222
PHONE (303) 722-6500
TELEFAX (303) 722-9270

J. REID LICHTENFELS
JAMES E. PANSING
ROBERT H. MILLER

April 30, 1991

Russ Caughey, Chair Person
Crow Wing County Board of Adjustments
Planning & Zoning Office
Courthouse
Brainerd, Minnesota 56401

Re: Timothy K. Swenson and Patricia Swenson

Dear Board Members:

I am writing this letter to supplement the letter I wrote to you on February 5, 1991, in opposition to the variance request of Timothy K. Swenson and Patricia Swenson. I commend to your attention the information set forth in that letter, but I feel additional information should also be considered:

1. In February, you scheduled a site visit for May 18, 1991. In reliance on that date, I made reservations on Continental Airlines to come to the site visit. On or about April 15, 1991, I received a notice that the site visit had been moved to April 19, 1991. Not only did this waste my money (my tickets were nonrefundable), it made it so I could not attend the site visit.

2. I feel that a site visit was inappropriate in April. My major objections to the variance requested by the Swensons relate to boat traffic. I suspect you didn't see a boat on the lake. As such, the site visit accomplished little. Therefore, I request that a new site visit be scheduled during the height of the summer, at a time that will allow the Board to view the property while it is being operated as a resort.

3. Next, it is imperative that you understand that our objection is based on the health, safety and welfare of the surrounding property owners. There are just too many boats in the resort's small beach area to be safe. Mr. Swenson has (I believe) six aluminum boats, one ski boat, one pontoon boat, and two pedal boats, or a total of nine boats. It is not unusual to see four additional ski boats owned by visitors to the resort tied up at the resort. These, plus Mr. Swenson's boats make a total of thirteen boats. With the addition of four additional residential

Rec'd Date 5/1/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

and/or rental units, it is not unrealistic to think in terms of 15 or 16 boats at one time. In fact, if each unit had one boat at the resort, I count 12, plus the 9 Mr. Swenson has, a total of 21 boats would be using a beach area slightly larger than a standard residential lot. This is an accident waiting to happen!

4. Another very important aspect of this variance request that you should be aware of is the fact that the water is quite shallow in front of our property (just north of the Swenson's). In fact, it is necessary to wade out several hundred feet in order to get into waist deep water. That is the closest to shore that we can swim. All of the boats at the resort buzz in, out, around and through our swimming area. Several of us are lap swimmers. Numerous children play in the area. Our swimming raft is anchored in this area, in water that is approximately 3½' deep, but approximately 250' from shore. Some limitation is necessary. The present situation is bad. It would be unsafe to increase the problem by increasing the number of units (which would translate into more boats).

5. Finally, it seems that if the Board is inclined to allow the variance, they should put some controls on the boating traffic to protect the neighboring properties from the overuse of the water areas immediately adjacent to the beach. Either a limitation on the total boats to be moored, or a buoy line or some other system to route the boats using the resort away from the shallow swimming areas should be a minimum requirement.

Once again, we feel the negative aspects of the resort should not be expanded. Zoning is intended to protect surrounding property from inappropriate uses. The shape of the Swenson property with very little shoreline and the present heavy use have already burdened surrounding property owners. Please do not increase the problem by allowing the additional 20 or so people to use the property that will be the result if the variance is approved.

Yours very truly,

James E. Pansing

JEP/cc

Read 5-1-91

April 28, 1991

Crow Wing County Board of Adjustment
Crow Wing County Courthouse
Brainerd, Minn. 56401

Dear Mr. Slayton and Board Members,

On February 6th, 1991 we wrote to you our concerns about overuse of land and water in a petition by Tim and Pat Swenson d/b/a Pelican Beach Resort at 12683 Co. Rd. 4 N. Nisswa, Minn. on the S.W. shore of Pelican Lake.

New plans proposed, do not in any way change the density on the property or lessen the impact on the environment.

If a second floor and addition is allowed??? How can we be sure that we will not see another conditional use for a third floor, in the years to come. I am not sure that neighbors were advised about the second floor of Cabin #3. Surely that blocked the neighbors to the south from seeing the lake to the north.

On Cabin #4 if an expansion to the north with bedrooms above and Lodge, playroom below was added. What would happen if the renters didn't like the noise. Vacationing children and some adults in any number will carry a lot of noise that near the water. Once established that area also, could be made into more rental units. If extension of 1988 variance is asked for it should be questioned

The proposed R.V. sight is unnecessary if cabins are available.

A proposed 3 bedroom 4 season unit on the west side of the highway does not show any size, position on the backlot or any plans for septic system.

After living on this lakeshore for 65 years we object to so much added pressure ecologically to Pelican Lake.

Very sincerely,

Patrick and Barbara Wiewel
12578 Co. Rd. 4. North
Nisswa, Minn. 56468

Rec'd Date 4/29/91
Time
Swenson
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Rec'd 5-1-91

April 28, 1991

Mr Dennis P. Slayton and
Planning and Zoning Board
Crow Wing County Courthouse
Brainerd, MN 56401

Rec'd Date 4/29/91
Time Swenson
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Mr. Slayton and Board Members,

We continue to be concerned about the density of the development planned by the Swensons along Pelican Lake - especially in Tier #1. Has it been determined that Tier #1 does not already include cabin #6 on the drawing dated 1-17-91? 200' back from the lakes high water mark is no longer the same 200' it was 2-5 yrs ago. The shoreline has been changing in this SW part of the lake. We (2 properties south) have lost approx. 10' of beach in the past 10 yrs. I expect Swensons have lost some also. We are concerned Tier #1 may already have cabin #6 and maybe cabin #5 in it.

Aside from Tier #1's density of buildings, their crowded appearance from the lake and from neighbor's property, we are worried about the density of boats, children + adults in this relatively narrow beach front. This major safety concern was covered in our letter to you dated 1-29-91.

We are concerned the existing boathouse will not be removed from Tier #1, and that a multi-use or lodge area below a 2 bedroom unit will not remain a lodge for long. How can vacationers sleep above an indoor recreational area for up to 50 people? Would this

lodge area
then be able to be converted to more bedrooms because it already 'exists'? We feel this lodge plan as it is is not realistic and will lead to even greater density of bedrooms on Tier #1.

Thank you for listening to our questions and concerns about this development. Please read them into the minutes on May 1st since we can't be there.

Sincerely,

James and Judith Mellinger
12641 Co. Rd 4 N
Nisswa, MN 56468

read 5-1-91

2033 South 33rd Street
Lincoln, Nebraska 68506
April 30, 1991

To: The Board of Adjustment
The Court House
Brainerd, Minnesota 56401

From: Lu Pansing, neighbor to the north of the Petitioners,
Tim and Pat Swenson

Dear Members of the Board of Adjustment:

When the Swensons ask that they be given extra space for rentals, it becomes a matter of grave concern to their neighbors. Our concern arises from several causes:

1) The Swensons' 166-foot shoreline is insufficient for the present population. The boats which they now maintain are beached across their property clear to our boundaries.

2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

3) Mr. Swenson has said he will not caution the boaters. This fact, as well, is a matter for concern because health and safety problems will surely occur with increased population.

4) The Swenson property could accommodate the proposed population if the long side of the lot were stretched along the shore. As it is, the lot stretches back across the highway but funnels all the renters onto its tiny beach.

There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.

Respectfully submitted,

Lu Pansing

Lu Pansing

730212102J00009

Chequemates
12641 County Road, 4N
Brainerd, Minnesota 56401
January 28, 1991

Mr. Russ Caughey
Chair, Planning and Zoning Commission
Court House
Brainerd, Minnesota 56401

Dear Mr. Caughey:

This letter is a response to the notice of the Commission that it will consider on Wednesday, February 6, 1991 a Planned Unit Development: Conditional Use: Variance submitted by Timothy Swenson and Patricia Swenson of 12683 County Road North, Brainerd, MN 56401.

We oppose the variance for the following reasons:

1. The development will detract from the appearance of the property, which is prime Minnesota waterfront vacation property.
2. The development will create a significantly higher density of vacationers--people, vehicles, boats--than is currently present in the surrounding area.
3. The development will detract unreasonably from the current use of many surrounding neighbors of their property as a vacation area.
4. The development will significantly lower the value of adjacent property, both to the current owners and to future owners.

We hope the Commission will consider our opinion as it debates the pros and cons of the Variance.

Sincerely yours,
Richard Brubaker
Nancy Brubaker

Richard and Nancy Brubaker
601 Memorial Parkway SW 55902

Rec'd Date 2/1/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Read 2/6/91 Mtg.

1-29-91

Planning and Zoning Office
Crow Wing County Board of Adjustment
Crow Wing County Courthouse
Brainerd, Minn. 56401

Dear Mr. Caughey and Board Members:

It has come to our attention that Timothy and Patricia Swenson d/b/a Pelican Beach Resort at 12683 Co. Rd. 4 North are once again asking for variances for further growth of their Resort which has only 126 feet of Lakeshore.

We object to this expansion because of the density on the land in terms of additional population using the facilities provided and the number of boats and traffic on the lake. There is one R.V. Campsite on N.E. Pelican and that should be enough. The addition of seven rental units, lodge and Laundry storage would require additonal septic enlargement.

This additional pressure will certainly affect the ground water and ultimately Pelican Lake.

As George Orning of Freshwater Institute writes of 14% growth to the area by the year 2000 not including the summers swelling population. The time is (NOW) to be concerned about our lakeshore.

Sincerely,

Pat and Barbar Wiewel
12578 Co. Rd. 4 North
Nisswa, Mn. 56468

We would be obliged with an onsite inspection of plans and property.

Rec'd Date 2/1/91
Time
PLANNING & ZONING
COORDINATOR'S OFFICE

Oct 3, 1990

Dave.

We have decided to re-think our expansion plans and would like to be withdrawn from the variance board meeting (oct. 24, 1990) until a later date.

I will contact your dept. in the next three weeks to discuss changes

Sincerely,
Tim Swenson - Pelican Beach Resort

Read 2/6/91 mtg.

James and Judith Mellinger
12641 County Rd 4 N
Nisswa, MN 56468

James F Mellinger
922 8th Ave SW
Rochester MN 55902-6309

Jan. 30, 1991

Planning and Zoning Office
Courthouse
Brainerd, MN 56401

Rec'd Date 2/4/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Sir,

We are writing in response to the Planned Unit Development and Zoning Variance Timothy and Patricia [redacted] requested. We realize they want to increase their income base for a more successful resort, but feel overbuilding on Tier #1 and adding such unit density will be destructive to both the lakefront and vacationers.

We oppose the variance for the following reasons:

1- 17 rental units (plus an unstated # of RVs) on a narrow lot poses sewage disposal problems, swimming & boat safety problems and noise pollution for neighbors.

2- Dense beachfront development is risky because ice can cause about 1 ft of erosion each year. (We have experienced this as have other neighbors.)

3- The DNR density ruling is new - not "out of date" - and should be seriously taken.

4- Two story buildings on Tier #1 block lake viewing, and lake breezes by other vacationers and neighbors. Top prices are paid both to rent or own Pelican Lake property in this area.

Please consider our thoughts. We also request an on site inspection of the property before any action is taken.

Sincerely,

James F. Mellinger
Judith Mellinger

Read 2/6/91 Mtg.
2-2-91

We are opposed to the proposed planned development for

12683 Co. Rd. 4 N
Nisswa, MN 56468

Our concern is due to the large scale of expansion planned for the resort.

1. The number of people using the facility. The possibility of over seventy people in a limited space and small beach area. Even now, at times, some areas are crowded with all the cars and boat trailers.

2. With the increased population, the amount of liquid waste going into the drain field will be doubled.

3. The increased number of boats. They have four buoys in the lake for guest to moor their boats and don't know how they could provide for many more.

Russell and Dolores Van Kampen
12655 Co. Rd. 4. N.
Nisswa, MN 56468

Rec'd Date 2/6/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dolores J. Van Kampen

Russell Van Kampen

Brainerd Planning
& Zoning Commission
Brainerd, MN 56401

Rec'd Date 2/1/91
Time
PLANNING & ZONING COORDINATORS OFFICE

Jay Young
12641 County 4 North
Nisswa, MN 56468

To the planning & zoning commission: received at the meeting

I am opposed to the proposed additions to Pelican Beach Resort on Pelican Lake for the following reasons:

The resort is over built at present. I went to the resort as a child (late 1960's) and there were five cabins in addition to the winter home. Now there are nine cabins. No land has been added. The proposed additions would bring the total number of units to 16.

I am worried about possible water & air pollution (RV dumpsite, seven additional cabins, Charcoal & beach fires), not to mention the noise and visual pollution (The new developments have NOT enhanced the area.). Just how many people can that limited (less than 200') amount of shoreline support? Similar resorts in the area (with like acreage) have only 5 or 6 units.

Neighbors on either side have lost visual access to the lake, multi-story units located on the shoreline detract from the natural beauty of the lake. Land management is NOT being practiced here, and the local area will suffer for it.

Thank you for viewing this letter

Jay & Karen Young

Read 2/6/91 Mtg.
609 8th Ave. S.W.
Rochester, Minn.
55902
Jan. 31, 1991

Planning and Zoning Office
Court House
Brainerd, Minn. 56401

Rec'd Date 2/4/91
Time 9:15 am/pm
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Board of Adjustment and
Planning and Zoning Commission,

My letter is in regard to the Planned Unit development: Conditional Use and Variance request by the [redacted] of 12683 County 4 North on Pelican Lake.

My husband and I strongly object to the enlarging and additions to cabin #4 in tier #1. Tier #1 is already a very crowded area. Besides 2 cabins there is a boat house which is also used as a store, a screen house, playground with playground equipment and the beach area. (We've all lost about 20 ft. of beach in the last 18 years due to erosion) Tier #1 is where the resorters spend most of their time. More units, even though they are across the road add to the noise and busyness at the beach front and on the lake.

We request an on-sight inspection of the Swenson property noting especially the area in tier #1, and tiers 4, 5 & 6.

We would not object to putting a second story on cabin 9 in tier #2 and the finishing of the garage for a cabin in tier #3.

I understand that the Swensons

want more units but please do not grant the variance for tri #1 development and please consider the over-crowding of the property and neighborhood in Tiers 4, 5 and 6.

Our address is 12641 County 4 North, we property away to the South. We have exactly the same size land with no development in tri #1. We have 6 cabins in tri #2 with a total of 16 bedrooms as opposed to the 27 bedrooms present 27 bedrooms. Our place is plenty busy! Especially our tri #1 area and lakefront.

Thank you.

Sincerely,

Lavonne Young

John A. Young

Robert V. and Ann M. Groover
Chequemates
12641 County Rd 4 N
Nisswa MN 56468

Planning and Zoning Office
Crow Wing County Courthouse
Brainerd, MN. 55401

Dear Sirs,

In reply to your notification of the petition filed by Timothy K. and Patricia [redacted] of 12683 Co.Rd. 4 N., Brainerd, MN. for a Planned Unit Development, conditional use and variance for expansion of their existing resort operations, the following outlines our sincere concerns. Our property is the second property south of the petitioning resort.

The owners proposal to add seven (7) rental units, one RV parking facility (size and capacity unspecified), and a lodge/meeting facility and storage/laundry facility represents considerable expansion within a relatively small space which is bordered on both sides by private seasonal dwellings. This would obviously result in an increased population density within the resort and on its beach, as well as an increase in boat traffic in the area. Such would have an adverse effect on adjacent and nearby properties.

In the recent past the owners received a variance for erecting a two story unit on their beachfront property which adversely effects lake view for adjacent properties. Their proposal apparently includes expanding a second cabin on that beachfront into a two-story structure. This would further block lake view and negatively effect the shoreline, as well as defy DNR shoreland management rules. The board should note that the natural erosion of the beachfront of the properties along that portion of the western shore has been significant over the past several years, averaging one to two feet per year.

The creation of a RV facility is very worrisome, especially since the number of vehicles to be accomodated is not specified. Such could increase the population density considerably, along with potential pollution and sewage problems.

In our view, the proposed expansions of the resort present many potential problems which could adversely affect the quality of the lake and lake shore in the area. Thus, we cannot support the petition without further information as to the details of the proposed expansions. We would like to request an onsight inspection of the property to consider these concerns.

Sincerely,

Robert V. Groover

Ann M. Groover
1065 Plummer Lane
Rochester MN 55902

Rec'd Date 2/4/90
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

February 1, 1991

Read 2/6/91 mtg

LICHTENFELS, PANSING & MILLER
ATTORNEYS AT LAW
885 SOUTH COLORADO BOULEVARD
DENVER, COLORADO 80222
PHONE (303) 722-6500
TELEFAX (303) 722-9270

J. REID LICHTENFELS
JAMES E. PANSING
ROBERT H. MILLER

Rec'd Date 2/6/91
Time
PLANNING & ZONING COORDINATOR'S OFFICE

February 5, 1991

Russ Caughey, Chair Person
Crow Wing County Board of Adjustments
Planning & Zoning Office
Courthouse
Brainerd, Minnesota 56401

Dear Board Members:

I am writing this letter in opposition to the application of Timothy K. and Patricia Swenson for a variance to the zoning code to allow an increase in total rental units above that otherwise allowed. My opposition is based on the following:

1. The subject property is located between properties used for purely residential purposes. No other commercial uses exist within at least one mile in either direction.

2. The subject property is already over-utilized, considering the fact that it is long and narrow, with very little shore-line when compared with its total acreage.

3. During the summer, there are routinely ten to twelve boats on a beach of only 166' (which is only 2/3 more than a standard lot). This boat traffic problem is exacerbated by the long shallow shelf in front of the property. The result is numerous boats motoring in shallow areas where our families, including our young children, routinely swim and play. Additional rental units mean additional boat traffic and this property cannot support any additional traffic.

4. After the expansion of Unit 3 one year ago, a noticeable increase in noise and boat traffic was apparent. More boat traffic and noise would be an unreasonable burden to the surrounding neighbors.

5. The long, narrow aspect of this property means that any approved variance to the zoning code will immediately affect the continguous neighbors. This is because all proposed buildings are within a very few feet of the south (VanKampen) and north (Pansing) property lines.

In summary, the noise and boat traffic is presently above a reasonable level. The maximum levels were written into the zoning code for a reason and that was to protect surrounding property owners. Granting of variances is appropriate in certain instances in which minor adjustments are requested where mitigation or proof of non-affect exist. However, this is clearly an instance where a very major variance from the zoning code is requested, injury to neighboring property is evident, and no mitigation is possible, and therefore, variance is inappropriate.

Please turn down this application.

Yours very truly,

James E. Pansing

JEP/cc

Timothy and Patricia Swenson On-Site Inspection April 18, 1991

This on-site inspection was made at the Pelican Beach Resort with Charles Höfius, Board of Adjustment member. We were met at the site by Mr. and Mrs. Swenson. Also present were Ralph Jackson, representing the Pelican Lakes Property Association, and Pat Stern and Bruce Yund of the Thirty Lakes Watershed District.

Tier One Development--There are presently three rental units located here. Raising cabin four to put in a second story and adding on to the north side of this building will create five total rental units and a lodge area. The addition will be on the north end and no closer to the lake than the existing cabin.

Tier Two Development--Four rental units exist here now. Raising building nine and thus adding another rental unit, increases the units to five.

Tier Three Development--This area currently has the owner's 3-4 bedroom home and a two-story garage. Converting the upper level of the garage into a four-season three-bedroom unit, excavating for a one-unit RV pad with hook-ups, and adding a new 26 x28 ft. garage are planned. The new garage will be set back from the bluff area.

All of these developments appear appropriate providing that:

1. All units be hooked to a central well and central septic system.
2. Earth tone colors be used.
3. Open spaces be kept open.
4. Appropriate screening be used along lakeshore and side lot lines.
5. Existing boathouse be removed.
6. No further variances be issued, as an increase in more lake users could bother and jeopardize the safety of local residents and guests.

The units of this resort should not be sold as private family units or condominiums. If this property ceases to be used as a resort, the area would revert to single family residential use.

Marian Pelto

Marian Pelto

Timothy & Patricia Swenson On-Site Inspection Miles 12

This on site inspection was made on April 18, 1991 at 5:00 p.m. with Marian Pelto, member of the Board of Adjustment. Mr & mrs Swenson met u s on th e site., also present was Ralph Jackson, Pelican Lake Property owner Ass. Pat Stern & Bruce Yound of the 30 lakes watershed.

The following measur ements was taken at the site.
Building No.-1 (20.0' x 18.0') is 23.0' from the h igh water line. This building is use for storage.
Building No.-2 (20.0' x 12.0') screen house is located 16.0' from the high waterline.
Building No.-4 (28.0' x 30.0') a cabin is located 83.0' from the high water line. The applicant wish to raise the cabin and make this a 2 story building. The 1st floor would be used as lodge and storage area. They would like to build a 2 story 8.0' x 28.0' screen porch on the north end of the cabin. Their would not be any more people sleeping after construction than at present.
Building No.-9 (28.0' x 30.0') cabin with an 8.0'x 15.0' deck on th eouth side. the cabin is approximate 22.0' south of the north property line. The applicant would like to raise the cabin and make it a 2 story unit, with 3 bed-rooms in each unit. This would increase the rental space by 6 people.
Building No.-12 (28.0' x 36.0') 2 storys, garage on the bottom and storage area above. The applicant would like to develope this into a 3 bed-room rental unit on the top story where the storage area is. This would sleep 6 people.
The applicant would like to build a 26.0' x 28.0' garage north-west of building No.-12. He would like to make a R-V site approximate 30.0' west of cabin NO.-10. This would sleep a maximum of 3 people.

West of Co. r oad #-4 the Applicant owns a lot that is 450.0' deep x 160.0' wide (72000 sq. ft.) or 1.65 acres. They would like to build a house on this lot for their son.

This writer would r ecommend that the following cabin No-4 - Cabin No-9 and building No-12 be approved. The R-V site be approved for one site only. The approval should be on the following conditions - all building East of Co. Road - 4 be hooked up to one central sewer system and one well. The well to be considered a deep well. Paint existing and propose buildings a earth tone. and that open space be maintained in all 3 tiers. West of Co. Road No-4 the home should be a one family home only and that it have it own wa ter and sewer system.

Respectfully Submitted
Charles H. Hofius
Charles H. Hofius

Timothy K. & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dr. & Mrs. Alan Plummer
663 Carriage Way NW
Atlanta, GA 30327

James Pansing, Attorney
885 S. Colorado Blvd
Denver, CO 80222

Russell & Delores Van Kampen
12655 Co Rd 4 N
Nisswa, MN 56468

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Pat & Barbara Wiewel
12578 Co Rd 4 N
Nisswa, MN 56468

Richard & Nancy Brubaker
601 Memorial Pkwy SW
Rochester, MN 55902

Ann M. Grover
1065 Plummer Ln
Rochester, MN 55902

Lavonne & John Young
609 SW 8th Ave
Rochester, MN 55902

Lulubel Pansing
c/o Jay Pansing
720 Colorado Blvd, Suite 1000
Denver, CO 89222

Russell & Delores VanKampen
203 S. Lancaster
Mt. Prospect, IL 60056

Alan Cibuzar
A&W Research
711 Laurel
Brainerd, MN 56401

30 Lakes Watershed
Box 376
Brainerd, MN 56401

Pelican Lake Assoc
c/o Ralph Jackson
Rte 5 Box 394

Jay & Karen Young
12641 Co Rd 4 N
Nisswa, MN 56468

Shireley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

Timothy & Patricia Swenson
12682 Co Rd 4 N
Nisswa, MN 56468

Martha Look, Clerk
Lake Edward Twp
11555 Co Rd 4 N
Nisswa, MN 56468

Shirley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

Alan Cibuzar
A& W Research
711 Laurel
Brainerd, MN 56401

Pelican Lake Assoc
HC 87 Box 8110
Merrifield, MN 56465

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12641 Co Rd 4 N
Nisswa, MN 56468

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Nisswa, MN 56468

LaVonne & John Yound
609 SW 8th Ave
Rochester, MN 55902

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Lu Pansing
2033 S. 33rd St
Lincoln, NE 68506

Loel P. Brooks
13th & O St NBC Center Suite 755
Lincoln, NE 68508-1424

& Judd Thomas
RR 5
Brainerd

Swenson

Bob Griva
12641 Co. Rd. 4 N.
Nisswa, MN 56468

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

April 8, 1991

Timothy & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr. Swenson:

The attached excerpts from the minutes of the Board of Adjustment meeting of April 3, 1991 pertain to your application.

The On Site Inspection has been set for Thursday, April 18,1991 at 5:00 P.M.

The application has been rescheduled on the May 1, 1991 Board of Adjustment hearing at 6:00 P.M. in the County Service Building, Room 2, Brainerd, MN. Please consider this your notification of same.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.
cc: Concerned Party List

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

May 3, 1991

Timothy & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr.& Mrs. Swenson:

The attached excerpts from the minutes of the Board of Adjustment meeting of May 1, 1991 pertain to your application.

Your Variance application has been approved with conditions. Due to the concerned parties your permit cannot be released for nine (9) days in order to give the concerned parties time in which to request a Reconsideration. If no such request has been made your permit will be released upon receipt of the permit fee of $220.00 and a revised site plan. However, the concerned parties have thirty days in which to file an Appeal in District Court. See attached yellow sheet.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.
cc: concerned party list

and storage area above. The applicant would like to develope this into a 3 bed-room rental unit on the top story where the storage area is. This would sleep 6 people.
The applicant would like to build a 26.0' x 28.0' garage north-west of building No.-12. He would like to make a R-V site approximate 30.0' west of cabin NO.-10. This would sleep a maximum of 3 people.

West of Co. r oad #-4 the Applicant owns a lot that is 450.0' deep x 160.0' wide (72000 sq. ft.) or 1.65 acres. They would like to build a house on this lot for their son.

This writer would r ecommend that the following cabin No-4 - Cabin No-9 and building No-12 be approved. The R-V site be approved for one site only. The approval should be on the following conditions - all building East of Co. Road - 4 be hooked up to one central sewer system and one well. The well to be considered a deep well. Paint existing and propose buildings a earth tone. and that open space be maintained in all 3 tiers. West of Co. Road No-4 the home should be a one family home only and that it have it own wa ter and sewer system.

Respectfully Submitted
Charles H Hofius
Charles H. Hofius

May 1, 1991:

The applicant was present. Dennis Slayton read an overview of the application and two on-site inspection reports into the record. One from Marian Pelto and one from Charles Hofius dated April 18, 1991. There were six letters read into the record, all in opposition to the request. The main concerns were density of development, boat usage and health and safety of neighbors using the lake. Mr. Swenson stated that he does advise boaters of the danger of shallow water in front of the resort. He stated that he must have been misunderstood at the February hearing. He stated that he could not police water skiing. He also stated that they do not have a speed boat. Applicant stated that he would not be adverse to running a buoy line out into the lake to direct boat traffic.

Ralph Jackson was present representing the Pelican Lake Property Owners Association. He read his letter into the record and requested that action be postponed until Thirty Lakes Watershed's concerns can be addressed. Judd Thomas was present representing the Crow Wing County Environmental Protection Association. Questions were discussed

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

February 7, 1991

Timothy K. & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr. & Mrs. Swenson:

The attached excerpts from the minutes of the Board of Adjustment Meeting of February 6, 1991 pertain to your application.

Your application has been postponed in order that members of the Board of Adjustment may make an on site inspection of the property. The on site inspection will be Saturday, May 18, 1991 at 9:00 A.M. The application will be rescheduled for the next available Board of Adjustment meeting and you will be notified of the date as soon as the agenda dates have been set.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.

cc: Concerned party list.

Base density, including the increase of one, three bedroom unit, has not been attained.

Conditions that may apply.

1. All units be earth tone in color.
2. Additional screening along property lines and Highway.
3. All units, existing and proposed, be hooked to a central septic system and a central well.

It would appear appropriate to increase the density as indicated providing all conditions shall be met for each Tier.

Further, it would appear appropriate to grant a Conditional Use Permit and Planned Unit Development Permit with the following conditions.

1. Units not be sold as individual units (condominium or private family residences).
2. When the property ceases to be used as a rental/resort area, the area would revert to single family residential use and comply with all current regulations.
3. The applicant submit an erosion control plan and planting plan indicating type, amount and size of screening to be used. The screening should be substantial.

Further, the Board should set a time line for the painting of the cabins, removal of the boathouse, commiserate with the additions to Tier 1 development.

By: Dennis Slayton

<u>February 6, 1991</u>

Mr. Swenson was present. Staff Comments were read. Also read were the representative five letters of concern. The applicant stated the sewer system was updated and drainfield enlarged within the last two years and that there is no erosion problem currently on the property. The applicant also stated that the work he wished to do to Cabin 4 was previously authorized by the Board of Adjustment on June 22, 1988.

Al Cibuzar was present representing Thirty Lakes Watershed District and presented the concerns of the District. Also present as concerned parties were Lou Pansing, Lowell Brooks, Ralph Jackson, representing the Pelican Lake Property Owners Association, and Ann Grover, with their concerns being the density of people on the property, the effect it would have on the lake and safety of people utilizing the lake and beach area. Discussion ensued.

The option of 45 days for rescheduling the application was explained to the applicant and he indicated the 45 day option could be waived.

February 6, 1991 Action

Motion by Hofius supported by Pelto to postpone the application in order for an On Site Inspection to be conducted on May 18, 1991 at 9 a.m. by members Hofius and Pelto, with three area representatives and a representative from the Pelican Lake Property Owners Association also invited to attend, with the application being rescheduled to the first Board of Adjustment meeting following the On Site Inspection. All members voted "AYE". Motion carried.

Tape 557, 1A, 48.8 to 2A, 19.6

RECEIVED
By Stacy Westhoff at 3:30 pm, May 20, 2026

Memorandum of Comments and Objection to the Requests of Pelican Beach Holdings, LLC for the Land Use Map Amendment, Conditional Use Permit for a Resort Conversion Variances and Preliminary Plat Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 33 Spyglass Place, Dellwood, MN 55110

RE: Submission of Comments for Public Hearing scheduled May 21, 2021

DATE: May 20, 2026

INTRODUCTION

This Memorandum is submitted in response to the Notice for Public Hearing regarding various requests of Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be a chorus of legitimate concerns and attendant objections to these requests – as well as an objection to the limited time allowed to submit such responses. Given the time constraints, however, there is simply no way of presenting a complete argument or factual record in this short time period.

FACTS

Here we go again…….. It was 5 years ago that requests for resort conversion were filed (original and amended) and later withdrawn - after objections were filed by more than 37 neighbors, one of their lawyers, the Pelican Lake Association, Lake Edward Township and the DNR. Both the facts and arguments contained in those objections remain relevant to the present reformatted requests of the Applicant – this time without seeking any variances (probably because Applicant realized they wouldn't be granted and so why not dress it up in a slightly different manner but ask for the same result).

The present request for conditional use permit to allow a resort conversion ends at the same destination as the last applications - 11 residential lots and 11 mooring spaces jammed within a narrow lot on 166 feet of lakeshore. More importantly, the existing dwellings and purported mooring spaces related to Applicant's property are such radical nonconformities they wouldn't stand a chance for approval as a new development. Prior comments show these radical variations in lot size, density and claimed mooring spaces – and also raised valid concerns over the safety, health and general welfare by converting these to private residences. Those prior comments raise real concerns over private algae

blooms, septic stress, boat traffic, noise, overcrowding, inconsistencies with the neighborhood, setting bad precedent, failing to follow rules, etc.

Since the existing resort buildings are so radically outside the limits of lot size and density, it is understandable that the neighbors cried foul in 1991 and conditions were placed on the proposed expansion – as well as why so many neighbors cried foul when the last applications for resort conversion were filed in 2021……. Many of those same concerns led to numerous conditions to be placed on the resort's Conditional Use Permit over 35 years ago that remain valid today.

On May 1, 1991, those conditions were:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Permit Document 69089, page 40.

The Swensons moved for reconsideration and the conditions were slightly revised on June 19, 1991 as follows:

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

Permit Document 69089, page 1.

The Conditional Use Permit was appealed by the Pansings and resulted in an order dated February 25, 1993 directing the County to issue the Conditional Use Permit with the revised conditions imposed by the Board (paragraph 3):

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

ORDER FOR JUDGMENT

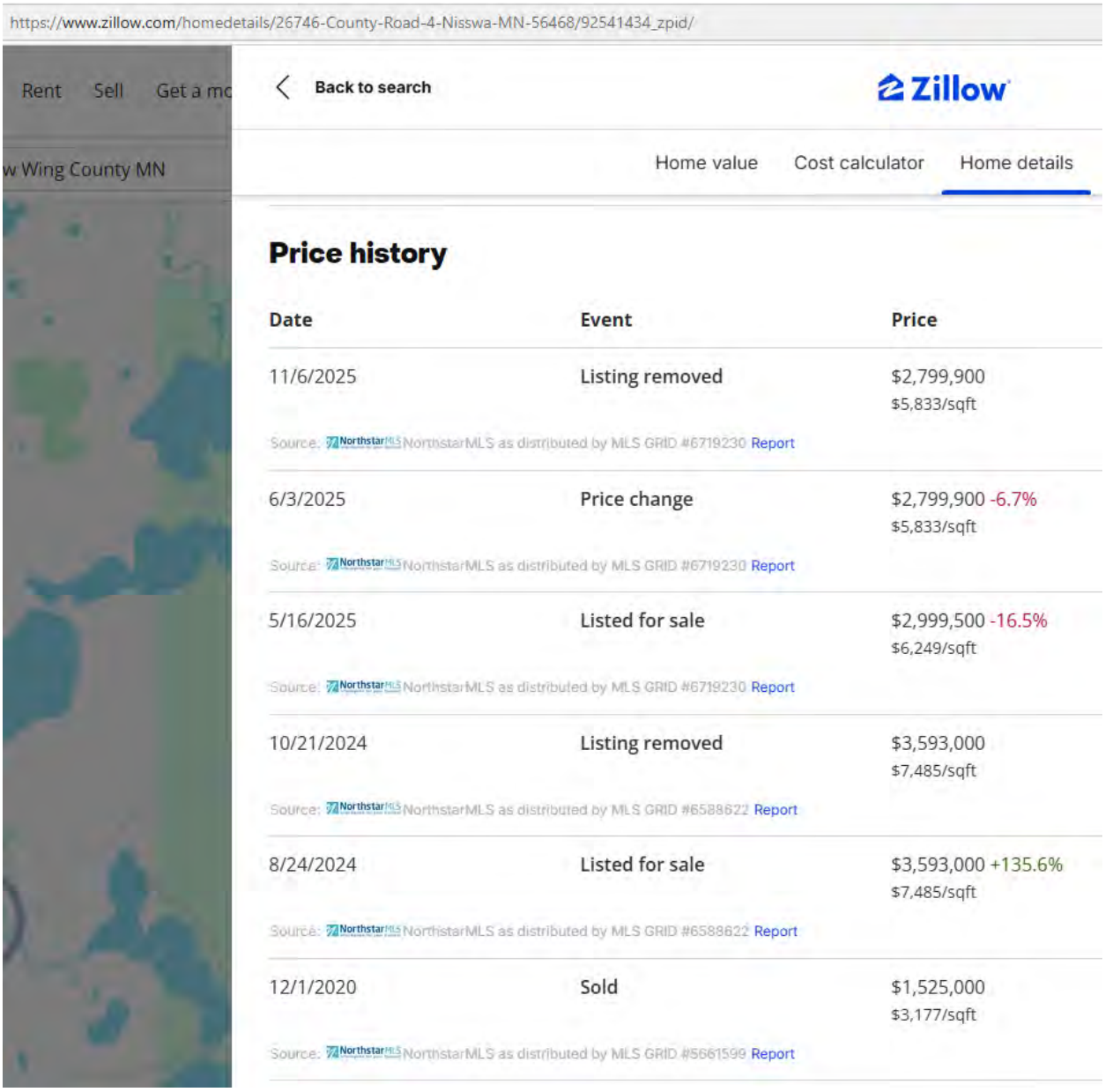
LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 02/25/93

Robert E. Kautz
Judge of District Court

Permit Document 69089, page 8.

In 2020, the Swensons decided to get out of the resort business and sell the property to Applicant. It's not clear if Applicant also purchased the Swensons' underlying resort business. Applicant's actions from 5 years ago prove that they bought the property with no intention to use it as a resort – simply seek to immediately flip the property claiming entitlement to a resort conversion and make money by selling the postage stamp lots (the last applications in 2021). The property has been for sale for the last 2 years (not as a resort but corporate retreat, etc.) for a price of more than double what was paid. Here is the listing history from Zillow:



https://www.zillow.com/homedetails/26746-County-Road-4-Nisswa-MN-56468/92541434_zpid/

Rent Sell Get a mc

w Wing County MN

Back to search

Zillow

Home value Cost calculator Home details

Price history

Date	Event	Price
11/6/2025	Listing removed	$2,799,900 $5,833/sqft
	Source: NorthstarMLS as distributed by MLS GRID #6719230 Report	
6/3/2025	Price change	$2,799,900 -6.7% $5,833/sqft
	Source: NorthstarMLS as distributed by MLS GRID #6719230 Report	
5/16/2025	Listed for sale	$2,999,500 -16.5% $6,249/sqft
	Source: NorthstarMLS as distributed by MLS GRID #6719230 Report	
10/21/2024	Listing removed	$3,593,000 $7,485/sqft
	Source: NorthstarMLS as distributed by MLS GRID #6588622 Report	
8/24/2024	Listed for sale	$3,593,000 +135.6% $7,485/sqft
	Source: NorthstarMLS as distributed by MLS GRID #6588622 Report	
12/1/2020	Sold	$1,525,000 $3,177/sqft
	Source: NorthstarMLS as distributed by MLS GRID #5661599 Report	

In addition, the last listing information shows that the property was listed for sale not as a resort – but as a single family residence and is described as a large private estate or corporate retreat:



26746 County Road 4 Nisswa, MN 56468

View All 53 Photos

MLS #6719230 CLIP #6104124859

Beds	Baths	Size	Days on OneHome
8	6(5 full ·1 half)	5,448 sqft	174



Legacy property with Perfect 176' of level Sand Beach on Pelican Lake in Nisswa, MN. Beautiful 4,000Sqft Custom home with 5 bedrooms, 4 bathrooms, woodburning stone fireplace, 28' cathedral ceilings, beautiful kitchen with granite counters, custom millwork throughout, Screen porch, and a Lower-level walkout basement. The 1800sqft year-round 3-bedroom 2 bath guest house has been recently remodeled with custom floors, doors and Trim! The property has multiple other out building but the lakeside lodge and cottages are the real charmers. The oversized 3.3-acre lot opens up many possibilities including a large private estate or corporate retreat. Located just minutes to Downtown Nisswa and Breezy Point!

Read Less

Features

Type: Single Family Residence **Year Built:** 2009 **Lot Size Area:** 3.30 acres

Apparently, no takers on Applicant's attempts to sell the property over the last two years - as we are back to seeking to chop up the property into tiny lots again and try to make money that way…….

OBJECTION BASED ON LIMITED NOTICE

Again, we are given basically no notice (just over 3 business days) to provide comments before a public hearing to consider an application packet containing over 160 pages of documents related to these requests – not to mention go back and review the last 2 applications that were filed by Applicant just over 5 years ago and all of the objections that were filed (the objections alone totaled just over 175 pages). In order to preserve the record of both facts and argument from the last applications, I have emailed to landserivces@crowwing.gov the numerous objections that were filed in 2021 by the neighbors, one of their lawyers, the Pelican Lake Association, Lake Edward Township and the DNR from the last applications – which contained the same requests as the current applications. I have also emailed copies to landserivces@crowwing.gov of relevant prior permit histories that are referenced in this Memorandum. Many other things should probably be added to the record if this moves forward – but I wanted to provide as much of a record as possible with both of these items.

I understand there will be arguments that the Land Ordinance has changed (slightly) and that the DNR has apparently changed its position – but facts are kind of a troublesome thing as facts don't change……. Many of the prior comments pointed to factual and legal issues related to the prior applications as did many others – and those issues were never answered before Applicant withdrew the prior applications in 2021.

Like before, there remain missing facts that must be gathered before any decisions are made on the present applications and Applicant should be given the opportunity to supplement the record with additional evidence related to the issues raised by past and current objections. I simply don't see how such an important issue that gathered so many negative comments from neighbors across the lake can be considered upon little over 3 days business notice with such a checkered past. For this reason, the applications should be tabled until – at least – the next meeting of the Board.

ANALYSIS OF THE REQUESTS

I. QUESTIONS SURROUNDING APPLICANT'S RIGHT TO SEEK RESORT CONVERSION (AGAIN)

Obviously, the Land Use Ordinance recognizes the challenges faced by resorts and does allow resort conversions under Article 34.13. But, there are important limitations on the consideration of any resort conversion – especially in this case. Given the time constraints, I have to be brief, but here goes……

A. Condition 15 of the Current CUP Bars Conversion

During the review of 2021 applications, there were significant holes in the permit history related to this property – and it took some digging by Jake (then at the County) to locate various records related to the history of this property and the granting of the present conditional use permit back in 1991 through litigation that ended in 1993. See Prior Comments, pages 053-062. Those records, however,

demonstrate that there were a substantial number of conditions that were placed on the Conditional Use Permit to expand the resort – because of significant issues raised by the neighbors, Pelican Lake Association and the township. In fact, the matter was appealed to the District Court that issued an order that directed the County to issue the Conditional Use Permit with those conditions (that order is also contained in the Permit history).

One of those conditions bars the present application for resort conversion. Condition 15 imposed in connection with the former resort expansion permit finally issued in 1993 that mandates that:

> **"If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."**

Note what that condition doesn't say – that the area would be required to comply to the zoning regulations of that date – but you can get around those zoning regulations by seeking further variances. The requests in the current application are all failures to comply to the zoning regulations of the date that the former resort ceased operating and must be denied.

Condition 15 makes sense from a historical perspective. Thirty-five years ago, the neighbors were afraid not only of what might result from the former resort expansion – but what would happen if it ceased to operate as a resort. See Link 69090 of the Online Permits – also included in the Agenda Packet. The compromise that was adopted by the Board was to place a condition that said if you are no longer a resort, then the property had to convert back to what the zoning regulations required – single family residence, minimum lot sizes, minimum lot areas and maximum densities. Reading these comments, you can understand why the neighbors were concerned about this expansion and that the Board dealt with these concerns by adding Condition 15. Almost prophetic as the application seeks to do exactly what people feared – expand the former resort even more after it ceased operations……

But if you dig a little deeper you find out that they prohibited EXACTLY what is being proposed today. On page 44 of Document 69090 on the property's permits (located at https://gis.crowwing.us/link/reports/DocViewer/showdoc.aspx?docid=69090&appname=PZ_PERMITS) you find the following On-site Inspection document dated April 19, 1991 drafted by Marian Pelto, a Board Member that voted on the resort expansion and conditions:

Timothy and Patricia Swenson On-Site Inspection April 18, 1991

This on-site inspection was made at the Pelican Beach Resort with Charles Hofius, Board of Adjustment member. We were met at the site by Mr. and Mrs. Swenson. Also present were Ralph Jackson, representing the Pelican Lakes Property Association, and Pat Stern and Bruce Yund of the Thirty Lakes Watershed District.

Tier One Development--There are presently three rental units located here. Raising cabin four to put in a second story and adding on to the north side of this building will create five total rental units and a lodge area. The addition will be on the north end and no closer to the lake than the existing cabin.

Tier Two Development--Four rental units exist here now. Raising building nine and thus adding another rental unit, increases the units to five.

Tier Three Development--This area currently has the owner's 3-4 bedroom home and a two-story garage. Converting the upper level of the garage into a four-season three-bedroom unit, excavating for a one-unit RV pad with hook-ups, and adding a new 26 x28 ft. garage are planned. The new garage will be set back from the bluff area.

All of these developments appear appropriate providing that:

1. All units be hooked to a central well and central septic system.
2. Earth tone colors be used.
3. Open spaces be kept open.
4. Appropriate screening be used along lakeshore and side lot lines.
5. Existing boathouse be removed.
6. No further variances be issued, as an increase in more lake users could bother and jeopardize the safety of local residents and guests.

The units of this resort should not be sold as private family units or condominiums. If this property ceases to be used as a resort, the area would revert to single family residential use.

Marian Pelto

Marian Pelto

This document further amplifies exactly what was meant by Condition 15 that was voted on by Marian and the other Board members:

"<u>The units of this resort should not be sold as private family units or condominiums</u>. <u>If property ceases to be used as a resort, the area would revert to a single family residential use</u>."

If the condition itself isn't clear enough (which I believe it is), Ms. Pelto's comment drives it home. **<u>You can't sell the units of the resort as private family units or condominiums</u>** – exactly what is being sought in applications. Equally clear is the understanding that the property resorts to single family

residential use when the resort operations cease.

This couldn't be clearer – and it that's not the only reference to the direction that the units of the resort should not be sold as private family units or condominiums and if the property ceased to be used as a resort then it would revert back to existing zoning regulations. Page 44 of Document 69090 from the property's permitting history also contains that same description of the condition:

Timothy & Patricia Swenson
Planned Unit Development, Variance
Page 3

Base density, including the increase of one, three bedroom unit, has not been attained.

Conditions that may apply.

1. All units be earth tone in color.
2. Additional screening along property lines and Highway.
3. All units, existing and proposed, be hooked to a central septic system and a central well.

It would appear appropriate to increase the density as indicated providing all conditions shall be met for each Tier.

Further, it would appear appropriate to grant a Conditional Use Permit and Planned Unit Development Permit with the following conditions.

1. Units not be sold as individual units (condominium or private family residences).
2. When the property ceases to be used as a rental/resort area, the area would revert to single family residential use and comply with all current regulations.
3. The applicant submit an erosion control plan and planting plan indicating type, amount and size of screening to be used. The screening should be substantial.

Further, the Board should set a time line for the painting of the cabins, removal of the boathouse, commiserate with the additions to Tier 1 development.

By: Dennis Slayton

Again, once the property ceases to be used as a resort, the property reverts to **single family residential use** and no selling the individual units.

Perhaps there is something that I missed in reviewing the prior permits, but Condition 15 with this additional commentary leading up to their adoption, certainly appears to bar any resort conversion.

The applications should be denied for this reason alone. Everyone agreed that when the resort ceased to operate – which effectively took place when the Swensons sold the property and the Applicant attempted to immediately flip and tried to sell as a non-resort property – it should revert to single family residential use and comply with all current regulations. After all, Applicant has tried to sell the property as a single family residence for the past 2 years (see facts set forth above).

B. Is Applicant a "Resort"?

During the 2021 application, the response from Lake Edward Township challenged whether the Applicant could seek a resort conversion as Applicant failed to provide proof of licensure by the State of Minnesota and there was an assertion that no resort license had been issued to Applicant by the Minnesota Department of Health. See Prior Comments at 008. The Township pointed out that the Land Use Ordinance required that the definition of a resort must be a commercial establishment and that commercial establishment must be fully licensed and permitted under the appropriate state and local regulation. *Id.* citing page 172 of the Land Ordinance. The Township went on to say that even if the Applicant produced evidence of such licensure (which I don't believe is in the application packet) that Applicant still should not be treated as a resort as the proposed use does not comprise a commercial establishment as it was simply a developer's effort to divide a parcel into as many lots for resale as possible for resale under the guise of a resort conversion. *Id.* That said, Applicant should be allowed the opportunity to supplement the record with evidence of Minnesota Department of Health licenses for the years of 2021 through 2026, resort insurance, rental records and any other evidence of full licensure and permitting – assuming the Board, for some reason, doesn't conclude that the resort conversion is barred by clear mandates Condition 15.

In addition, to qualify as a "resort" under the Land Ordinance, "All cabins, rooms, dwelling units or enclosures must also be available for rent for more than 50% of the days while in operation during the year." Article 46.2.272. There is no evidence of Applicant meeting this requirement in the application packet either. Typically, this information may not be necessary – but since the Applicant stated they really had no intention to operate the resort and immediately sought conversion in 2021 and it has been listed for sale during most of the last 2 years, there really should be such evidence that such availability took place during 2021 through 2026 to even qualify as a "resort" for purposes of a resort conversion. Again, Applicant should be allowed the opportunity to supplement the record with evidence for the years of 2021 through 2026 to show that it qualifies as a "resort" under the definition in the Land Ordinance.

II. MOORING PROBLEMS

Not surprisingly, the biggest lightning rod in the application for many residents relates to the proposed 11 mooring spaces – a shocking number considering the shallow nature of this part of the lake and approximately 165 feet of shoreline. While everyone seems to agree on the rule, there is wide divergence on what facts apply to that rule.

Everyone seems to agree with the last DNR comments that any resort conversion under Article 34.13 must comply with Article 33.11.B.5's limitation that the number of mooring spaces may not exceed the number of allowable dwelling unit lots in the first tier – in this case, that is only 1 mooring space. See Prior Comments, page 175 and Application Packet, page 91. The last DNR comments stated:

> Historical photos suggests that a single dock with no more than three moorings slips have been used. There is no written record suggesting more than three spaces have ever existed. Mooring standards are intended to reduce impacts on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards.

That didn't work very well last time, so Applicant switched gears in this application and now claims that the resort qualifies for "grandfathering" of mooring spaces (presumably under Minnesota Statute §394.36) alleging that there were always 11 mooring spaces at the resort (the original application claimed 12). The Existing Dock Exhibit at page 53 of the Application Packet purports to show these mooring spaces by including the outline of 3 boats in the lifts at the end of the dock, the outline of 2 boats tied to the dock and the outline of 6 boats that are purportedly tied to concrete pillars/boat ties. Note 2 discloses that "The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery."

The Application Packet states that (i) the DNR must determine the allowable permanent mooring spaces for the converted development; (ii) the Resort has 200+ feet dock where guests tie their boats; (iii) 6 permanent concrete mooring buoys placed in the lake by previous owners; (iv) Applicants stated these have been used for many years, overnight and weekly; and (v) the DNR requested evidence of the historical mooring use (photos, maps, documentation). Application Packet at p. 91.

Unless I missed it, the Application Packet does not contain any further evidence regarding the historical mooring use – other than the DNR's email stating that "We have reviewed the existing mooring exhibit provided for Pelican Beach Holdings. We have also looked at some other historical aerial photos of resort mooring in general." Application Packet at p. 83. Unlike last time, however, this information apparently convinced that the DNR that more than 1 mooring spot was allowed as the email states "We agree that there is a history of consistent continuous mooring of 11 watercraft at the resort." Application Packet at p. 83.

Since I've never seen anything close to 11 watercraft at the resort during my 5 summers at the lake and numerous prior comments related to mooring at the resort universally stated that there was never even close to that number of boats moored at the resort (see Prior Comments) – I had to do a little research and ask some more questions……

First, let's start with the "grandfathering rule" under Subdivision 1 of Minn. Stat. §394.36, which provides:

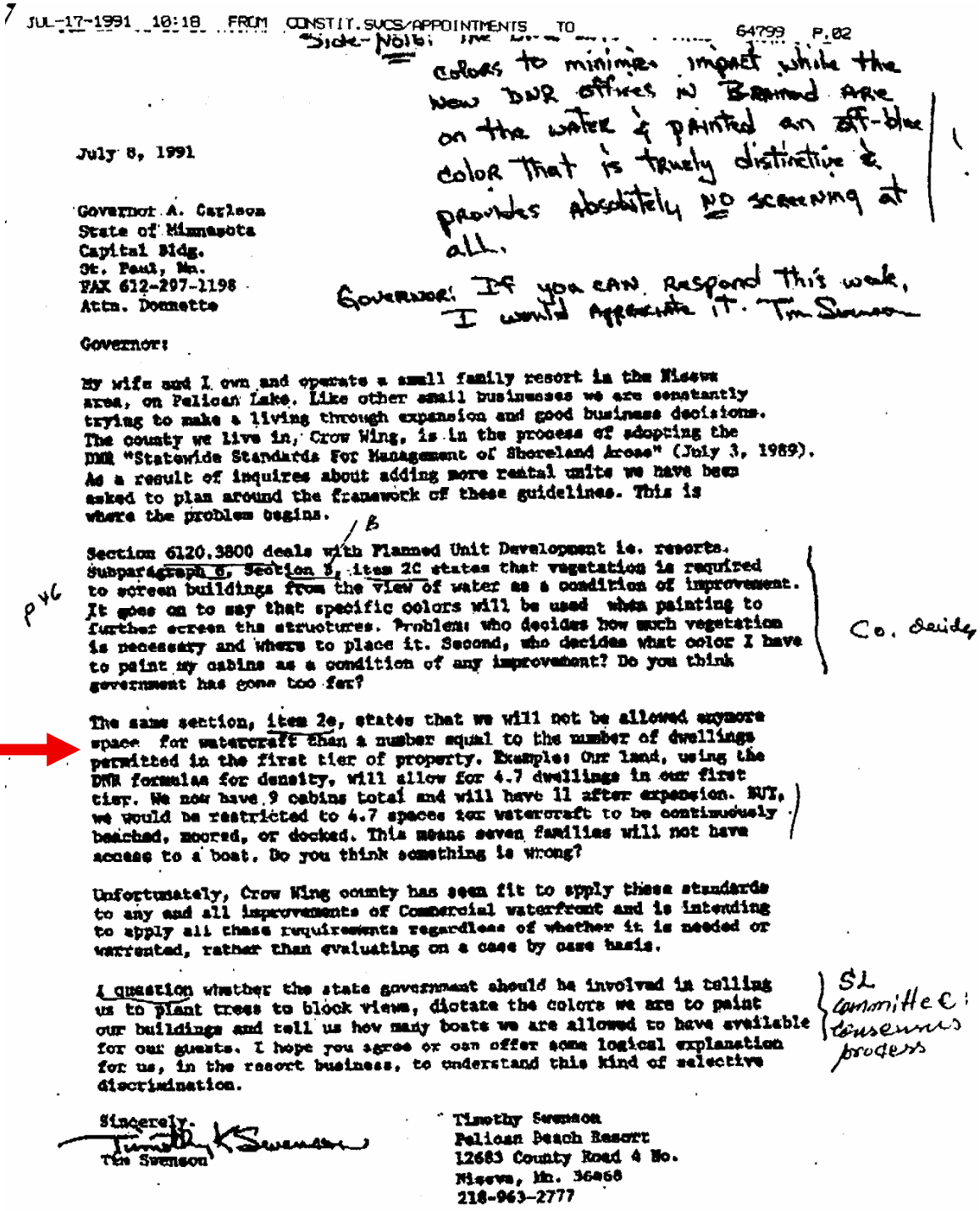
> Continuation of nonconformity; limitations. Except as provided in subdivision 2, 3, or 4, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, although the use or occupation does not conform to the official control. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its estimated market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy

Two things must be met, therefore, to qualify for "grandfathering" under Minn. Stat. §394.36 - (i) the nonconformity must have been lawful at the time of installation (making it a lawful nonconformity); and (ii) the lawful nonconformity must not have ceased to be used for a period of more than one year.

In our case, that means that the concrete pillars must have been (i) installed prior to the adoption of the Shoreland Rules in 1991 and (ii) used each year since installation.

Second, let's turn to the facts. The Application Packet doesn't provide an installation date for the 6 concrete pillars. Instead, it simply states that they were placed in the lake by the previous owners – but no date of when these concrete pillars were placed. In fact, there is no evidence at all showing that these concrete pillars placed in the lake prior to 1991 to qualify as legal nonconformities. Absent such evidence of legal nonformity, the purported mooring spaces cannot be "grandfathered" under Minn. Stat. §394.96.

Interestingly, Mr. Swenson wrote a letter to the Governor just prior to enactment of the Shoreland Rules stating that those Rules would limit him to only 4.7 mooring spaces for his guests. See Document 69089 at p. 14:



JUL-17-1991 10:18 FROM CONSTIT.SVCS/APPOINTMENTS TO 64799 P.02

Side-Note: colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards for Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph 6, Section 5, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

Co. decides

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seen fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warranted, rather than evaluating on a case by case basis.

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us how many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

SL committee: lousenuss process

Sincerely,
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

That certainly implies that Mr. Swenson realized he could only have 4.7 mooring spaces and did not have those concrete pillars in place at the time. Bottom line, there is no evidence that these concrete pillars were put in before 1991 and thus no basis for a decision that these are legally nonconforming mooring spaces subject to "grandfathering."

Just to be sure, I asked the DNR if they had been provided any evidence that the concrete pillars were installed prior to 1991 or they had any record of any permission granted by the DNR to place these in the lake. Jake confirmed that no he had no such information.

Finally, I asked for all evidence provided by Applicant or relied upon by the DNR to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort. Assuming those 6 concrete pillars were legally nonconforming, that means that evidence would have to show that since 1991 there had not been more than a year where any of them had not been used. I guess that might be possible if you had a picture from every year from 1991 through 2026 that showed a boat moored to each pillar. Or someone who had been there every year since 1991 who could make such a claim. But there certainly wasn't that information in the Application Packet and since Jake asked for that proof from the Applicant, it is incumbent on the Applicant to provide that evidence. Jake said he used Google Earth aerial maps – but I think that was only back to 2008 – but those were not provided as requested for review so we could all see those pictures. In addition, that review could not have shown actual use for each year since 1991 when the concrete pillars would have had to been installed to qualify as legal nonconformities (as he said it was back to 2008). And that evidence isn't part of the Application Packet. That evidence should really be placed in the record……

Here are the questions and indented responses that Jake immediately provided after my request and copied to Chris Pence and Nicholette Dunlap at the County:

1. I see the limitation for mooring under the Shoreland Regulations 6120.3800 Subp. 5.B.(3)(c) and Land Use Ordinance Article 33.11.B.(5) - 1 mooring spot per dwelling in Tier 1 - but where is the exception for grandfathering of mooring spots under the Shoreland Regulations and the Land Use Ordinance? I'm sure it's there, I'd just like to see it. Doesn't the ability to "grandfather" lapse if there use discontinues for a period of 12 months? See, e.g., Minn. Stat. Sec. 394.36.

> It would seem that Statute 394.36 fits here, but ultimately interpretation of this statute in context with the use of the existing resort and proposed use is up to Crow Wing County to determine. I encourage you to contact the County for questions related to this topic.

2. I know you mentioned that you looked at the 2023 Google Earth Map and said other maps were kind of grainy, but can you provide a list of all evidence that you reviewed to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort and, for transparency purposes, provide that evidence in a return email?

> I perused the exhibits provided by the applicant as well as Google Earth images as far back as 2008.

3. Can you explain how the evidence described in 2. above demonstrates a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the images and observed what appeared to be concrete anchors and/or boats moored in open water in addition to boat lifts and boats physically attached to a single dock facility.

4. Over what years did you conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the exhibits provided by the applicant as well as Google Earth images dating as far back as 2008.

5. What evidence was provided to demonstrate exactly when the concrete pillars were installed by the previous owner?

I have not received any evidence about their placement nor by whom or when.

6. Does the DNR have any records of the previous owner seeking permission to install concrete pillars for mooring boats in the lake? If so, please provide such records.

I have not received any evidence about their placement nor by whom or when. We do not have written records of the concrete pillars being placed in the lake.

7. Are there specific buoy requirements for attaching to mooring locations? Was there any evidence of the historical consistent continuous placing of buoys on the concrete pillars? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when. As to how concrete pillars/buoys are regulated – if placed seasonally and removed seasonally, that would seem to be under the pervue of the County's Water Surface Ordinance for regulation. If placed permanently and not removed seasonally, that would seem to be a structure regulated by DNR through a permit. In this case, if placed permanently, those small individual structures appear to have been in place for quite some time and we have no plans to require removal of the structures at this time. Should the resort conversion be approved, the DNR will require removal of the concrete pillars/buoys with placement of watercraft at mooring spaces proposed on the single docking facility prior to its operation as a residential use.

8. Was there any evidence of the permitting for placement of buoys for mooring? Isn't that a requirement under Rule 6110.1500 Subparts 1 and 4? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when.

Bottom line, we don't have the evidence to show (i) that the concrete moorings were installed prior to 1991 in order to qualify as legal conformities; and (ii) evidence of actual annual use from 1991 to 2025. I think it is only fair that Applicant (and neighbors) should have the opportunity to provide

additional evidence to support the "grandfathering" claim – namely, evidence demonstrating (i) when the concrete pillars were installed; (ii) required use in every year since installation along; (iii) compliance with buoy permitting and use required for use of concrete mooring usage - and make it part of the record so no challenges are made in the future over whether there was sufficient evidence to demonstrate the "grandfathering" exception to the DNR's prior conclusion that the resort was entitled to only 1 mooring space. The last thing we need is another appeal related to this property……..

III. IMPERVIOUS QUESTIONS AND ISSUES RELATED TO CONDITION 16

Finally, there are also questions regarding compliance with impervious limits. Presently, the resort exceeds the impervious limitations on the east side of County Road 4. Shouldn't that be addressed? And the application discusses 11 garage units tied to the existing dwellings. Are those to new garages on the west side of County Road 4? Won't that change the impervious numbers? Might that also be an issue that impacts density and triggers Condition 16?

In response to all of the negative comments related to the resort expansion in 1991, Condition 16 as revised (not eliminated as claimed on page 48 of the Application Packet) - states that:

> **Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.**

It sure seems like selling off individual dwellings as year-round (versus seasonal), adding 11 garages for these dwellings across a dangerous part of 50 mile per hour County Road 4 and putting in a centralized dock with 11 mooring spaces with lifts, etc. is certainly going to increase the density of people in the area. And without a resort owner to police and have a vested interest in enforcing whatever rules might be on paper as part of an association agreement, etc., it's not hard to imagine the permanent residents will be parking expandable trailers, ice houses, motorhomes right next to each dwelling to house additional guests, etc. This will add to the impervious problems, runoff, septic and create the same nightmares from increased density of people that led the Board 35 years ago to recommend to future Boards to not allow. Condition 16 is just another reason to deny the present application.

IV. QUESTIONS RELATED TO HEALTH, SAFETY, GENERAL WELFARE, ETC.

A review of the comments demonstrate valid concerns over the resort expansion in 1991 and attempted resort conversion in 2021. As set forth above, the Board placed substantial conditions on the Conditional Use Permit 35 years ago to address those valid concerns. The truth is that many of those

conditions were ignored (buoyed swimming areas, dock roping, painting, etc.). But that doesn't mean that we should ignore those conditions today or newly triggered Conditions 15 and 16.

In addition, the concerns of the neighbors over whether the resort conversion fits within the neighboring community cannot be ignored. There is no other property on the south side of Pelican Lake that is remotely similar to the resort configuration or deviations from the Land Use Ordinance. The prior comments show real concerns over environmental issues including traffic, lake runoff, effect on wildlife, boating hazards, traffic hazards, negative impacts on the lake, etc.

On March 19, 2026, the Board considered an interim use permit for a wedding venue in Merrifield (parcels 53040581, 53040582, 53040583) because of the concerns related to noise, lighting, incompatibility with residential character of neighborhood, impact on lake and wetland area, traffic, road safety and water quality issues. The Board determined that the use is incompatible with the surrounding residential neighborhood and environmental context. See Minutes from Board Meeting of 3/19/96 at https://granicus-azasp-hypatia.s3.amazonaws.com/BbRMkvMaqQ5VL2wCjPtYzNPH?response-content-disposition=inline%3B%20filename%3D%22Approved%20PCBOA%20March%20Meeting%20Minutes.pdf%22%3B%20filename%2A%3DUTF-8%27%27Approved%2520PCBOA%2520March%2520Meeting%2520Minutes.pdf&response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIATHOFOHMMNY5Z5H5B%2F20260520%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Date=20260520T154711Z&X-Amz-Expires=300&X-Amz-SignedHeaders=host&X-Amz-Signature=07fa3bc5ad3c6a20d48bd86d0a1fb7403f76907cd6e57a7cf5cb2ee06e005011.

The numerous prior comments from the applications in 2021 reflect many of these same concerns, if not more, related to the present application. So, too, do the comments from 35 years ago related to the resort expansion. The residents genuinely care about preserving the jewel of the lakeshore and the lake that our forefathers preserved for us and we want to preserve for our children and those that have the privilege of making their way to the lake. That doesn't mean that we wish to exclude access to the lake – but the protections embodied in the Land Use Ordinance and the potential for a parade of horribles by countless children crossing County Road 4 to get their beach toys stored in a garage across a 50 mile per hour road with limited visibility is a disaster waiting to happen. And the shallow nature of the lake at this property and the neighbors swimming while boats cut through will only get worse with the 11 mooring spots that never really existed before in this narrow beach area. There are valid reasons for the limitations on the number of dwellings in Tier 1 and Tier 2 as well as the limits on the number of mooring spaces for new developments. In short, chaos created by this proposed conversion an understatement and the potential for damages to the lakeshore, lake and potentially human lives is real…….. But I will let all the prior (and future) comments deal with many of those issues.

V. LAST WORD ON IMPORTANCE OF ENFORCING CONDITIONS

Let me end by asking you to consider a very insightful comment submitted by Jay Pansing in response to the 2021 applications regarding the failure of the Board to honor existing conditions (Condition 15 in particular):

> If the Board approves the Application, it would beg the question, will any conditions associated with zoning and other approvals ever be enforced? Please note that the Pansing family sued to overturn the approvals granted in 1991, and settled the case relying on the Conditions that were attached, most especially number 15. If this Board ignores this Condition, no objector will be able to rely on conditions applied to any action by the Board.

Prior Comments, page 159.

This comment echoes numerous comments raised by neighbors in 2021 related to the fear over setting bad precedent. If conditions are not enforced, then there is no reason to issue them nor any reason to follow them. Enforcement of rules is what separates us from chaos. If there are no rules, then we all fail…..

Condition 15 is such a rule. It was put in place for good reason and everyone agreed to it – including Mr. Swenson (see letter of Tim Swenson dated May 27, 1991):

May 27, 1991
Page 3.

Thirteen- if this property ceases to be used as a resort, the area would be required to comply to zoning regulation of that date.
Fourteen- all units be hooked to a central deep well and central septic system.
Fifteen- Revised site plan. enclosed in this document and these words.

This plan strikes a compromise of minimal impact on the surrounding neighborhood, accomplishes our business goals and is devised using the ideals of both the DNR PUD guidelines and the approved Crow Wing County accepted planning and zoning ordinances without the need for variances, excess density problems or environmental stress on the area.

Sincerely,

Timothy K Swenson

Tim and Pat Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

Document 69089, page 19).

Failing to enforce this agreement that was adopted as Condition 15 as well as the other existing conditions is not only unfair – but would set a terrible precedent that we cannot afford to occur. Perhaps said best by the character of Winston in *John Wick: Chapter 2:*

"Rules. Without them, we live with the animals."

CONCLUSION

I wish I had more time and apologize for the typos and poor sentence structure. Like in 2021, there are a lot of unanswered questions and valid issues that must be further investigated. Applicant should be given an opportunity to review these issues, a chance to provide the missing evidence and address the comments from the past and present. In addition, the public should have time to fully consider this controversial request and seek comment from the Pelican Lake Association and Lake Edward Township, etc. This is true in light of all of the prior comments regarding the impacts to the general health and welfare of Applicant's proposal on the community. Consequently, I request that the applications be tabled for at least a month to provide all parties an opportunity to more fully address the applications and give the Board an opportunity to read the comments that are coming in just minutes before the meeting – unless the Board decides to summarily deny the requests under existing Condition 15 or 16. Thank you for considering these comments.

RECEIVED
By Stacy Westhoff at 12:41 pm, May 21, 2026

Stacy Westhoff

From: PCBOA
To: LandservicesVM
Subject: RE: Opposition to the Pelican Beach Holdings Application - Public Comment

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From: Daniel Pansing <dpansing@meritcapital.com>
Sent: Thursday, May 21, 2026 12:12 PM
To: LandservicesVM <Landservices@crowwing.gov>; pcba@crowwing.gov
Subject: Opposition to the Pelican Beach Holdings Application - Public Comment

You don't often get email from dpansing@meritcapital.com. Learn why this is important

To the Crow Wing County Planning Commission:
I'm Dan Pansing and my wife and I are under contract to acquire the property at 26826 County Road 4 (two lots north of the subject Pelican Beach Resort property) on June 15, 2026. I am also part of the family that has peacefully enjoyed the property neighboring the resort to the north of the current resort for all of my 55 years so I am quite familiar with the resort property and its historical usage. (I am not an attorney as will no doubt become evident to you on your review of the following comment, but given the time constraints here, I felt the need to submit this as is so as to register my objection to what's happening.)

I only recently became aware of the proposed conversion since the formal plans and all that is involved were posted on the County site only a week ago. I was absolutely shocked by the proposal/plans. In particular, I'm troubled by the false assertions made to the DNR and the ultimate review conducted related to historical boat sites at the property. I'm equally troubled by the proposed increase in usage on the relatively small property and the apparent lack of any meaningful review in this regard. It will impact noise, boat traffic, health and safety for the neighbors. I strongly urge and request that the board defer its decision for 60 days, to provide time for other landowners on the lake to consult with counsel, review plans more thoroughly, demonstrate the actual historical usage, poll the neighbors, etc. I believe the statute permits a delay and that should be granted here so that the neighbors, all of whom will be highly impacted, can adequately respond (note that prior efforts regarding the same property and similar project drew significant negative response once there was adequate time for review).

1) As mentioned, I've been at the lake every summer for various periods over the last 55 years. I've never seen anything approaching eleven 30-foot boats at the resort property. Never. The assertion that historically something approaching 11 boats were moored on the property (ever, much less continuously) is patently false. Even a light investigation of the facts around this would make that clear. Certainly, there may have been a peak weekend or two where as many as 4 or 6 boats were moored there, but never anything approaching 11 boats and never anything consistently at a level over 4 or 6. Approving this project would result in a massive change to the lake's usage relative to its current/historical usage.

   For support of this number from the applicant, I saw an overhead picture that purports to show something approaching eleven 30-foot boats, but the count includes a "Maui Mat," and a swim platform as well as two or three Wave Runners. Even with that, the count doesn't reach 11 and it

appears the applicant only supplied one picture at on only one date as evidence (if there's more I don't see it in the agenda). And this clearly shows what would have to be considered peak usage. See the first two pictures below which look southwest toward the resort docks across a significant portion of the reviewed mooring area from our beach. While not perfect given timing constraints, careful review of the first picture shows a Maui Mat and a swim platform which appear in the application to be counted as 30-foot boats. Further, the second picture at a wider angle clearly shows not more than 4 or 5 boats along with the mat, swim platform and Wave Runner. Again, the DNR has been misled.

The third picture below is of a dog taken looking toward the resort docks from our neighboring family beach that shows the much more typical state of the resort boat area for the last many years. This shows nothing beyond the three slips on the end of the dock (only one occupied) and a swim platform (note that there is clearly no evidence of moorings or buoys in the water where they are purported to be). Naturally, the applicants cherry picked their photo/s. If this were really the usage level, they should be able to turn up additional photos on many additional dates evidencing it (and could in theory do that during the extension as well). I found the pictures below quickly searching through my phone for five minutes this morning. I'm certain even a light investigation and discussion with others along the shoreline will turn up clear refutation of the false assertions around this high level of historical moorings. The DNR has been misled and more work should be done to true up the facts here so the application can be corrected and right-sized. I ask for a statutorily permitted delay to allow this work to be done. This is in the County's interest as well as the interest of the DNR.







Note: Admittedly, these pictures could be improved and marked with more time and I would be happy to send electronic versions of my photos, if a method exists as this may be helpful for closer review, etc. (again, timing is too short to have allowed for this.)

2) I'm further highly troubled by the density of the proposed project. The number of units for a property of this size is outsized on its face, but clearly will be well in excess of what's historically gone on at the resort property for many years (it hasn't even been operational for several years). This is likely to have a serious negative impact on the nearby families' enjoyment of the lake as well as their property values, water quality, noise levels, boat traffic, etc. During the requested deferral, I intend to get educated on the history here, rules in this regard and address this more directly with the board as to health and safety issues and the law. <u>There just hasn't been sufficient time to ascertain what's being requested and respond.</u>

This decision is too important for this board to rush into based on a one-sided effort without adequate time for a comprehensive review and input from the community. After nearly 70 years of truly continuous family usage, we've had fewer than 7 days to respond to something that may have a massive negative impact on our lake. Prior applications were met with significant resistance. The statute allows more time for just this reason and the delay should be granted. Given what's at stake for the future of Pelican Lake as well as the long history of this kind of activity by these owners and the significant public record of historical opposition, a 60 day delay only makes sense. Thank you.

Respectfully submitted,
Daniel E. Pansing
4040 Ellington Ave.
Western Springs, IL 60558
C:773/294-8519

Daniel E. Pansing | **Merit Capital Partners**
191 North Wacker Drive, Suite 1100 | Chicago, IL 60606
O: 312.592.6160 | **C: 773.294.8519**
dpansing@meritcapital.com | www.meritcapital.com

RECEIVED
By Stacy Westhoff at 12:42 pm, May 21, 2026

Stacy Westhoff

From: Trecia Wiewel <treciawiewel@gmail.com>
Sent: Thursday, May 21, 2026 11:33 AM
To: PCBOA
Subject: Pelican Beach Holdings LLC

You don't often get email from treciawiewel@gmail.com. Learn why this is important

5-21-2026

Greetings Crow Commission Board of Adjustment,
I received the letter concerning the land use amendment for Crow Wing Parcel # 73040571 and have concerns for the changes to the land use and the timing information packet was sent out. It was not available 5-14-2026 as stated in the letter. It is a long information packet and due to the short time that the information about the changes to the land use have been available I am requesting more time to study the information.
Regards,
Trecia Wiewel & Steven Wiewel
26668 CR 4
Nisswa, MN 56468

RECEIVED
By Stacy Westhoff at 1:10 pm, May 21, 2026

Stacy Westhoff

From: LandservicesVM
Sent: Thursday, May 21, 2026 1:07 PM
To: PCBOA
Subject: FW: Letter Re: Pelican Holdings LLC Zoning Application
Attachments: Letter Re Pelican Holdings LLC Zoning Application.pdf

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From: Cody Schmidt <cschmidt@gqlaw.net>
Sent: Thursday, May 21, 2026 12:50 PM
To: LandservicesVM <Landservices@crowwing.gov>; Jim Gammello <jgammello@gqlaw.net>; Tom Pearson <tpearson@gqlaw.net>
Cc: Julie Fox <jfox@gqlaw.net>
Subject: Letter Re: Pelican Holdings LLC Zoning Application

You don't often get email from cschmidt@gqlaw.net. Learn why this is important

To whom it may concern,
Please see the attached letter for todays PCBOA meeting. We are requesting that it be sent to the members for discussion at the meeting this afternoon.

Sincerely,

CODY D. SCHMIDT
ATTORNEY AT LAW

Gammello-Pearson
Attorneys at Law

14275 Golf Course Drive, Suite 200
Baxter, MN 56425
218-828-9511
Fax: 218-824-8545

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
Fax: 320-632-3567

http://www.gqlaw.net

IRS Circular 230 Notice:
To ensure compliance with requirements imposed by the IRS, we inform you that, except to the extent expressly provided to the contrary, any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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The information in this communication, including any attachments, is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender immediately and delete the material from all sources. This communication was not intended to waive the attorney/client or any other privilege.

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Gammello-Pearson
Attorneys at Law

James M. Gammello • Thomas C. Pearson • Andrew B. Kalis • Conrad C. Kragness • Cody D. Schmidt

May 21, 2026

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Courthouse
326 Laurel Street
Brainerd, MN 56401

Re: Support of the Pelican Holdings LLC Zoning Application, Subject to Certain Conditions
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File No. 20521.003

Dear Board Members:

GENERAL BACKGROUND:

I represent the Pansing/Plummer/Brooks Family Cabin owners ("Pansing") who are the neighbors immediately to the north of Pelican Holdings LLC. The Pansing Family Cabin is a multi-generational property as the Pansings have owned property on Pelican Lake for many decades. Being the most impacted lots (along with Brent and Mary Urdahl to the South), it is important for my clients' opinions and voices to be heard in this discussion.

While there may be legal challenges available to them, my clients are generally agreeable with the proposed "conversion" as long as there are some simple additions/clarifications made to the CUP. As stewards of Pelican Lake, the Pansing Family very much would like certainty about what the use and appearance of their area of Pelican Lake will be, now and into the future. The suggested changes/clarifications/incorporations requested by the Pansing Family are as follows:

DOCKAGE:

While there may be legal arguments against the proposed dock on the May 13, 2026 survey, the Pansings have concluded that the dock plan, with 11 mooring locations on a single dock structure may be the best outcome for the situation, with some reasonable conditions placed in the CUP.

The county has already identified the dock as a potential issue but as noted in #6 of the Potential Conditions, the county should include a condition in the CUP that the Association maintains the dock as depicted in the May 13, 2026 COS, with a maximum of 11 mooring slips, and no additional mooring apparatuses of any kind including no free floating moorings. If this happens, the Pansings would support the dock plan.

CONDITIONAL USE PERMIT:

While the current owners, the original Declarants, agree to no short-term rentals, simply having the restriction in the Declaration does not set it in stone. Declarations can be changed with the required votes. My clients would just like to tie the no short-term rentals/VRBO to the CUP for the PUD as a specific condition. Adding no short-term rentals/VRBO to the CUP would ensure that this property is used in a fashion with the single-family characteristics of the area.

Allowing these individual units to operate as STRs would turn a resort with 1 owner and 11 units into the potential to have 11 resorts functioning with 11 different owners, simply by getting an STR permit from the county.

My clients also request a CUP condition that prohibits RVs, campers, tents and any other sleeping facilities on the property.

My clients also request a CUP condition that prohibits parking of RVs, trailers, etc. on the property.

My clients also request a CUP condition that there shall be no beaching of watercraft at the property.

DECLARATION:

This Declaration seems to only be in draft form; for example, Block 2 Lot 1 is not addressed in the Declaration, and no updated survey has been done to eliminate this additional lot, despite the applicants seemingly being willing to eliminate that as an extra lot or to incorporate it as a common lot. Prior to the final hearing in front of the County Board, my clients would like to see any updated draft Declaration in what they believe is final form, and we would like the opportunity to vet the second draft and possibly recommend revisions to it if we see the need. There are other aspects of the Declaration that need revision, as well, including a prohibition on VRBOs and more specifically with respect to the limit on mooring sites and some other matters. While we understand that the Declaration is only in draft form, we intend to communicate with the applicant's lawyer who drafted the Declaration in order to seek revisions to the Declaration.

CONCLUSION:

The Pansings are trying to be good neighbors and stewards of Pelican Lake. They are not trying to be difficult or make unreasonable demands, they simply want to have some certainty about what their neighboring property on Pelican Lake will look like and how it will operate with this conversion.

The Pansings concerns can be greatly reduced by incorporating these simple requests:

1. Tie the dock size of 11 slips and the layout as a condition of the CUP.

2. Condition approval on no short-term rentals/VRBOs and have updated declarations provided at least one week prior to the final meeting on the application.

Sincerely,

Cody D. Schmidt

CDS/cjb

cc: Clients

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

675

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: June 1, 2025 THRU December 31, 2025

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

260

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: January 1, 2024 THRU December 31, 2024

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

275

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 15, 2023 THRU December 31, 2023

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

246

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 1, 2022 THRU December 31, 2022

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

679

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 29, 2021 THRU December 31, 2021

ISSUED TO:

Pelican Beach Resort
5829 County Rd 13
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Road 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Pelican Beach Holdings LLC – Pelican Beach Reserve –Preliminary Plat

PREVIOUS ACTION:

May 21, 2026– The Planning Commission/Board of Adjustment made a motion to recommend approval of the preliminary plat of “Pelican Beach Reserve” to the County Board of Commissioners.

COMMENTS:

No Township Comment

One comment from the DNR

Five comments from the public

Attached are the resort operating licenses for years 2021 through 2025.

Legal Description: Part of S½ in SE¼ of NE¼

Section 4 Township 135 Range 28

Lake Edward Township

PID: 73040571

RECOMMENDED BOARD ACTION:

Approve the preliminary plat of “Pelican Beach Reserve” with 13 lots (11 residential lots and 2 common lots)

Approximate length of presentation: 5 minutes

Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Stonemark Land Surveying

Parcel Number: 73040571

Physical Address: 26746 County Road 4, Nisswa, MN 56468

Township: Lake Edward

Legal Description: Part of S½ in SE¼ of NE¼
Section 4 Township 135 Range 28

Pelican Lake – General Development – Lake setback of 75 feet

Development Review Team Meeting: 3/09/2026
Application Submitted: 4/03/2026
60 Day Action Deadline: 6/02/2026
60 Day Waiver: 8/01/2026
County Board Meeting: 6/09/2026
Wetland: Delineation 4/29/2026
Septic: Compliance inspection 8/23/2024

Land Use District: Waterfront Commercial

Adjacent Land Use:
North: Shoreland
South: Shoreland
East: Pelican Lake
West: Rural Residential 2.5

Request:

Land Use Map Amendment:

- From Waterfront Commercial to Shoreland District

Conditional Use Permit:

- Resort Conversion

Preliminary Plat:

- “Pelican Beach Reserve” with 13 lots (11 residential lots and 2 common lots)

Potential Conditions:

Conditional Use Permit:

1. This conditional use permit is for the conversion of Pelican Beach Resort to a residential use and plat consisting of 13 total lots (11 residential/dwelling lots and 2 common lots.)

2. Applicant gives the Land Services Department permission to enter said property to perform inspections of the property to verify compliance with this conditional use permit.
3. A land use permit must be obtained from the Land Services Department prior to the construction of future structures.
4. This conditional use permit is null and void if the County Board of Commissioners denies the Land Use Map Amendment Request from Waterfront Commercial to Shoreland District.
5. A plat must be approved by the County Board of Commissioners if the individual lots are to be sold individually.
6. The development is approved for 11 permanent mooring spaces and is to be consolidated to a common dock as shown on the certificate of survey dated 5/13/2026. The development is also allowed one day use dock.
7. Uncontrolled beaching of watercraft should be prohibited as part of open space preservation as a condition of the plat, in harmony with Article 33.7 B of the Land Use Ordinance.
8. All concrete structures in the lake to moor boats must be removed and coordinated with the MN DNR.
9. Existing dwelling units shall be allowed to be continued but must not be allowed to be increased in size, area, volume or height either at the time of conversion or anytime in the future. Existing dwelling units shall be allowed to be reconstructed in the exact footprint of the dwelling unit with no expansion as previously mentioned allowed. The survey dated 5/13/2026 will be used to document this information for future reference.
10. A stormwater plan according to Article 41.3 A of the Land Use Ordinance must be submitted to Land Services and approved by staff prior to application for final plat.
11. The stormwater management plan, according to Article 41.3 A of the Land Use Ordinance must be effectively implemented within 12 months of the approval of this permit.
12. A shoreland buffer restoration plan shall be submitted to Land Services and approved by staff. The requirement is a minimum of a10-foot no maintenance buffer behind the existing beach covering 70% of the lot width.
13. Existing swing set shall be moved out of shore impact zone 1. No permit is required to move the swing set.
14. An owner's association shall be legally established through covenants and declarations and shall be recorded at the time the plat is recorded. The recorded document shall state that each of the 11 dwelling lots has a 1/11 ownership in the common lot. The recorded document shall also state how the association will manage common infrastructure such as septic systems, road maintenance, dock maintenance and other commonly owned infrastructure. The County is not responsible for enforcing the recorded covenants and declarations.

PLAT:

1. Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board
2. All applicable required improvements (Article 9.8) shall be effectively implemented
3. Documentation of plat monuments completed
4. Title Commitment (Before Final Plat)

5/07/2026 On-Site Comments: Griffin, Pence, Dunlap, Westhoff, Best, Maske

- Notification published in the Brainerd Dispatch on 4/25/2026

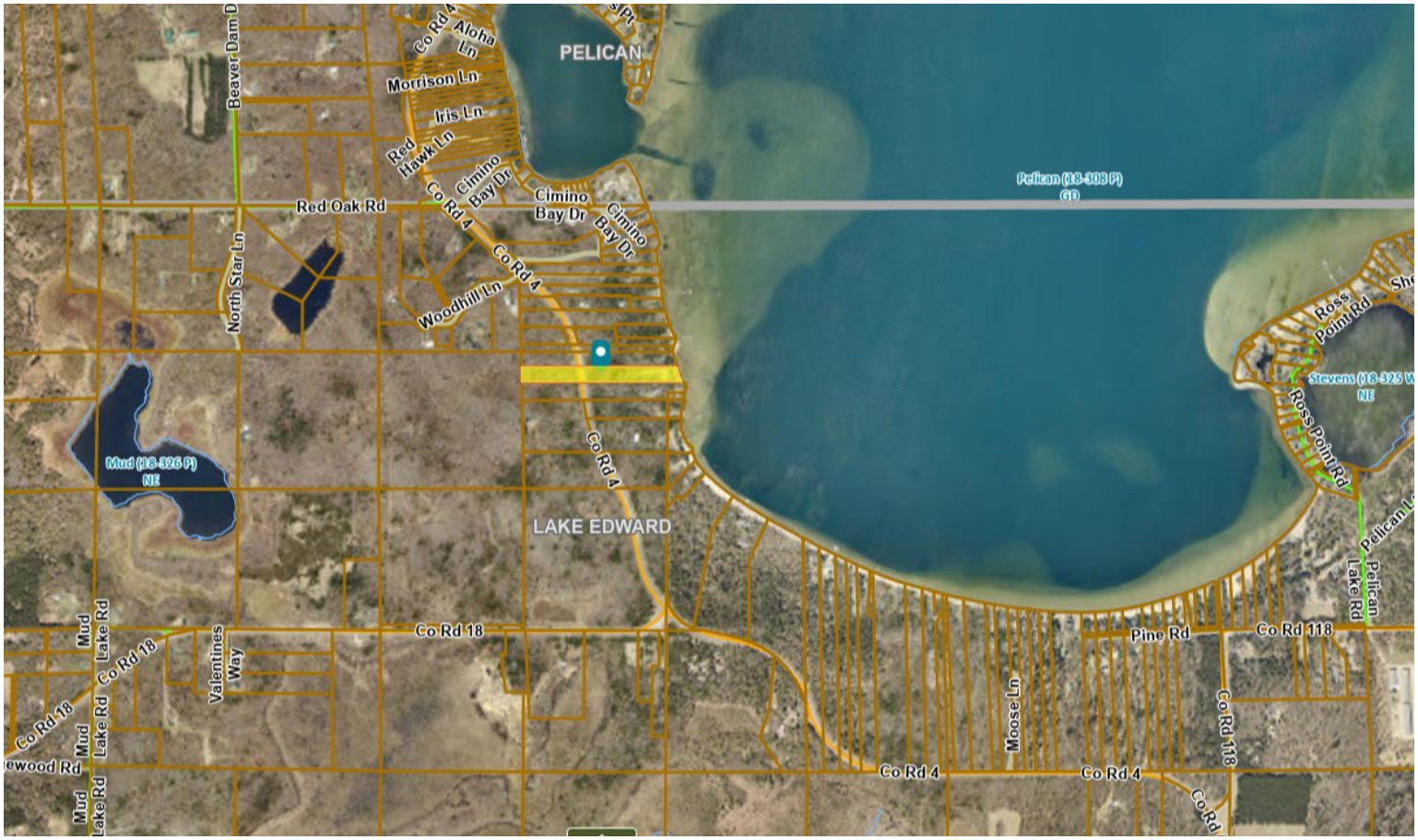
Permit History:

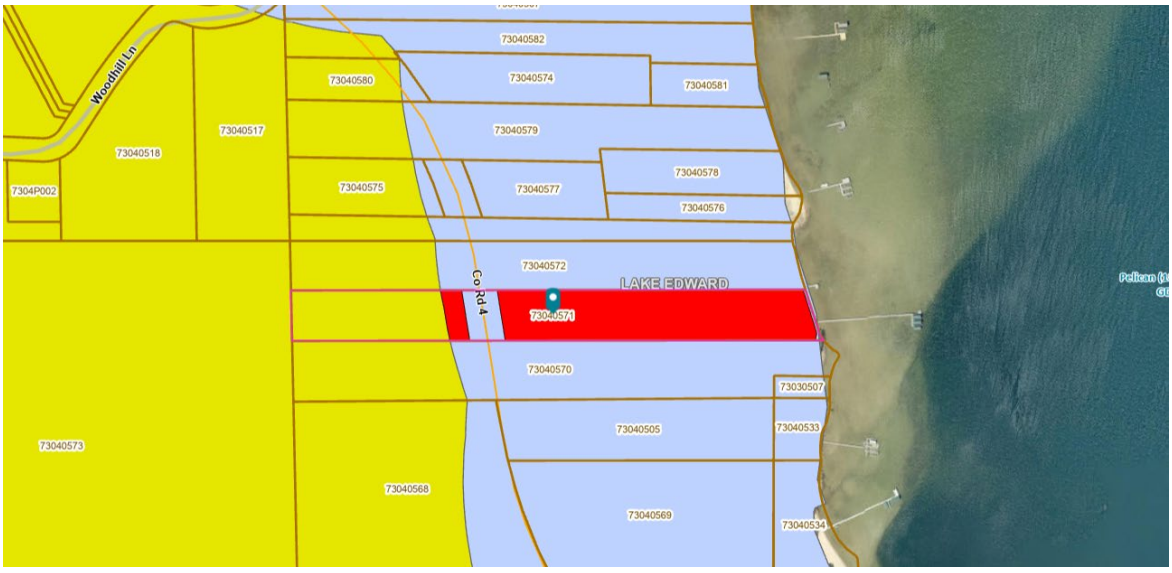
- 10/17/1973 – Public Hearing – 20' setback from the lake where 75' is required for a screened in picnic area. - Postponed
- 11/14/1973 – Land use permit for 12x20 porch addition to mobile home & septic
- 7/08/1974 – Sewer certificate
- 8/30/1974 – Land use permit for 28x34 garage
- 5/09/1978 – Land use permit for 2nd story addition to garage
- 9/08/1980 – Land use permit for 10x12 addition to dwelling
- 2/02/1983 – Public Hearing for conditional use permit – Planned Unit Development and conditional structure.
- 2/04/1983 – Land use permit for 26x30 dwelling and reposition mobile home
- 6/01/1983 – Sewer certificate
- 3/25/1986 - Land use permit for septic
- 8/20/1986 – Land use permit for 20x30 cabin
- 6/22/1988 – Public Hearing for variance, conditional structure/use and planned unit development –approved
- 7/05/1988 – Land use permit for Sewer System, two side-by-side duplexes, 8x30 porch addition
- 05/01/1991 – Public Hearing – Conditional Use permit to add onto existing resort.
- 06/19/1991 – Public Hearing – Amendment to Conditional Use permit approved 05/01/1991 removing conditions 1, 13, 14 and 16.
- 10/25/2001 – Public Hearing to amend zoning from rural residential to waterfront commercial – approved
- 9/21/2005 – Land use permit for 36x48 pole building
- 8/29/2008 – Land use permit for dwelling, detached garage and septic system
- 11/12/2008 – Sewer certificate
- 10/07/2020 – Compliance inspection
- 11/20/2020 – Wetland delineation
- 8/23/2024 – Compliance inspection

Agencies Notified and Responses Received:
CWC Highway Department: No comment received as of 5/14/2026
MN DNR: Comment received 3/23/2026
SWCD: No comment received as of 5/14/2026
Lake Edward Township: No comment received as of 5/14/2026
Pelican Lake Association: No comment received as of 5/14/2026

Public Hearing notifications:
Mailing notification sent on 5/08/2026 to owners in a ½ mile radius of parcel.
Published in the Brainerd Dispatch on 5/09/2026

Per findings of fact discussed 5/21/2026, the application submitted 4/03/2026, the staff report, on-site conducted 5/07/2026, public testimony, and as shown on the Certificate of Survey dated 5/13/2026; Located in Lake Edward Township, Crow Wing County, Minnesota



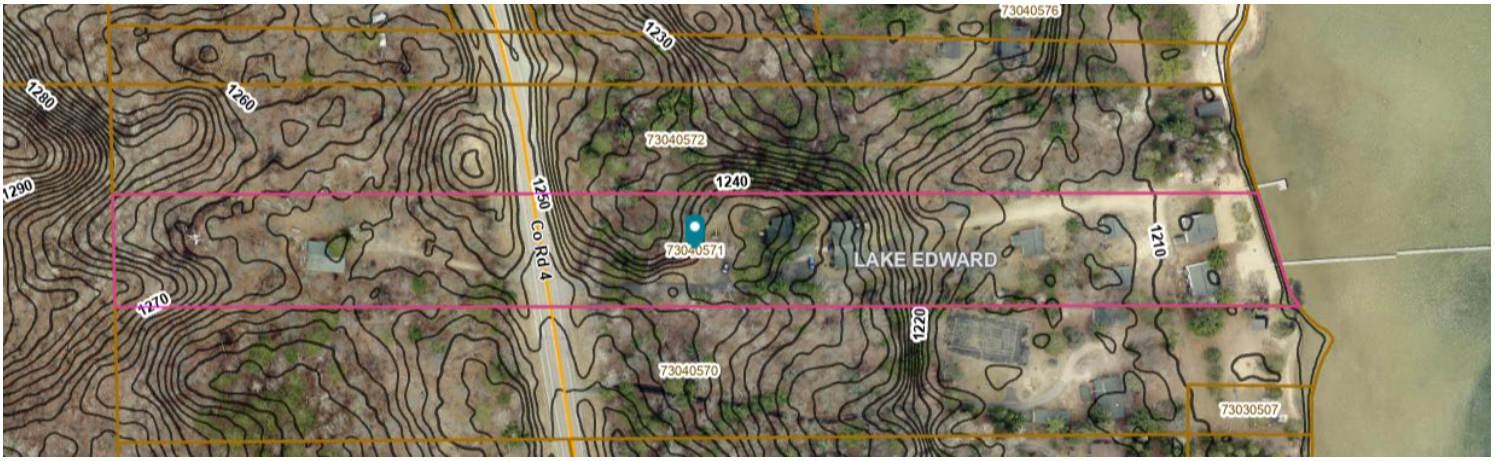


Land Use Map

Land_Use_Classification

- Agricultural/Forestry District
- Commercial District
- Commerical Industrial District
- Rural Residential - 1
- Rural Residential - 2.5
- Rural Residential - 5
- Rural Residential - 10
- Shoreland District
- County Administered
- Waterfront Commerical
- Other


73040576
73040572
Co Rd 4
73040571
LAKE EDWARD
73040570
73030507
Pelican (19-308 P)
GD


73040576
1230
1280
1260
73040572
1290
1240
1250
Co Rd 4
73040571
LAKE EDWARD
1210
1270
1220
73040570
73030507

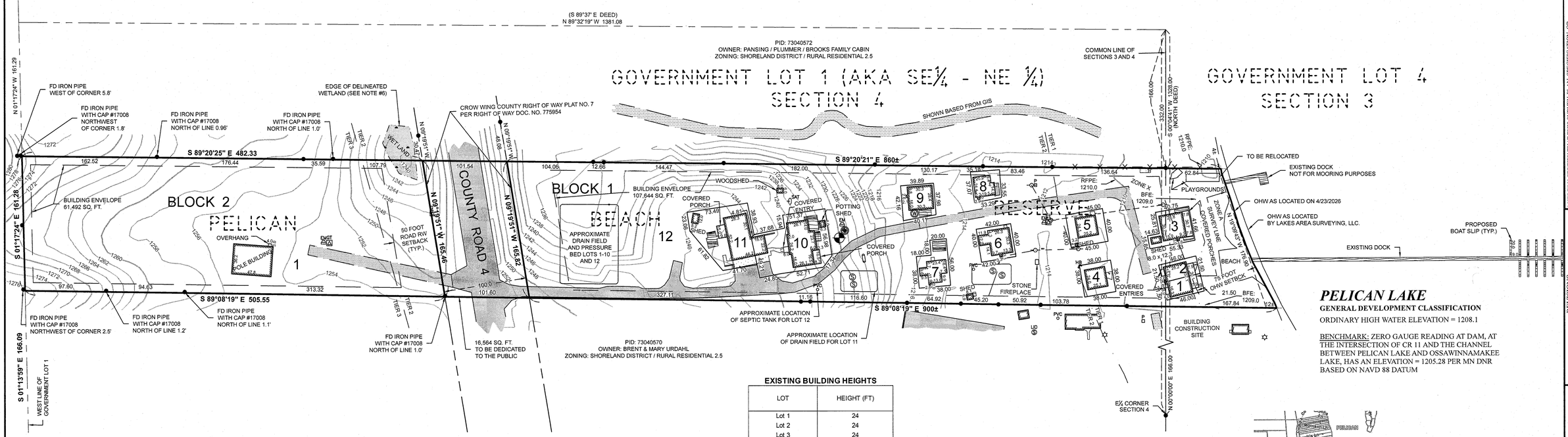

73040576
73040572
Co Rd 4
73040571
LAKE EDWARD
73040570
73030507

PELICAN BEACH RESERVE

A PRELIMINARY PLAT
PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, SECTION 4,
AND PART OF GOVERNMENT LOT 4, SECTION 3,
ALL IN TOWNSHIP 135 NORTH, RANGE 28 WEST,
LAKE EDWARD TOWNSHIP, CROW WING COUNTY, MINNESOTA
TOTAL AREA = 240,934 SQ. FT. ± / 5.5 ACRES ±

OWNER / DEVELOPER
Pelican Beach Holdings, LLC.
24090 Smiley Road
Nisswa, MN 56468
ATTN: Brent Anderson

SURVEYOR
Stonemark Land Surveying, Inc.
P.O. Box 874
Pequot Lakes, MN 56472
ATTN: Cynthia M. Hidde



LEGEND

- DENOTES EXISTING FENCE LINE
- DENOTES EXISTING RETAINING WALL
- DENOTES EDGE OF EXISTING BITUMINOUS
- DENOTES EDGE OF EXISTING GRAVEL
- DENOTES EDGE OF EXISTING CONCRETE
- DENOTES EDGE OF EXISTING WOODEN DECKING
- DENOTES EXISTING CONTOURS
- DENOTES EXISTING INTERMEDIATE CONTOURS
- DENOTES EXISTING INDEX CONTOURS
- DENOTES WET LAND(S)
- DENOTES EXISTING UTILITY POLE
- DENOTES EXISTING OVERHEAD ELECTRIC CABLE
- DENOTES EXISTING ELECTRIC METER
- DENOTES EXISTING GROUND TRANSFORMER
- DENOTES EXISTING LP TANK
- DENOTES EXISTING PHONE PEDESTAL & PHONE BOX
- DENOTES EXISTING SATELLITE
- DENOTES EXISTING WELL
- DENOTES EXISTING HOSE BIB
- DENOTES EXISTING SEPTIC VENT, SEPTIC CLEANOUT, & SEPTIC TANK LID
- DENOTES EXISTING MOUNTED LIGHT
- DENOTES REGULATORY FLOOD PLAIN ELEVATION
- DENOTES BASE FLOOD ELEVATION
- **BENCHMARK:** HIGH POINT OF WELL
- ELEV. = 1230.10
- BASED ON NAVD 88 DATUM
- DENOTES MONUMENT FOUND

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE SYSTEM

LEGAL DESCRIPTION PER DOC. NO. 944746

SOUTH HALF (S½) OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE¼-NE¼), SECTION FOUR (4), TOWNSHIP ONE HUNDRED THIRTY-FIVE (135), RANGE TWENTY-EIGHT (28): BEGINNING AT A POINT ON THE LINE BETWEEN SECTIONS THREE (3) AND FOUR (4) EXTENDED ON THE BEACH OF PELICAN LAKE 1,328 FEET NORTH OF THE QUARTER SECTION CORNER; THENCE SOUTH ON THIS LINE 332 FEET; THENCE NORTH 89 DEGREES 13 MINUTES WEST TO THE WEST LINE OF LOT ONE (1); THENCE NORTHERLY ALONG THIS WEST LINE OF LOT ONE (1) TO A POINT FROM WHICH A LINE RUNNING SOUTH 89 DEGREES 37 MINUTES EAST WILL STRIKE THE PLACE OF BEGINNING; THENCE SOUTH 89 DEGREES 37 MINUTES EAST ALONG THIS LINE TO THE PLACE OF BEGINNING,
AND THAT PART OF GOVERNMENT LOT FOUR (4), SECTION THREE (3), TOWNSHIP ONE HUNDRED THIRTY-FIVE NORTH (135N), RANGE TWENTY-EIGHT WEST (28W), CROW WING COUNTY, MINNESOTA, LYING BETWEEN THE EXTENSION EASTERLY TO THE SHORE OF PELICAN LAKE OF THE NORTH AND SOUTH LINES OF TRACT DEEDED TO AVENSON AS EVIDENCED BY WARRANTY DEED DATED AND FILED SEPTEMBER 20, 1983, IN BOOK 339 OF DEEDS, PAGE 352 AT THE COUNTY RECORDER'S OFFICE IN AND FOR SAID CROW WING COUNTY, MINNESOTA.

PLAT NOTES:

1. Boundary and improvements as shown were provided by Lakes Area Surveying, LLC. Field verified by Stonemark Land Surveying Inc. on 4/23/2026.
2. Contour interval as shown = 2 foot. Based on NAVD 88 datum. Contours shown have been obtained using Crow Wing County GIS information.
3. Zoning for subject tract = Waterfront Commercial. Requested rezone to Shoreland District.
4. Parcel ID of subject parcel: 73040571
5. Setbacks as shown can be subject to interpretation. Verification of setbacks by the governing body is advised prior to building.
6. The plat will consist of 11 lots for Residential purposes, and 2 common lots. Lots will be served by existing common wells and septic systems as shown on this plat.
7. Wetland delineation was completed on 11/19/2020, by Mitch Brinks, Brinks Wetland Service. MN Certified Wetland Delineator #1007. Verified on 4/29/2026.
8. Stonemark Land Surveying, Inc. has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
9. The USDA Web Soils Survey indicates soil in the proposed platted area to be classified as "Eutrudepts-Graycalm-Rollins complex, pitted, 10 to 20% slopes (D83D), and Wurtsmith-Meehan-Beach complex, 1 to 8% slopes."

EXISTING BUILDING HEIGHTS

LOT	HEIGHT (FT)
Lot 1	24
Lot 2	24
Lot 3	24
Lot 4	14
Lot 5	14
Lot 6	14
Lot 7	14
Lot 8	14
Lot 9	14
Lot 10	26
Lot 11	14

IMPERVIOUS CALCULATIONS OVERALL

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Buildings	12,602	240,934	5.2%
Bituminous	7,390	240,934	3.1%
Gravel	5,756	240,934	2.4%
Concrete	794	240,934	0.3%
Total	**26,542**	**240,934**	**11.0%**

Net area = total area less road right-of-way

IMPERVIOUS CALCULATIONS WEST OF CR 4

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Building(s)	1,744	80,036	2.2%
Gravel	2,148	80,036	2.7%
Total	**3,892**	**80,036**	**4.9%**

Net area = total area less road right-of-way

IMPERVIOUS CALCULATIONS EAST OF CR 4

EXISTING	IMPERVIOUS AREA (sq.ft.)	Net Area (sq.ft)	Percent Impervious (sq.ft)
Buildings	10,858	144,334	7.5%
Bituminous	7,390	144,334	5.1%
Gravel	3,608	144,334	2.5%
Concrete	794	144,334	0.6%
Total	**22,650**	**144,334**	**15.7%**

Net area = total area less road right-of-way

PROPOSED LOT AREA CALCULATIONS

LOT	BLOCK	AREA SQ. FT.
Lot 1	Block 1	989
Lot 2	Block 1	989
Lot 3	Block 1	1,929
Lot 4	Block 1	1,444
Lot 5	Block 1	1,800
Lot 6	Block 1	1,680
Lot 7	Block 1	1,804
Lot 8	Block 1	1,206
Lot 9	Block 1	1,599
Lot 10	Block 1	5,572
Lot 11	Block 1	4,721
Lot 12 Common Area	Block 1	120,601
Lot 1	Block 2	80,036
CR 4	---	16,564
	Total	**240,934**

DENSITY CALCULATIONS

TIER	SUITABLE AREA*	DENSITY FACTOR	DENSITY ALLOWED	DENSITY REQUESTED
1	35,295	27,000	1	5
2	109,039	22,500	4.8	6

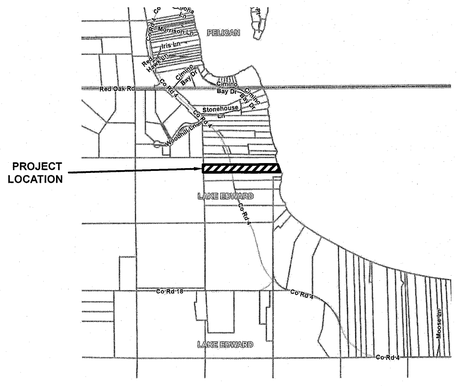
*Suitable area is area east of County Road 4

PELICAN LAKE

GENERAL DEVELOPMENT CLASSIFICATION

ORDINARY HIGH WATER ELEVATION = 1208.1

BENCHMARK: ZERO GAUGE READING AT DAM, AT THE INTERSECTION OF CR 11 AND THE CHANNEL BETWEEN PELICAN LAKE AND OSSAWINNAMAKEE LAKE, HAS AN ELEVATION = 1205.28 PER MN DNR BASED ON NAVD 88 DATUM



VICINITY MAP

NOT TO SCALE

N

60 0 60 120

SCALE IN FEET
ON 22" X 34" SHEET

STONEMARK LAND SURVEYING, INC.
30206 Rasmussen Road
Suite 1
P. O. Box 874
Pequot Lakes, MN 56472
218-568-4940
www.stonemarksurvey.com

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER OR LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

CYNTHIA M. HIDDE PLS#44881 LIC NO. 44881

DATE 5/13/2026

REVISIONS		
DATE	DESCRIPTION	BY
4/29/2026	REVISED PER COUNTY COMMENTS	ICL
5/4/2026	UPDATED OHW	ICL
5/13/2026	ADDED EXISTING BUILDING HEIGHTS	ICL

Preliminary Plat
PELICAN BEACH RESERVE
Pelican Beach Holdings, LLC.
ATTN: Brent Anderson
24090 Smiley Road
Nisswa, MN 56468

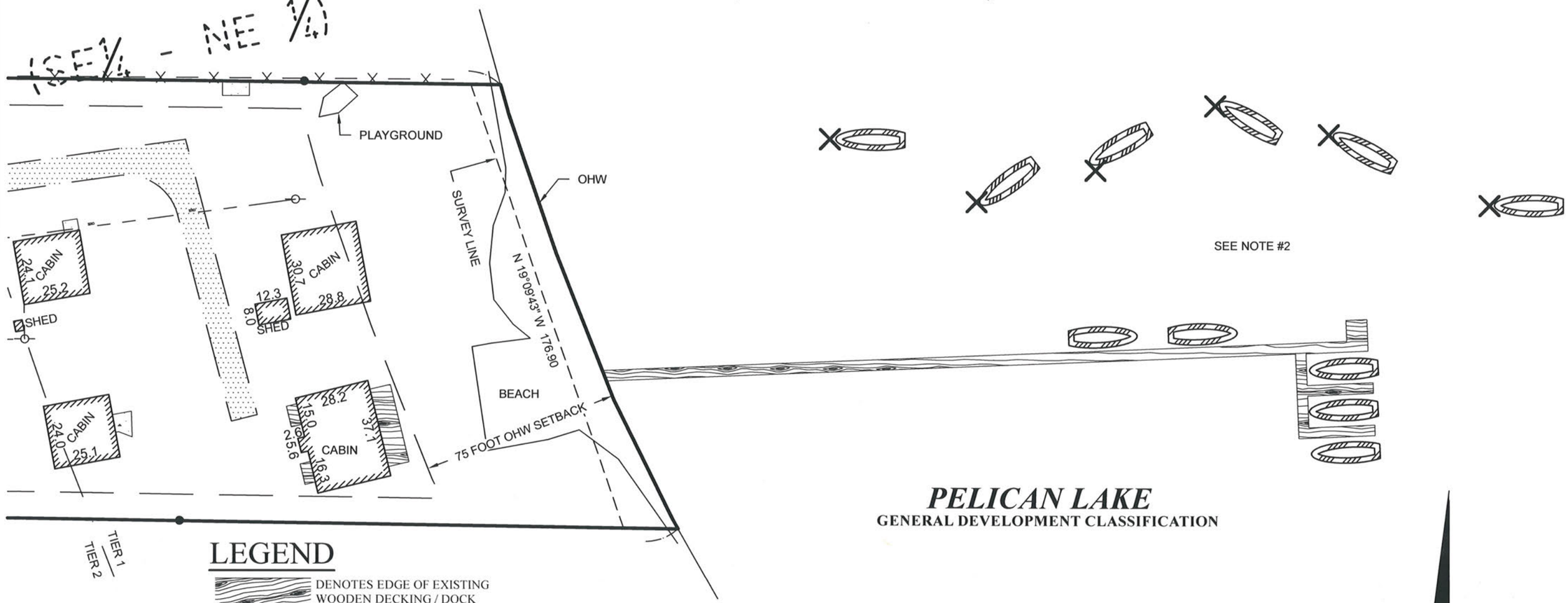
DATE: 4/2/2026
SCALE: HORZ. 1" = 50' VERT. NONE
PROJECT No.: 26031
FILE NAME: PL26031.DWG
FIELD BOOK: PG. BOOK
PROJECT MANAGER: CMH
CHECKED BY: CMH
DRAWN BY: ICL

SHEET 1 OF 1

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EXISTING DOCK EXHIBIT

**PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER,
SECTION 4, TOWNSHIP 135 NORTH, RANGE 28 WEST,
PELICAN TOWNSHIP, CROW WING COUNTY, MINNESOTA**



LEGEND

- DENOTES EDGE OF EXISTING WOODEN DECKING / DOCK
- DENOTES BOAT (8' x 30')
- DENOTES CONCRETE PILLAR / BOAT TIE
- DENOTES EDGE OF EXISTING GRAVEL
- DENOTES EDGE OF EXISTING CONCRETE
- DENOTES EXISTING FENCE LINE
- DENOTES EXISTING UTILITY POLE
- DENOTES EXISTING OVERHEAD ELECTRIC CABLE
- DENOTES MONUMENT FOUND

NOTES:

1. This sketch is NOT a boundary survey.
2. The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery.
3. Boundary and improvements as shown on parcel 73040571 are from Lakes Area Surveying LLC., and have not been field verified by Stonemark Land Surveying, Inc.

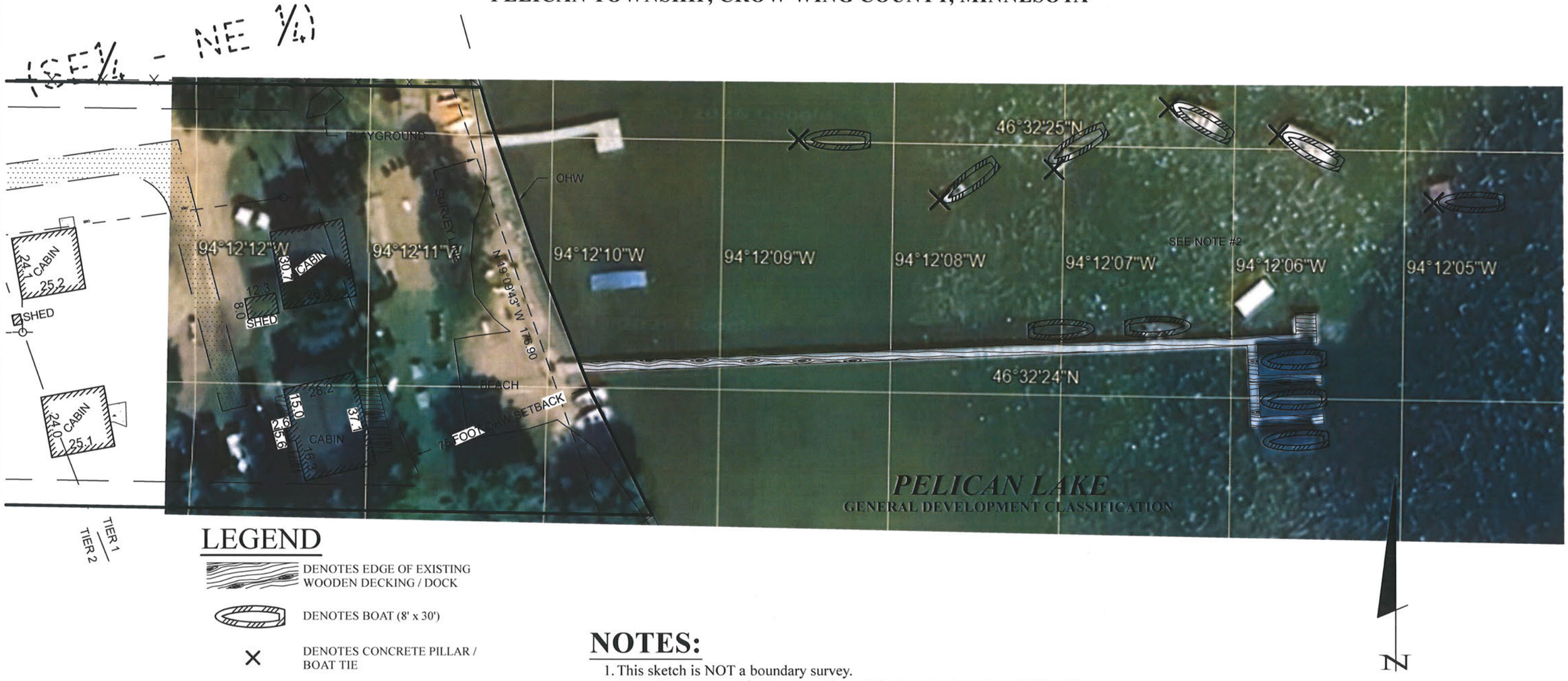
PELICAN BEACH HOLDINGS, LLC.
BRENT ANDERSON
PROJECT #: 26031
E911#: 26746 COUNTY ROAD 4
DATE: 3/11/2026

STONEMARK LAND SURVEYING, INC.
30206 Rasmussen Road
Suite 1
P. O. Box 874
Pequot Lakes, MN 56472
218-568-4940
www.stonemarksurvey.com

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EXISTING DOCK EXHIBIT

**PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER,
SECTION 4, TOWNSHIP 135 NORTH, RANGE 28 WEST,
PELICAN TOWNSHIP, CROW WING COUNTY, MINNESOTA**



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PELICAN BEACH HOLDINGS, LLC.
BRENT ANDERSON
PROJECT #: 26031
E911#: 26746 COUNTY ROAD 4
DATE: 3/11/2026

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30206 Rasmussen Road
Suite 1
P. O. Box 874
Pequot Lakes, MN 56472
218-568-4940
www.stonemarksurvey.com

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5











DECLARATION

THIS DECLARATION, made as of this _____, 2026 by Pelican Lake Holdings, LLC, the (the "***Declarant***") PURSUANT TO THE PROVISIONS OF Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "***Act***"), for the purpose of creating a planned community under the Act.

RECITALS

A. Declarant is the owner in fee simple of the real property situated in Crow Wing County, MN legally described on Exhibit A attached hereto and incorporated herein by reference (the "***Subject Property")***.

B. Declarant is not reserving and additional real estate to add this planned community.

C. Declarant has deemed it desirable for the preservation of the value of the Subject Property to submit the same, together with the buildings, structures, improvements and other permanent fixtures thereon to the provisions of the Act, and to incorporate under Chapter 317A of the laws of the State of Minnesota for the purpose of administering the Subject Property. The Subject Property is not subject to a master association. The Subject Property does include lakeshore and riparian rights.

D. Declarant is about to sell, dispose of and convey interests or estates in and to the Subject Property, together with the buildings, structures, improvements and other permanent fixtures of whatsoever kind thereon, and any and all rights and privileges belonging to or in anyway appertaining thereto, and to accomplish this purpose desires to submit the Subject Property to the requirements of the Act.

E. Declarant desires and intends that the owners, mortgagees, occupants, and other persons hereafter acquiring any interest in the Subject Property shall at all times enjoy the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of the planned community form of ownership of the Subject Property and are established for the purposes of enhancing and perfecting the value, desirability and attractiveness of the same.

NOW, THEREFORE, Declarant, as the sole owner of the Subject Property for the purposes above set forth, hereby submits the Subject Property to the Act as a planned community under the name Peaceful Harbor and declares as follows:

ARTICLE I.
DEFINITIONS

The following words, when used in the Declaration (unless the context shall prohibit) shall have the following meanings:

a) "***Additional Property***" – n/a

(b) "***Association***" shall mean and refer to the Pelican Beach Reserve Homeowner's Association, Inc., a Minnesota nonprofit corporation, its successors and assigns.

(c) "***Common Area***" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners and such other persons to whom the Owners may

delegate this right pursuant to this Declaration and to all improvements located thereon and owned or otherwise held by the Association for the common use and enjoyment of said persons.

The Common Area owned or to be owned by the Association is legally described on Exhibit C attached hereto.

(d) "***Consumer Price Index***" means the Consumer Price Index – All Items, Minneapolis/St. Paul Average, All Urban Consumers as published by the United States Department of Labor's Bureau of Labor Statistics or a similar government index of inflation in the event such index is no longer published.

(e) "***Declarant Control Period***" n/a

(f) "***Declaration***" shall mean this document and all amendments and supplements hereto.

(g) "***Dwelling***" shall mean and refer to any portion of a building or mobile home situated upon the Subject Property designated and intended for use and occupancy as one residential unit.

(h) "***Governing Document***" shall mean and refer to this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Subject Property

(i) "***Member***" shall mean and refer to all Owners who are members of the Association as provided in Article III, Section 1, hereof.

(j) "***Owner***" shall mean and refer to the record Owner or contract vendee, whether one or more persons or entities, of a fee simple title to any Unit situated upon the Subject Property but excluding contract vendors, unless the contract provides otherwise, and others having such interest merely as security for the performance of an obligation.

(k) "***Planned Community***" shall mean the real estate, portions of which are designated for separate ownership as Units and the remainder of which is designated as Common Area which is subject to this Declaration. Specifically, as the term is used herein, it means and refers to Peaceful Harbor, the Planned Community established by this Declaration.

(l) "***Plat***" shall mean the recorded plat depicting the Subject Property pursuant to the requirements of Section 515B.2-110(d) of the Act, and complying with Minnesota Statues Chapter 505 including any amended or supplemental Plat recorded from time to time in accordance with the Act.

(m) "***Subject Property***" shall mean and refer to all properties that are subject to this Declaration as defined in Article II, Section 1.

(n) "***Unit***' shall mean and refer to a dwelling together with the parcel of property or percentage interest in the parcel of property upon which the Dwelling is situated, as legally described in the instrument of conveyance in favor of the current Owner. Unit shall not be construed to include Common Area as herein defined.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION AND USE THEREOF

Section 1. EXISTING PROPERTY.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County of Crow Wing and State of Minnesota, and is legally described as shown on Exhibit A, all of which real property shall hereinafter be referred to as the "Subject Property".

Section 2. UNITS

There are 11 Units. No person may create additional Units by the subdivision or conversion of Units pursuant to Section 515B.20-112 of the Act.

Each Unit constitutes a separate parcel of real estate. The Units shall each be improved with one Dwelling and all Units and Dwellings will be restricted to residential use.

Unless stated otherwise in this Declaration, an Owner shall be responsible for maintenance of the Unit and the Dwelling thereon.

No short term rental of any units, any rental period must be a minimum of 30 days.

The identifiers and locations of the Units are shown on the Plat, which is incorporated herein by reference. The identifier for a Unit shall be its lot and block numbers and the subdivision name. The front, rear and side boundaries of each Unit shall be the boundary lines of the Platted lot upon which the Dwelling is located or intended to be located as shown on the Plat.

Section 3. COMMON AREA.

The Common Area shall be owned by the Association and used for open space, private utilities, shoreland use and related activities. Maintenance, replacement and repair of the road, sanitary sewer, storm sewer, security lighting, pressure tanks, well and water lines on the Common Area are the responsibility of the Association. The Common Area shall be conveyed to the Association as of the date of conveyance of any Unit to an Owner other than Declarant.

The Common Area shall include the dock system that shall be maintained by the Association but each Unit Owner shall be assigned one slip of the same number as their Lot which shall be used exclusively by that Unit Owner.

Section 4. STATEMENT PURSUANT TO SECTION 515B-105 OF THE ACT.

The Condominium does include shoreland, as defined in Minnesota Statutes, § 103F.205. Zoning authorities may further restrict or control the use of said shoreland.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCATION. POWERS OF THE ASSOCIATION.

Section 1. MEMBERSHIP.

Every Owner of a Unit which is subject to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to assessment by the Association. The foregoing is intended to exclude persons or entities holding an interest merely as security for the performance of an obligation including contract vendors (unless the contract for deed provides otherwise) until such time such person acquires a fee simple interest in such Unit by foreclosure or by a proceeding in lieu thereof, or as to a contract under, until such time as the contract for deed is cancelled. Ownership of such Unit shall be the sole qualification for membership.

Membership and voting rights are as set forth in Exhibit D.

Section 2. VOTING RIGHTS.

Each Member shall be entitled to one vote for each Unit owned. When more than one (1) person holds the interest in a Unit, all such persons shall be Members but the vote for such Unit shall be exercised by and among themselves as they shall determine, subject, however, to limitation that the voting power for any Unit may not be split. The vote for any Unit which is owned by more than (1) Member may not be cast at any meeting unless such members have filed with the Secretary of the Association prior to such meeting the Name of One (1) of their number who then shall be the only person authorized to cast such vote at such meeting. In lieu of such filing prior to every meeting, such Members may file a document executed by all of them, designating one (1) of their number as the persons authorized to cast their vote at all future meetings and such authorization shall continue to be valid until such time as such authorization shall have been rescinded in writing by all such Members.

Section 3. SUSPENSION OF RIGHTS.

The right of any Member, the Member's family or guests to use any recreational facilities that may be acquired by the Association shall be suspended during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for any infraction of any rules or regulations adopted by the Association.

Section 4. POWERS OF THE ASSOCIATION.

Declarant hereby delegates to, and the Association hereby is permitted to exercise all powers described in the Governing Documents, the Act and the statute under which it was incorporated. Neither this Planned Community nor the Association is subject to any Master Association.

ARTICLE IV.
PROPERTY RIGHTS AND OBLIGATIONS IN THE COMMON AREA

Section 1. MEMBERS' EASEMENT AND ENJOYMENT.

Subject to the provisions of Section 2 below, every Member shall have a non-exclusive easement of ingress and egress over the Common Area and a non-exclusive easement and right of enjoyment in and to the Common Area, and such easements shall be appurtenant to and shall pass with the title to every Unit.

Section 2. EXTENT OF MEMBERS' EASEMENTS.

The rights and easements in favor of the Members created herby and the title of the Association to the Common Area shall be subject to the following and as further provided herein:

(a) The right of the Association, as provided in the Governing Documents, to borrow money for the purpose of improving, repairing and maintaining the Common Area or any improvements thereon, and in aid thereof to mortgage said properties, which rights of such mortgagee in said properties shall be subordinate to the rights of the Members hereunder;

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

(c) The right of the Association, as provided in the Governing Documents, to suspend the voting and enjoyment rights of any Member for any period during which any assessments remain unpaid, and to suspend the said enjoyment rights for any period not to exceed sixty (60) days and to impose a fine not to exceed Ten Dollars ($10.00) for each infraction of its published rules and regulations, each day during which infractions exist being deemed a separate and distinct infraction; provided, however, that nothing contained in this Section 2c shall be deemed to deny an Owner access to and from his or her Unit or Dwelling located on the Subject Property;

(d) The right of the Association to charge reasonable admission and other fees to Members for the Use of the Common Area;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members. Except for the installation of utilities pursuant to the easements created by Article X hereof, no such dedication or transfer shall be effective unless an instrument signed by all Members ahs been recorded agreeing to such dedication or transfer, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken. The consent requirements of Article CII, Section 5, must also be met to effect a valid dedication or transfer;

(f) Rights, if any, of Crow Wing County to maintain the Common Area in the event of failure by the Association to do so;

(g) Utility and drainage easements to install sewer, water, gas, electric and telephone lines, transformers, towers, poles, lighting fixtures, pipes, conduits, cables, wires, internet, tv cable, drainage channels and other utility facilities, including the right of access thereto for the purpose of constructing, installing, repairing, maintaining, altering and modifying any such facilities;

(h) Encroachments, if any, created pursuant to Section 5 of this Article.

Section 3. DELEGATION OF USE.

Any Owner may delegate, in accordance with the bylaws, his or her right of enjoyment to the Common Area and facilities to the members of his or her family who reside on the Subject Property, subject to the limitation contained in Article X, Section 9 regarding rental and use of Dwellings.

Section 4. TAXES, UTILITIES AND MUNICIPAL SPECIAL ASSESSMENTS ON COMMON AREAS.

Taxes, utility charges and special assessments that would normally be levied against the Common Area shall be divided and levied against the individual Units in the Subject Property in equal proportion, or as the governmental taxing authorities shall determine, which levies shall be a lien against said individual Units.

Section 5. ENCROACHMENTS.

Nothwithstanding any other provisions contained herein, in the event any Dwelling or garage or any fireplace, roof, air conditioner, flower box, deck, patio, balcony, eaves, or other appurtenance on any Unit as originally constructed (or as reconstructed or added to in accordance with the provisions of Article VIII herein) encroaches upon or overhangs upon any part of the Common Area, then a perpetual easement appurtenant to such encroaching or overhanging Unit shall exist for the continuance of such encroachment or overhang upon the Common Area.

Section 6. PARKING RIGHTS.

Ownership of each Unit shall entitle the Owner to the right of ingress and egress in and to the Owner's Lot and the right to exclusive use of the driveway/parking pad located within their Lot.

Section 7. ASSOCIATION'S EASEMENTS.

The Association or its agents or employees shall have the right to go upon any Lot in Connection with the maintenance or repair of the Common Area or any improvements thereon or in connection with its maintenance responsibilities set forth in Article XIII.

ARTICLE V.
SPECIAL DECLARANT RIGHTS

none

ARTICLE VI.
COVENANTS FOR MAINTENANCE ASSESSMENT

Section 1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS.

The Declarant, for each Unit owned by it within the Subject Property, hereby covenant, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges: and (b) special assessments. Such assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them, but may continue to be a lien on the Unit. No Owner may avoid the lien of, or personal liability for, such assessment by nonuse of the Common Area or abandonment of the Owner's Unit. All assessments shall be fixed, established and collected in the manner provided in this Article. A lien created under this Article is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the

Declaration, (ii) any first mortgage encumbering the fee simple interest in the unit, (iii) liens for real estate taxes and other governmental assessments or charges against the unit.

Section 2. PURPOSE OF ASSESSMENTS.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Subject Property and for the improvements and maintenance of the Common Area and other areas that the Association is obligated to maintain as provided herein. The annual assessments shall be payable in regular installments and shall be used for (but not limited to) hazard insurance for Common Area and Dwellings; maintenance to be performed by the Association pursuant to Article XIII; an adequate reserve fund for maintenance, repairs and replacement of the Common Area and improvements thereon and other areas that must be replaced on a periodic basis; and use, maintenance, repairs and replacement of water, sewer and utility lines and fixtures that are not the responsibility of local governmental authority, which serve the Common Area and any Unit. Said annual assessments shall be used for maintenance and replacement of lawn, landscaping and shrubbery on Common Areas, for snow removal from paths and sidewalks located on Units and Common Area and public boulevards and exterior maintenance of the Dwellings situated upon the Subject Property.

Section 3. BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

Except as provided in Section 8, below, annual and special assessments shall be levied equally between all the Units and may be collected as determined by the Board, provided, however, that assessments arising out of the negligence or nonperformance of any obligation of an Owner shall be for additional nonuniform amounts and shall be immediately due in full from the Owner and assessments against fewer than all Units shall be set pursuant to Section 7 below. In addition, upon determination by the Board the costs of insurance may be assessed in proportion to risk or coverage of the Unit being assessed.

Section 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of Members holding at least seventy-five percent (75%) of the voting power of the Association and who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. CHANGE IN BASIS AND MAXIMUM OF ANNUAL ASSESSMENTS.

The limitations of Section 3 hereof shall not apply to any change in the maximum and basis of assessments undertaken as incident to a merger or consolidation in which the Association is authorized to participate. The consent requirements of Article XII, Section 5, must also be obtained to effect a valid change in the method of determining the assessments

Section 6. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.

Written notice of any meeting of the general membership required for an action authorized under Sections 3, 4, or 5 shall be sent to all Members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to

cast sixty percent (60%) of the entire voting power of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the quorum required at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. ANNUAL AND SPECIAL ASSESSMENTS

Except as provided in Section 8, below, both annual and special assessments must be allocated equally between all the Units. This requirement shall to apply to:

(a) common expenses or portions thereof benefiting fewer than all of the Units, which may be assessed exclusively against those Units benefited in equal portion;

(b) reasonable attorney's fees incurred by the Association in connection with the collection of assessments or the enforcement of the Governing Documents or the Rules against a Member, which may be assessed against the Member's Unit;

(c) fees and charges, interest, fines and late charges for: services provided to specific Units, late payments of assessments, violation of the Governing Documents or Rules, fees for preparation of Association documents, resale certificates, etc; and

(d) willful or negligent acts as set forth in Section 11 hereof.

Section 8. ALTERNATIVE ASSESSMENT PROGRAM FOR DECLARANT.

The Declarant shall not exercise any special assessment rights.

Section 9. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS, DUE DATES.

The first annual assessment shall be made for the balance of the calendar year and shall become due and payable in equal installments on payment dates to be established by the Board of Directors.

The amount of annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in the year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 shall be fixed by the resolution authorizing such assessment.

Section 10. DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors of the Association shall fix the amount of the assessment against each Unit for each assessment period at least thirty (30) days in advance of such date or period.

Written notice of the assessment shall be sent to every Owner subject thereto, provided, however, that the failure to send such written notice shall not render any assessment invalid.

The Board shall have the right to collect any annual or special assessment on a monthly basis. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a given Unit have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 11. ASSESSMENT OF COST DUE TO WILLFUL OR NEGLIGENT ACTS.

If the need for maintenance or repair is due to the willful or negligent acts of an Owner or the Owner's family, guest, tenants or invitees, the cost of such maintenance less the net insurance proceeds received by the Association due to such act or neglect, if any, shall be assessed against such Owner's Unit and shall be added to and become a part of the current annual assessment against that Unit and, at the option of the Board, shall be payable in full with the next monthly installment of the then current annual assessment, or divided equally over the remaining months for the then current annual assessment and payable with and in addition to the monthly installments of the then current annual assessment.

Section 12. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring (a) an action at law against the Owner personally obligated to pay the assessments, and/or (b) foreclose its lien for the amounts owned by the Owner.

To evidence a lien for sums assessed pursuant to this Article, the Association may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Unit, and a description of the Unit and file or record the same, but such notice of lien shall not be recorded until such assessment has been wholly or partially unpaid for at least thirty (30) days from the due date. Such lien may be enforced and foreclosed by the Association in the same manner in which mortgages on real property may be foreclosed by action or by advertisement under a power of sale in Minnesota. Each Owner, by acceptance of a deed for any Unit, does further hereby give full and complete power of sale to the Association and does consent to a foreclosure of the assessment lien as if such lien were a mortgage containing a power of sale. In the event of any such foreclosure, and in the further event that the Association shall prevail in any such foreclosure, the person personally obligated to pay the same shall be required to pay all costs of foreclosure, including but not limited to, reasonable attorneys' fees. The person personally obligated to pay such lien shall also be required to pay the Association any assessments against the Unit which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, encumber, use, and otherwise deal with the Unit as the Owner thereof. Prior to reselling the Unit after foreclosure, no assessments shall be levied against the subject Dwellings. A release or satisfaction of the notice of lien shall be executed by an officer of the Association and recorded upon payment of all sums secured by such lien.

Section 13. SUBORDINATION OF LIEN TO MORTGAGES.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon a Unit. Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof (including the delivery of a deed in lieu thereof) shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall release such Unit from

liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments.

All other parties acquiring liens on any Unit after this Declaration is recorded shall be deemed to consent that their liens shall be and remain inferior to future liens provided for herein.

The Association shall, upon written request, report to any first Mortgagee or other encumbrancer of a Unit the amount of the assessments remaining unpaid for a period longer than ninety (90) days after the same shall become due.

Section 14. EXEMPT PROPERTY.

The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

(a) All properties dedicated and accepted by the local public authority and devoted to public use;

(b) All properties exempted from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemptions; and

(c) All Common Area as defined in Article I hereof.

(d) Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VII.
PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units and is placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for Property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and it is not covered by insurance, any Owner who has used the wall may restore it, and shall contribute to the cost of restoration thereof in proportion to the Owner's use, without prejudice, however, to the right of any such Owner to call for a larger contribution from other Owners under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title.

Section 5. Encroachments. Some of the Units may in fact be originally so placed or located because of survey difficulties or inaccuracies that the center of a party wall is not centered in fact on a dividing line. During the life of such building in such instance the offended lot shall be fully subject to an easement for maintenance of the wall as so located and for all purposes the wall shall

be treated as if centered precisely upon the lot line.

Section 6. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 7. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII.
ADDITIONAL PROPERTY

Declarant reserves no rights hereunder.

ARTICLE IX.
ARCHITECTURAL CONTROL COMMITTEE

No exterior additions, removals or alterations (including changes in color or appearance) to any building on the Subject Property, additional fences, hedges, walls, walkways, and other structures shall be commenced, erected or maintained except such as are installed or approved by the Declarant in connection with the initial construction of the improvements on the Subject Property, until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings erected upon the Subject Property by an architectural committee composed of the Board of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such approval shall be deemed to have been given. If no application has been made to the architectural committee or their representatives, or if such application has been rejected, a suit to enjoin or remove such additions, alterations or changes may be instituted at any time by the Association or any Owner, in which suit the Association or any Owner shall have the right to collect reasonable attorneys' fees, costs and expenses. None of the members of the architectural committee shall be entitled to any compensation for their services performed pursuant to this paragraph, but compensation may be allowed to independent professional advisors retained by such committee. During the Declarant Control Period, all decisions of the architectural committee may be vetoed by the Declarant.

Finally, the architectural control committee shall set standards for existing units to ensure each unit meets minimum safety and appearance standards and may give notices to owners (said notice being up to two years depending upon the violation) to comply with any violation of these standards. If the owner fails to so comply, the committee may recommend to the Board to commence enforcement proceedings.

ARTICLE X.
BUILDING AND USE RESTRICTIONS

Section 1. LAND USE.

No Unit shall be used except for residential purposes.

Section 2. NUISANCES.

No noxious or offensive activities shall be carried on upon any Unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. PETS.

No animals, reptiles, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Dwelling or in the Common Area, except that dogs, cats or other household pets may be kept in the Dwellings subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purpose, and provided further.

Section 4. GARBAGE AND REFUSE DISPOSAL.

No Unit shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers and no exterior burning of household refuse shall be done

Section 5. PROHIBITED STRUCTURES, WINDOW TREATMENTS AND LAWN ORNAMENTS.

Park model units shall not be allowed within the Association. No structure of a temporary character, basketball hoop, trailer, tent, shack, boat house, barn or other out-building shall be constructed on any Unit. No garage shall be used at any time as a residence either temporarily or permanently. Window treatments must be in harmony with the design of the Dwelling and the surrounding area and must be properly installed. No blankets, sheets, loose fabric or excessively-brightly colored window treatments shall be permitted. The Architectural Control Committee shall be the final arbiter of any disputes under this Section.

Section 6. STORAGE.

No boats, snowmobiles, trailers, camping vehicles, recreational vehicles, unlicensed or inoperable automobiles or trucks or other vehicles (except vehicles belonging to the Owner or an Owner's guest) shall at any time be stored or parked on any Unit outside of a house or garage. No such boats, snowmobiles, trailers, camping vehicles, unlicensed or inoperable automobiles or trucks or other vehicles shall be stored or parked on any part of the Common Area without the express written approval of the Board of Directors.

Section 7. SEWER FACILITIES.

The sewer disposal facilities in the Subject Property are located in the Common Area and shall be maintained by the Association. The Owner shall be responsible, however, for the lines from the clean out access port to their dwelling.

Section 8. TIME SHARES.

The time-share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

ARTICLE XI.
EASEMENTS

Section 1. UTILITIES AND DRAINAGE EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are hereby created and dedicated in, over and upon the Common Area owned by the Association. Within these easements, no structure, fence, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, or which may interfere with snow plowing or snow storage within these easements.

Section 2. WATER AND ELECTRICITY EASEMENTS.

The rights and easements of enjoyment by the Owner of each Unit and the title of such Owner in said Unit shall be subject to the rights of the Association to an exclusive easement on and over said Unit for the purpose of installing and maintaining a source of water and electricity from Dwellings to serve the Common Area.

If water or electricity taken from such Unit is used to serve the Common Area and such water and electricity is not separately metered, the Association and the Owner of the affected Unit shall agree on a reasonable method and amount of compensation payable therefore by the Association to the Owner. In the event that the parties cannot agree on a reasonable method and amount of compensation, each party shall choose one arbitrator and the two (2) arbitrators shall choose a third arbitrator and the decision of the majority of all arbitrators shall be final and conclusive of the method and amount of compensation to be paid.

ARTICLE XII.
INSURANCE

Section 1. REQUIRED COVERAGE.

The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

(a) Property insurance in broad form covering all risks of physical loss for the full insurable replacement costs of the improvements on the Common Area, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association and shall name the Association as the named insured. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverages, deductibles and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.

(b) Comprehensive public liability insurance covering the ownership, existence, use, operation or management of the Subject Property, with minimum limits of $1,000.000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location, and use to the Subject Property. Unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, operation or management of the Common Area. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an owner or occupant of a Unit because of the negligent acts of the Association or other owners or occupants and shall cover claims of one or more insured parties against other insured parties. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as ay be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

(c) Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the board or required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulation of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.

(d) Worker's compensation insurance, as required by law.

(e) Policies carried pursuant to subsections (a) and (b) shall provide that:

(1) each Member and any secured party of the Member's Unit is an insured person under the policy with respect to liability arising out of the Member's interest in the Common Area or the Member's membership in the Association;

(2) the insurer waives its rights to subrogation under the policy against any Member (or members of Member's household) and against the Association and Directors;

(3) act or omission by any Member or secured party, unless acting within the scope of on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and

(4) the Association's policy shall be the primary insurance if, at the time of a loss under he policy, there is other insurance in the name of a Member covering the same property covered by the Association's policy.

Section 2. <u>ASSOCIATION COVERAGE OF UNITS.</u>

In addition to casualty insurance on the Common Area, the Association, through the Board of Directors, may elect to obtain and continue in effect, on behalf of all Owners, adequate broad-form blanket casualty and fire insurance in such form as the Board of Directors deems appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Dwellings, including the structural portions and fixtures thereof but exclusive of land, footings, excavation and other items normally excluded from coverage, owned by such Owners. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be an expense of the Association to be included in the regular annual assessments of the Owners, as levied by the Association. The insurance coverage with respect to the Dwellings shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the Owners.

Section 3. REPLACEMENT OR REPAIR OF PROPERTY.

Any portion of the Subject Property that has been damaged or destroyed by a loss covered by the Association's insurance shall be promptly repaired or replaced by the Association unless (i) the Community is terminated; (ii) such repair or replacement would be illegal; or (iii) Members holding at least 80% of the voting power of the Association (including every Member and first mortgagee on a Unit which shall not be rebuilt) vote not to rebuild. If less than the entire Subject Property is repaired or replaced, the insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Community, the proceeds attributable to Units which are not rebuilt shall be distributed to the owners of those Units and the secured parties of those Units, as their interests may appear, and the remainder of the proceeds shall be distributed to all Unit Owners and secured parties as their interests may appear, in proportion to their common expense liability. The cost of repair or replacement of Common Area in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a Unit in excess of insurance proceeds shall be paid by the respective Unit Owner.

Section 4. CANCELLATION: NOTICE OF LOSS.

All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least 30 days prior written notice to the Association, all of the insureds, and all mortgagees of Units (including, if applicable, the FHA or FNMA).

Section 5. REVIEW OF POLICIES.

All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

Section 6. BLANKET CASUALTY INSURANCE BY OWNER.

If the Association does not elect to maintain blanket casualty and fire insurance pursuant to Section 2 of this Article, then any Owner of a Unit shall carry, maintain, and timely pay the premium or premiums on a policy of fire, extended coverage, vandalism, and malicious mischief, with all risk endorsement insurance. Said insurance shall cover a minimum of the entire replacement cost of the improvements on such Unit and shall provide for at least ten (10) days' notice to the Board of directors of the Association before cancellation or material change in such insurance.

Section 7. REALLOCATION OF INTERESTS FOR DESTROYED UNITS.

If, pursuant to Section 3, a Unit is not rebuilt after a casualty, that Unit's entire interest in the Common Area, votes in the Association and common expense liability are automatically reallocated upon the vote as if the Unit had been condemned, and the Association shall promptly prepare, execute and record an amendment to the Declaration reflecting the reallocations.

ARTICLE XIII.
SPECIAL PROVISIONS

Section 1. OVERRIDING PROVISIONS.

The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

Section 2. NOTICE OF DEFAULT.

A first mortgagee of a Unit, upon request, is entitled to written notification from the Association of any default in the performance by the Owner of any obligation under the Governing Documents known to the Association which is not cured within sixty (60) days.

Section 3. LIABILITY FOR UNPAID ASSESSMENTS.

Any first mortgagee of a Unit who obtains title to a Unit pursuant to the remedies provided in its mortgage or by foreclosure of its mortgage shall not be liable for the unpaid assessments of the Unit which accrue prior to the acquisition of title to such Unit by the mortgagee.

Section 4. RESTRICTED ACTIVITIES.

Until the Association has received written approval from all of the first mortgagees of Units, all Owners other than the Declarant and, during the Declarant Control Period, the Declarant, the Association shall not be entitled to:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Units. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be a deed or transfer within the meaning of this subsection;

(b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) By act or omission change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Dwellings, the maintenance of the Common Area, party walls or common fences and driveways, or the upkeep of lawns and plantings;

(d) Fail to maintain first and extended coverage on insurable Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value, based on current replacement costs; or

(e) Use hazard insurance proceeds received for losses to any Common Areas other than for the repair, replacement or reconstruction of such Common Areas.

Section 5. EXAMINATION OF BOOKS AND RECORDS.

First mortgagees shall have the right to examine the books and records of the Association.

Section 6. RIGHT TO CURE DEFAULT.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums in hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area, and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 7. PRIORITY OF FIRST MORTGAGEES.

No provision of the Declaration or By-Laws shall be construed as giving to the Owner or to any other party priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

Section 8. FORECLOSURE OF FIRST MORTGAGES AND CONTRACTS.

The sale or transfer of any Unit pursuant to the foreclosure of a first Mortgage, or pursuant to any other proceeding or arrangement in lieu of such foreclosure or cancellation, shall extinguish the lien of all other assessments as to the installments which became due prior to the effective date of such sale, transfer or acquisition by the Mortgagee to the end that no assessment liability shall accrue to an acquiring Mortgagee except with respect to installments of assessments becoming due after possession has passed to such acquiring Mortgagee, whether such possession has passed at the termination of any period of redemption or otherwise; provided, however, that if a first mortgage on a Unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581 or 582, than the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115 (a), (e)(1) to (5), (f), and (i) of the Act, which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption. In the event of the extinguishment of such assessment lien as aforesaid, the entire amount of such unpaid assessment shall be reallocated and assessed against, and payable by the Owners of all other Units in the Association, exclusive of such encumbered Unit. No such sale, transfer or acquisition of possessions shall relieve an Owner of a Unit from liability for any assessments thereafter becoming due or from the lien thereof, nor shall it relieve the person personally obligated to pay the assessments which were levied prior to the transfer of such Unit from the personal obligation to pay the same.

ARTICLE XIV.
MAINTENANCE

Section 1. MANDATORY MAINTENANCE.

The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, the exclusive management and control of the Common Area and all

improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair (consistent with its natural character).

Each Owner is responsible for the maintenance, repair and upkeep of any building within their Unit and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

Section 2. ACCESS AT REASONABLE HOURS.

For the purpose solely of performing the maintenance and repairs authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter any Dwelling and upon any Unit which such persons and material as the Association deems necessary at reasonable times during the day.

Section 3. EMERGENCY ACCESS.

For the purpose of performing emergency action to seal a Dwelling from weather or otherwise to prevent damage or destruction to any Dwelling, the Association through its duly authorized agents or employees, shall have the right to enter any Dwelling, and upon any Unit at any time, without notice, with such persons and materials as the association deems necessary to accomplish such emergency repairs or to take such emergency action.

Section 4. LAWN AND PLANTING MAINTENANCE.

The Association shall mow, water, rake and maintain, to the extent the Board deems necessary or desirable, the irrigation system and all lawns and exterior plantings; except that the Association may, but shall not be required to, water gardens and plantings established by Owners, and to the extent the Association undertakes to do so, it will not be responsible for any damage to such gardens and plantings due to overwatering, underwatering or improper watering. In lieu of maintaining separate water lines for the Common Area, the Association may draw water for such common purposes from exterior sill cocks on each Dwelling, provided that it rotates such drawing among all Dwellings by a schedule or other reasonable means so as to approximately equalize the amount of water taken from each Dwelling over the course of a season.

ARTICLE XV.
EMINENT DOMAIN

Section 1. TOTAL TAKING OF UNIT AND DWELLING.

If a Unit and Dwelling is acquired by eminent domain, or if so much of a Unit and Dwelling is acquired by eminent domain as to effectively leave the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award, including severance damages, shall compensate the Owner of the Unit and Dwelling and holder of a first mortgage other security interest of record as their interests may appear. Any such remnant of a Unit and Dwelling remaining after part of a Unit and Dwelling is taken shall be conveyed to the Association and shall thereafter be Common Area. The voting rights and liability for expenses attributable to the Unit and Dwelling acquired by eminent domain shall be reapportioned among the remaining Units.

Section 2. PARTIAL TAKING OF UNIT AND DWELLING.

Unless treated as a total taking under Section 1, if part of a Unit and Dwelling is acquired by eminent domain, the award shall compensate the Owner and first mortgagee of the Unit and Dwelling as their interests may appear for the reduction in value of the unit and Dwelling. A partial taking of a Unit or Dwelling shall not affect the voting rights or liability of that Unit or Dwelling for common expenses.

Section 3. TAKING OF COMMON AREA.

If part of the Common Area is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Area among the Owners and first mortgagees as their interest may appear in proportion to their votes in the Association before the taking.

ARTICLE XVI.
GENERAL PROVISIONS

Section 1. ENFORCEMENT.

The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. RULES AND REGULATIONS.

The Association may make reasonable rules and regulations governing the use of the Units and of the Common Areas, which rules shall be consistent with the rights and duties established in this Declaration. The declaration shall supersede any conflicting rules by the Association.

Section 3. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 4. ENFORCEMENT AND AMENDMENT.

The covenants and restriction of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, the Association or the Owner of any Unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns.

Except as provided in the Act or as hereinafter provided, the covenants and restrictions of this Declaration may be amended only by the assent of Members holding at least seventy-five percent (75%) of the voting power of each class of Members. Any amendment must be properly recorded and a recorded certificate of the Secretary of the Association certifying that the amendment was approved by Members holding at least 75% of the voting power of each class of Members shall be sufficient evidence of such fact. The prior written approval of all the first mortgagees of Dwellings or Owners other than the Declarant shall be required for any amendment of this Declaration which would affect the right of the Association to do any of the acts specified in Article XIII, Section 5(a), (b), (c), (d) and (e).

Section 5. NOTICES.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been property sent when mailed postage-paid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of mailing.

Section 6. MERGERS.

Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or additions to the covenants established by this Declaration within the Subject Property except as hereinabove provided.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto caused these presents to be executed this _____ day of _____, 2026.

PELICAN BEACH HOLDINGS, LLC

__Review_____
By Joshua Miles, its chief manager

STATE OF MINNESOTA)
)ss.
COUNTY OF CROW WING)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026 by Joshua Miles, the chief manager of Pelican Beach Holdings, LLC, a Minnesota limited liability company, on behalf of the company.

_____
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
J. Brad Person
Breen & Person
Box 472
Brainerd, MN 56401
(218) 828-1248

EXHIBIT A

Subject Property

Pelican Beach Reserve, as on file with the Crow Wing County Recorder.

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

EXHIBIT B

Additional Property

NONE.

EXHIBIT C

Common Area
Lot 12, Block 1, Pelican Beach Reserve

EXHIBIT D

Unit	Percentage interest in Common Area
1	1/11th
2	1/11th
3	1/11th
4	1/11th
5	1/11th
6	1/11th
7	1/11th
8	1/11th
9	1/11th
10	1/11th
11	1/11th

Outlook

RE: Stonemark 26031 Pelican Beach Holding

From Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Date Mon 3/23/2026 3:35 PM
To Chris Pence <Chris.Pence@crowwing.gov>; Cindy <Cindy@stonemarksurvey.com>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Cc Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>

1 attachment (3 MB)
EX26031 3-11-2026.pdf;

Good afternoon all:

We have reviewed the existing mooring exhibit provided for Pelican Beach Holdings. We have also looked at some other historical aerial photos of resort mooring in general.

We agree that there is a history of consistent continuous mooring of 11 watercraft at the resort.

Given the above information, early-coordination comments from MN DNR include the following:

- The number of allowable continuous watercraft mooring spaces should not exceed one space for each approved dwelling unit lot, not to exceed 11 total.
- A single, centralized dock with multiple mooring slips should be used to accommodate mooring of watercraft. No individuals docks should be allowed. Mooring slips should be placed in the deepest practice and feasible location of the lake as possible in order to limit boat props from kicking up sand/sediment in shallow areas, which could affect fish spawning areas.
- Uncontrolled beaching of watercraft should be prohibited as part of open space preservation, in harmony with Article 33.7 B of the Land Use Ordinance.
- All existing mooring areas that consist of concrete blocks and ropes/chains on the bed of the lake, should be removed prior to operation as a residential development.
- Look for opportunities to limit the impacts of this high density conversion (i.e., a residential density higher than what would be allowed with a new residential PUD) by improving vegetative cover in SIZ 1 and 2 in harmony with Article 34.13 of the Land Use Ordinance. For example, the existing sand blanket area size and width should match (or be smaller than) the existing “beach” area depth as shown in the COS at the time of the last (2021) public hearing request for conversion. Areas larger than that size should be returned to a natural condition.

Thank you.

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov





From: Chris Pence <Chris.Pence@crowwing.gov>
Sent: Monday, March 16, 2026 7:40 AM
To: Cindy <Cindy@stonemarksurvey.com>; Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Cc: Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>
Subject: RE: Stonemark 26031 Pelican Beach Holding

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Thanks Cindy -

From: Cindy <Cindy@stonemarksurvey.com>
Sent: Thursday, March 12, 2026 11:18 AM
To: 'Frie, Jacob (DNR)' <Jacob.Frie@state.mn.us>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>; Chris Pence <Chris.Pence@crowwing.gov>
Cc: Brent Anderson <brentanderson44@yahoo.com>; Joshua Miles <josh@lakesareaautosolutions.com>
Subject: Stonemark 26031 Pelican Beach Holding

Per the DRT meeting on Monday, see attached Existing Dock Exhibit. Please let me know if there are any questions or concerns on what is currently being used for docks.

Cindy

Cynthia M. Hidde, PLS, DTM
Stonemark Land Surveying, Inc.
30206 Rasmussen Rd, Ste#1
PO Box 874
Pequot Lakes, MN 56472

Office: 218-568-4940
Cell: 218-232-8046

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Nicholette Dunlap

From: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Sent: Thursday, May 14, 2026 10:02 AM
To: Nicholette Dunlap
Cc: Chris Pence; Stacy Westhoff
Subject: RE: NOTICE - PRELIMINARY PLAT - Pelican Beach Reserve
Attachments: PL26031 4-2-2026.pdf; EX26031 3-11-2026.pdf

Good morning Nicholette:

The Minnesota DNR offers the following comments concerning the proposed plat of Pelican Beach Reserve:

- We have reviewed the existing mooring exhibit provided by the applicants for Pelican Beach Holdings (attached – "EX26031 3-11-2026"). We also reviewed other historical aerial photos of the resort mooring in general. After review, we agree / concur that there is a history of consistent continuous mooring of 11 watercraft at the resort.
- Given the above information, and in consideration of the existing resort condition, the County's Land Use Ordinance, and MN Shoreland Rules (6120), we offer the following additional comments:
    - The number of allowable continuous watercraft mooring spaces should not exceed one space for each approved dwelling unit lot, not to exceed 11 total.
    - A single, centralized dock with multiple mooring slips should be used to accommodate mooring of watercraft. No individuals docks should be allowed. Mooring slips should be placed in the deepest practice and feasible location of the lake as possible in order to limit boat props from kicking up sand/sediment in shallow areas, which could affect fish spawning areas.
    - Uncontrolled beaching of watercraft should be prohibited as part of open space preservation as a condition of the plat, in harmony with Article 33.7 B of the Land Use Ordinance.
    - All existing mooring areas that consist of concrete blocks and ropes/chains on the bed of the lake, must be removed prior to operation as a residential development.
    - Look for opportunities to limit the impacts of this high density conversion (i.e., a residential density higher than what would be allowed with a new residential PUD) by improving vegetative cover in SIZ 1 and 2 in harmony with Article 34.13 of the Land Use Ordinance. For example, the existing sand blanket area size and width should match (or be smaller than) the existing "beach" area as shown in the COS dated 4/2/2026 and part of the proposed plat application. Areas larger than that size (2025 aerial photo seems to indicate a larger size) should be returned to a natural condition prior to operation as a residential development.

Thank you for your time in this regard.

Sincerely,

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov

DEPARTMENT OF NATURAL RESOURCES

From: Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Sent: Friday, April 10, 2026 4:14 PM
To: Rob Hall <Rob.Hall@crowwing.gov>; Matt Kallroos <Matt.Kallroos@crowwing.gov>; Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>; Melissa Barrick <melissa@cwswcd.org>; Loni Burnard <Lakeedwardtwnshp@gmail.com>; gerrycainemail@gmail.com; Rosemary Franzen <Rosemary.Franzen@crowwing.gov>
Cc: nichole.stotz <nichole.stotz@crowwing.gov>; Maggie Young <Maggie.Young@crowwing.gov>; Chris Pence <Chris.Pence@crowwing.gov>; Gary Griffin <Gary.Griffin@crowwing.gov>; stacy.westhoff <stacy.westhoff@crowwing.gov>
Subject: NOTICE - PRELIMINARY PLAT - Pelican Beach Reserve

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Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Patrick Trottier, Stonemark Surveying

Parcel Number: 73040571

Township: Lake Edward

Preliminary Plat for:

1. **Preliminary Plat – "Pelican Beach Reserve" with 13 total lots**

A hard copy of this information is available at the Land Service Office. If you would like to review a hard copy of this information, please let us know and a copy will be mailed to you.

Attached for your review is a copy of the preliminary plat information. This property is scheduled for consideration by the Planning Commission at the Meeting on Thursday May 21, 2026. The Crow Wing County Land Use Ordinance allows a 30-day review process for all agencies involved. We would sincerely appreciate your prompt review of the proposal. If you do have any comments, please submit them by 3:00 pm Wednesday, May 20, 2026.

If you have any questions or if you need additional information, please feel free to contact Land Services.

Attached: Preliminary Plat of Pelican Beach Reserve

To:
Crow Wing County Highway
Crow Wing County Land Services
Crow Wing County Soil and Water Conservation District
Minnesota Department of Natural Resource (DNR)
Minnesota Department of Transportation (MNDOT)
Commissioner Franzen

Thank You,

Nicholette Dunlap
Sr. Environmental Services Specialist
Office: (218) 824-1010
Direct: (218) 824-1354
Cell: (218) 232-3701

www.crowwing.us

Land Services
322 Laurel Street Suite 15
Brainerd, MN 56401

Excellent customer service is our top priority. Please let me know if I was helpful!
Customer Service Survey

Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

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Meeting Minutes – Development Review Team (DRT)

Date: March 9, 2026
Time: 12:00 pm
Attendees:

- Nicholette Dunlap – Senior Environmental Specialist
- Stacy Westhoff – Planning Coordinator
- Jake Frie – Minnesota DNR
- Cindy – Stonemark Planning
- Josh Miles – Partner/Applicant
- Brent Anderson – Partner/Applicant
- Chris Pence – Environmental Services Manager

Project Summary

Project: Conversion of an existing lakeside resort into a residential plat consisting of 12 existing cabin units, with potential garage/storage units across the road.

Applicant Direction (Updated):

- Returning to the original plan, not enlarging structures or redeveloping the resort.
- Discussion of garage units: whether they can be sold separately or must be tied to the lakeside units.

Discussion Highlights

Garage Units Must Be Tied to the Resort Lots

- Applicants asked whether garage units across the road could be:
    - Must remain tied to the residential units
- County conclusion:
    - Garage units cannot be sold as stand-alone commercial storage due to density limitations and the small size of the west lot.
    - All storage/garage units must remain tied to the lakeside units as part of a single unified development/HOA.

Chris emphasized that:

- The parcel does not have enough lot width to support both a resort conversion and separate commercial storage use.
- Splitting the parcel into two separate lots would likely make the project not workable under zoning and density requirements.

Resort Conversion to Residential

- Applicants decided to:
    - Not eliminate existing cabins.
    - Abandon the earlier idea of rebuilding bigger cabins.
    - Proceed with a conversion of existing structures only under the new statewide resort-to-residential rules.

Dock & Mooring Space

DNR must determine the allowable permanent mooring spaces for the converted development.

Key points:

- Historical mooring use appears to be 1 boat slip per cabin.
- Resort has:
    - 200+ ft dock where guests tie boats
    - 6 permanent concrete mooring buoys placed in the lake by previous owners
- Applicants stated these have been used for many years, overnight and weekly.
- DNR requested evidence of historical mooring use (photos, maps, documentation).

Jake (DNR) explained:

- Allowed mooring = greater of
    - historical designated use, or
    - allowable mooring for a new residential PUD
- DNR needs:
    - Site plan showing current mooring locations
    - Explanation of historical use
    - Proposed future mooring layout, showing changes or reductions

Applicants confirmed:

- Dock configuration is central to the viability of the conversion.
- Without guaranteed slips (~1 per unit), conversion does not make sense and resort operation may continue instead.

---

4. Shoreline Condition & Vegetation

- DNR noted sand has expanded toward cabins in recent years.
- Recommendation to potentially restore vegetative buffer in certain shoreline areas.
- No structural shoreline violations identified.

Next Steps

Applicant Must Provide:

- Mooring documentation package, including:
    - Evidence of concrete mooring anchors
    - Map showing historic mooring slips
    - Explanation of long-term usage patterns
    - Proposed mooring layout for conversion
- Confirm survey numbers, lot drawings, and impervious surface calculations for entire parcel.

Timeline

If applicant submits by April 8:

- PC/BOA Hearing: May 21
- County Board Final Approval: June 9
- Final Plat Approval (if preliminary & final submitted consecutively): As early as June 23

Decision Summary

Applicants intend to proceed with conversion, but only if mooring/dock capacity meets expectations.
They will:

- Drop the idea of separate lots across the road
- Keep garage units tied to lakeside units
- Provide mooring evidence before official submittal

Platted Subdivision - 73040571 - Land Surveying, Inc - Saved

Application

Application Summary | Plat | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) * 73040571

Parcel number *	73040571
Owner name	PELICAN BEACH HOLDINGS L...
Physical address	26746 COUNTY ROAD 4
Physical city	NISSWA
Physical zip	56468
Township	LAKE EDWARD TOWNSHIP

Shoreland District	Yes
Shoreland Protection Zone	Yes
Riparian	Yes
Within 500ft of the Mississippi	No
Lake/River	PELICAN
Deeded acres	4.88
Zoning	SD

Owner Information

Name *	PELICAN BEACH HOLDINGS LLC
Phone Number *	[redacted]
Email *	[redacted]

Mailing Street 1 *	24090 Smiley Rd
Mailing Street 2	---
Mailing City *	Nisswa
Mailing State *	mn
Mailing Zip code *	56468

Application Type: Platted Subdivision

Applicant Information

Applicant *	Stonemark Land Surveying, Inc
Is Applicant the Property owner *	I am not the owner.
Authorized Agent Name	Look for Authorized Agent Name
Public Hearing Agent Type	Surveyor
Contractor License Number	41002
Email	[redacted]
Phone	[redacted]
Assisted at Counter	No
Customer Service Rep	
Application Submit Date	4/3/2026

Preliminary or Final Plat

Is this a preliminary plat or final plat?	Preliminary plat

Required Items - Preliminary Plat

Development Review Team (DRT) Meeting	Yes
DRT Meeting Date	3/9/2026
Are you submitting preliminary plat and final plat together	No
Is a survey on file following the requirements of Article 9 & 44 of the Land Use Ordinance	Yes
Enter number of proposed lots	13
Enter number of proposed Out-lots	0
Do all lots have access to a 66' wide road?	Yes
Required septic information on file	Yes
Is wetland info on file with CWC?	Yes

Findings of Fact

Does the proposed plat conform to the County's Comprehensive Plan?	Yes the area is currently residential
Is the proposal consistent with the existing County Subdivision Ordinance? Specify the applicable sections of the ordinance.	Yes we are completing a resort to residential conversion.
Are there any other standards, rules or requirements that this plat must meet? Specify other required standards.	resort conversion requirement
Is the proposed plat compatible with the present land uses in the area of the proposal?	Yes residential surrounds the property
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	yes
How are the potential environmental impacts being resolved? (Does the plat meet County standards?) Explanation should include: Stormwater, Erosion/Sediment Control, Wetlands, Floodplains, Shoreland, Septic Systems	Following the resort conversion article 34.13
Have the potential public health, safety or traffic generation impacts been addressed?	yes

CROW WING COUNTY
MINNESOTA

NOTICE OF DECISION

Property Owner: Pelican Beach Holdings LLC

Authorized Agent: Stonemark Land Surveying

Parcel Number: 73040571

Physical Address: 26746 County Road 4, Nisswa, MN 56468

Township: Lake Edward

Your application for the Preliminary Plat of "Pelican Beach Reserve" has been recommended for approval to the County Board of Commissioners on May 21, 2026, by the Planning Commission. Your application will now be placed on the June 9, 2026, County Board Agenda.

Conditions:

1. **Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board**
2. **All applicable required improvements (Article 9.8) shall be effectively implemented**
3. **Documentation of plat monuments completed**
4. **Title Commitment (Before Final Plat)**
5. **Staff must review the covenants and declarations prior to recording of the final plat.**

Date: 5/22/2026

Chris Pence Environmental Services Manager

CROW WING COUNTY STAFF PRELIMINARY FINDINGS OF FACT SUPPORTING/DENYING A PRELIMINARY PLAT

Name of Applicant: Pelican Beach Holdings LLC Date: May 21, 2026

PID: 73040571

FINDINGS OF FACT:

1. ***Does the proposed plat conform to the County's Comprehensive Plan?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- Goal 1: Plan for residential development that meets the needs of residents of all ages and income levels, focusing on an aging population and moderately priced housing for area workers. Balance interests between short-term rentals and long-term housing needs. Support the development of housing that balances natural resources, creates a sense of community, and connects to recreational amenities and open space. (pg. 68)
  - Policy 1: Promote policies and development that make housing more attainable for all income levels and abilities, especially workers, seniors, and first-time homebuyers.
  - Policy 2: Pursue development opportunities that provide for all stages of life and are accessible to all residents.

2. ***Is the proposal consistent with the existing County Subdivision Ordinance? Specify applicable sections of the Ordinance.***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- The plat conforms to all applicable ordinance standards as required by Article 9
- The preliminary plat submission includes all required survey elements, including wetlands, OHW, topography, utilities, and existing conditions, as required by Article 9.6(F).
- A Wetland delineation was completed on 4/29/2026 by Brinks Wetland Services satisfies Article 9.6(F)(3) requirements.
- A septic compliance inspection was received noting system compliance and sizing verified.

3. ***Are there any other standards, rules or requirements that this plat must meet?***
   Yes ☐ ***No*** ☒ ***Why or why not?***

- The property is an existing resort and desires to convert to a residential use which is allowed by Article 34.13 and MN Rules 6120.3800 Subp. 5 D

4. ***Is the proposed plat compatible with the present land uses in the area of the proposal?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- The proposed residential subdivision is more compatible with surrounding uses than the existing Waterfront Commercial designation.
- Overall density, lot layout, and intended use are consistent with the existing pattern of development in the area.

5. ***Does the plat conform to all applicable performance standards in Article 9 of the Subdivision Ordinance?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- The plat conforms to all applicable ordinance standards as required by Article 9
- The property is an existing resort and desires to convert to a residential use which is allowed by Article 34.13 and MN Rules 6120.3800 Subp. 5 D
- A septic compliance inspection was received noting system compliance and sizing verified.
- A wetland delineation was completed on 4/29/2026 by Brinks Wetland Services satisfies Article 9.6(F)(3) requirements.

6. ***How are the potential environmental impacts being resolved? (Does the plat meet County Standards?)***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Shoreland standards still apply, including vegetation retention, buffer requirements, impervious surface limits, and septic system compliance under Article 11, which protect surface water quality.
- Groundwater protection is supported through compliant SSTS compliance inspection dated 8/23/2024.
- Air quality impacts are minimal with a conversion from a commercial resort to low-density residential reduces traffic, activity levels, and related emissions compared to the prior use.
- Wetlands: A Wetland delineation was completed on 4/29/2026 by Brinks Wetland Services satisfies Article 9.6(F)(3) requirements.

7. ***Have the potential public health, safety or traffic generation impacts been addressed?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- There will be no public health, safety or significant traffic generated impacts from this plat.
- Access: The subdivision uses County Road 4, a public roadway capable of supporting expected residential traffic. No concerns were received from the Crow Wing County Highway Department as of 5/14/2026.

8. ***Other issues pertinent to this matter: None***

9. ***Township recommendation: None as of 5/14/26***

RECEIVED
By Stacy Westhoff at 9:44 am, May 19, 2026

Stacy Westhoff

To: Chris Pence
Subject: RE: Pelican Beach Resort Conversion Application

From: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Sent: Monday, May 18, 2026 4:25 PM
To: Brad Halberstadt <brad@szjlaw.com>
Cc: Chris Pence <Chris.Pence@crowwing.gov>; Nicholette Dunlap <Nicholette.Dunlap@crowwing.gov>
Subject: RE: Pelican Beach Resort Conversion Application

Good afternoon Brad:

I have provided my responses to your questions in **RED**, below. As an aside, you'll see I refer you to contact Crow Wing County – Land Services for answers / perspectives on many of the questions you ask. Chris Pence, the Crow Wing County Environmental Services Manager – can be reached at 218-824-1124 or chris.pence@crowwing.gov should you wish to speak with him directly about these and other matters related to resort conversion application.

Sincerely,

Jacob Frie
Area Hydrologist | Division of Ecological and Water Resources

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brainerd, MN, 56401
Phone: 218-203-4367
Email: Jacob.frie@state.mn.us
mndnr.gov

From: Brad Halberstadt <brad@szjlaw.com>
Sent: Monday, May 18, 2026 2:53 PM
To: Frie, Jacob (DNR) <Jacob.Frie@state.mn.us>
Subject: Re: Pelican Beach Resort Conversion Application

You don't often get email from brad@szjlaw.com. Learn why this is important

This message may be from an external email source.
Do not select links or open attachments unless verified. Report all suspicious emails to Minnesota IT Services Security Operations Center.

Hi, Jake. Thanks for taking the time on Friday to discuss the above-referenced application and explaining the reversal of the DNR's objections to the last application in 2021. To summarize, you indicated that: (i) the Land Use Ordinance had changed in the last 5 years and such changes allowed you to drop the objections set forth in the prior DNR response; (ii) all of the evidence that you relied upon to support your conclusions was contained in the application packet for hearing on May 21st; and (iii) the prior DNR position related to mooring was changed because you believe this evidence (contained in the application packet) was adequate to demonstrate a "history of consistent continuous mooring of 11 watercraft at the resort" - as set forth in your email of March 23, 2026 (as documented at p. 137 of the application packet).

Regarding the evidence of historical consistent continuous mooring of 11 watercraft at the resort, the application packet states that the Applicant stated there were 6 permanent concrete mooring buoys placed in the lake by previous owners (Packet at p. 148) and the DNR needed evidence of historical mooring use (Packet at p. 148). Unless I missed something, the only evidence in the application packet appears to be an Existing Dock Exhibit on page 53 of the application packet with markings of the purported concrete pillars and boat ties that Note 2 states "The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery. I did not see any of the 2023 Google Earth aerial image nor any other evidence of mooring of historical consistent continuous mooring of 11 watercraft at the resort. And that is completely at odds with what the residents stated in the comments from the 2021 application and the statement in the last DNR report that "Historical photos suggests that a single dock with no more than three mooring slips have been used." Moreover, the property has been for sale in both 2024 and 2025 - and I haven't seen mooring of anything close to 11 watercraft at the resort in the last 2 years (or since 2020). I understand some of those points should be raised at the public hearing - but I have the following questions related to the evidence of historical consistent continuous mooring of 11 watercraft at the resort:

1. I see the limitation for mooring under the Shoreland Regulations 6120.3800 Subp. 5.B.(3)(c) and Land Use Ordinance Article 33.11.B.(5) - 1 mooring spot per dwelling in Tier 1 - but where is the exception for grandfathering of mooring spots under the Shoreland Regulations and the Land Use Ordinance? I'm sure it's there, I'd just like to see it. Doesn't the ability to "grandfather" lapse if there use discontinues for a period of 12 months? See, e.g., Minn. Stat. Sec. 394.36.

It would seem that Statute 394.36 fits here, but ultimately interpretation of this statute in context with the use of the existing resort and proposed use is up to Crow Wing County to determine. I encourage you to contact the County for questions related to this topic.

2. I know you mentioned that you looked at the 2023 Google Earth Map and said other maps were kind of grainy, but can you provide a list of all evidence that you reviewed to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort and, for transparency purposes, provide that evidence in a return email?

I perused the exhibits provided by the applicant as well as Google Earth images as far back as 2008.

3. Can you explain how the evidence described in 2. above demonstrates a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the images and observed what appeared to be concrete anchors and/or boats moored in open water in addition to boat lifts and boats physically attached to a single dock facility.

4. Over what years did you conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the exhibits provided by the applicant as well as Google Earth images dating as far back as 2008.

5. What evidence was provided to demonstrate exactly when the concrete pillars were installed by the previous owner?

I have not received any evidence about their placement nor by whom or when.

6. Does the DNR have any records of the previous owner seeking permission to install concrete pillars for mooring boats in the lake? If so, please provide such records.

I have not received any evidence about their placement nor by whom or when. We do not have written records of the concrete pillars being placed in the lake.

7. Are there specific buoy requirements for attaching to mooring locations? Was there any evidence of the historical consistent continuous placing of buoys on the concrete pillars? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when. As to how concrete pillars/buoys are regulated – if placed seasonally and removed seasonally, that would seem to be under the pervue of the County's Water Surface Ordinance for regulation. If placed permanently and not removed seasonally, that would seem to be a structure regulated by DNR through a permit. In this case, if placed permanently, those small individual structures appear to have been in place for quite some time and we have no plans to require removal of the structures at this time. Should the resort conversion be approved, the DNR will require removal of the concrete pillars/buoys with placement of watercraft at mooring spaces proposed on the single docking facility prior to its operation as a residential use.

8. Was there any evidence of the permitting for placement of buoys for mooring? Isn't that a requirement under Rule 6110.1500 Subparts 1 and 4? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when.

As stated in the prior DNR report, "Mooring standards are intended to reduce the impact on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards." In the last report, the conclusion was:

> "The tiering analysis states that only one dwelling unit is allowed in the first tier. In order for the plat to be corrected to meet this inconsistency, the number of mooring spaces must be reduced to 1."

I believe your conclusion was the same unless "grandfathering" was available (page 91, application packet). As such, I would imagine that any claimed "grandfathering" would be likewise strictly

scrutinized. And I'm sure it was - but for purposes of transparency, I think it would be beneficial to all parties involved to get that evidence on the table for everyone to review. Especially in light of the changed DNR position from 2021.

Finally, can you let me know if the DNR is considering the current application as a conversion to a (i) conventional development or (ii) conservation development? The lack of clarity on that issue was key to the last DNR recommendation to deny the application.

It is Crow Wing County who makes a determination as to what the current application is being applied for. In this case, it appears that the application is for a Resort Conversion, which addressed in Article 34.13 with all requirements listed in that section and requires a Conditional Use Permit (CUP) pursuant to Article 10.3 E.

Jake, I really appreciate you looking into this and I stand my my comments made in my submission dated April 16, 2021 at page 4 "Mr. Frie, by the way, is a GREAT asset for the County. I can't imagine how he managed to pull this needle out of the proverbial haystack of documents from 30+ years ago." In fact, after our discussion on Friday, my impression has only gone up. I just want to make sure we are all looking at the same information. Opinions may differ, but facts certainly can impact those opinions. So, I look forward to your response. If I got anything wrong, feel free to correct me. The older I get, the less my memory seems to work..... Look forward to a response - no need for another call that would probably take more time than an email response. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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On 5/15/2026 12:28 PM, Brad Halberstadt wrote:

> Hi, Jacob. Can you explain how the DNR position changed so drastically from the attached position taken 5 years ago? I'm confused in a number of areas including compliance with the Land Use Ordinance and the mooring allowance. I thought the DNR investigated those issues and was clear 5 years when it filed their attached comments. What am I missing? Has this been escalated at the DNR in light of these inconsistent postitions? The hearing is on May 21st, so I'd appreciate a quick response. Thanks
>
> .....
>
> Bradley J. Halberstadt
> Stewart, Zlimen & Jungers, Ltd.
> 2860 Patton Road
> Roseville, MN 55113
> Phone: (612) 870-4100 x 111
> Fax: (612) 870-8758
> Email: brad@szjlaw.com
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RECEIVED
By Stacy Westhoff at 3:26 pm, May 20, 2026

Stacy Westhoff

From: PCBOA
To: LandservicesVM
Subject: RE: Comments for Public Hearing on 5/21/26 Related to Applications by Pelican Beach Holdings LLC - 1 of 4

From: Brad Halberstadt <brad@szjlaw.com>
Sent: Wednesday, May 20, 2026 2:33 PM
To: LandservicesVM <Landservices@crowwing.gov>
Subject: Comments for Public Hearing on 5/21/26 Related to Applications by Pelican Beach Holdings LLC - 1 of 4

You don't often get email from brad@szjlaw.com. Learn why this is important

Good afternoon. I am sending four emails with 5 attachments to be added to the record in the above-referenced matter - because of concerns over file size. The attachments in each of these emails are named:

This email - Comments Opposing 2021 - Pelican Beach March 1-May 2, 2021Bates1.pdf (10.4 MB)

2nd email - Comments Opposing 2021 - Pelican Beach March 1-May 2, 2021Bates2.pdf (7.2 MB)

3rd email - Document69089.pdf and Document69090.pdf (each around 2 MB)

4th email - Memorandum of Comments and Objection 05212026.pdf (still working on this one - but likely around 2 MB)

I will send the first 3 emails out before 3:00 and hopefully the last one before 5:00. Please confirm that you receive these 4 emails. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758

Email: brad@szjlaw.com

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RECEIVED
By Stacy Westhoff at 3:27 pm, May 20, 2026

RECEIVED
By Kirstin Lindbery at 9:33 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Impute for Planning Commission Meeting, March 18, 2021.
Response to Application: Pelican Beach Holdings LLC – Josh Miles - Variances

From: KATHERINE K. ALLEN <softart@mac.com>
Sent: Monday, March 15, 2021 5:04 PM
To: Landservices <Landservices@crowwing.us>
Subject: Impute for Planning Commission Meeting, March 18, 2021. Response to Application: Pelican Beach Holdings LLC – Josh Miles - Variances

Subject:
Response to the following variance application:

Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances
Address: 26746 County Road 4, Nisswa, MN 56468
Site Location: LOCATED ON THE SOUTH 1⁄2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE 1⁄4 OF THE NE1/4 OF SECTION 4, BEGINNING AT A POINT ON A LINE BETWEEN SECTION 3 & 4, EXTENDING ONTO THE BEACH OF PELICAN LAKE...;, SECTION 4, TOWNSHIP 135, RANGE 28; LAKE EDWARD TOWNSHIP; CROW WING COUNTY, MINNESOTA

Dear Commissioners,

I wish to state my very strong objections to granting the Josh Miles variance referenced above.

My issues with this application are threefold:

1)The notice given to affected property owners and interested parties has been rushed and incomplete.

2)This variance request is outsized and enormous
If granted this variance would be a huge departure from existing land use regulations on Pelican Lake.

3)A variance of this magnitude would create an appetite for increased density on other properties around the lake.
I believe that this variance would cause irreparable harm to current Pelican Lake water health, wildlife sustainability and general quality of life.

Katherine Kerr Allen
Owner
27247 Kerrs Point Road
Pequot Lakes MN 56472-3242
954-253-5224
softart@me.com

Katherine Kerr Allen
Artist
www.KatherineKAllen.com

RECEIVED
By Kirstin Lindbery at 9:04 am, Mar 17, 2021

March 16, 2021

To: Planning Commission/Board of Adjustment

Re: Request for variance by Pelican Beach Holdings LLC

After reviewing the request for variance by the new Owners, I have many questions and because my questions are unanswered, I don't know what comments I should make regarding this.

I question the process that the Board is using to evaluate variances. Why is there a hearing for neighbors before the Board has stated their opinion of the request? The public does not know all of the regulations. We don't know how the Board is going to apply the regulations to the request.

Is this request going to be opposed by the Board? If so, those in opposition could simply support the decision. Or, if the Board is supporting the request for variance, those opposing would know what regulations they could site to support their opposition.

This request for variance is so far from what I believe the County standards are. If it was a vacant lot, there is no chance that it would be approved.

Recently, I observed the County's enforcement of regulations for a "guest cabin" for a neighbor of mine. The regulations were clearly listed and required to be followed.

This isn't a request for a second cabin.

This isn't a request for a third cabin.

This isn't a request for a fourth cabin.

This isn't a request for a fifth cabin.

This isn't a request for a sixth cabin.

This isn't a request for a seventh cabin.

This isn't a request for an eighth cabin.

This isn't a request for a nineth cabin.

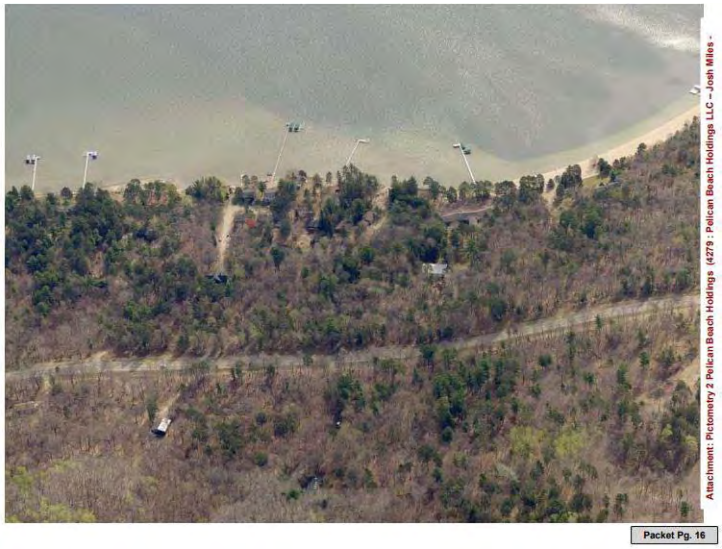
This isn't a request for a tenth cabin.

This isn't a request for an eleventh cabin.

No, this is a request for twelve cabins on a "lot" with six of the cabins in zone one.

Additionally, have you looked at the dock diagram? It shows twelve slips, but there is no depth shown. Unless they put the lifts in eighteen inches of water they would need to spread them out North to South as the water drops off too fast.

From the Agenda Packet: "*Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed"* and *"Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion. Frie will follow up with legal counsel, Scott Anderson, for feedback. A docking plan should be shown on the survey".*





There are currently only three "mooring spaces" or lifts on this dock. The dock is this long because it is too shallow for lifts in closer.



The picture above shows another location on the NE side of Pelican where a resort was converted to individual cabins. It has over twenty "mooring spaces". Whatever the current limit is set at, it will likely expand in the future.

"*Property owner would like to get out of the resort business*". I don't think that the current owner has ever been in the resort business!

The conversion of this property from WD to SD would be a reasonable request for a conversion from resort to private use, but not for twelve owners to share one lot. The age of the white cabins that exist, and the statement that they desire year round use, indicates that new owners will likely want to demolish and rebuild.

I believe that if the conversion is made from WD to SD the Owners should be required to remove the white cabins and the lakefront cabins and use the newer large cabin that the Swensons' built and the guest cottage West of it (labeled lot 11 and 12 on the drawing). Then it would conform to the regulations. The purchase price of $1,525,000 for the newer cabin with this much land is comparable to other sales. The property owner has enough value after removing the old resort cabins. The desire to "develop" the property is wrong and should be denied.

Paul Arnesen

RECEIVED
By Kirstin Lindbery at 11:47 am, Mar 18, 2021

From: Donna Boe <dboe@boeelectrical.com>
Sent: Thursday, March 18, 2021 8:05 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments for 3/18/21 Public Hearing
Attached are our comments regarding Pelican Beach resort conversion. We oppose the conversion. Thank you.

March 18, 2021

To: Crow Wing County Planning Commission/Board Adjustment
landservices@crowwing.us

Re: Comments for March 18, 2021 Public Hearing
Property owner: Miles, Joshua; Pelican Beach Holdings LLC
Parcel: 73040571
Site location: 26746 County Rd 4, Nisswa, MN 56468

Donna Boe
BOE Electrical Contractors Inc.
20975 Elk Lake Rd NW, Elk River, MN 55330
Office: 763-241-8922 | Mobile: 612-309-4557

After reviewing the lengthy information packet provided regarding the three requests for the Pelican Beach Resort conversion, we are writing to oppose the resort conversion. We hope you will take the following comments into consideration.

Land Use Map Amendment – from Waterfront Commercial Zoning to Shoreland District Zoning
The purpose of the shoreland district zoning is to "preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shorelines, protect drinking water sources, and provide for the wise use of water and related land resources". The reclassification and numerous variances could possibly create a negative impact to preserving and enhancing Pelican Lake. How will the extra number of people on the site preserve and enhance the natural environment?

The shoreland district zoning standards should be met before any rezoning should occur. Currently, the waterfront commercial zoning standards are not met.

Variances for Lot Area and Lot Width for proposed Lots
The lot area is only 1,792 square feet where 30,000 square feet is required. Pelican Beach Holdings is asking for a variance for all (13) lots for dwelling units Where would potential residents store their items if no additional structures will be added (to avoid junk piling up)?

The lot width is only 23 feet where 100 feet is required. Again, Pelican Beach Holdings is asking for a variance for (13) lots for dwelling units and (1) common lot for open space.

Density calculations are over what is allowed in Tier 1. Variance is asking for six dwelling units to be approved in Tier 1 where one is allowed.

Preliminary Plat consisting of 14 total lots: (13) lots for residential dwelling units and (1) common lot for open space
The public notice received in the mail states a total of 13 lots. The final information packet states 14 total lots.

Thank you for your consideration and the opportunity to comment.

Chris and Donna Boe
26832 County Rd 4, Nisswa, MN 56468
Mailing: 20975 Elk Lake Rd NW, Elk River, MN 55330
dboe@boeelectrical.com

RECEIVED
By Kirstin Lindbery at 2:48 pm, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort

-----Original Message-----
From: Chuck Carter <chuckc7@tds.net>
Sent: Monday, March 15, 2021 2:38 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: Bill Etmund <bill@etmund.com>; paul.arnesen <paul.arnesen@comcast.net>
Subject: Pelican Beach Resort

Hello Kiki,
I am writing to share my opinion on the rezoning and variance request for parcel #73040571, known to me as Pelican Beach Resort. I oppose the plan to convert resort cottages into single family, privately owned dwellings. The density issue alone is enough for denial. After looking at the photos of the existing cottages it doesn't take much imagination to conclude these are basically tear down buildings. As new owners want to upgrade the variance process seems unjustifiable to me. I don't think this plan is in the best interest of the health of Pelican Lake going forward.

Chuck Carter (long time owner on Pelican Lake).

Sent from my iPad

Kirstin Lindbery

From: Sam Dally <sdally@gqlaw.net>
Sent: Wednesday, April 14, 2021 9:51 AM
To: Kirstin Lindbery
Cc: Jacob Frie; lakeedwardtwnshp@gmail.com
Subject: For the Record - Pelican Beach Holdings
Attachments: Lake Edward Township Objection.pdf



Hi Kiki,

I attended the Lake Edward Township board meeting last night. Virtually everyone at the meeting was concerned about the number of people possible on so small a parcel of land, the lack of proposed limitations or management plan submitted, the lack of submission of any evidence to justify such an extreme deviation from the Land Use Ordinance and the loss of another Resort in Crow Wing County.

The township asked that I deliver this formal objection to the county on its behalf. I have copied the township on this email so they are aware that the objection has been sent. Please confirm receipt and include this in your upload on the meeting portal.

Thank you,

Samuel J. Dally
Attorney at Law

Gammello-Pearson
Attorneys at Law

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14275 Golf Course Drive, Suite 200
Baxter, MN 56425
Tele: 218-828-9511
Fax: 218-824-8545

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RECEIVED
APR 14 2021
BY:_____

April __, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Lake Edward Township recommends denial of Pelican Holdings LLC Zoning Application

Dear Board Members:

Thank you for the opportunity to comment on and reply to this matter.

The Lake Edward Township Board has reviewed the information provided by the county and recommends that the application of Pelican Holdings LLC, as submitted, be denied.

The Lake Edward Township Board recommends denial of the Application, as submitted, for the following reasons:

1. **This is not a Resort Conversion.** The application is advanced as a Resort Conversion. The Applicant has failed to provide proof of licensure by the state of Minnesota and, at the last meeting of the Planning and Zoning Board of Adjustment, Attorney James Gammello asserted that according to his contact with the Department of Health, no Resort License has been issued to the Applicant for the property. According to the Land Use Ordinance (the "Ordinance") definitions of "Resort", whether it is the "Resort, Traditional" or "Resort, Shared Capital", (p. 172 of the Land Use Ordinance) the following is required:

> The entire parcel of land must be owned, controlled and managed by the **single business entity** which comprises the **commercial establishment**. In order to qualify as a resort pursuant to this definition, the commercial establishment shall also be fully **licensed** and permitted under the appropriate state and local regulation.

If a Resort License has been issued by the Minnesota Dept. of Health, please send us a copy for our records. However, even if a Resort license is produced, the Applicant's submission should still not be treated as a Resort. The proposed use does not comprise a "commercial establishment". Rather, this is simply a developer's effort to divide a parcel of land into as many Lots for resale as possible and to justify the request by the assertion that this is a Resort Conversion. The Ordinance definition of "COMMERCIAL" is set out at p. 157. "Any use or establishment pertaining to commerce or mercantile for the sale, lease, rental or trade of products, goods and services". This definition does not include "real estate, Lots or Units".

not meet the Ordinance's subdivision requirements but rather seeks a total deviation of the lot standards and requirements.

3. **The non-conformities on this property do not justify granting a lot for each existing structure.** Regarding the existing non-conformities, some of our board members recall cabins being moved from a nearby resort to a property near this location on Pelican Lake over 20 years ago. If any buildings were moved onto this property without a permit, they are not legal, since the county passed its zoning controls around 1971.

This board fully understands the balancing interests of private land rights and neighbor concerns. However, this property can be put to reasonable use without this extensive re-development. It is inconsistent with the Ordinance to allow this gross deviation from the Ordinance while requiring neighbors to comply with the Ordinance. The Ordinance states clearly:

> 2.2 CONFORMITY WITH THIS ORDINANCE All land uses shall conform to the provisions of this Ordinance as follows:
>
> A. All new buildings or structures constructed, converted, enlarged, or moved shall conform to the provisions of this Ordinance.
>
> E. No lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. **Lots created after the effective date of this Ordinance shall meet all minimum requirements established by this Ordinance.**

It would be arbitrary and capricious to approve this application with its substantial deviations from the Ordinance.

4. **Variances should not be used to justify this Application**. We have been informed that the standard for granting variances is "practical difficulties". We set out below our answers (underlined) to the practical difficulties questions:

> (1) how substantial the variation is in relation to the requirement: this application's requested plat does not appear to meet any of the subdivision requirements of the Ordinance and therefore would require virtually a total disregard and deviation of the Ordinance. The Ordinance permits one (1) unit in the first tier, this application originally requested six (6) and now seeks five (5); the lot area requirement requires 27,000 sq ft and this application requests less than 2,000 sq ft in most cases and the biggest lot proposed is 6,287.6 sq ft. Proposed lot widths are 23 ft when 100 ft are required. The application indicates that the impervious coverage will not be changed yet the application proposes additional building footprints that will increase the building envelopes, and impervious coverage.
>
> (2) the effect, if the variance is allowed, of the increased population density thus produced on available governmental facilities * * *; nominal effect.
>
> (3) whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created; the proposed development

In short, contrary to the Ordinance, the requested variances are too extensive, are not in harmony with the purpose or intent of the Ordinance, are contrary to the comprehensive plan of favoring resorts, the difficulty or circumstances are just now being created by the landowner in order to sell individual lots, and involves merely economic considerations, not for purposes of running a resort, and the issuance of the requested variances would change the essential character of the neighborhood or locality and in our opinion would be arbitrary and capricious.

Thank you for your consideration.

Lake Edward Township

By: George R Burnard 4-13-21

George Burnard /Township Supervisor Chairman

RECEIVED
By Kirstin Lindbery at 8:25 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort Conversion Objections
Attachments: Resort Conversion Letter.docx

-----Original Message-----
From: John R Elkins <elkjc1972@gmail.com>
Sent: Monday, March 15, 2021 7:51 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Pelican Beach Resort Conversion Objections

Kirstin, attached please find our public comments regarding the proposed Pelican Beach resort conversion. Please distribute as appropriate prior to the Planning Commission/Board of Adjustment meeting March 18, 2021.

Also, please confirm your receipt of this email and attachment.

Thanks, Kirstin.

To: Crow Wing County Planning Commission/Board of Adjustment
From: John and Carol Elkins, 26826 County Road 4 (year-round resident)
Date: March 15, 2021

After reading and reviewing carefully the lengthy packet of information provided by the board, we are writing to submit our comments regarding the request of Pelican Beach Holdings LLC for the proposed resort conversion. As year-round residents who live two properties north of Pelican Beach Resort, we are opposed to the resort conversion and would offer the following comments:

1. The proposed resort conversion does not comply with Crow Wing County's Comprehensive Plan. For example, the county's plan currently encourages that we "protect, preserve and improve the county's lakes, streams and wetlands and that we try to minimize the adverse effects of development county-wide on Crow Wing County's water resources." However, in the request to amend the official land use map for parcel 73040571, the variances are so extreme that they may actually cause adverse effects to Pelican Lake.
2. Not only does the parcel not conform to the county's current Waterfront Commercial zoning standards, it will also fall far short of meeting the standards of the Shoreland District zoning, the predominant zone for this section of Pelican Lake. For example, the variance requests would:
    a. Drastically minimize the required lot area,
    b. Significantly minimize the required lot width, and
    c. Allow six lots in Tier 1 where current regulations would allow only one lot.
3. If approved, the reclassification of this parcel would negatively impact the health, safety and general welfare of area residents and the public. Without more information, we don't know how many people could occupy this parcel at any given time. But with residents of 12-13 dwellings of various sizes as well as their guests, there is potential for a substantial increase in people using the property. Further complications could result if property owners are allowed to rent out their dwellings to "tenants" as referenced in the community's association articles. Examples of negative impacts could be:
    a. Devaluation of property values in our lake area
    b. Safety hazards related to increased vehicle traffic
    c. Noise resulting from significantly more people and pets
    d. Noise and watercraft traffic related to additional jet skis
    e. Considerably more boat traffic due to 12 lifts (*Note: In the past 7 years, we have seen only 3 boat lifts at the resort, one of which was used by the*

owner.) Thus 9 additional lifts will change both the appearance, noise and traffic in this section of Pelican Lake.

4. The potential for adverse environmental impact as a result of excess people on one land parcel is a grave concern. Again, how will more people on this parcel affect storm water, erosion and sediment control, wetlands, the floodplain, the shoreland and the septic systems?

We remain extremely concerned about the proposed resort conversion. We waited and saved 43 years to retire to our dream property. We enjoy all four seasons here, and consider ourselves lucky to be surrounded by the peace and quiet of nature. Thank you for your consideration.

John and Carol Elkins
26826 County Road 4
Nisswa, MN 56468
Elkjc1972@gmail.com

RECEIVED
By Gina.Roach at 3:34 pm, Apr 16, 2021

Gina Roach

Subject: FW: Public Hearing Comments: Pelican Beach Holdings LLC
Attachments: Resort Conversion Comments #2.docx

-----Original Message-----
From: John R Elkins <elkjc1972@gmail.com>
Sent: Friday, April 16, 2021 3:13 PM
To: Landservices <Landservices@crowwing.us>
Cc: John Elkins <elkjc1972@gmail.com>
Subject: Public Hearing Comments: Pelican Beach Holdings LLC

Note: Please reply that you have received my comments and that they will be part of the public record for the April 19 meeting. Thank you.

RECEIVED
By Gina.Roach at 3:34 pm, Apr 16, 2021

To: Crow Wing County Planning Commission/Board of Adjustment

RE: Pelican Beach Holdings LLC Zoning Requests for Parcel #73040571

Date: April 15, 2021

Comments: John and Carol Elkins, 26826 County Road 4

As year-round residents who live two properties north of the resort, we strongly oppose the resort conversion as currently proposed for the following reasons:

1. The 3.35-acre parcel east of County Road 4 provides inadequate land for 11 individually owned dwellings. Theses condominium units could be occupied by upwards of 100 people on a potentially year-round basis. The resulting congestion on land, water and roadways presents safety hazards to owners and neighbors.
2. If approved, the re-zoning would set a dangerous precedent for the lake. Applicant requests the property be re-zoned from Waterfront Commercial to Shoreland District and be given extreme variances for density, lot area and lot width. The applicant wants the financial benefits of Shoreland District while requesting the density of Waterfront Commercial.
3. The applicant has provided no further evidence or plan to satisfy the legitimate concerns of neighbors. Dozens of property owners put time and effort to submit comments for the first public hearing, and 34 or so people attended the March 18 Zoom, speaking with passion about Pelican Lake and their desire to protect it. The vast majority of these comments opposed the resort conversion as proposed. While the notes of the April 1 onsite review of the property state that the concerns of neighbors will be addressed in the Declaration/Covenants of the Association, that gives us inadequate assurance now as the applicant's requests are being considered.
4. The resort conversion introduces numerous concerns for Pelican Lake water quality. From the April 1 onsite comments, the "Owner noted that he is aware of septic concerns." However, there is no evidence of a plan to address it. Also, has an engineered storm water management plan been submitted with the application?

5. The resort conversion introduces numerous safety concerns. Has the Highway Department been consulted again to determine if a turn lane is indeed required or other safety measures incorporated, especially with the potential for parking across County Road 4? Has the DNR been asked to review the dock plan, given that 11 or 12 property owners since all have a slip at the dock? Will there be a limit of additional watercraft for the property considering there is only 166 feet of shoreline?

We have many additional concerns regarding this resort conversion request, many of which have been expressed by other property owners. In closing, we are asking the Planning Commission/Board of Adjustment to consider what the outcome will be if this request is approved. A parcel of land that is not big enough for two residential lots will have 11/12 postage-size lots/dwellings filled to maximum capacity all summer and potentially longer. The result could ultimately cause an adverse affect to Pelican Lake.

Thank you for your consideration.

Carol and John Ekins

RECEIVED
By Kirstin Lindbery at 12:07 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

From: WILLIAM ELMQUIST <welmquist@comcast.net>
Sent: Thursday, March 18, 2021 10:57 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

William Elmquist & Jill Brubaker (seasonal residents)
Chequemates
26708 County Rd 4
Nisswa, MN. 56468
Parcels #73040505 & 73040533

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Re: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

To whom it may concern,

I was saddened to hear about the closure and sale of Pelican Beach Resort. It was inevitable, I suppose, that the resort owners would eventually move on. The decision to subdivide and develop an entire neighborhood on the resort property, however, is not inevitable and would absolutely be detrimental for the surrounding properties.

This proposal goes far beyond legitimizing the existing non-conformity of the property and would undermine the zoning ordinances which serve to provide consistency and stability to the whole region. The degree of the requested variances is unreasonable and grossly inconsistent with other properties in the area. Specifically, reducing the minimum lot size by almost 1,700% narrowing lot width by 400% and potentially increasing the concentration of dwellings by 600%!

Additionally, there are a couple of items on Page 4 of the Agenda Packet which I challenge. First, there are not currently 12 mooring slips at this location, as stated. By my count, there are barely three. The lake is so shallow at that location that 12 mooring slips wouldn't even be possible. Secondly, it is misleading to say that the "Property owner would like to get out of the resort business". The current property owner has not been "in" the resort business. The new owner chose to buy the resort with the apparent intention of converting/subdividing into smaller lots to be sold off, presumably at a profit. By pursuing this plan, the property owner has created the need for these variances.

If any or all of these requests are approved, a dangerous precedent would be set by encouraging additional sub-divisions in the future and over-development of this area. Cramming in these "postage stamp" lots around Pelican Lake will absolutely not promote health, safety or general welfare of the public.

I request, at the very least, a continuance in this matter so the issues here can be thoroughly considered.

Respectfully,
William Elmquist
Jill Brubaker

RECEIVED
By Kirstin Lindbery at 12:12 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: objection to Pelican Holdings LLC zoning application
Attachments: Objection to Pelican Holdings LLC Application.pdf

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Thursday, March 18, 2021 11:25 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; Jacob Frie <Jacob.Frie@crowwing.us>
Cc: Bill Brekken <Bill.Brekken@crowwing.us>; Jim Gammello <jgammello@gqlaw.net>
Subject: objection to Pelican Holdings LLC zoning application

Good Morning Kiki and Jake
I submit the objection on behalf of my clients who own the property to the north and immediately adjacent to the Applicant's parcel.
Can you send me any updated information since our last correspondence and can you send me the Agenda for tonight's meeting and the sign in link for the video meeting.
I am having some problems with my system and I would like to check to make sure everything is working correctly.
Finally, **the property has not been issued a resort license for 2021**, according to my conversation with the MN Dept of Health.
Resort licenses are issued annually and run from Jan 1-Dec 31 of each year.
I am expecting a call back to confirm when the last resort license was issued. I believe the last license was issued to the former owners.

Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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Minnesota State Bar Association
Certified ▲ Specialist
Real Property Law

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

March 17, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

I have been practicing in Crow Wing County for many years. Over those many years, I have seen a lot of zoning applications and watched as the rules and administrations have changed. The current Land Use Ordinance of Crow Wing County is very good, thoughtfully deals with environmental protections and also gives due regard to the commercial and business interests of the community.

I represent, Pelican Holdings LLC, landowners immediately adjacent to the Applicant who only expect a more reasonable development plan that complies with state and county zoning standards. I have had a brief conversation with the Planning and Zoning staff regarding my clients' concerns. Prior to submitting this objection, I also reached out to the Applicant's surveyor representative to ask for a meeting to attempt to resolve my clients' concerns.

This Application is like none other I have seen. It attempts to bend the Crow Wing County Land Use Ordinance (the "Ordinance"), which supports resorts, to the breaking point. This Applicant seeks the benefits of the resort considerations, requests residential zoning and further requests permission to create for sale 13 residential lots. All of the Applicant's requests need several variances (none of which comply with the Ordinance subdivision or platting requirements) and also requires increasing the existing nonconformity of the land by asking for six (6) residential lots in Tier 1 where only one (1) is allowed.

Pelican Holdings LLC (hereafter "Applicant") is erroneously attempting to re-zone a parcel of land previously operated as a "resort," to a residential zone RR 5 but then is also seeking to retain the commercial waterfront density of a preexisting legal nonconformity. As properly stated in the staff report, Applicant's change of use requires compliance with the Ordinance including, without limitation, Article 33, Article 41 and Article 11. The fact that the property was previously a resort, does not entitle the Applicant to have the same benefits of a resort use in a residential zone or to avoid compliance with the subdivision requirements of the Ordinance. This is simply a developer

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trying to take advantage of the favorable treatment of resorts to obtain 13 residential lots for sale when the land mass is not sufficient for Two Residential Lots. Applicant is seeking to terminate a resort, not retain a resort.

THE APPLICATION ITSELF IS DEFECTIVE

Regarding rezoning, Applicant seeks to rezone the property from Commercial waterfront to RR5. My client has no objection to the proposed zoning change; provided that Applicant's Plat and development plan comply with requirements of RR5 zoning. However, the Application does not appear to meet the requirements of Article 14.1 C or 14.2 of the Ordinance.

There are also significant issues with the Plat. The Applicant proposes lot width to be 23 feet where 100 ft is required for a single-family residential lot and for a duplex residential lot, 200 feet is required. Applicant proposes that all lots only meet 23% and 11.4% of the minimum lot width requirements. This is a deviation of 76% and 88.5% respectively.

Lot size and characteristics are also a glaring problem with the Application. The Applicant proposes that lot area be as follows: Lot 1, Block 1, 1791 sq ft, Lot 2, Block 1, 1980 sq ft, Lot 3, Block 1, 1873.4 sq ft, Lot 4, Block 1, 2063.8 sq ft, Lot 1, where a minimum of 40,000 is required for a duplex and 30,000 sq ft and where the buildable area for a single-family residential lot is 12,000 sq ft and a duplex residential lot is 27,000 sq ft. The Applicant proposes that lot area be as follows: Lot 5, Block 1, 4026.7 sq ft, Lot 6, Block 1, 3575 sq ft, Lot 7, Block 1, 2640 sq ft, Lot 8, Block 1, 2913.8 sq ft, Lot 9, Block 1, 2452.7 sq ft, Lot 10, Block 1, 3063.2sq ft, Lot 11, Block 1, 3752 sq ft, Lot 12, Block 1, 6287.6 sq ft where a 30,000 sq ft is required and where the buildable area for a single-family residential lot is 12,000 sq ft.

Applicant is proposing that none of the proposed residential lots in the proposed plat meet the buildable area or lot square footage requirements of the Ordinance. Regarding required lot square footage, applicant proposes only between 5% and 20% of the Ordinance minimum square footage requirement. This is a deviation between 95% and 80% respectively. Seven (7) of the twelve (12) residential lots are under 3,000 sq ft or 10% of the Ordinance square footage requirement. More than half of the proposed residential lots deviate 90% from the Ordinance square footage requirements. None of the residential lots meet the 12,000 sq ft minimum buildable area requirement. The Applicant proposes six (6) dwelling units in Tier 1 where one (1) is allowed. This is 6 times more than what is permitted. This is more than a substantial deviation from the Ordinance requirements.

The Applicant must meet the subdivision requirements set forth in the Land Use Ordinance. The applicable standard that must be followed is the technical requirements of the Land Use Ordinance. Pursuant to Minnesota law, failure to comply with the technical requirements of the Land Use Ordinance is fatal. Minnesota cases make clear that the minimum requirements of the platting ordinance must be followed. Regulatory standards must be sufficiently precise to ensure the application of objective standards to all similarly situated property, to adequately inform landowners of the requirements they must satisfy to gain subdivision approval, and to allow a reviewing court to evaluate noncompliance. *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567, 572 (Minn. Ct. App. 2003). A local government reviews an application for a permitted use to determine only

whether the proposed use complies with those standards. *Chanhassen Ests. Residents Ass'n v. City of Chanhassen*, 342 N.W.2d 335, 340 (Minn. 1984); *Chase v. City of Minneapolis*, 401 N.W.2d 408, 413 (Minn. Ct. App. 1987).

These minimum standards are paramount. County policy or the County's Comprehensive Plan visionary statements are informative, but always subordinate to the technical requirements of the Land Use Ordinance, including the plat or subdivision requirements. In the case of *In re Skretvedt's Application for Preliminary Plat Approval*, No. A05-2358, 2006 WL 2348499, at *1 (Minn. Ct. App. Aug. 15, 2006), Morrison County denied a plat application that met the technical requirements of the ordinance based on the principals of the comprehensive plan. In *Skretvedt*, the court made clear that "under Minnesota law, when an ordinance specifies minimum standards to which subdivisions must conform, local officials lack discretionary authority to deny approval of a preliminary plat that meets those standards" *Id.* In *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567 (Minn. Ct. App. 2003), the County relied on its vague statements in its comprehensive plan to deny a plat that met the technical requirements of the subdivision ordinance. The court stated:

> "The comprehensive guide plan in this case provides that the county's agricultural goals are to protect long term agriculture as a vital element in the County economy, prevent the unnecessary conversion of prime farmland to non-farm uses, and prevent incompatible land uses in the agricultural areas. (Chisago County Comprehensive Guide Plan at 28.) Like the provisions of the comprehensive plan in *C.R. Invs. Inc.*, the provisions of the Chisago County Comprehensive Guide Plan are unreasonably vague and subjective for the purposes of furnishing a basis for denying approval of PTL's preliminary plat." *PTL, L.L.C. v. Chisago Cty. Bd. of Comm'rs*, 656 N.W.2d 567, 575 (Minn. Ct. App. 2003)

In *Skretvedt*, the court stated: "We also considered whether the comprehensive plan provided an independent basis upon which a denial may rest.. Because the comprehensive plan is a guide, not an ordinance; because even if the comprehensive plan had regulatory effect, its general provisions are too vague to form the basis of a legally sufficient denial; and because the board had already exercised its discretion in implementing the comprehensive plan with the zoning and subdivision ordinances, we reversed and remanded." As was true in *PTL and Skretvedt*, the Crow Wing County Comprehensive Plan is not a basis to approve a plat application that does not meet the subdivision ordinance. The relevant provisions of the Comprehensive Plan state:

"The Comprehensive Plan provides a vision and framework for development in Crow Wing County over the next 20 years and will be reviewed annually for changes and updates. The Comprehensive Plan is an official document adopted by the County Board to guide decisions about the physical development of the County. Any ordinances or other regulations adopted by the County are expected to reflect and support, and otherwise be consistent with, the policies outlined within this Comprehensive Plan. The Plan sets broad policies to direct the future growth and development in the following areas: land use, transportation, utilities, parks, housing, employment and economics, natural resources, and county government. For each topic the Plan identifies specific issues, assigns policies to each issue, establishes a framework to achieve the policies, and identifies implementation strategies for the policy to resolve the issue." (Crow Wing County Comprehensive Plan Pg. 7). The Comprehensive Plan goes on to state that,

> "Tourism is likely to take on a more prominent role in the County's economy. Lakes and other natural resources are key components that attract people to Crow Wing County, as are small resorts, which are slowly being forced out due to increased property values of waterfront property. COMPREHENSIVE PLAN ADOPTED ON 4/27/04 29 The number of resorts in Crow Wing County has declined from 126 in 1985 to 97 in 1998 (source: MN Dept. of Revenue). This is a 30% decrease in just 13 years. In Crow Wing County, the resort industry recorded gross sales of $45,127,052 in 2000 and contributed $2,864,853 in sales and uses taxes (Source: MN Dept. of Revenue). For every dollar spent on lodging by a Minnesota tourist, $2.41 is spent on other items (Source: Minnesota Office of Tourism) resulting a net gross sale in Crow Wing County of $153,883,242 from resort guests. When a resort is sold for individual seasonal use, the local economic impact is severe. A commercial resort cottage contributes 10 times more in local revenue than if the cottage is sold for seasonal home ownership (Source: University of Minnesota)." (Crow Wing County Comprehensive Plan Pg.28-29.)

As in the cases cited above, Crow Wing County's Comprehensive Plan's general provisions are too vague to form the basis of a legally sufficient denial or approval; and the County has already exercised its discretion in implementing the Comprehensive Plan when it adopted the zoning and subdivision ordinances. Moreover, this Application is not an effort to retain an existing resort, rather it is to terminate an existing resort. Finally, these vague policy statements do not justify deviating from the mandatory language of the subdivision ordinance and its technical requirements.

Because this Application does not meet the technical requirements of the subdivision components of the Ordinance, these technical requirements cannot be passed over or disregarded because of the vague references in the Comprehensive Plan. Because this Plat application does not meet the specified minimum standards for subdivision, the County lacks discretionary authority to approve the application. This is true even if there is a policy in the Comprehensive Plan favoring resorts. Merely because there are existing structures on a parcel of land previously used as a resort, the Applicant is not entitled to a residential lot or unit for each existing structure or in this case multiple lots or units for each structure.

Attaching conditions to the Plat is also not appropriate in this case. The Application deficiencies are so extreme and numerous that any attempt to correct the deficiencies by conditions would be meaningless. For example, assume a condition were attached requiring future owners who want to expand a structure to apply for a variance. Once the preliminary plat is approved, the County would be obligated to issue variances, since preliminary plat approval is tantamount to final plat approval, and because the then owners could honestly assert that they were not responsible for the lot being substandard and not compliant with the Ordinance and the County would have already approved a lot of record.

THE BOARD SHOULD ALSO NOT APPROVE ANY VARIANCES

With regard to **existing nonconforming lots in a shoreland area**, the state of Minnesota directs county authority. Minnesota Statutes § 394.36, subd. 5 (a) is clear: "This subdivision applies to shoreland lots of record in the office of the county recorder on the date of adoption of local

shoreland controls that do not meet the requirements for lot size or lot width. A county shall regulate the use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas according to this subdivision." Subd. 5(f) further requires: "**(i)in evaluating all variances**, zoning and building permit applications, or conditional use requests, the zoning authority **shall require** the property owner to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions." In this Application, all these issues should be addressed or reasons why they are not appropriate should be stated. Each and every variance should be addressed pursuant to this state statutory requirement.

The extent and number of variances in this application are overwhelming.

Variance is defined in the Ordinance as "Any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause a practical difficulty." (p. 180 of the Ordinance).

PRACTICAL DIFFICULTY, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. (p. 170 of Ordinance).

8.4 VARIANCE CRITERIA

A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.27 subdivision 7. No variance shall be granted that would allow any use that is prohibited in the land use district in which the subject property is located. In considering a variance request, the board of adjustment must consider the following factors:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

5. Will the issuance of a variance maintain the essential character of the locality?

6. Does the need for a variance involve more than economic considerations?

STATE STATUTES: Minnesota Statutes § 394.27, subd. 7, governs a county's power to grant variances and provides: Variances shall **only** be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.

CASE LAW: In re Stadsvold,754 N.W.2d 323, 332 (Minn. 2008) sets out the six (6) factors for consideration under the "practical difficulties" standard : (1) how substantial the variation is in relation to the requirement; (2) the effect the variance would have on government services; (3) whether the variance will effect a substantial change in the character of the neighborhood or will be a substantial detriment to neighboring properties; (4) whether the practical difficulty can be alleviated by a feasible method other than the variance; (5) how the practical difficulty occurred, including whether the landowner created the need for the variance; and (6) whether, in light of all of the above factors, allowing the variance will serve the interests of justice.

This Application requires a complete deviation from the platting or subdivision requirements of the Ordinance. The variances would totally eclipse or undermine the requirements of the subdivision Ordinance. This Application is not a case where the width of a lot is off by a few feet or small percentage of what is required. This Application would require the County to totally disregard the technical requirements of the subdivision Ordinance and would require a substantial variation from the Ordinance requirements. **This is not a practical difficulty.** Furthermore, the Applicant has created the need for the variance. The property can also continue to be used as it has for many years as a legal non-conforming commercial waterfront property. Only because the Applicant seeks permission to sell 13 residential lots is there a need for extensive and numerous variances. The "need" for the variance is solely the doing of the Applicant. **This is not a practical difficulty**.

Granting the variance would set an untenable standard. It would be untenable to the County since it would allow developers to request all manner of deviations from the subdivision Ordinance (as in this case) regardless of whether even one of the proposed lots or units meet the technical requirements of the Ordinance. It would also be untenable to neighbors, since such a deviation is arbitrary and capricious, and leaves neighbors without a specific measurable basis to properly object to such an application. It also is untenable because neighbors wishing to object are essentially told that when a new owner wants to expand a structure, they can voice their concerns in a future hearing where future variances will be considered; when such concerns become weak and meaningless once the county approves a lot of record. Allowing the variances will not serve the interest of justice. **This is not a practical difficulty.**

CONCLUSION

In summary, this is not a resort. This is not intended to be a resort conversion to a shared equity form of ownership. **This is a former resort parcel purchased by a private developer trying to get approval of 13 residential lots for sale to private individuals when the land mass is not sufficient** and where the Application does not and cannot comply with the technical requirements of the Ordinance. The County's Comprehensive Plan is not a legitimate basis of justifying the Application. The Application does not comply with the technical requirements of the Ordinance and must be denied. Attaching conditions to any approval is insufficient where the deficiencies are so extreme and numerous and would undermine the ability of the County or neighbors to object to the deficiencies. Once preliminary plat approval is granted, the County would be obligated to issue variances. Variances should likewise not be granted because the Application does not meet the "practical difficulties" legal standard. The "need" for the variance is solely the doing of the Applicant. **This is not a practical difficulty**. The extent and number of variances requested totally

eclipse the requirements of the ordinance. **This is not a practical difficulty.** Allowing the variances will not serve the interest of justice, rather, to the contrary, would take away the County's ability and the ability of neighbors to meaningfully object to future variances. **This is not a practical difficulty.**

Sincerely,



James M. Gammello

JMG/lmb

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Objection to Pelican Holdings LLC application final.docx

Kirstin Lindbery

Subject: RE: building permits for alleged duplexes on Pelican Beach Holdings property

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Friday, March 26, 2021 2:49 PM
To: Jacob Frie <Jacob.Frie@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: building permits for alleged duplexes on Pelican Beach Holdings property

Hi Jacob
I have reviewed all the on line permits for the above application. Some of the writings are a bit difficult to read.
I have not been able to locate any building permits for the alleged duplexes. Could you please send me the permits, if they exist or confirmation that you do not have any building permits for the alleged duplexes. Please also let me know what it would cost to obtain better copies of the permits of record. I am happy to pay the cost for the reproduction or to send someone over to the county to make copies.

If there are no permits for the alleged duplexes, said structures are not legal non-conformities. In fact, these structures are a potential violation of the ordinance and if there are existing violations the application cannot continue unless the Applicant agrees to remove any structures that are not properly permitted.

According to the county records, these alleged duplexes simply appear on illustrations in the fall of 2001 when rezoning to CW was requested. Prior to that date no application for this property even illustrates any structures in the first tier, except a 18 x 20 boathouse, a 14 x 20 screened picnic area(permit issued 1973) and a mobile home that was moved by CUP in 2.2. 83 when the then owner requested permission to build a 2 x 30 cabin meeting all setbacks.

Please also add this letter to the public record for this application.

Thank you

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

P.O. Box 2629 *100 First Street Southeast*

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Baxter, MN 56425
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Fax: 218-824-8545 *Fax: 320-632-3567*
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RECEIVED
By Kirstin Lindbery at 11:48 am, Apr 13, 2021

Kirstin Lindbery

From: Jim Gammello <jgammello@gqlaw.net>
Sent: Tuesday, April 13, 2021 11:39 AM
To: Kirstin Lindbery; Jacob Frie
Cc: Gary Griffin
Subject: RE: For the Record Pelican Beach Holdings
Attachments: Frie, Jacob - CW County RE Pelican Beach Resort.pdf

Thank You Kristin.
Please find my attached correspondence.
I have been trying to understand the zoning record regarding this parcel and am at a loss to make sense of it. I suspect others, likewise are finding the zoning record confusing.
Consequently, I request that this matter be removed from the April 19, 2021 Agenda until the zoning record is clear and verified.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

April 13, 2021

Via email: Jacob.Frie@crowwing.us

Jacob Frie
Planning Commission and Board of Adjustment
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Objection to Pelican Holdings LLC Zoning application
Our File Number: 20521.003

Dear Mr. Frie:

Please let this letter serve as a formal request that this matter be taken off the Board of Adjustment agenda for April 19, 2021, based on the lack of opportunity to review the complete zoning history of this parcel. It is a fundamental principal that the purpose of a hearing is for the presentation of all relevant facts and information and the opportunity to be heard. Without a clear zoning record and history, any decision would be arbitrary and capricious.

I also request that zoning staff summarize the zoning history for the board members, the public, Lake Edward Township, and others who need this information to properly prepare for the hearing. The recent posting of the zoning history raises new questions. Document numbers 69089 and 69090 are very confusing. I presume because of the document number that 69089 came first, but 69089 appears to come after 69090 because the court orders the Zoning Office's issuance of the CUP with conditions as directed by the judgment of the court in February 1993. Document numbers 42628 and 52897 are also confusing. How many conditions were attached to the CUPs, what were those conditions, and were they ever amended?

I further suspect, since these documents were recently discovered after permitting questions were raised, that this entire application has been premised on inadequate and incomplete information. I presume all the staff comments and on-site reviews were premised on less than the full zoning record. Likewise, I suspect that decisions made by the Planning and Zoning Commission or Board of Adjustment after 1993 were also made without the benefit of the recent permits posted to the website.

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† Real Property Law Specialist
▲ Rule 114 Qualified Neutral

100 1st Street SE
Little Falls, MN 56345
T: (320) 632-3606 F: (320) 632-3567

In the interest of a just and fair legal process and a meaningful hearing, this application should not proceed until the zoning history is comprehensively understood and verified. Moreover, because the hearing is scheduled in less than one week, even if you are able to summarize and verify the complete history of this property in time for the hearing, the members of the Board of Adjustment and others concerned with this application should be given a reasonable amount of time to review and respond to the new information.

I also request that you prepare a link to all these documents as part of the posting today, which may be helpful or informative to all concerned.

Finally, please make this letter part of the record of this application.

Sincerely,



James M. Gammello

JMG/lmb

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Eric, Jacob - CW County RE Pelican Beach Resort.docx

RECEIVED
By Kirstin Lindbery at 1:38 pm, Apr 12, 2021

Kirstin Lindbery

From: Landservices
Sent: Monday, April 12, 2021 12:55 PM
To: Kirstin Lindbery
Subject: FW: Pelican Lake Parcel #73040571 Resort Conversion

From: Dennis Gartner <dwg@ecs-sales.com>
Sent: Sunday, April 11, 2021 4:02 PM
To: Landservices <Landservices@crowwing.us>; Jay Pansing (jep@jaypansinglaw.com) <jep@jaypansinglaw.com>; Patty Pansing (pattypansingbrooks@brookspanlaw.com) <pattypansingbrooks@brookspanlaw.com>
Subject: Pelican Lake Parcel #73040571 Resort Conversion

TO: Crow Wing County Commissioners

Why do you even consider a request of this type?

You have developed rules and regulations for the purpose of controlling density, environmental pollution, esthetics and safety. The existing resort violates many of these rules, and now we are considering approving further gross violations of the existing regulations. For what reason or hardship to the existing owner? I guess the answer has to be, they plan to make a quick bundle of money and without the approval of these ridiculous requests, that won't be as easy.

I will leave it up to the lawyers to point out all of the past violations and the additional ones that would occur if this plan goes forward.

As a nearby property owner I am totally opposed to these requested variances.

Sincerely,
Dennis Gartner

RECEIVED
By Kirstin Lindbery at 1:48 pm, Mar 12, 2021

From: Amy Gorton
To: Kirstin Lindbery
Subject: Pelican Beach Conversion
Date: Friday, March 12, 2021 1:47:21 PM

Hello Kirstin:

I wanted to reach out to voice my concerns about the proposed changes to Pelican Beach Resort. I am concerned about the impact of such a conversion, with multiple dwellings, on the neighborhood and Pelican Lake itself. It seems very much out of character with the quiet, family cabins surrounding the property and I am therefore against such a conversion. I'm also concerned about the short timeline for the community to voice their concerns.

Thank you for your attention.

Amy Gorton
26888 County Road 4 N
Nisswa, MN

RECEIVED
By Kirstin Lindbery at 8:20 am, Mar 16, 2021

Kirstin Lindbery

Subject: FW: Parcel 73040571 Pelican Beach Holdings LLC

From: Ann Groover <agroover12@gmail.com>
Sent: Monday, March 15, 2021 5:18 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Parcel 73040571 Pelican Beach Holdings LLC

To: Kirstin Lindbery
From: Ann Groover

Re: Parcel 73040571 Pelican Beach Holdings LLC

Dear Kirstin,

First and foremost, I am a long time summer resident who loves the lake and its clear waters. However, my concerns about this proposed conversion are many.

The setbacks on the property are way out of compliance and variances have been permitted that should not have been. The front two buildings should be removed.

The proposed density would put stress on the lake, the septic system and the water aquifer. The dozen or more cars would add to pollution.

The plat shows 12 slips that were never there before. Waterfront commercial regulations allow for only transient docking, not constant.

Many of the cabins have not been updated and are much as they were when I stayed in them 54 years ago. What improvements would be allowed?

This conversion in zoning should not be permitted as proposed.

Sincerely, Ann M Groover

RECEIVED
By Kirstin Lindbery at 11:32 am, Mar 17, 2021

Kirstin Lindbery

Subject: FW: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)
Attachments: Halberstadt Variance Response.pdf

-----Original Message-----
From: Landservices <Landservices@crowwing.us>
Sent: Wednesday, March 17, 2021 11:11 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: FW: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)

-----Original Message-----
From: Brad Halberstadt <brad@szjlaw.com>
Sent: Wednesday, March 17, 2021 11:01 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments in Response to Requests of Joshua Miles/Pelican Beach Holdings LLC Related to Parcel 73040571 (Hearing 3/18/21)

Attached please find my written comments related to the above-referenced request scheduled for hearing on March 18th. Thank you for your consideration.

.....
Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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RECEIVED
By Kirstin Lindbery at 11:32 am, Mar 17, 2021

Memorandum of Comments and Objection to
the Requests of Joshua Miles and Pelican Beach Holdings, LLC
for the Land Use Map Amendment, Variances and Preliminary Plat
Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 8375 80th St. N, Stillwater, MN 55082

RE: Submission of Comments for Public Hearing scheduled March 18, 2021

DATE: March 17, 2021

INTRODUCTION

This Memorandum is submitted in response to the notice for Public Hearing regarding various requests of Joshua Miles and Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be a chorus of legitimate concerns and attendant objections to these requests – as well as an objection to the limited time allowed to submit such responses.

STANDING AND PRELIMINARY REASONS FOR COMMENTS AND OBJECTION

My connection to Pelican Lake undoubtedly pales in comparison to many of the existing land owners - it began nearly 40 years ago when my former in-laws purchased a house on the south side of the lake. From the moment I first saw it, I was instantly in awe of the beauty, serenity and inherent charm of what seemed to be a little slice of Heaven on Earth.

As the years passed, I dreamed about escaping the hustle and bustle of Minneapolis and returning to the lake and live that dream into retirement. As fate would have it (with the able assistance of Mary Nolan), I was lucky to find and purchase an undeveloped lot situated four properties to the north of the Pelican Beach Resort. Like others on the lake, my wife and I decided to put down roots and make a major investment (both monetarily and personally) on this remarkable location. Part of what convinced us to make that investment was the continued beauty, serenity and peacefulness of the lake that seemed undisturbed from the previous 40 years – and our hope that the protection of this jewel by the County, lake association and land owners would continue for future generations.

So, that's my story for standing to submit these comments and, ultimately, the reason for joining in the chorus of comments and objections to the Applicant's requests. I am encouraged to be surrounded by others that have much deeper roots but share the same commitment to preserve this special place for future generations – not by selfishly blocking development, but simply requiring compliance to both the letter and purposes of the existing rules set forth in County's Land Use Ordinance that exist to protect the lake and surrounding properties from the negative consequences that will likely result from the radical deviations from the established rules requested by the Applicant.

COMMENTS REGARDING LIMITED NOTICE

Prior to setting forth substantive comments, I am concerned with the limited time for submission of comments. While I did receive the notice at my house in Stillwater a few days ago, I can't help but wonder whether that is true for owners that are avoiding winter in states outside of Minnesota. Mail has certainly been less reliable since COVID – especially when it crosses long distances and state lines. I can't help but wonder if many of these outstate landowners even received the notice during our winter of continued COVID. Accordingly, I question whether the timing of consideration for the request is appropriate at this time.

Even if the notice was timely received, the notice promised that the information packet containing the request would be available after March 11, 2021 – only a week prior to the Public Hearing. I have a feeling I was not alone in continuously pounding the keyboard on March 12, 2021 - attempting to obtain the promised information packet. The link to the information packet did not show up until Saturday, March 13th. While March 13th is technically after the March 11th date set forth in the notice, I have a feeling that many less compulsive people gave up their quest after exhausting their efforts on March 12th.

All that said, the information packet is an eye-popping 110 pages containing an incredible amount of detail, drawings and pictures – all to digest in a mere few days. Not to mention the time required to pour over the County's Land Use Ordinance to find the applicable provisions, rules and purposes. Quite a daunting task just to digest all this material within such a limited time – much less to cobble together a lucid response to three requests with multiple parts involving what appears to be radical deviations from existing rules. To my knowledge, the Applicant has not previously discussed with any of the neighboring landowners any of the radical deviations set forth in the request since purchasing the property – meaning that the neighbors and all stakeholders on the lake had no idea this was even on the table or any opportunity to consider the risks and impact related to such changes. Everyone would benefit from additional time for further analysis and consideration – not only because what is in the request but, as described below, what is missing from the request. For that reason, I again question whether the timing of consideration for this request is appropriate at this time.

SUBSTANTIVE FACTS INCLUDED (AND NOT INCLUDED) IN THE REQUESTS

Facts Set forth in the Information Packet

As noted by the notice of Public Hearing, Applicant has teed up three requests for consideration to be addressed at the Public Hearing, purportedly related to a resort conversion:

- Land Use Map Amendment – from Waterfront Commercial (WC) Zoning to Shoreland District (SD) Zoning
- Variances for Lot Area and Lot Width for proposed lots
- Preliminary Plat consisting of 13 total lots: (12) Dewlling Units and (1) Common Lot

The information packet (if you managed to get to Packet Page 97) expands the detail of the two variance requests in the notice of Public Hearing and contains a new variance request that was not included in notice of Public Hearing:

- Minimum Lot Area of 1,792 square feet where 30,000 feet is required
- Minimum Lot Width of 23 feet where 100 feet is required
- To allow six (6) dwelling units in Tier 1 where one (1) is allowed

The survey on Packet Page 8 (the "Survey"), at least on paper, provides some indication of what is really being proposed by Applicant. They are drawing lines around existing structures to create individual lots. The Survey, however, does not propose to bring the property into compliance (as required by the rules) but demonstrates admitted violations connected to the proposed conversion.

First, the Survey shows the following proposed individual "postage stamp" lot sizes for the twelve dwelling units on Block 1:

Lot 1	1792.1 square feet
Lot 2	1980 square feet
Lot 3	1873.4 square feet
Lot 4	2063.8 square feet
Lot 5	4026.7 square feet
Lot 6	3575 feet
Lot 7	2640 square feet
Lot 8	2913.8 square feet
Lot 9	2452.7 square feet
Lot 10	3063.2 square feet
Lot 11	3752 square feet
Lot 12	6287.6 square feet

Second, the survey notes shows the following Lot Density Table resulting from the proposed lot division:

Tier	Density Allowed	Density Proposed
1	1	6
2	6	6

The Survey indicates approximately 165 feet of lakeshore to be shared by these 12 individual dwelling units – or just under 14 feet of lakeshore per unit. At least one of the duplexes is only 67.6 feet away from the lake. Finally, the Survey shows 12 slips – one for each dwelling unit.

The implied purpose for the requested rezoning, multiple variances and replatting is to convert the resort into a "planned community" – as evidenced by a draft of a planned community document included in the information packet.

Facts NOT Set forth in the Information Packet

Peter Drucker once said, "The most important thing in communication is hearing what isn't said." This applies in at least six important omissions in this request.

First, there is no mention of any prior discussion by Applicant with the neighbors about any of these plans or solicitation of comments/inputs. Trying to push this through on short notice during the winter when many of the neighbors are absent is also suspect.

Second, while there are exterior pictures of the property, they fail to demonstrate the current non-compliant nature of the property and the condition of each of the existing structures. Most of these structures aren't in the best condition – undoubtedly one of the reasons for the resort ceasing operation. There is no doubt that this could not be built today. That is why the Applicant is seeking the radical variances from the existing rules. They don't disclose that at least one of the structures also violates the current setback restrictions. But more about that later…..

Third, there is no discussion of why the property should be treated as a resort or the extent of the prior use of the resort when it was operating (as Applicant has never run the property as a resort). For example, what was the previous actual use of the resort? How often were these structures actually occupied? How much lake activity was generated on the lake? What was the maximum number of slips used by the resort? I know I have never seen 12 slips on that property. None of these facts are contained in the information packet. But they are important in determining whether the proposed use is reasonable or even close to the activity from the resort in the past.

Fourth, there is no discussion of the real intent behind the requests or what happens if the variances are granted. In other words, what will become of this nonconforming property if the radical variances are granted? We are left to guess what will happen to the existing non-compliant properties. Is the plan to tear them down and rebuild? Why cut a duplex in half? What is the plan to handle all the extra traffic from individual ownership? How is it possible for a new lot to comply with the existing rules if/when replacement were to take place? Will they be torn down? What will they be replaced with? How will the variances and or the planned community benefit the neighborhood? What protections will be in place to insure the protection of the lake and shoreland as a result of increased use and traffic from the

planned community? Why shouldn't the rules be enforced and the non-compliant parts of the property be addressed at this time instead of perpetuated by dividing up the existing lot into "postage stamp" lots? What impact will there be from individual ownership on the shared resources of the community and increased density on the property?

Fifth, there is a vacuum of facts to support any of the requests for variance. There is no description of how the proposed reclassification is in accordance with the County's Comprehensive Plan. There are no facts to support a reclassification due to changed land use circumstances. There are no facts to support why the property isn't suitable to conform with the exiting density rules. There are no facts to demonstrate how the request wouldn't result in a detrimental impact to property in the immediate vicinity. There are no facts to support how the request would promote the health, safety and general welfare of the public. There are no facts to support how the requests for variance is in harmony with the purpose and intent of the Land Use Ordinance. There are no facts to demonstrate that the requests for variance will result in the Applicant using the property in a reasonable manner not permitted by the Land Use Ordinance. There are no facts to support the need for the requests for variance are due to circumstances unique to the property and not created by the Applicant. There are no facts to support that the requests for variance will maintain the essential character of the locality. There are no facts to support that the need for the requests for variances involve more than economic considerations. The plat request fails to adequately address the environmental issues, including septic, and shoreland protections.

Sixth, there are not facts to support why the Applicant won't follow the existing rules and bring the property into compliance as required upon a resort conversion. Nor is there a claim for practical difficulties on why the existing rules cannot be followed. Instead, the requests for variance lead to the conclusion that Applicant simply purchased the property to cut it up and sell off the parts – and seek variances to get around the existing rules. Perhaps that isn't the case – but there is nothing in the information packet that describes an alternate conclusion.

In short, there is more that is not said than what is said……..

ANALYSIS OF THE REQUESTS

At the outset, it is important to note that I have no knowledge of the Applicant and I am certainly not against development – assuming that development follows the rules. If the property truly is a resort, Applicant is well within their rights to seek to convert the resort as set forth in Article 34.13 of the Land Use Ordinance – assuming, again, that Applicant complies with the rules on conversion (more about those rules later).

In fact, I was hoping that the purchaser of the resort would develop the property in a way that enhanced the treasure that we all share by following these rules and improving the property. Unfortunately, the requests set forth in the information packet don't evidence a plan to either develop according to the rules or enhance our shared treasure by bringing into compliance or improving the structures on the property. Instead, the requests demonstrate radical deviation from carefully formulated

rules to balance the rights of individual and collective ownership and to protect this amazing land for future generations.

I do not mean to imply that all planned communities are inherently evil. Just the opposite. I would not be submitting these comments if the survey followed the rules related to lot density, minimum lot sizes and minimum lot widths – most importantly the Tier 1 density rules. But the survey and requests do little more than subdivide duplexes, draw lines around the existing questionable structures, seek radical variances for nonconforming minimum lot sizes, nonconforming minimum lot widths and, most important, nonconforming minimum lot densities – just to announce that it is all really being done so the resulting nonconforming lots can be sold off as part of a new planned community. In short, it looks more like Applicant purchased the property solely for the purpose of exploiting the fact that it used to be a resort in order to make a quick buck by flipping the property. But that is probably my opportunistic side rearing its ugly head. I can't deny that thought crossed my mind when the property went up for sale…… I lacked the confidence that I could get the required variances to capitalize on that thought and, in good conscience, expose the lake, shoreland or neighborhood to the risks I describe herein.

But I digress…... We are here to consider Applicant's various requests for variance. While these requests are individually listed, they probably should be treated together. I assume that the Applicant wouldn't really want the property to be rezoned from commercial to residential if there is not granting of all of the requested variances. I can't imagine the replatting would make sense if the variances weren't granted and or the rezoning were denied. So, I'm going to focus on what gives me the greatest pause – which are the three requests for variance.

Purpose of the Land Use Ordinance

Before analyzing the requests for variance, though, it is important to recognize the stated purpose and goal in the County's Land Use Ordinance. Article 1.2 of the Land Use Ordinance describes its purpose and how it is to be used to promote the health, general welfare and orderly development of Crow Wing County:

> It is the purpose of this ordinance to protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations. Further, it is the goal of this ordinance to promote the health, safety, general welfare, and orderly development of Crow Wing County by:
>
> A. Regulating land use in accordance with the County Comprehensive Plan.
>
> B. Promoting orderly development of the residential, business, industrial, recreational and public areas of Crow Wing County.
>
> C. Dividing the County into land use districts.
>
> D. Regulating the location, height, and bulk of structures.

E. Preserving the economic and natural environmental values of shorelands.

F. Regulating setbacks.

G. Regulating sizes of lots, yards, and other open spaces.

H. Preventing overcrowding of land and undue concentration of structures.

I. Encouraging compatible developments of different land use and the most appropriate use of land within the County.

J. Maintaining and enhancing the quality and condition of natural resources within the County.

K. Providing adequate access to air, direct sunlight, and convenience of access to property.

L. Bringing all non-complying subsurface sewage treatment systems into compliance.

This ordinance is also intended to protect the shoreland of public waters and the shorelands of the Mississippi River and Headwaters Lakes it flows through, and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use and protection of waters and related land resources.

Limited Nature of Variances

Before analyzing the requests for variance, it is also important to recognize the limited nature of variances. After all, variances are nothing more than requests to break the rules that are meant to govern all property owners. Exceptions to rules should be just that – exceptions. Article 8.4 of the Land Use Ordinance reflects the limited nature of variances and requires specific findings in order to break the rules implemented to "protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations":

A. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.27 subdivision 7. No variance shall be granted that would allow any use that is prohibited in the land use district in which the subject property is located. In considering a variance request, the board of adjustment must consider the following factors:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

5. Will the issuance of a variance maintain the essential character of the locality?

6. Does the need for a variance involve more than economic considerations?

Finally, Minn. Stat. Sec. 394.27, subdivision 7 entitled "Variances; Practical Difficulties" provides:

> The board of adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Comments on Individual Requests for Variance

With those things in mind, it is relatively easy to see why each of the requests for variance fail to meet either the general purposes and intent of the Land Use Ordinance or the other requirements necessary for the granting of a variance.

1. <u>Request for Variance on Minimum Lot Area</u>

There are at least two applicable rules set forth in the Land Use Ordinance that deal with lot area. Applicant acknowledges that Article 11.3 requires a limited lot area of 30,000 square feet. In addition, Article 2.2.E. states that:

> No lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots created after the effective date of this Ordinance shall meet all minimum requirements established by this ordinance.

Nevertheless, Applicant requests a variance for each of the 12 lots with a dwelling unit – the magnitude of which is a quite extreme deviation. The smallest proposed lot size is only 1792.1 square feet – nearly 17 times below the required minimum. The average lot size of the 12 lots is approximately 3,000 square feet – 10 times below the required minimum. To say these are "postage stamp" lots is really an understatement. The same is true with dividing the duplexes into separate lots. This deviation isn't just bending the rules – it is so far off the required minimum to literally obliterate the rule.

While it might be argued that these dwellings presently exist in the context of the resort – that argument suffers from two main flaws. First, a resort is under the sole control of the resort owner. Having a single owner with responsibility over multiple dwellings is far different than having twelve separately owned dwellings with such extremely small lot sizes. Second, Applicant has never used the resort in this manner and there is no evidence that it was ever used to this extent. These "cabins" located on the property are non-compliant and certainly haven't been occupied for some time. Does it really make sense to create lots around uninhabited structures with questionable habitability and no plan to improve them – just to maximize the number of lots in the planned community – especially when the lot size deviates so far from the rule?

In order to meet the goals of the Land Use Ordinance, one of the stated actions is to regulate the sizes of lots (Article 1.2.G.). It hardly promotes the general welfare by turning a blind eye to the lot size requirement – especially when the request for the variance on the lot size is being sought only to flip an old resort into a planned community to sell off the individual "postage stamp" lots. Imagine what the lake would look like if everyone sought a waiver of the minimum lot size.

2. Request for Variance on Minimum Lot Width

The request for a variance on minimum lot width suffers from the same problems as minimum lot area – especially on a lake. The rule is that the minimum lot size is 100 feet. The property at issue has approximately 165 feet of lakeshore – within the 100 feet requirement set forth in Table 11.1. The request for variance acknowledges the minimum lot width is 100 feet, but seeks a variance to reduce that requirement by over 75% - down to only 23 feet.

In reality, the request is that 165 feet of lakeshore be shared by 12 lots with 12 dwelling units. That is less than 14 feet of lakeshore for each dwelling. Stated another way, each dwelling will be using the equivalent of less than 14 feet of lakeshore – hardly consistent with anything in the neighborhood. That is extremely taxing not only on the property itself – but upon the shared resources of the lake and upon the shared water resources, electricity, dispersion of sewage, damage from runoff, etc.

Again, there might be an argument that the resort was previously taxing the resources in the same manner. There is no evidence of that argument. Instead, the Applicant has never run the resort and I am confident that the longer term residents could provide insight on that previous use. Such evidence, however, ignores that any such prior use by the resort was under the enforcement of a single resort owner with usage restrictions consistent with a resort. Twelve independently owned "postage stamp" dwellings in such a small area with such a limited amount of lakeshore is simply too far from the rules to allow a variance.

3. Request for Variance on Tier 1 Lot Density

If the violations on the minimum lot area and minimum lot width weren't troublesome enough, the request for variance on the Tier 1 dwelling allowance is nothing short of shocking. Lot density is hugely important for a number of critical reasons. In fact, the Land Use Ordinance recognizes the importance of lot density by having a stated directive of preventing overcrowding of land and undue concentration of structures to promote the health, safety, general welfare and orderly development in the County (Article 1.2.H).

In order to protect the lakes and shoreland, the Land Use Ordinance divides shoreland properties into 2 tiers. Tier 1 is the land within the first 200 feet from the shore (Article 33.10.A.1). The number of dwelling unit lots allowable in each tier is calculated by diving the suitable area in square feet within each tier by the density factor for the shoreland class in Table 33.1 (Article 33.10.A.2). The Survey demonstrates that the property at issue is allowed only 1 allowable dwelling unit in Tier 1 pursuant to the density factor calculation. Stated differently, the rule says you are allowed only 1 dwelling unit within the first 200 feet from shore on this property to protect the lake and attendant shoreland.

Instead of bringing the property into compliance and protect the lake and shoreline, Applicant requests a variance. This request for variance seeks to expand the maximum density by not just doubling,

tripling, quadrupling or even quintupling the maximum density – but seeks to blow out the maximum density by a factor of 6. The request for a variance seeks to allow a total of 6 dwelling units within 200 feet of the lake when the carefully drafted rule only allows 1. To propose such a radical deviation in such a sensitive area borders on the absurd. Instead of protecting the most valuable shared asset (i.e., the lake) and the attendant shoreland, the request for variance seeks to establish 6 dwelling units in 6 independently owned lots within less than 35,500 square feet in the most critical tier of the land. Imagine what the shoreline would like – and the impact on the lake – if every property had 6 dwelling units where only 1 was allowed.

Looking closer, at least one if not both the duplexes are in violation of the setback requirements (which would now be 4 separate lots and independent dwelling units). Not only does that cause limited drainage - but think about the number of cars parked on each of these closely packed lots, the storage that each lot owner will undoubtedly seek, the traffic upon the limited amount of land, the coverage from each dwelling owner - all within 200 feet of the lake. Then you have boats, lifts, water toys, etc. from not only each of the owners of the 6 dwelling units – but add 6 more sets of "stuff" from the other 6 dwelling units in Tier 2. There is a reason for limiting the dwelling unity density in such close proximity to the lake. It is to protect not only the neighboring landowners but all that enjoy the lake. While these structures may presently exist, they really shouldn't. As part of any resort conversion, the rules say they must be removed and be brought compliant. Article 34.13.B. explicitly requires that dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots. Not only should the requested density variance be denied, but the owner should be encouraged to fix the nonconformities to protect the shoreland and the lake if there is going to be any use of these Tier 1 dwellings in the future.

Failure of Requests for Variance to Meet Statutory Requirements

Applicant bears the burden of demonstrating why the variances should be granted – after all, they are the ones seeking an exception to the rules. That is an uphill battle – especially when the requests impact such a pristine, shared natural resource.

To obtain a variance, Applicant must satisfy the statutory requirements, as embodied in Section 8.4 of the Land Use Ordinance, by obtaining affirmative answers to each of the following questions:

1. **Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?**

   The stated purpose of the Land Use Ordinance is to "protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms." The requests for variance propose radical deviations from the regulated size and density of lots and dwellings and far exceed those limits within critical areas of the lake. Further, the requests for variance do not conserve the economic and natural environmental values of

shorelands or provide for the wise use and protection of waters and related land resources. Instead, the requests for variance are merely aimed at dividing the property for purposes of sale.

2. Is the variance consistent with the Comprehensive Plan?

Development should be encouraged as part of any land use plan – but there are valid reasons for the regulations set forth in those plans. The regulations exist to support the underlying purpose of protecting the shoreland properties and shared lakes. Planned communities can provide greater access to these shared lakes – but should comply with the rules for their implementation. The requests for variance in their current form drastically fail to meet those rules. So, the requests for variance are not consistent with the Comprehensive Plan.

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

The radical deviations sought in the requests for variance demonstrate that the property is not proposed to be used in a reasonable manner. The lot density violation is perhaps the best example of this unreasonableness. The request for variance seeks a density that is 6 times the allowed density. The extent of this variance in the most critical area of the shoreland and lake not just unreasonable, it borders on absurd. The same is true with 12 independent dwelling units sharing 165 feet of lakeshore on this property – not to mention 12 boat slips and who knows how many other motorized and unmotorized lake toys within that 165 feet of shoreline for the 12 independent dwelling units. A new development would not be approved with these requests for variance. The requests for variance completely fail to demonstrate how this planned community with "postage stamp" lots will operate or make improvements. There has been no discussion of the development within the neighborhood. None of this seems reasonable.

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

There is no reason that the property cannot be brought into compliance or that these requests for variance are necessary. There is no evidence to support the fact that variance is required because of physical problem with the property. Instead, the requests for variance really came about because Applicant just purchased the property and doesn't want to, and most likely never intended to, operate a resort. These requests for variance were really created by Applicant desire to subdivide and sell the nonconforming, newly created lots. Instead of requesting radical deviations from the rules, some of the existing structures really ought to be removed and develop the property within the existing rules.

5. Will the issuance of a variance maintain the essential character of the locality?

Just the opposite – the creation of 12 "postage stamp" lots and 12 individually owned dwellings and 12 boat slips packed within 165 feet of lakeshore will substantially change the essential character of the neighborhood. Nothing like what is proposed exists in this locality. The sleepy resort (when it was a resort) was never operated in this fashion or created the traffic that will result from these requests for variance. There is a reason that there is a chorus of nearby property owners crying foul over these requests. Everyone knows that these requests for variance results in nonconformity with the rules that were put in place to protect the shoreland and the lake and change the essential character of the locality. The commitment to preserve and protect this pristine area is nothing short of remarkable – and is evidence that these requests will change the essential character of the locality.

6. Does the need for a variance involve more than economic considerations?

The requests for variance are solely about economic considerations. The requests say they aren't changing any of the existing structures, just drawing lines around them so they can be sold as individual units as part of a planned community – by someone that just purchased the property and never operated it as a resort. The timing of these requests and the fact that the property was just purchased and never operated as a resort leads to the conclusion that the requests for variance are being driven by only economic concerns.

LAST WORDS

Personally, I welcome Applicant's desire to develop this newly acquired property – as long as the property is developed in compliance with the existing rules. Unfortunately, the requests for variance fall so far outside the established rules designed to protect the shoreland and lake that I cannot support the proposed development for 12 dwelling units – especially when 6 of them are proposed to be located within 200 feet of the lake with only 165 feet of shoreline. For me, that is a bridge too far and perpetuates an unacceptable level of risk.

I am grateful that the Land Use Ordinance has protected this great natural resource that we share and believe we owe it to future generations to maintain that stewardship going forward. For those reasons, I must respectfully object to the requests for variance. It is my hope, however, that the Applicant will consider developing the property in a way that conforms with the existing rules.

Gina Roach

RECEIVED
By Gina.Roach at 1:49 pm, Apr 16, 2021

Subject: FW: Renewed Response to Application by Pelican Beach Holdings, LLC Related to Parcel Number 73040571

Attachments: Halberstadt Renewed Variance Response041621.pdf

-----Original Message-----
From: Brad Halberstadt <brad@szjlaw.com>
Sent: Friday, April 16, 2021 1:15 PM
To: Landservices <Landservices@crowwing.us>
Subject: Renewed Response to Application by Pelican Beach Holdings, LLC Related to Parcel Number 73040571

Good Friday afternoon! Attached please find my comments and objection to the renewed requests of Joshua Miles and Pelican Beach Holdings, LLC related to Parcel Number 73040571 scheduled for Public Hearing on April 19, 2021 at 5:00 pm. Please confirm receipt. Thanks!

.....

Bradley J. Halberstadt
Stewart, Zlimen & Jungers, Ltd.
2860 Patton Road
Roseville, MN 55113
Phone: (612) 870-4100 x 111
Fax: (612) 870-8758
Email: brad@szjlaw.com

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RECEIVED
By Gina.Roach at 1:49 pm, Apr 16, 2021

Memorandum of Comments and Objection to
the Renewed Requests of Joshua Miles and Pelican Beach Holdings, LLC
for the Land Use Map Amendment, Variances and Preliminary Plat
Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 8375 80th St. North, Stillwater, MN 55082

RE: Submission of Comments for Public Hearing scheduled April 19, 2021

DATE: April 16, 2021

INTRODUCTION

This Memorandum is submitted in response to the notice for Public Hearing regarding various renewed requests of Joshua Miles and Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be another chorus of legitimate concerns and attendant objections to these renewed requests – as well as an objection to the limited time allowed to submit such renewed requests. In addition, please allow me to renew my previous comments by incorporation.

At the outset, I apologize for both the length and sloppiness of this Memorandum. There are quite a number of moving parts and complexities that have recently come up – and there was only 3 days to cobble this together after the Agenda Packet was put online. I wish I had more time to smooth out the edges and apply a lot more polish – it certainly needs it……

SUMMARY OF THE ARGUMENT

1. There has been inadequate notice and time to respond – especially since the permit records for the former resort property have only been recently updated and the Agenda Packet containing the revised application was posted online only 3 business days prior to the Public Hearing.

2. The record is not complete. There appear to be conditions on the former resort property that were imposed 30 years ago in connection with a CUP related to the former resort expansion that need to be investigated prior to moving forward as they appear to preclude the requests for variance and Applicant's other requests – which do not appear in the Permit History in the Agenda Packet.

3. Applicant does not qualify for a resort conversion as the former resort ceased operation in 2020.

4. Applicant has failed to meet the heavy burden required to obtain the requests for variance under the Land Use Ordinance:

    a. Applicant's requests for variance is not in harmony with the purposes and intent of the Land Use Ordinance,
    b. Applicant's requests for variance are not consistent with the Comprehensive Plan,
    c. Applicant is not proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance,
    d. Applicant has failed to show that the need for variances are due to circumstances unique to the property and not created by Applicant,
    e. Applicant has failed to show that the issuance of a variance maintain the essential character of the locality, and
    f. Applicant has failed to show the need for variances involve more than economic considerations.

5. Applicant is not entitled to the number of mooring spaces listed on the survey. The former resort had only 3 mooring spaces on the dock and the Rules and Land Use Ordinance allow less.

6. The facts submitted by the neighbors are directly at odds with the allegations of Applicant in connection with the application in connection to the previous mooring spaces and Applicant's prior operation of the former resort.

7. This application is VERY DIFFERENT than other resort conversions. These differences include the fact that: (i) this is no longer a resort; (ii) there were restrictive conditions put on the former resort resulting from a hotly contested expansion that recognized the risks to the health, safety and general welfare of the shoreland, lake and its residents; (iii) the application seeks to greatly expand what previously existed (in both mooring spots and no limits on rebuilding and already overbuilt property); (iv) the absolute number of dwelling units, bedrooms and concentration of people on such a small shoreline of a pristine area of a highly prized lake, and (v) several others set forth below.

YET ANOTHER REASON FOR STANDING

Call it fate – but a few weeks ago I was reminded of our collective obligation to protect Pelican Lake's shoreland and water. It was mid-morning on a beautiful Saturday and I was in the back yard picking up pine cones that endlessly fall from the trees. My wife opened a sliding door and said that there was a strange car that drove through our driveway and was now parked at the neighbors – and a stranger was looking around in their yard. Being of relatively slight stature and having a penchant to avoid conflict, I debated whether I should go on with the pine cones or address the intruder and protect the neighbor's property. Needless to say, I dropped the pinecones and headed up the hill to see what was about.

Sure enough, there was a middle-aged, white haired man standing in the neighbor's yard. I started up a conversation and it turns out that he was trying to remember if his grandmother owned the neighbor's lot or mine. He said he had spent most of his childhood enjoying summers at that house before it burned down, but he and his sister shared the desire of getting a place on what they considered to be the most pristine lake in the country. Turns out that he now lived in Chicago – but felt Hayward had become too commercialized and he and his sister longed to return to the peaceful spot in this exact area of the lake.

Of course, I had to ask him whether the Pelican Beach Resort was very busy back then – and he hesitated for a minute and recalled that the former resort was quiet and fit in nicely with the surrounding properties. I also asked him how many boats he remembered being moored at the dock – he responded no more than a few in all the years he could remember.

After several minutes of talking, the door to the car opened and out popped an elderly white haired man that turned out to be his father. He added to the story and memories at the lake and the privilege that we all had in our connection with this great lake and the unique beauty of the south side of the lake.

After they left, it made me even more convinced that we all have an obligation to protect this lake – not just for ourselves and our future generations, but for the countless others that have the great fortune of having fond memories of this lake and those yet to come. That doesn't mean we stop development – but it does mean we make sure that the development is properly regulated by the well-crafted rules set forth in the Land Use Ordinance and other applicable rules and regulations to protect these great natural resources. Once again, I am glad to be surrounded by good people that share that commitment to this lake.

PRELIMINARY PROCEDURAL OBJECTIONS

Prior to addressing the arguments against the requests for variance, there are two preliminary objections to even considering the application at this time.

1. Timely Notice

Once again, there is virtually no time to prepare for this Public Hearing. The Notice of Public Hearing was received little over 10 days prior to the scheduled hearing date and the Agenda Packet was not available on the website until after 5:00 pm on Tuesday. That leaves only 3 business days to cobble together a response to a new application. Compounding that problem in this case is the problem with the online permits described below and the relatively short period of time that new permits were added to the website that are directly related to the application.

Further compounding this short notice is the fact that many of the lake residents are away from their property in the winter and experience COVID related delays with receiving mail.

2. Recently Updated and Incomplete Online Public Records

In addition to the limited time to respond, there have been very recent additions to the online permit history on the property – that are fairly complex and not completely answered yet. This is described in the following "Mystery of the Missing Permit and Remaining Unanswered Question" section below.

Certain stories take some unfold – and unfortunately, this story is one of them. Why is it important? Because, as described below, everyone needs to know how the story ends before we can move forward on the present application. Lurking behind the scenes are less than clear conditions that arose 30 years ago related to the former resort expansion CUP. None of these lurking conditions are described in the Permit History of the first or most current Agenda Packets. Here goes……

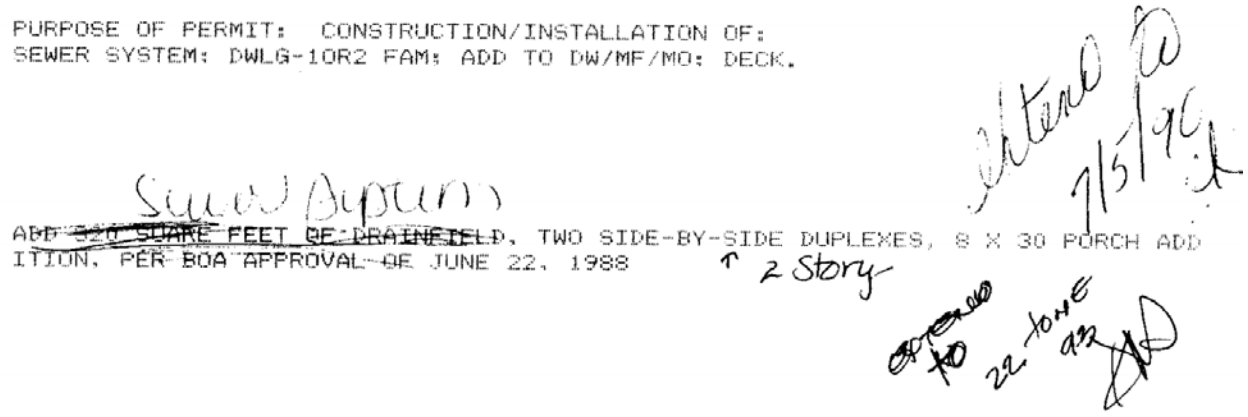
Mystery of the Missing Permit and Remaining Unanswered Question

a. The Duplexes

The story begins with a question raised at the last public hearing regarding when and how the duplexes were placed on former resort property. Sometimes, you just have to scratch an itch – and this was no exception.

After the public hearing, I decided to play Inspector Gadget and examine the permit history available on the County's GIS website (which is a fantastic feature). I reviewed a number of Mr. Swenson's permits - but there was no permit for those duplexes. That seemed odd….. So I sent an email to the County and was told that Mr. Frie was researching it. Mr. Frie, by the way, is a GREAT asset for the County. I can't imagine how he managed to pull this needle out of the proverbial haystack of documents from 30+ years ago.

Shortly thereafter, I learned that the duplex permit was located and placed on the County's GIS website. Sure enough, there was now an entry labeled "Duplexes" as number 42628. I opened the link and found an application dated July 5, 1988. This application was not like the other applications on the website. This was just a few page document and didn't contain any description of the duplexes – like how big they were or where they would be located on the property, etc. This is all the application said about the duplexes:


PURPOSE OF PERMIT: CONSTRUCTION/INSTALLATION OF:
SEWER SYSTEM: DWLG-1OR2 FAM: ADD TO DW/MF/MO: DECK.

Sewer Expansion

ADD 520 SQUARE FEET OF DRAINFIELD, TWO SIDE-BY-SIDE DUPLEXES, 8 X 30 PORCH ADDITION, PER BOA APPROVAL OF JUNE 22, 1988

↑ 2 Story

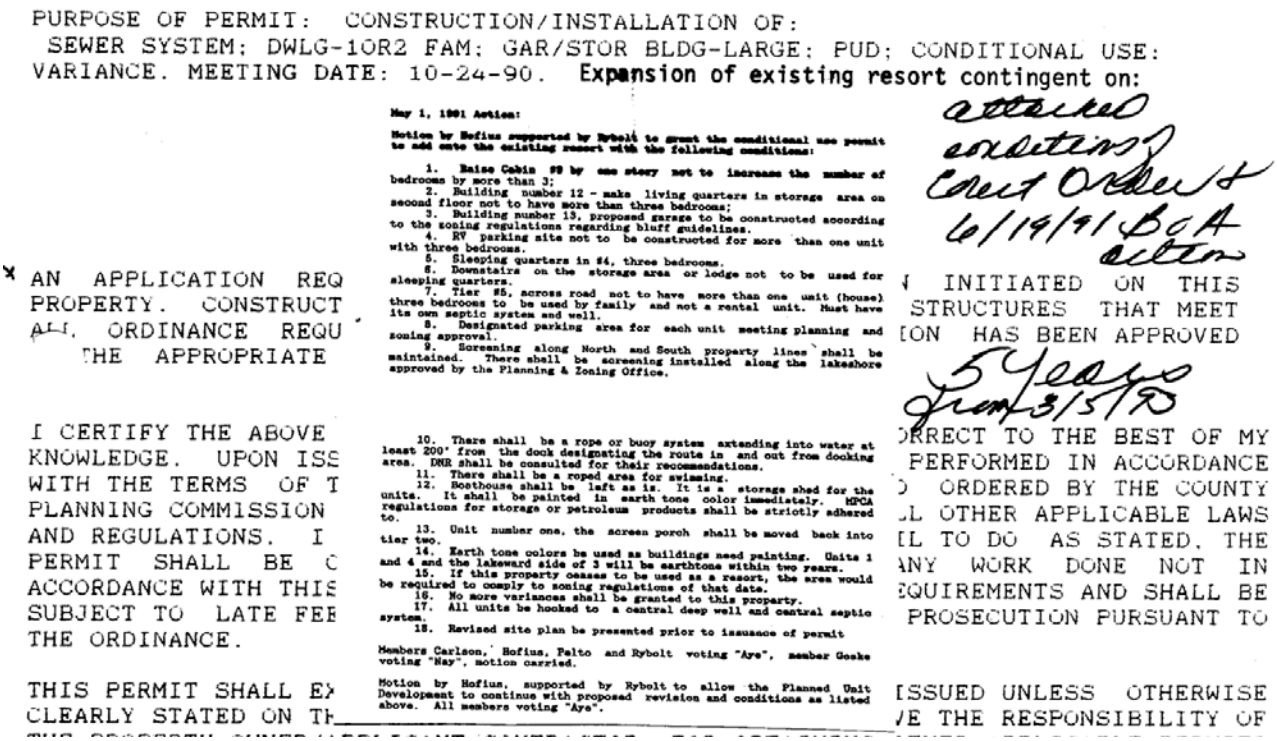
Again, no pictures drawings, no dimensions, no survey – nothing……

In addition, there were no variance requests to place the duplexes in Tier 1 or to put them closer than 75 feet from the lake. All the other permit applications had maps describing in detail how big the buildings would be, the number of bedrooms and a map on where the buildings would be placed on the lot. That just didn't seem right……..

After receiving the notice for public hearing a few days ago, I again checked the website to prepare this response. To my surprise, there were <u>additional</u> entries under Mr. Swenson's name on the permit screen that were not there before – a new building permit link as document number 52897 and two Conditional Use links as document numbers 69089 and 69090. You know what they say – "curiousity kills the cat." So, of course, I couldn't help but look……

b. <u>The Former Resort Expansion of 1990-91</u>

First, I opened up the building permit link of 52897 – it, too, was just a 3 page document dated September 10, 1990 with no drawings or dimensions. It described as another new sewer system, another dwelling, a garage and conditional use variance as set forth in the following summary - but something was superimposed on top of it:



PURPOSE OF PERMIT: CONSTRUCTION/INSTALLATION OF:
SEWER SYSTEM; DWLG-1OR2 FAM; GAR/STOR BLDG-LARGE; PUD; CONDITIONAL USE;
VARIANCE. MEETING DATE: 10-24-90. **Expansion of existing resort contingent on:**

attached conditions? Court Order 6/19/91 BoA action

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be striotly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Palto and Rybolt voting "Aye", member Goske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

5 years from 3/15/90

* AN APPLICATION REQ … INITIATED ON THIS
PROPERTY. CONSTRUCT … STRUCTURES THAT MEET
ALL ORDINANCE REQU … ION HAS BEEN APPROVED
THE APPROPRIATE …

I CERTIFY THE ABOVE … ORRECT TO THE BEST OF MY
KNOWLEDGE. UPON ISS … PERFORMED IN ACCORDANCE
WITH THE TERMS OF T … D ORDERED BY THE COUNTY
PLANNING COMMISSION … L OTHER APPLICABLE LAWS
AND REGULATIONS. I … IL TO DO AS STATED. THE
PERMIT SHALL BE … ANY WORK DONE NOT IN
ACCORDANCE WITH THIS … EQUIREMENTS AND SHALL BE
SUBJECT TO LATE FEE … PROSECUTION PURSUANT TO
THE ORDINANCE.

THIS PERMIT SHALL E… ISSUED UNLESS OTHERWISE
CLEARLY STATED ON TH… VE THE RESPONSIBILITY OF

I couldn't make out the text on superimposed image on the document (getting old really impacts the eyes), so I zoomed in and discovered that the permit had been granted on May 1, 1991 – but was subject to 18 conditions, two of which seem pretty relevant:

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

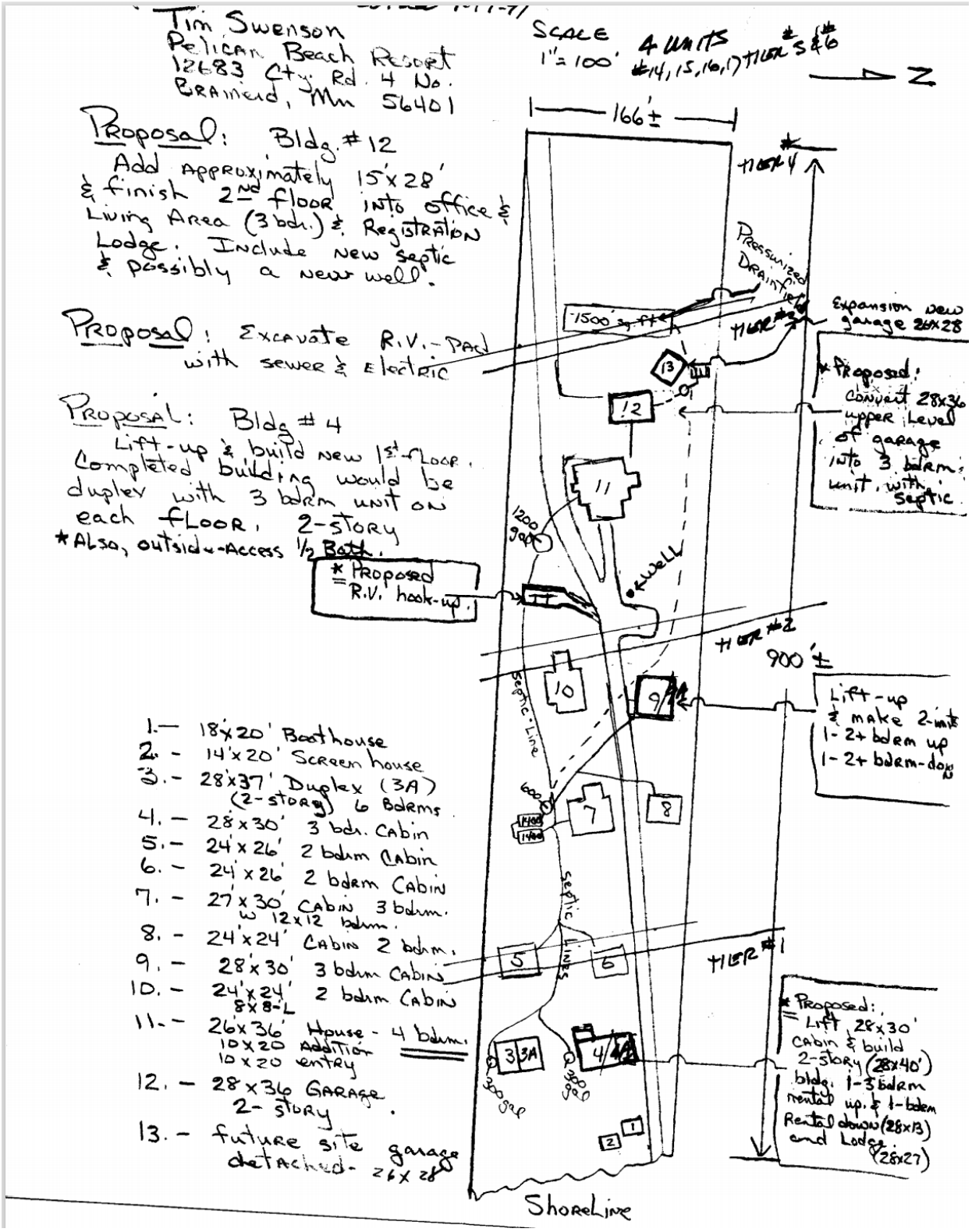
Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Condition 16 says “No more variances shall be granted to this property” and Condition 15 states that “If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.” Since the property ceased to be used as a resort in 2020 and no variances were to be granted on the property, I thought this would be a pretty short public hearing…….

But, alas, that was not the end of the story. Turns out, it was just the beginning. There were still those 2 links for the Conditional Use (69090 and 69089) that I hadn't looked at yet – so I opened them up as well. Talk about opening Pandora's Box……..

Link 69090 provided all the detail for a proposed 5 year former resort expansion that was summarily described in the September 10, 1990 permit – but with LOTS of detail. Finally, we see the source of the drawings with all of the proposed buildings with the number of bedrooms on the property that appeared on subsequent requests for permit labeled as "from previous application":



Needless to say, the neighbors from 30 years ago were less than thrilled with this proposed former resort expansion – and that is an understatement. Reading through the comments is like déjà vu to reading the comments to the current application. Many of these comments predicted the exact

position we would be in today. The comments from the Thirty Lakes Watershed District said "The proposed expansion of the Pelican Beach Resort will increase the density of 'Lake Users' in a residentially zoned area of the lake. This increase in lake users on a 166 foot frontage will impact the residents along the shoreline and jeopardize the safety of local residents as well as resort guests." Link 69090 at p.17.

The neighbors from 30 years ago expressed the exact same environmental, density, aesthetic and safety concerns both on the shoreland and the lake as are being raised today – including the impacts in Tier 1. One neighbor even commented that "This space that is being created to provide for a game room and meeting place could very easily, at some point, be turned into even further rental units!" Link 69090 at p. 22. Talk about prophetic…….

On May 1, 1991, the Board approved the CUP – but imposed 18 conditions that were superimposed on the permit above – in response to the concerns raised by various parties. These are very restrictive conditions that clearly were meant to limit any future expansion while a resort and also clearly deal with what was to happen when the property ceased to be used as a resort. All parties relied on these conditions to limit the proposed current AND FUTURE resort expansion.

c. Mr. Swenson's Motion for Reconsidertation

But the story doesn't end there. There are two other chapters yet to unfold – and they are found in the final link listed as 69089 on the website. First, it appears that Mr. Swenson wasn't entirely pleased with the conditions that had been placed on the expansion and thereafter sought reconsideration. He also expressed in a letter to the governor his displeasure with the Board and the shoreland rules. More about that letter to the governor later……. Second, one of the neighbors appealed the approval and it ended up in the District Court that further altered the conditions.

Let's start with the actions of Mr. Swenson. Link 69089 first contains a notice of public hearing on a request for reconsideration of the conditions imposed on the former resort expansion. It appears that on June 19, 1991, the Board did change some of the conditions that were imposed on May 1, 1991. Those changes appear to include:

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

Line 69089 at p. 9. So, that appears to be the status of the conditions as of June 19, 1991.

Apparently not happy with that result, Mr. Swenson wrote a letter to the Governor dated July 8, 1991 complaining about not only the restrictions imposed by the Board in his former resort expansion plan, but also the shoreland restrictions that since the Planned Unit Development Rules limit the number of spaces for watercraft to the number of dwelling units in the first tier. Mr. Swenson stated that in his case, that meant that his former resort that had 11 cabins would only be allowed "4.7 mooring spaces for watercraft to be continually beached, moored or docked." Link 69089 at p. 14. Remember this when we talk about the dock issue later……..

d. <u>The Neighbor's Appeal</u>

Mr. Swenson wasn't the only person that was unhappy with the Board's approval of the CUP related to the former resort expansion. One of the adjacent neighbors, Lulubel Pansing, appealed the Board's decision.

In connection with the appeal, Mr. Swenson submitted an Affidavit stating that "It is obvious that the several conditions established by the board of adjustment on May 1 and June 19, 1991, are fairly related to the health, safety, and general welfare, were plainly within the competence and direction of the board to determine under Section 8.6 of the Crow Wing County Zoning Ordinance." Line 69089 at pp. 28-29. Guess Mr. Swenson didn't dispute those revised conditions after all……..

The parties eventually resolved their differences. On February 25, 1993, the Court entered Findings of Fact, Conclusions of Law, Judgment and Entry of Judgment (the "Order") that contained the following provisions impacting the conditions imposed related to the CUP:

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

Link 69089 at p.7.

As set forth above, the Order changes and retains certain conditions – that are to be incorporated in a Conditional Use Permit to be delivered to the Swensons by the Crow Wing County Zoning Office. Finally, we arrive at the missing piece of the puzzle!

This Court ordered CUP with conditions is NOT on the website (unless I missed it) – and I've requested that the document from the County – but have been told that everything is on the website. Prior to taking any further action on this application, I believe the Applicant and the neighbors – but especially the Board – needs to see that Court ordered CUP with conditions that was issued from the Zoning Office so it can be determined whether the conditions prevent the application from moving forward and whether Applicant is willing and able to live with those conditions.

I'm sure the Board can imagine what will happen if we don't get a clear understanding of the existing conditions that apply to this property. This part of the story has gone on long enough. It's unfortunate that these documents weren't available in the beginning so the issues could have been addressed previously – but better to take care of them now and avoid the parade of horribles that could result from not clearing the deck before moving on. *See Mutch v. County of Hubbard* (Minn. App. April 30, 2012) (unpublished) *citing In re Stadsvold*, 752 N.W.2d 323, 332 (Minn. 2008) ("a 'decision predicated on insufficient evidence or arising from a failure to apply relatvant provisions of the ordinance would be arbitrary and capricious.'").

The end of the story – 1) we need to see the conditions that were set forth in the Conditional Use Permit delivered to the Swensons by the Crow Wing County Zoning Office and 2) we need to know whether those conditions have been altered in the past 30 years or remain today. Given what is on the website, I assume the current conditions would be those attached to the granting of the former resort expansion permit from May 1, 1991 as amended by the conditions of June 19, 1991 with the two additional conditions added by the Order of February 25, 1993. But you know what they say about the meaning of "assume"…….. There is nothing about these conditions in the Packet Agenda – but I think any existing conditions on the property need to be spelled out. Those conditions may very well end this application – or impact Applicant's desire to move forward.

It's my understanding that the County paid an attorney to review the zoning history on this property in connection with this application. If that is the case, then perhaps there is a simple way to get current status of these conditions. It's only fair to the Applicant and all other parties to both know and have time to consider the current status of these conditions – whatever they might be. For that reason, the application should be tabled until everyone knows what these conditions are and has an opportunity to analyze their impact.

SUBSTANTIVE OBJECTIONS

FACTS

Little has changed in the revised application – even though it was a great opportunity for Applicant to address many of the valid concerns raised at the last Public Hearing. Instead, the revised application simply removes a dividing line in one of the claimed duplexes next to the lake and removes one of the mooring spaces on the dock. While removing that line in the duplex reduces the technical number of lots and dwelling units, the "Lodge" was not divided like the other duplex – and cutting it down the middle really wasn't going to happen anyway. In the end, it's really a hollow concession.

The application shows that Applicant purchased the property in November 2020 – and the property has not been operated as a resort by Applicant. Applicant says they want to get out of the resort business – even though Applicant has never operated the property as a resort. There is certainly no evidence that Applicant purchased the former resort business – just the property.

The application demonstrates that the proposed lots still are radically under the minimum lot size (23 ft where 100 feet is required) and lot area (1,800 sq ft where 30,000 sq ft is required) requirements. And Applicant admits the lot densities are still radically over the allowed densities in both Tiers 1 and and now also exceed the density allowed in Tier 2:

DENSITY CALCULATION TABLE				
TIER	SUITABLE AREA	DENSITY FACTOR	DENSITY ALLOWED	DENSITY REQUESTED
1	35,485 SQ. FT.	27,000 SQ. FT.	1	5
2	120,670.3 SQ. FT.	22,500 SQ. FT.	5.3	6

The Agenda Packet describes another site visit - although it didn't result in any solid responses to the concerns of the neighbors – other than the Applicant believes they can address some of those things in the Planned Unit Agreement – which, of course, can be changed at any time.

Finally, the Agenda Packet adds some additional information on the Permit History related to the property – but mentions nothing about the very restrictive conditions resulting from the former resort expansion permit. This additional permit history in the Agenda Packet was the result of questions regarding the missing permitting related to the duplexes as more fully described below. Other than that, it's pretty much the same application dressed in slightly different clothes.

There are some additional facts, however, that can be gleaned from new permitting information that was recently placed on the County GIS website. There is a disclosure of the number of bedrooms in each of the dwellings. There are approximately 30 bedrooms in the existing structures and will likely be at least 3 more in the "Lodge"and who knows how many more in the other dwelling units if the requests for variance are granted.

At the end of the last public hearing, Applicant was asked whether there were any responses made to concerns brought up by the neighbors. Applicant stated that resort conversions were allowed under Minnesota Rule 6120.38 [sic]. Public Hearing Recording at 1:23:45.

Finally, the record has been supplemented with uncontroverted facts from the neighbors showing:

1. The former resort has at most 3 lifts at the end of the dock. This is supported by the following County GIS maps from 2016 and 2019:

2019 GIS Map



2016 GIS Map



2. Applicant has never operated the former resort.

3. The former resort ceased operations in 2020.

4. The County GIS maps also show there are no other properties on the south side of the lake that have anything near the proposed lot density in Tier 1, lot width or lot area as requested by Applicant.

5. The former resort was only operated as a seasonal operation – not year round.

6. The GIS maps and Applicant's survey show there are no unique features related to the property that either cause the requests for variance or preclude removal of the non-conforming structures.

Applicant has provided no evidence that controvert these facts – although Applicant has apparently claimed (again without evidence) that the former resort had 12 mooring spots and that Applicant desires to get out of the resort business (even though Applicant has produced no evidence that it was ever engaged in the resort business).

Finally, the permit information online (links 52897, 69090 and 69089) – which only recently became available - provide that the following conditions, among many others, still exist on the property based on the Order described above:

> Condition 15: "If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."
>
> Condition 16 (as amended on June 19, 1991): "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied."

More time is needed to determine whether some of these other conditions may have also been violated. I know I have not seen any ropes or buoys extended from the former resort dock as required under Condition 10 or a roped off swimming area under Condition 11. There really hasn't been enough time to see if any of the Conditions related to the buildings have also been violated – which might render those buildings not just non-conforming, but also illegal.

ARGUMENT

I. APPLICANT'S BURDEN TO OBTAIN VARIANCES UNDER THE LAND USE ORDINANCE

These applications have been a real learning experience. Plenty of emotions – but also an opportunity to appreciate the complex framework that is set up to balance development, protect property rights and, most importantly, preserve our awesome natural resources. At 100,000 feet, we have a set of rules that are interpreted by the Board and subject to appeal in the Courts. The Land Use Ordinance is part of these rules – and has been developed in conjunction with various directives from state statutes, administrative rules and regulations.

The rules, however, are not absolute. The Land Use Ordinance allows the rules to be broken – through a request for variance. But breaking the rules isn't an easy thing to do. After all, existing property owners have relied on these rules in investing in their properties and share in interest in the protections provided by these rules. For that reason, the Minnesota Supreme Court has consistently stated that "Because a variance allows an applicant to use his property in a manner originally forbidden by the official control, an **applicant bears a 'heavy burden'** in demonstrating that granting the variance is permissible." *Davis v. Le Sueur Cnty. Planning* at p. 14 (Minn. App. 2018) (unpublished) (emphasis added) *citing Luger v*. *City of Burnsville*, 295 N.W.2d 609, 612 (Minn. 1980).

When considering these requests for variance, we need to focus on the requests. The requests for variance are NOT for permission to effectuate a resort conversion. If this is in fact a resort (which seems unlikely), then Applicant has the right to convert the former resort. But, the requests for variance are to lot size, lot area and lot densities. That is where Applicant must meet this heavy burden against breaking those rules (not just to say they are entitled to convert the resort).

II. THIS IS NOT A RESORT CONVERION – AND THAT HAS CONSEQUENCES……

Applicant states that they no longer wish to be in the resort business. The facts from the last hearing make it clear that Applicant was never in the resort business and has never operated this former resort since buying it. It appears that Applicant is not licensed to operate a resort. Consequently, this really can't be treated as a resort conversion. The former resort ceased operations well prior to the sale and, at the very latest, on the date of the sale last year. There is no evidence in the record that Applicant purchased the former resort business versus just purchasing the property. In some ways, it doesn't matter since the former resort stopped operating in 2020 and Applicant admits there is no plan to operate as a resort.

A. Two Important Consequences From No Longer Operating as a Resort

There are two important consequences that are triggered from no longer operating as a resort. One is unique to this former resort property while the other consequence disqualifies Applicant from special treatment under resort conversion provisions. Each of these consequences is described below:

1. Condition 15 From the Former Resort Expansion Permit

The cessation of operations as a resort triggers Condition 15 imposed in connection with the former resort expansion permit finally issued in 1993 that mandates that:

> **"If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."**

Note what that condition doesn't say – that the area would be required to comply to the zoning regulations of that date – but you can get around those zoning regulations by seeking further variances. The zoning regulations in effect in November 2020 require that the minimum lot width is 100 feet, the minimum lot area is 30,000 square feet, the maximum density in Tier 1 is 1 dwelling unit and the maximum density in Tier 2 is 5 dwelling units. The application admits that the smallest lot is 23 feet, the smallest lot area is 1,800 square feet, it seeks 5 dwelling units in Tier 1 and 6 dwelling units in Tier 2. These proposals are all failures to comply to the zoning regulations of the date that the former resort ceased operating and must be denied.

Condition 15 makes sense from a historical perspective. Thirty years ago, the neighbors were afraid not only of what might result from the former resort expansion – but what would happen if it ceased to operate as a resort. See Link 69090 of the Online Permits – also included in the Agenda Packet. The compromise that was adopted by the Board was to place a condition that said if you are no longer a resort, then the property had to convert back to what the zoning regulations required – minimum lot sizes, minimum lot areas and maximum densities. Reading these comments, you can understand why the neighbors were concerned about this expansion and that the Board dealt with these concerns by adding Condition 15. Almost prophetic as the application seeks to do exactly what people feared – expand the former resort even more after it ceased operations……

The application should be denied for this reason alone.

2. Losing the Benefits of Resort Conversion Provisions

Since the property no longer qualifies as a resort, the Applicant should not benefit from the special provisions applicable to resort conversions – namely Article 34.13 of the Land Use Ordinance and Minn. Rule 6120.3800 Subp. 5.D.

The proposed revisions to the Land Use Ordinance seem to give resort conversions a pass on lot width and lot area restrictions – but the requirement for lot densities remain. Those benefits don't apply to a property that is not a resort. So, the lot width, lot area and lot density requirements should be strictly construed.

At first blush, Minnesota Rule 6120.3800 Supb. 5.D. seemingly suggests a pass on lot density requirements by providing:

D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments **if all of the following standards are met**:

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part **may be allowed to continue but must not be allowed to be increased**, either at the time of conversion or in the future. Efforts **must** be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

But this is not a free pass. First, the Rule says "may" and not "must". Two important conclusions follow from the word "may." First, these existing densities may continue **ONLY IF** the Board decides that a density variance should be granted. After all, that is what Applicant has requested. It is a circular argument to say that I am here requesting a variance that the Rule says I'm entitled to…… Second, the Land Use Ordinance may be stricter than the Minnesota Rules – and Crow Wing County's Land Use Ordinance certainly is stricter when it comes to density. In addition, while the proposed amendments to the Land Use Ordinance appear to eliminate the lot width and lot area requirements in conjunction with a resort conversion, the **requirement for lot density is specifically retained** in the proposed changes to the Land Use Ordinance. And that's a good thing…….

Of course, Minnesota Rule 6120.3800 Subp. 5.D. is of questionable applicability if we are not talking about a resort and is really is of questionable applicablility since the Land Use Ordinance contains more strict density provisions – and Counties clearly have the right to provide more restrictive provisions than the Rules.

III. THE RULES FOR VARIANCES

Applicant seeks to characterize this as a resort conversion and proposes to cut the property into small pieces and create a planned community. Applicant could comply with the existing rules by removing some of the existing structures. Most of them are in marginal condition – the pictures submitted with the application fail to show the interior of any of the existing structures. Instead, Applicant has sought to maximize the number of lots by cutting up the property in tiny pieces – purportedly to maximize the return from future sales and or additional development.

By cutting so thin, Applicant breaks at least 3 rules and is asking the Board to approve breaking these rules in conjunction with a proposed resort conversion – even though Applicant hasn't operated the property as a resort. There is no question that this subdivision would not be approved on an undeveloped parcel.

To obtain a variance from these rules, Article 8.4.A. of the Land Use Ordinance (which encompasses the statutory requirements of variances under Minn. Stat. Sec. 394.247, subd. 7) requires that the Applicant convince the Board that the following 6 questions are true:

1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?
3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?
4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?
5. Will the issuance of a variance maintain the essential character of the locality?
6. Does the need for a variance involve more than economic considerations?

As set forth above, this is a heavy burden for Applicant to meet. Each of these questions are discussed below:

A. Is the Variance Request in Harmony with the Purposes and Intent of the Land Use Ordinance?

The Land Use Ordinance contains many different purposes and intents. At base, these goals are really to balance development while protecting our natural resources for future generations. Unrestricted development results in destroying these natural resources – so these purposes and intents are really designed to regulate development while protecting natural resources.

1. Purposes of the Land Use Ordinance

The purposes of the Land Use Ordinance are set forth in Article 1.2 and Article 11 are set forth below with Applicant's violations highlighted:

1.2 PURPOSE

It is the purpose of this ordinance to protect, preserve, and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms, and open spaces of Crow Wing County for future generations. Further, it is the goal of this ordinance to **promote the health, safety, general welfare**, and orderly development of Crow Wing County by:

A. Regulating land use in accordance with the County Comprehensive Plan.
B. Promoting orderly development of the residential, business, industrial, recreational, and public areas of Crow Wing County.
C. Dividing the County into land use districts.
D. Regulating the location, height, and bulk of structures.
E. **Preserving the economic and natural environmental values of shorelands**.
F. Regulating setbacks.
G. **Regulating sizes of lots, yards, and other open spaces**.
H. **Preventing overcrowding of land and undue concentration of structures**.
I. Encouraging compatible developments of different land use and the most appropriate use of land within the County.
J. **Maintaining and enhancing the quality and condition of natural resources within the County**.
K. Providing adequate access to air, direct sunlight, and convenience of access to property.

L. Bringing all non-complying subsurface sewage treatment systems into compliance.

This ordinance is also intended to protect the shoreland of public waters and the shorelands of the Mississippi River and Headwaters Lakes it flows through, **and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use and protection of waters and related land resources**.

ARTICLE 11--SHORELAND DISTRICT STANDARDS
11.1 PURPOSE AND INTENT
The purpose of this district is to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, protect drinking water sources, protect wetlands, steep slopes, bluff areas, riparian habitat, **filter stormwater runoff and control nutrient movement and provide for the wise use of water and related land resources**.

2. Reinforcement by the DNR of the Purposes of the Land Use Ordinance

The Minnesota DNR not only supports these purposes and intents, but takes it one step further in "A Guide for Buying and Managing Shoreland" available at https://www.dnr.state.mn.us/shorelandmgmt/guide/watersheds.html (highlighting added):

Section 1: Introduction

Water is one of Minnesota's most valuable resources. Lakes, rivers, and wetlands are important assets to Minnesotans. The "Land of 10,000 Lakes" actually has 11,842 lakes over 10 acres in size and more than 63,000 miles of natural streams and rivers. An adequate supply of clear fresh water is vital to life, agriculture, commerce, and industry. Recreational use of waters provides enjoyment and contributes to the state's economy.

Water provides many benefits to Minnesotans, and it is important to protect and manage it. High-quality water is essential for a healthy state economy. Managing public waters and adjacent shorelands helps maintain and improve water quality. Careful management also protects and improves visual and scenic values -- qualities not easily measured until they are lost.

Water and near shore areas are critical to health and well being of fish, wildlife, and native plants. Fish and wildlife are highly dependent on vegetated shorelines to provide healthy spawning areas, as well as habitat for feeding, resting, and mating life stages. Fishing and hunting are benefits of good shoreline management practices. Wildlife observation is best along riparian areas with healthy vegetation.

Education, legislation, and good environmental practices by Minnesotans are important to maintaining and improving water quality and scenic resources in Minnesota.

Section 2: The Importance of Shoreland Management

Shoreland management is important. The consequences of uncontrolled and unplanned development can be disastrous to our land and water resources. Overbuilt and poorly designed shoreland areas degrade the value of the entire water body. Increasing demand for shoreline building sites has led to skyrocketing land costs. Without controls, land with water frontage tends to be divided into smaller parcels. Scattered cottages, homes, and resorts merge to form a continuous ribbon of buildings and structures along shores of lakes and rivers, resulting in the destruction of natural vegetation and scenic beauty. A first row of crowded structures may be followed by a second and third until the entire watershed is overbuilt. Marginal lands with high water tables, severe flooding hazards or steep slopes fall under increasing development pressure after suitable lands are taken.

The consequences of overdevelopment are increased risks of flooding, pollution and scenic degradation. Nutrients like nitrogen and phosphorous, other pollutants, and improperly designed sewage treatment systems can contaminate wells and surface waters. Development in or near floodplains can reduce the natural storage capacity of the watershed, causing increased flooding threats to life and property.

Degraded property values, polluted lakes and wells, flood damages, and increased public service costs result when short-sighted thinking places immediate profits above long-term impacts and goals.

The Minnesota Legislature has long recognized the important value of the state's water resources and has taken action to preserve and protect these waters and their adjacent lands. In 1969, it enacted the Shoreland and Flood Plain Management Acts, and in 1973, the Minnesota Wild and Scenic Rivers Act. These statutes enabled the Minnesota Department of Natural Resources (DNR) to establish standards and criteria that are periodically reviewed and amended. On July 3, 1989, the revised statewide standards for shoreland management were adopted. Check the revised standards (link is external) offered by the Minnesota State Legislature - Office of the Revisor of Statutes. Other programs such as Local Water Planning and the Pollution Control Agency's Clean Water Partnership also help to address the challenge of watershed management at the local government level.

The DNR is warning us against doing exactly what the application seeks: "A first row of crowded structures may be followed by a second and third until the entire watershed is overbuilt." The

application would allow these structures to grow in width, length, height, seasonality – and **MAKE THINGS WORSE**. What happens after the watershed is overbuilt? Nothing good…….

3. Minnesota Rules Support the Purposes of the Land Use Ordinance

The Minnesota Rules also demonstrate the increased risks from planned unit developments on the shorelands and lakes:

> **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:
>
> A. existing recreational use of the surface waters and **likely increases in use associated with planned unit developments**;
> B. physical and aesthetic impacts of increased density;
> C. suitability of lands for the planned unit development approach;
> D. level of current development in the area; and
> E. amounts and types of ownership of undeveloped lands

Minn Rule 6120.3800, Subp. 2.

4. Evidence in the Application Supporting Purposes of Land Use Ordinance

Applicant provides no evidence demonstrating how the application is in harmony with the purposes and intent of the Land Use Ordinance – especially the highlighted ones above. Instead, the application seeks to change a seasonal sleepy former resort with a maximum of 3 mooring spaces and replace it with year round planned community with 11 separate lots containing waves and waves of dwelling units containing at least 30 bedrooms on only 166 feet of lakeshore with the unrestricted right to expand the footprints and nearly quadrupling the number of mooring spaces – resulting in violations of the lot width, lot area and lot density rules.

If the existing situation isn't bad enough – the proposal means **THINGS CAN GET MUCH WORSE**. This was made clear at the initial public hearing, when it was confirmed that the purchaser of any of these lots could both build them out to the new lot lines and up 35 feet – creating **EVEN MORE** stress on the shoreland and lake and also **GREATLY INCREASING** people density on this already overbuilt property. Yes, it is development and yes, it makes more space available for even more people – but at what cost? Much too high of a cost. And certainly not in harmony with with the balances struck in the Land Use Ordinance. These radical deviations from the rules puts the shoreland and lake at substantial risk. The Lake Association noted its concern with the impact on the lake from the proposal as did many neighbors raising environmental and safety concerns.

Applicant provided no evidence of any protections designed to protect the shoreland or the lake – just the opposite. Breaking the density allowance in Tier 1 by a factor of 5 that are designed to protect the shoreland and lake – not to mention blowing out the lot width and lot area rules are further evidence that the application is not in harmony with the Land Use Ordinance.

This is exactly the reason that Condition 16 was placed on the property 30 years ago. The former resort expansion pushed density passed the limits – not just in the number of structures, but the number of people. The small property had to support over 30 bedrooms within those dwelling units. If you assume 2 people per bedroom, that's 60 people. If each brings a friend, that's 120 people – all within only 166 feet of lakeshore. And don't forget the pets. Or the parties and bonfires and other things that people do while at the lake. All the activity – and all these people – is right on the beach and eventually in the lake. 120 people on 166 feet of shoreline all summer long. The impacts on the septic, groundwater, pollution, drainage, etc. is nothing short of a nightmare and hardly complies with the Land Use Ordinance.

In addition, there is plenty of evidence of real safety and general welfare issues from the application. The application now shows that there is going to be substantial activity crossing County Road 4 for storage of trailers, guest parking, storage of other lake items, etc. It is hardly safe for adults, much less children to be constantly running across a winding road when the speed limit is 50 miles per hour. It is an invitation for disaster.

The lake activity is not much better. The application proposes 11 boat slips in shallow water where both owners and neighbors routinely swim. Over 30 years ago, an adjacent resident (Lulublel Pansing) submitted the following:

2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

and ended with:

There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.

Respectfully submitted,

Lu Pansing

Lu Pansing

Link 69090 at p. 30.

This is consistent with the warning from Thirty Lakes Watershed District concerning the former resort expansion:

THE PROPOSED EXPANSION OF PELICAN BEACH RESORT WILL INCREASE THE DENSITY OF "LAKE USERS" IN A RESIDENTIALLY ZONED AREA OF THE LAKE. THIS INCREASE OF LAKE USERS ON A 166 FOOT FRONTAGE WILL IMPACT THE RESIDENTS ALONG THE SHORELINE AND JEOPARDIZE THE SAFETY OF LOCAL RESIDENTS AS WELL AS RESORT GUESTS.

Link 69090 at p. 17.

In response, the Board added a condition for a roped off swimming area and a rope or buoy system that would direct traffic from the end of the dock out to the lake to try to limit the dangers of boats zipping between swimmers of all ages. See Conditions 10 and 11 at Link 69090 at p. 50.

In order to limit this danger today, the Ordinance and Minnesota Shoreland Rules limit the mooring spaces for resorts and planned unit developments to one mooring space per allowable dwelling unit in Tier 1. (See "Docks" below). Proposing 11 mooring spaces when the former resort had a maximum of 3 is hardly promoting the health, safety and general welfare of either the lot owners of the former resort or the neighbors. That was a valid concern 30 years ago and remains a valid concern today – especially with the changes to watercraft in the intervening period. This concern is real.

The size and scope of the proposed development on this relatively small piece of property and narrow shoreline is not in harmony with the Land Use Ordinance. While there have been some neighbors that have called for environmental studies, that burden is really on the Applicant to show that their application is in harmony with the safety and other concerns of the Land Use Ordinance. That burden is not met when there is a septic compliance certificate that was issued when the former resort had no activity compared to the proposed development under the application. These structures could grow in both lateral size and height. The number of bedrooms and people could increase even more under the application. Is the septic system and other environmental concerns addressed for that explosive growth? Isn't that precluded under Condition 16 (recommending that the Board deny any variances that might increase the density of people on the property)?

Not only has Applicant failed to meet their burden under this question, but all of the evidence supports the opposite conclusion – that the requests for variance are not in harmony with the Land Use Ordinance.

This conclusion is supported by the Minnesota Court of Appeals in the case of *Davis v. Le Sueur Cnty. Planning* at p. 14 (Minn. App. 2018) (unpublished):

> There is a difference between neighborhood opposition to a conditional-use permit based on noise and traffic worries, *see id*., and environmental concerns raised in an email from the DNR. And, in arguing that the email does not satisfy the substantial-evidence standard or that the Board should have requested more information about the implications of runoff, Davis forgets that he bears the burden in showing that the variance is permissible and consistent with the zoning ordinance. *See Luger*, 295 N.W.2d at 612. He did not present any evidence at the August 2016 hearing that would alleviate the concerns regarding runoff. Based on the evidence supplied in the DNR's email, we conclude that it was reasonable for the Board to determine that

> Davis's variance request, with its risks of runoff, conflicted with Le Sueur County's interest in minimizing environmental pollution. *See* LSZO § 1(A).

Id. at 18.

The Court also relied upon the provisions in the ordinance's requirement for the Board to consider the impact on neighboring property owners and the goal to preserve the natural and scenic beauty.

> zoning ordinance directs the Board to consider the impact of the development on neighboring property owners. *See* LSZO § 13, subd. 3(B)(1) ("In considering a variance request, the Board of Adjustment must also consider . . . the characteristics of development on adjacent properties."). For example, the zoning ordinance provides that in order for a swimming pool to be a permissible accessory structure, the lighting for the pool must not cast light onto adjacent properties and a five foot fence must enclose the pool area. *See* LSZO §13.2, subd. 4(B) (2013). We also reiterate that one of the zoning ordinance's overarching land use goals is to preserve the natural and scenic beauty of the area. *See* LSZO § 1(A).

Id. at 19.

The Court found the Board's review of photographs and on-site visit gave them enough evidence to make findings on the impact to the adjacent properties and retention of natural and scenic beauty as directed by the ordinance. The GIS maps as well as the testimony of people from the south side of Pelican Lake demonstrate the impact to the adjacent property and the retention of scenic beauty directed by Crow Wing County's Land Use Ordinance. There is no other property on the south side of the lake that has even close to the Tier 1 density proposed in the application. No other residential property with similar shoreline on the south side has close to that many mooring spaces (nor did the former resort). The same is true with lot widths and lot densities on the south side of Pelican Lake.

Taken together, there is no question that these facts demonstrate that the application is not in harmony with the Land Use Ordinance.

B. <u>Is the Variance Consistent with the Comprehensive Plan</u>?

At the last meeting, a Board member cited **<u>only one</u>** of the purposes of the Comprehensive plan – ie, to encourage residential development that provides housing options – but didn't really address how the requests for variance are at odds with the overwhelming number of environmental purposes set forth in the Comprehensive Plan……..

1. Purposes of the Comprehensive Plan – Environmental Concerns

The Comprehensive Plan is loaded with issues, findings, policies, goals, strategies to protect the surface waters and shorelands in the County (relevant ones are highlighted).

Comprehensive Plan Policies (pp. 5-6)

Encourage residential development that provides housing options for different socio-economic groups – particularly the aging population - **while protecting the characteristics that people value, a sense of community**, as well as a plan to provide all citizens reasonable access to a diversity of recreational and open space opportunities.

Protect, preserve and improve the quality of Crow Wing County's lakes, streams, and wetlands.

Minimize the adverse effects of development county-wide on Crow Wing County's water resources.

Provide safe drinking water for County residents and business by protecting groundwater quality and quantity.

Plan for wastewater needs throughout the County and the surrounding region in a manner that minimizes environmental impacts.

Purposes (Page 7)

Crow Wing County has vast forests, beautiful lakes and wetlands, large areas of public land and open space, interconnected trail systems, and a diversity of rural and urban areas. The County is also growing rapidly, particularly in high amenity areas rich with natural resources. Since the last Comprehensive Plan update in 1994, the County's population has grown over 25 percent. Its total population in 2000 was 55,099, more than the 49,690 projected for the County in 1994. As it grows, Crow Wing County must develop in a strategic manner that provides high quality jobs, housing, education, and recreation to its residents **without degrading the natural and scenic amenities that draw people to it**.

Crow Wing County's rich natural resources and scenic beauty distinguish it from other Minnesota counties. Preserving them is integral to maintaining the County's economy, identity, and unique character.

Water Resources (Page 49-50)

Issues

Lakes, rivers, streams, and wetlands are the County's life blood. They are the focal point for the economic and revenue base for the County, providing its residents and visitors with breathtaking scenery, excellent fishing, a host of

recreational opportunities and a treasured quality of life. Healthy groundwater provides residents with safe and clean drinking water. Because land use activities impact water quality, it is imperative that the County consider water resources in its development of zoning ordinances.

At every community meeting, citizens voiced their support for protecting the County's water resources. However, many citizens are unaware of the cumulative impact that increasing development throughout the County has on the water of the County.

Findings

Crow Wing County is rich with water resources. They are the drawing card bringing the increased population to Crow Wing County. Surface water (lakes, rivers and streams) cover 14 % of Crow Wing County's surface area and wetlands make up an additional 14 % (figure 3a). **While the quality of the County's water resources is generally of good quality now, it is vulnerable to degradation as development and population continues to increase**. To insure that future planning and land use decisions do not compromise the quality of lakes, rivers, and streams, Crow Wing County must educate citizens about how their land use practices contribute to the quality of the water resources. Crow Wing County has a great resource in local citizen-based lake associations and other sporting and conservation groups that can help to carry out educational and planning duties.

Contrary to what many people believe, a lake ecosystem does not begin at the water's edge, but at the top of a watershed. The native forests within our County's watersheds are critical to maintaining the water quality that our lakes have had for thousands of years. Forests, especially mixed hardwood forests, protect water quality by containing stormwater (a single tree can take up to 300 gallons of water per day), absorbing nutrients, cooling runoff that does enter the surface water, and preventing erosion and sedimentation. It is important that we take the importance of our native forests into consideration when planning land use, whether they be directly on the lakeshore, or merely at the top of a watershed.

Most of the high quality lakeshore property in Crow Wing County is developed. With development, the condition of wastewater treatment systems (septic systems) can threaten water quality if not designed, constructed, operated, and/or maintained properly. There are an estimated 60,000 septic systems in Crow Wing County. Recent inspections of lakeshore septic systems have shown up to a 20 percent non-compliance rate with county regulations. Redevelopment of priority lakeshores is rapidly occurring, replacing the cabin, tree-lined shores, and abundant fish and wildlife that attracted people for years, with suburban-style homes and lawns. With these new upscale and upsized homes, shoreline development has dramatically increased the percentage of impervious surface per lot while at the same time reducing the native vegetation that had the capacity to absorb water runoff to the lake. **Increased runoff increases the potential for water pollution, shoreline erosion, loss of habitat, poor groundwater discharge, and flooding. Marginal lakeshore and river shoreland of shallow,**

ecologically sensitive lakes are facing increasing development pressure as people seek more affordable and available shoreland properties.

Comprehensive Plan p. 49

"**At every community meeting, citizens voiced their support for protecting the County's water resources**."

Policy (p. 56)

Minimize the adverse effects of development county-wide on Crow Wing County's water resources.

Strategies on Water Resources (p. 57)

3. Revise, strengthen, and enforce the County Shoreland Ordinance to address current and anticipated development patterns.

Implementation:

How:

- Update the Shoreland Zoning Ordinance using performance-based standards to define development requirements and conditions in the shoreland zone, including conditions that **discourage high density shoreland development**.
  - **Decrease high density development** (as stated in the 1994 Comprehensive Plan, pages 10,24).
  - Reduce impervious surface
  - Limit manipulation of the vegetation in the shoreland impact zone and the construction impact zone.
- Encourage the County to retain adequate staffing to respond to citizen complaints in a timely, professional, and consistent manner. Work with all LGUs to adopt uniform shoreland ordinances throughout the County (and region) that protect water resources and provide for uniform enforcement.
- **Prioritize high value lakes, rivers, bays, and streams in the county based on vulnerability to cumulative impacts of development using appropriate models to assess cumulative impacts**.
- Develop standards for variances and CUPs that require planting of native vegetation, wastewater treatment incentives, and shoreline enhancements.

Who: Crow Wing County Planning and Zoning, DNR, LGUs.

2. Application Evidence related to the Comprehensive Plan

These highlighted provisions really speak for themselves. The Comprehensive Plan is supposed to discourage high density shoreland development – and prioritize high value lakes. That doesn't mean no development, but it does mean that the development should even more closely follow the rules. The requests for variance in the application is so far off these rules – especially in Tier 1 and the docking in the lake – that it is inconceivable to even consider any variance from these rules is consistent with the Comprehensive Plan.

In order to protect the characteristics that people value, you must look to the established rules that were put in place to determine those values. Area restrictions such as minimum lot size and lot widths were put in place to protect…… Maximum densities were put in place to protect ……. Minimum setbacks and maximum impervious were put in place to protect…… Drawing these lines around the structures will not provide all citizens reasonable access. This is not an over 60 planned community – so it has nothing to do with development that provides housing options for an aging population.

In short, while the application proposes development of residential units – that simply isn't enough. Surrounding the lake with hotels would also meet the purpose of encouraging development of residential units. But it would destroy the lake and fail to satisfy the other stated goals of the Comprehensive Plan – namely, to protect our incredible natural resources.

C. Is the Property Owner Proposing to Use the Property in a Reasonable Manner Not Permitted by the Land Use Ordinance?

1. Meaning of "Reasonable Manner"

Merriam-Webster defines a "reasonable" request as "one that is not extreme or excessive." Following this idea, courts have found that the **degree** of variance may be considered in whether the proposed use is reasonable. *See Davis v. Le Sueur County Planning* (Minn. Ct. App. May 29, 2018) unpublished at p. 21.

Reasonableness must also include context. Offering an ice cube to a person in the desert means something totally different than offering an ice cube to a person at the North Pole. So, too, it is with Applicant's proposal. We can't lose sight of the characteristics of the property, the lakeshore, the lake area and neighborhood when determining whether the proposal is reasonable. While it might be reasonable to propose 5 dwelling units in Tier 1 when there is 1,000 feet of shoreline, it is not reasonable to propose 5 dwelling units in Tier 1 when there is only 166 feet of shoreline. And you can't ignore the waves of structures behind the overbuilt status in Tier 1. It was true 30 years ago and it is only proposed to **GET WORSE** under the application from subdividing the property that will allow both build outs and build ups.

2. The Applicant is Not Proposing to Use the Property in a Reasonable Manner

The degree of variance in the 3 requests for variance demonstrate a complete lack of reasonableness. The request for lot width is over 4 times the minimum (100:23). The request for lot area is nearly 17 times the minimum (30,000:1,800). The request for density in Tier 1 is five times the maximum allowed (5:1). These requests are not off by a fraction – but by several multiples. As set forth above, the degree of variance is a factor in determining reasonable. The lot width, lot area and, most importantly, lot density numbers aren't even close.

Context also matters. The request for density variance is extreme in Tier 1 – the most sensitive area of the property and to the health of one of the most prized lakes in the County. While some may argue, the south side of Pelican Lake contains some of the nicest shoreline, scenic beauty, prized residences and peaceful areas of the lake. To me, it's as close to heaven as you get.

In addition, the requests for variance fly in the face of conditions that were imposed against the property over 30 years ago in connection with the former resort expansion and in response to neighbor concerns. Condition 15 says that if you cease to use it as a resort then you must comply with the existing zoning restrictions. The application is not complying with existing zoning restrictions – they are requesting variances so they don't have to comply with these zoning restrictions. In addition, Condition 16 recommends denial of any requests for variance if the requests might increase the density of people on the property – and these requests for variance are certainly going to increase the density of people on the property. It's hard to imagine how it is reasonable to propose to use this property in violation of these conditions.

Finally, three other unreasonable requests – density, mooring spaces and seasonality - are addressed below.

a. Unreasonable Proposal For Density Variance

In order to protect the shoreland and lake, lot density is a big deal. Especially close to the lake. For this reason, the Land Use Ordinance provides a precise mathematical formula to determine the number of dwelling units in Tier 1.

The Land Use Ordinance requires that any resort conversion (assuming this really still qualifies as a resort) meet these important density standards. See Article 34.13.B Resort Conversions ("**Dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots**."). While the proposed amendments to the Land Use Ordinance presently under consideration do away with the lot width and lot area requirements in resort conversions, the density standards are specifically retained as follows:

> **34.13 RESORT CONVERSIONS**
> Resorts may be converted to a residential development, or shared capital resort if all of the following standards are met:
>
> A. For conversions to residential developments, proposed conversions shall be evaluated using the same procedures and standards in Article 33. All

inconsistencies between existing features of the development and these standards shall be identified and corrected, except ~~. For conversions to residential lots, all inconsistencies between existing features of the development and the standards required in Article 11 of this ordinance and/or requirements in the Subdivision Ordinance must be identified and corrected~~there shall be no minimum lot size or width requirement for lots created to contain existing dwellings or dwelling units.

B. Dwelling unit or dwelling site densities shall meet the standards in Article 33.10 for conversion to residential developments and the standards in Article 11 for conversions to residential lots.

Applicant acknowledges that the Land Use Ordinance **allows only one** dwelling unit in Tier 1 – and also admits that they are also subject to the minimum lot width and lot area restrictions. This time around, Applicant doesn't propose to reduce the number of structures within the Tier 1 – they just draw the lines a different way on one of the structures and claim that the number of dwelling units and lots in Tier 1 has magically been reduced from 6 to only 5 – exceeding the limit by a factor of 5. And it really doesn't get better in Tier 2 – they seek the maximum number of 6 dwelling units in Tier 2. That is a total of 11 dwelling units on only 165 feet of lakeshore on little over 2.5 acres.

Sometimes, you need to get a bigger picture. The buildings only tell part of the story. By looking at the permits on file, you get a better indication of what is going on. The charts below show the number of bedrooms from the survey and number of people that are being proposed with these 12 dwelling units on this relatively small piece of property. If each dwelling unit had 2 people per bedroom and they each brought a friend, there would be **116 people** on the lot. If the single story dwelling units were maintained in size but just built up a story, that would mean that number would increase to **192 people**. Those numbers are **shocking** for a lot of only 165 feet of lakeshore and approximately 2.5 acres.

What Tier 1 (Lots 1-5) looks like:

	Existing			Build Up		
Unit	Bedrooms	(2 per BR) People	Bring a Friend	Bedrooms	(2 per BR) People	Bring a Friend
#1	3	6	12	3	6	12
#2	3	6	12	3	6	12
#3	3	6	12	6	12	24
#4	2	4	8	4	8	16
#5	3	6	12	6	12	24
Totals	**14**	**28**	**56**	**22**	**44**	**88**

Lots 1-11 on East Side of County Road 4) Bedrooms and people on lot with only 165 feet of shoreline and about 2 acres:

	Existing			Build Up		
Unit	Bedrooms	(2 per BR) People	Bring a Friend	Bedrooms	(2 per BR) People	Bring a Friend
#1	3	6	12	3	6	12
#2	3	6	12	3	6	12
#3	3	6	12	6	12	24
#4	2	4	8	4	8	16
#5	3	6	12	6	12	24
#6	2	4	8	4	8	16
#7	2	4	8	4	8	16
#8	2	4	8	4	8	16
#9	2	4	8	4	8	16
#10	4	8	16	4	8	16
#11	3	6	12	6	12	24
Totals	**29**	**58**	**116**	**48**	**96**	**192**

Stats per 165 feet of lakeshore:
Existing without friends = 2.8 feet per person (165 feet / 58 people)
Existing with friends = 1.4 feet per person (165 feet / 116 people)
Buildout without friends = 1.7 feet per person (165 feet / 96 people)
Buildout with friends = .86 feet per person (165 feet / 192 people)

If the structures are built out and up to the new lot lines, the numbers **get even bigger!!!** There isn't enough room for people to stand sideways on the entire beach. Under COVID standards of 6 feet apart, there are 8 rows deep of 26 people along the beach – which goes just under 50 feet back from the lake. And that is assuming that everyone just brings one friend. The math isn't too difficult to figure out if there are multiple friends…… And that is just people. Start adding up the cars, the pets, the lawn chairs, the toys, the runs to get food and liquor, the bonfires on the small beach, the different music – and all the trips to the bathroom and stresses on the existing septic system that dates back decades. Unlike before, there is no owner of the former resort to regulate or limit any of this activity. The sleepy former resort is changed into nightmare of massive proportions…… Of course, all those people want to go in the water and zip around on jetskis and boats. What is the impact on the shoreland and lake from all that activity from all those people without a former resort owner to limit and regulate that activity?

Which brings us back to the reasons for the density rules that are for the protection of the shoreland and the lake. It is also the reason that the surrounding property owners have cried foul. The testimony from these existing property owners have made clear that even though these structures have been on the property, they were hardly used and the activity at the former resort was tightly controlled. The total number of mooring spots never exceeded 3 and the rental activity was very limited over the years and practically non-existing in the near past. Indeed, Applicant didn't operate the former resort at all. In short, the property has a long history of very limited activity.

The unreasonableness doesn't stop there. The resulting stacks of lots on such a narrow shoreline are exactly what the DNR warns against – "A first row of crowded structures may be followed

by a second and third until the entire watershed is overbuilt." The result – again according to the DNR – "Degraded property values, polluted lakes and wells, flood damages, and increased public service costs result when short-sighted thinking places immediate profits above long-term impacts and goals." Not exactly proposing to use the property in a reasonable manner by requesting these variances that result in a direct contradiction to the DNR's warning……

It's no wonder that Condition 16 has a trigger that recommends that any variances "**that might increase the density of people"** should be denied. These requests for variance lead to that exact result. Dividing these lots and re-selling them as part of a planned unit development will increase the density of people in at least 2 ways. First, there has been a limited number of people at the former resort over the last several years. It isn't even a resort today – so technically the variances are bound to result in an increase in the density of people. But these postage lots will be purchased and the purchasers will grow out and up – resulting in an increase in the density of people. If granted, there will be an increase of density of people resulting from the increased numbers of mooring spots on the lake. The whole purpose of these variances is to drive more people onto the property by selling the lots as individual lots instead of running it as a resort. Condition 16 recommends, in no uncertain terms, that the Board deny these requests for variance.

Not only is all of this unreasonable – it's nothing short of shocking…

b. Unreasonable Proposal For Mooring Spaces

The application seeks to have a centralized dock with 11 mooring spaces – one for each dwelling unit on the property. The number of mooring spaces in a residential development is of critical importance to maintaining the shoreland and lake – as well as protecting the safety and general welfare of the residents. For this reason, there are specific limitations for the number of allowable mooring spaces in the Minnesota Rules and the Land Use Ordinance. In addition, this Board has added conditions to other resort conversions that limit the number of mooring spaces. Finally, the application misrepresents the number of mooring spaces at the former resort.

1) Restrictions on Mooring Spaces under Minnesota Rules

The Minnesota Rule relied upon by Applicant to support there requests for variance as a resort conversion contains the following limitation for the mooring spaces in planned unit developments:

> Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. **The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier**. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

Minn. Rule 6120.3800 Subp. 5.B.(3)(c)

There have been claims that Minn. Rule 6120.3800 Subp. 5.D.(4) overrides Subp. 5.B.(3)(c)'s limit. Minn. Rule 6120.3800 Subp. 5.D. provides:

> D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments **if all of the following standards are met**:
>
> (1) Proposed conversions **must be initially evaluated using the same procedures and standards presented in this part** for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
>
> (2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and **shore recreation facilities must be corrected as part of the conversion** or as specified in the conditional use permit.
>
> ….
>
> (4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts **must** be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, **centralizing shore recreation facilities**, **installing new sewage treatment systems**, or other means.

The claim that Subp. 5.D.(4) trumps Subp. 5.B.(3)(c) is wrong for at least 2 reasons.[1] First, Minn. Rule 6120.3800 Subp. 5.D. requires that conversions must be evaluated using the same procedures for new construction (ie, must meet width, area, density, impervious, setbacks, **shoreland restrictions**, PUD requirements of Subp. 5.B.(3)(c), etc.). Second, Subp.5.D.(2) specifically says that resort deficiencies with **shore recreation facilities** must be corrected as part of the conversion. Those shore recreation limits are set in Subp. 5.B.(3)(c) – with a limit of no more than one mooring space per allowable dwelling unit in Tier 1.

In short, Subp. 5.D.(4) actually supports the argument that only one mooring space is allowed as it specifically refers to centralizing shore recreating facilities – and the way to centralize the shore recreation facilities is provided for in Subp. 5.B.(3)(c) above –providing for only one mooring space for each allowable dwelling unit in Tier 1.

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[1] Even if Subp. 5.D.(4) does apply, it says "may" – not must. Otherwise, there would be no need for a variance and no need to evaluate anything under the existing rules. The only "must" is that they must not be allowed to be increased. The only way they may be allowed to continue is if they prove they are entitled to a variance – by showing ALL variance requirements are met. Speaking of "must", they also must correct shore recreation facilities as part of the conversion – and shore recreation facilities for resorts converted to PUDs are set forth in 5.B.(3)(c) – which says you only get one mooring spot per allowable dwelling unit in Tier 1…….

2) ***Restrictions on Mooring Spaces under the Land Use Ordinance***

This limitation on resorts or PUDs for only one mooring space for each allowable dwelling unit in Tier 1 should not be a surprise. This same limitation is found in both the existing and the proposed amendments to the Land Use Ordinance. See existing Article 33.11.B.(5) Residential Development Standards / Centralization and Design of Facilities (**allowing one watercraft mooring space per "allowable dwelling unit lots in the first tier**") and proposed Article 34.8.E.(3) Resort Standards / Resort Design Criteria (new addition - "**The number of allowable continuous watercraft mooring spaces abutting public waters shall not exceed the number of allowable dwelling unit lots in the first tier**.")

3) Restrictions Mooring Spaces by the Board

In the very recent past, this Board has imposed restrictions on mooring spaces in connection with resort conversions. In November of 2019, the Board imposed the following condition limited mooring spaces in the Fishtales' resort conversion on Lake Hubert:

Conditions Limiting Mooring Spaces in Fishtale Resort Converion on Lake Hubert

CONDITIONS (marked items apply):

- ☑ A developer's agreement meeting the requirements outlined in Article 9 must be submitted with the final plat.
- ☑ A signed and notarized Declarations document must be submitted with the final plat.
- ○ Stormwater management plan (SWM) must be separately approved by County staff and implemented by the time of final plat approval. Or financial assurance for the construction of the SWM must be submitted to the County at the time of final plat and a timeline for completion for the SWM must be identified in the developer's agreement and approved by the County.
- ☑ No increase in impervious surfaces shall be allowed on the development / plat without an approved variance allowing for the increase.
- ☑ No increase in the number of docks or mooring spaces shall be allowed without an approved variance allowing for the increase

11-21-19
Date

Rebecca Best
Board of Adjustment, Chair

See https://gis.crowwing.us/link/reports/DocViewer/showdoc.aspx?docid=168819&appname=PZ_PERMITS at page 9. This appears to limit the number of mooring spaces that existed prior to the conversion – which may or may not have been within the limits under the Minnesota Rules or Land Use Ordinance. But, the limiting the number of mooring spaces was a condition.

4) Mooring Spaces at the Former Resort

Applicant claims that the former resort had 12 mooring spaces (although maybe that claim is now down to 11 in the current application). Applicant provides no evidentiary support for that claim.

This claim conflicts with the overwhelming public testimony as well as the GIS maps and number pictures submitted by the neighbors. At the last public hearing, numerous people testified that the former resort never had more than 3 mooring spaces. That number is confirmed by the following aerial pictures from the 2019 and 2016 County GIS maps:

2019 GIS Map



2016 GIS Map



In addition, it seems unlikely that the former resort had 12 mooring paces when Minn. Rule 6120.3800 Subp.6.B.(2)(e) "Commercial planned unit development density evaluation steps and design criteria" contains the same limitation of one mooring space per dwelling unit in Tier 1:

> (e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. **The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in**

the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

The GIS maps from 2019 and 2016 show exactly that – the former resort had only 3 mooring spaces and a separate small dock for loading and unloading for the other tiers.

Applicant's claim also conflicts with the former owner's complaint letter to the Governor dated July 8, 1991 regarding, among other things, the conditions imposed by the Board and the shoreland rules under Minnesota Rule 6120.3800:

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Permit Link 69089 at p. 13.

The former owner's position is entirely consistent with the 3 mooring spaces on the dock that have been shown over the years. Ironically, Minnesota Rule 6120.3800 cited by Mr. Swenson is the same Minnesota Rule cited by the Applicant when asked if they wanted to add anything to address the concerns raised by the neighbors. Applicant stated that Minnesota Rule 6120.38 [sic] allowed resort conversions. See Recording of first hearing at 1:23:45.

5) Conclusion on the Mooring Spaces

Applicant's current proposal of eleven mooring spaces (without a request for variance) when the Rules state that you are only allowed one mooring space for each allowable dwelling unit in Tier 1 is unreasonable. That proposal is also unreasonable when the evidence shows that there were at most 3 mooring spaces over the years and the former owner acknowledged that limitation.

Besides the numbers, Applicant's request for the 11 mooring spaces is also unreasonable as it drastically increases the risk of injury on this part of the lake. We heard from neighbors that swim throughout the summer in these shallow waters nearly 200 feet from the shore and the dangers of watercraft from the former resort. In connection with the former resort expansion 30 years ago (that at most allowed 5 mooring spaces according to the owner), the Board imposed Condition 10 and 11 to protect the former resort vacationers and the neighbors from watercraft traffic from those 5 maximum mooring spaces. Condition 10 required buoys or ropes to extend from the end of the dock to funnel boats into the mooring spaces. Condition 11 required a roped in area for swimming at the former resort. Applicant seeks to more than double the number of mooring spaces from the former resort expansion, more than triple the number of the existing mooring spaces (proven to be 3 by the evidence

in the record). Increasing the mooring spaces will mean exponentially more watercraft traffic in a very shallow area that has frequent swimmers from neighboring properties and as well as the former resort property – without recognizing these past conditions or proposing any safety measures related to this radical increase. That is also not reasonable when it comes to mooring spaces.

c. Unreasonable Year-Round Request

The application proposes that the dwellings be year-round instead of seasonal. The former resort was only operated during the summer. This is important for a number of reasons – mostly environmental. The septic systems were allowed to clear and not be stressed. No insulation was necessary for the septic as it was not being used in the winter. Same for any water running to the "cabins". The property was allowed to heal. Vegetation was allowed to re-establish. The shoreline and lake was allowed to heal from lack of activity in the spring, fall and winter.

More importantly, allowing these lots and future buildouts will not only stress the septic – but cause much more environmental issues from the lack of seasonality alone. For this reason, the Minnesota Rules mandate the need to limit the effect of any conversion by "continuing to require **only seasonal use**. See Minn. Rule 6120.3800 Subp. 5.D.(4) ("Efforts must be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.")

Proposing that the dwelling units be allowed to be year-round in spite of the Rules and prior use is unreasonable. It also violates Condition 16 recommending variances that might increase the density of people should be denied.

3. *What Is Reasonable?*

So, what would be reasonable? That's a tricky question – and I doubt that everyone will agree on that one. It's easy to say when something is unreasonable, but much more challenging to say what is reasonable. Nevertheless, I'll toss in my two cents…….

At one extreme would be to simply follow the rules that everyone else must follow and abide by the conditions that were put on the property 30 years ago. Is that so unreasonable? Reduce the density down to one dwelling unit in Tier 1 by removing the old structures that are likely to be removed anyway. Remove a few dwelling units from Tier 2 – they are going to be demolished anyway. Increase the lot sizes and widths of the remaining dwelling units.

At the other extreme, well – that would be the existing application……

Is there a middle ground that could be reasonable? In concept, the approach taken by the Minnesota Rules seems to be "Do no harm." See Minn. Rule 6120.3800 Subp. 5.D.(4) ("Efforts must be made during the conversion to **limit impacts of high densities by requiring seasonal use**, improving vegetative screening, **centralizing shore recreation facilities**, installing **new sewage treatment systems**, or other means."). In other words, don't make it worse than it already is and try to make it better. That

seems reasonable and is based in the rules. In this case, the following list of conditions seems to be reasonable:

a. Retain and specifically repeat in writing all conditions that are currently on the property (that would be the conditions from May 1, 1991, as revised by the June 19,1991 action and as further added to by the February 25, 1993 court order).

b. Require a centralized dock with no more than the 3 mooring spaces (same number as the former resort) and a launching dock for everyone else.

c. Limit any rebuilding of structures to the same height and dimension as the existing units with no additional bedrooms.

d. Reinforce the conditions related to the funneling of boat traffic into the centralized dock and have a roped off swimming area.

e. Maintain the seasonality of the property (April through November) other than the main house and require periodic septic inspections.

f. If the "Lodge" is rebuilt, move it back to the current setback requirements.

g. Establish a limit the total number of people on the property.

h. No greater overnight occupancy in any dwelling unit with more than 2 people per bedroom.

i. Provide a safe crossing for the storage and parking facilities across County Road 4 (although I am not sure what that would be – blinking light when someone want to cross?)

j. When the number of people on the property hits 40, a new septic survey is required to determine if a new sewage system should be installed.

k. Require a person that is assigned monitor the beach and lake when more than 20 people are present to enforce compliance with the conditions above.

Again, the concept with these conditions is to try to bend a little – but still be reasonable while respecting the concerns of the neighbors – who may have additional ideas. And it is just as important today to consider the general health, safety and welfare of the residents – especially in the lake and crossing that dangerous spot on County Road 4 as it was 30 years ago when a grandmother expressed concern for her grandchildren swimming in the lake. Boats today are much more dangerous but children and their parents not so much. Especially when there is not a resort owner keeping a watchful eye on what is happening at his property……

D. Is the Need for a Variance Due to Circumstances Unique to the Property and Not Created by the Property Owner?

A quick review of the survey and other mapping demonstrates there are no circumstances unique to the property that cause the need for a variance. This property is relatively flat, there are no wetlands that are causing the need for a variance, no bluff or other protected areas that are causing the need to limit the lot width, lot size or exceed the maximum density allowances. What is causing these requests is that an owner decided to pack in as many dwelling units on the property as possible.

In addition, the requests for variance are only being caused because the new owner (who never operated the former resort or has disclosed that he operated any other resort) wants to subdivide the property and sell off the individual units to make a profit. The property isn't causing the requests for variance – the new owner created the need for variance when he purchased the property with the sole intention of subdividing it.

I suppose an argument might be made that the existing structures on the property are what is unique and the variances are needed to sell the lots. But the structures aren't the property. More importantly, that argument really doesn't work when the owner created that unique circumstance by placing those structures on the property in the first place. Granting the requested variances would simply be rewarding bad behavior and ignoring the conditions placed on the property when the expansion was done.

Applicant has pointed to no circumstances unique to the property that causes the need for a variance. The application just says they don't want to run the former resort – but want to subdivide the property and sell the newly created lots after getting variances for lot width, lot area and density. The facts demonstrate that was always the plan. The property was purchased in November 2020 and the request to subdivide came a only a couple months after the purchase.

Bottom line, there is nothing unique about the property that is causing these requests for variance that were not caused by either the present or past owner.

E. Will the Issuance of a Variance Maintain the Essential Character of the Locality?

This question reminds me of a line from the movie "Tommy Boy" that seems to apply to this question – "You can get a good look at a t-bone by sticking your head up a bull's ***, but wouldn't you rather take the butcher's word for it?"

In this case, you can get a good look at the character of the neighborhood by a quick trip through the GIS maps – but hearing from the neighbors is certainly more descriptive. All of the neighbor comments have provided examples of how the issuance of these variances will FAIL to maintain the essential character of the locality. It's pretty easy to see how this character will negatively change.

The starting point, of course, is to describe the current character of the locality. This former resort has been a quiet, sparsely operated resort over the past several years. Despite the big expansion

plans over 30 years ago, the former resort – like many others – have been in a long period of decline. By the end of 2020, it's fair to say that the former resort was hardly a resort at all. We've seen that the former resort had only 3 mooring spaces on the dock and we've heard that the boat activity on the lake was minimal.

The former resort is surrounded by quiet residential properties. In fact, there is no other property on the entire south end of the lake that has even close to the requested density, limited lot width or lot area numbers that are sought in the requests for variance. Nor does any residential property on the south side of the lake have anywhere close to the number of mooring spaces on a dock. In addition, the south side of Pelican has relatively little boat traffic on the lake from residents.

The existing structures on the former resort are out of scale, out of place and otherwise inconsistent with the surrounding area – and the requests for variance that will allow for building out and building up will only make this inconsistency worse. The "lodge" on the former resort (which is already an eyesore) will be torn down and expanded – taking it even closer to the lake. No doubt it will be turned into a rental unit with constant traffic from the front door right into the lake. Nothing like the surrounding properties. The same is true with all 5 of the proposed lots in Tier 1 – when only 1 is allowed under the Land Use Ordinance.

The Minnesota Rules also demonstrate the increased risks from planned unit developments on the shorelands and lakes:

> **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:
>
> A. existing recreational use of the surface waters and **likely increases in use associated with planned unit developments**;
> B. physical and aesthetic impacts of increased density;
> C. suitability of lands for the planned unit development approach;
> D. level of current development in the area; and
> E. amounts and types of ownership of undeveloped lands

Minn. Rule 6120.3800, Subp. 2.

This is one of the reasons that the neighbors cried foul 30 years ago and the neighbors are again crying foul today. The expansion of the former resort was bad enough – but subdividing it into postage stamped lots and flipping it outside the context of a resort that gives the buyers the right to build out and up and occupy year round is maddening. Especially when the expansion was capped 30 years ago and it was supposed to convert back to the zoning restrictions when it no longer operated as a resort. Instead, the requests for variance will result the property being even more at odds with the essential character of the locality.

Again, Applicant has failed to provide any evidence to meet his heavy burden on this requirement as well. Applicant has provided no other proof of any similar properties in the whole south side of the lake. Applicant has provided no evidence of any other residential properties on entire south

side of the lake that have anywhere near the number of mooring spaces on a similar sized lot. Remember, it is **Applicant's heavy burden** to show that the issuance of the variances will maintain the essential character of the locality.

The argument that these buildings already exists misses the mark. Applicant is not proposing to just continue the existing buildings. Applicant is proposing to subdivide the property and sell off the lots. These existing buildings won't be repaired. They will be replaced with much bigger structures on the newly created postage stamped lots with the 11 mooring spaces with exponentially increased volumes of people, pets, parties, garbage, noise, etc.

In short, Applicant has failed to carry the heavy burden on this question.

F. Does the Need for a Variance Involve More than Economic Consideration?

This begs the question – why does Applicant need these variances? Obviously, they are not saving the former resort. There is no mention of granting the variances so they can build an over-60 planned community. And we can't forget that part of the slicing and dicing initially included a proposal to maximize the profit even more by selling off the land across County Road 4. Nor can we forget that this property was purchased by Applicant in November and the requests to subdivide were filed just a couple months later. The plan has been from the beginning just to take advantage of the fact that this property used to be operated as a resort and money could be made by subdividing the property and selling it off – in hopes that the parts were collectively worth more than the whole. Not to make things better – just to make money.

Unfortunately, making money that way comes at a cost. And the cost in this case is that it expands and overdeveloped property – putting at risk the environmental, scenic balance that the residents have all come to enjoy. In short, these requests for variance in order for an economic gain simply go too far. We ought to encourage development – but limit that development to honor the purposes and intent of the Land Use Ordinance, rights of other property owners and, most importantly, preserve and protect the shoreland and remarkable Pelican Lake.

IV. THIS RESORT CONVERSION (ASSUMING IT'S STILL A RESORT) IS DIFFERENT

Unfortunately, the resort business isn't what it used to be and there are a number of resorts that have a difficult time of keeping their doors open. That sad fact is one of the reasons that the Minnesota Rules and the Land Use Ordinance have provisions dealing with resort conversions. It is certainly true that the Board has approved a number of resort conversions in the past.

While it might be tempting for the Board to say that "they've heard it all before," this application is VERY DIFFERENT than other resort conversions. The restrictive conditions that were placed on this property in connection with the former resort expansion make this property unique. That uniqueness is amplified when you look at the conditions that were placed upon it – especially Condition 15 and 16 analyzed above. Adding to the uniqueness is the fact that this is no longer a resort and it was

purchased with the sole intent to subdivide and profit. Add to that the fact that this resort already sticks out like a sore thumb on this lake and there are no other properties on the entire south side of the lake that have the proposed lot width, lot area or shockingly proposed Tier 1 densities. Add to that the radical degree of variances sought. Add the substantial safety and environmental concerns pointed out by the neighbors. Add to that the number of bedrooms and the potential build out and up on a relatively narrow shoreline. And finally add to that the risks to such a precious shoreland and pristine lake if this application are granted.

This application is truly unique. There are some that would say a mistake was made 30 years ago when the former resort was allowed to expand. We should not say blindly add this one to the resort conversion pile. This is DIFFERENT and great care and consideration must applied to both respect the past by honoring the conditions placed on the property 30 years ago and following the rules applicable to the requests for variance.

CONCLUSION

I am not against development – I couldn't have recently built my dream house on the lake if I was. Nor am I against resort conversions. While we may want to reminisce about the past, the fact is that the resorts are dying off and we need to figure out something to do with the property when they close. This former resort is no exception. Nor am I against planned communities. These play an important role both today and in the future.

My only concern is that we deal with these according to the carefully balanced rules and regulations that exist to protect our precious natural resources. Long ago, we allowed our lakes to be ruined by the desire to make money by cutting down century old trees and put our lakes at risk. The damage caused by that desire to make money was a stain on the area for 100s of years – and remains a stain today. That is not to say we stop development. But it should remind us that we need to be very careful in how we develop and what should be done to protect the shoreland and lakes for today and the future. That is the very reason for the Land Use Ordinance, Comprehensive Plan and myriad of existing rules and regulations.

In this case, I think it is in everyone's interest to **SLOW DOWN** and make sure we have all the facts on the table related to the current conditions existing against this property. That is only fair to the Applicant and all parties involved – including the Board. It also might avoid protracted and expensive litigation if we address these things now and get everyone on the same page.

Until that happens, I believe this application should be tabled. Alternatively, I believe the application simply goes too far on this property and must respectfully object. If the Board does consider granting the variances, then all prior conditions must continue and there must be new conditions added that comply with the Minnesota Rules, the Land Use Ordinance and – most importantly - protect the health, safety and general welfare of the shoreland, waters and its residents.

RECEIVED
By Kirstin Lindbery at 1:15 pm, Apr 14, 2021

Kirstin Lindbery

From: Bill Hodder <sue.bill.hodder@gmail.com>
Sent: Tuesday, April 13, 2021 9:00 PM
To: Kirstin Lindbery
Subject: Pelican Beach Resort. Parcel Number 73040571

Crow Wing County Planning Commision. attn: Kirstin Lindbergh

I am a lake property owner on Pelican Lake (PID 73030503,504,505) and very concerned re: the proposed development of Pelican Beach Resort. This is an addition to previous concerns I submitted on 3/15/21.

These additional concerns are:

1- The entire resort appears to be " nonconforming " with a number of existing structures that were not approved by CWC. Specifically, there is no" known" documented application nor approval for the 2 duplexes that are located in Tier 1. If true, this is a major violation the "law".

2-Land Services Staff Notes (part of the info packet provided for the 3/18/21 meeting)
(4.2. Packet Page 98)
Requested Variances to Zoning Code for Shoreland District
1-Minimum Lot Area requested. 1772 sq ft. Required 30000 sq ft.
2-Minimum Lot Width requested 23ft. Required. 100 ft.
3-Request 6 dwelling units in Tier 1. Required maximum of 1 is allowed.
These requested variances are such a "gross" violation of the code, I do not understand "why" the request was not denied "up front". Are we no longer concerned about the very negative impact of density on the environment, water quality, boat traffic, etc. ? Why is the reclassification of a nonconforming resort to Shoreland Residential not subject to same code limits that all the neighbors are?

3-Future Oversight
From a realistic point of view (if the request is approved) the only oversight/control of the development of the ""site" going forward (the number and size of the buildings ,the number of boat slips,etc.), will be the Home Owners Association Board which will "act" in their own "interest ". The County, Thirty Lakes Watershed, DNR don't. have the "resources " to "police " this type of very dense development.

Thank You for your consideration of my "opinions ".

William Hodder
26290 Cty Rd. 4
Nisswa, MN. 56468
Email. sue.bill.hodder@gmail.com

Acc

Sent from my iPad

RECEIVED
By Kirstin Lindbery at 11:20 am, Mar 15, 2021

Kirstin Lindbery

From: Bill Hodder <sue.bill.hodder@gmail.com>
Sent: Monday, March 15, 2021 10:56 AM
To: Kirstin Lindbery
Subject: Parcel Number 73040571

Dear Ms. Lindbery

As a property owner on Pelican Lake (PID 73030503), 504; 505), I am very concerned about the proposed development of the former Pelican Beach Resort by Pelican Beach Holdings LLC. I just learned about the proposed development last week and have not been able to read or evaluate the full proposal, which only became accessible this past Friday afternoon. Given the significant scope of this proposed development, the potential land use and environmental implications, and the potentially negative impact on nearby property owners, I need more time to study and analyze the details of the Proposal. Having less than a week to evaluate this proposal is not reasonable. Therefore, I request that the Planning Commission Hearing set for March 18, 2021, be continued to a later date. If a continuance is not granted, then I now submit my strong objection to this proposed development and pledge my active and continuing opposition through all available channels.

Thank you for your consideration.

William Hodder
26290 Cty. Rd. 4
Nisswa, MN 56468
Email: sue.bill.hodder@gmail.com

Sent from my iPad

RECEIVED
By Kirstin Lindbery at 8:48 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Proposed zoom meeting to be held 18 March 2021

-----Original Message-----
From: Platt Hubbell <hubbpd2fly@gmail.com>
Sent: Friday, March 12, 2021 11:54 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed zoom meeting to be held 18 March 2021

Dear “Kiki”,

On Thursday, 11MAR21, I was forwarded an email about a zoom meeting to be held next Thursday, 18MAR21, regarding “a proposed change to parcel number 73040571”.
This property is known to me as Swenson’s Pelican Beach Resort. I’m assuming ,“The entire packet” to be made available “ by Friday, 3-12-2021 (many pages, and LOTS of information)”, is available now at the counties web site. Perhaps but this brings me to the purpose of this contact. I am Trustee of our families trust that owns 56 acres comprising four individual plats. One of these is separated by only one other landholder from the petitioners property. My family is collectively very concerned that there would be any variances even considered on a property that is obviously already non-conforming and apparently the proposed changes would compound as opposed to remediate existing problems. Furthermore, I have received no notification from the County of anything regarding this. Even if properly notified, buy your own quoted email, I’ll only have three working days to review and prepare for the hearing. Also it is well known that the vast majority of our neighbors are hundreds if not thousands of miles away durning winter months. This includes me as well.
Please consider this communiqué my request that this entire matter be tabled until such time properly notified concerned parties, at a minimum land holders abutting this property, could reasonably be reasonably expected to have the opportunity of appearing in person.
This short notice is unacceptable, the timing inappropriate and apparently circumspect.

Thank you for your prompt consideration. “Hubb”

Nevah Hubbell Trust dtd 29DEC92
Platt T Hubbell TTEE
26482 Co Rd 4
Nisswa, MN 56468

RECEIVED
By Kirstin Lindbery at 3:11 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Holdings Resort Conversion Request

From: B-J Jewett <jewettpr@yahoo.com>
Sent: Thursday, March 18, 2021 3:08 PM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Holdings Resort Conversion Request

Dear Crow Wing County Planning Commission/Board of Adjustment Members:

We have reviewed the information posted on the county website regarding the resort conversion request by Pelican Beach Holdings LLC to rezone and repurpose the former Pelican Beach Resort.

While we do not directly oppose the zoning change request, we do, however, wish to share with you our concerns:

1. **Increased traffic along that stretch of CSAH 4.** We support the suggestion of the Crow Wing Co. Highway Dept. that a right turn lane be installed at the entrance to the new Peaceful Harbor Planned Community and encourage the Planning Commission/Board of Adjustment to do all that they can to ensure a turn lane is installed as quickly as possible.

2. **Increased environmental impact on the lake** when what are now seasonal cottages are replaced with year-round or three-season dwellings by the new owners of the postage-stamp lots. While there was nothing in the Peaceful Harbor Planned Community information to indicate this was imminent, replacing seasonal cottages has been the trend on the lake.

Our property has been in our family since 1949 and is one of the few remaining original seasonal cottages on the lake. Through the decades we have observed the changes in lake quality to the lake overall as well as our 300 feet of shoreline, the increased boating and watercraft use, and the increased traffic on CSAH 4 as the area has developed and as shorefront seasonal cottages were replaced with year-round and three-season homes. We want to ensure that future generations of our family will be able to enjoy all that makes Pelican Lake special.

Sincerely,

Barbara and Jeffrey Jewett
1201 W Frances Dr.
Mahomet, IL 61853

Owners of Crow Wing Co. Property Address 9197 Red Hawk Lane (on Jones Bay)
Parcel IDs:
82330535
82330536
82330537
82330538
82330539

RECEIVED
By Kirstin Lindbery at 10:18 am, Mar 18, 2021

From: Carolyn Kerr <carolyn@carolynkerrart.com>
Sent: Wednesday, March 17, 2021 3:39 PM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing - Josh Miles

Please see my attached letter concerning the upcoming Public Hearing.
Thank you,
Carolyn Kerr

Response to the following application:

Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

Dear Commissioners,

I would like to state my strong objection to the request by Josh Miles. I believe this plan that includes 13 Residential Dwelling Units will have an adverse impact on Pelican Lake. There would be a lasting negative effect on the lake, the wildlife and the quality of life of the inhabitants of Pelican Lake.

This plan would bring increased traffic on the lake and would negatively affect the environment of the lake.

We have enjoyed Pelican Lake for many generations, it has always been a quiet lake. The increased density proposal for this property is not in line with current land use regulations.

Carolyn Kerr
27357 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Kirstin Lindbery at 11:31 am, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Holdings LLC - Josh Miles - Variances

-----Original Message-----
From: NANCY KERR <nancylkerr@me.com>
Sent: Wednesday, March 17, 2021 6:29 PM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Holdings LLC - Josh Miles - Variances

Dear Planning Commission Board,

We very strongly object to granting the variance to Pelican Beach Holdings LLC - Josh Miles.

We are concerned about the impact multiple dwellings on one property would have on neighbors and other homeowners on Pelican Lake. In addition, this variance would set a dangerous precedent, because other property owners might want to do something similar, which would destroy the current quality of life we cherish on Pelican Lake. The residual damage to water quality, wildlife, and other property owners on the lake would be devastating.

My family and extend family have been property owners on Pelican Lake for many decades, to my knowledge a variance like this has never been approved. Thanks for your consideration of our objections this variance, and Please do not allow this conversion to happen on Pelican Lake.

Kind Regards,

Nancy and Mike Kerr
27296 Kerr's Point Road
Pequot Lakes, MN 56472

Sent from my iPad

RECEIVED
By Gina.Roach at 9:18 am, Apr 16, 2021

Gina Roach

Subject: FW: Public Hearing for 4-19-21 at 5.00 PM, Parcel # 7304051, Property Owner Pelican Beach Holdings LLC; miles, joshua

From: Linda Martz <linda.martz@gmail.com>
Sent: Thursday, April 15, 2021 6:26 PM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing for 4-19-21 at 5.00 PM, Parcel # 7304051, Property Owner Pelican Beach Holdings LLC; miles, joshua

I, Max L Martz, am writing a letter of concern for parcel #7304051. My wife, four children and I have ownership of two lots, 4 and 5, in Jones Bay listed as Martz Family Partnership LLC. (27178 County Rd 4, Pequot Lakes MN, 56472).

Our concern is the development of eleven dwelling units and two common lots. In approximately 2008, Joan Mondale, past president of The Pelican Lake Association, informed the board (of which I was a member) that A and W Research of Brainerd had information and a film of a flyover that had found green algae plume due to a leaking septic system that had spread out into Pelican Lake onto the same approximate parcel and spread into Pelican Lake for some considerable distance.

I believe this development could affect the purity and congested traffic of the Lake due to eleven or twelve docks for large pontoons and fishing boats. I would believe that the number of residents could add to considerable waste and pollution in Pelican Lake. The Pelican Lake Conservation Club and the Pelican Lake Association have always tried to keep Pelican a very clear and healthy Lake for future generations to swim, boat and fish.

Sincerely,

Max L Martz
General Partner, Martz Family Partnership LLC

RECEIVED
By Gina.Roach at 8:46 am, Apr 13, 2021

Gina Roach

From: Jeff Maus <jeff_maus@yahoo.com>
Sent: Friday, April 9, 2021 4:39 PM
To: Gina Roach
Cc: Lori Maus
Subject: Re: Link to Crow Wing County BOA Packet

Follow Up Flag: Follow up
Flag Status: Flagged

Gina,

Thank you for forwarding this information, and for the phone call today.

There is obviously a great deal of information here, but one of the first things that caught our eye:

From agenda on March 18th, it is stated
"Timothy and Patricia Swenson (former owners) - sold this property to Pelican Beach Holdings LLC (Josh Miles) on 11-23-2020"
"Property owner would like to get out of the resort business" (assume this would be Mr. Miles, as he is filing this request)

Mr. Miles bought this resort late November, and immediately requested converting it to residential properties in January.
Pretty obvious he was intending to do the conversion when he bought the resort.

As Pelican Lake property owners, we do not support this request, for many reasons. Here are just 2 of them...
1) It severely overcrowds a very small tract of land on Pelican Lake. This will cause further zoning issues within this area.
2) It would set a legal precedent for future landowners that would use this decision to further overcrowd property around Pelican Lake.

Regards,

Jeff & Lori Maus

On Friday, April 9, 2021, 04:02:16 PM CDT, Gina Roach <gina.roach@crowwing.us> wrote:

http://crowwingcountymn.iqm2.com/citizens/calendar.aspx

Gina Roach

Customer Service Specialist

Office: (218) 824-1010

Direct: (218) 454-7473

www.crowwing.us

Land Services

322 Laurel Street Suite 15
Brainerd, MN 56401

RECEIVED
By Stacy Westhoff at 3:28 pm, May 20, 2026

Excellent customer service is our top priority. Please let me know if I was helpful!

Customer Service Survey

Our Vision: Being Minnesota's favorite place.
Our Mission: Serve well. Deliver value. Drive results.
Our Values: Be responsible. Treat people right. Build a better future.

This e-mail and any attachment is intended to be read only by the intended recipient. This e-mail may be legally privileged or protected from disclosure by law. If you are not the intended recipient, any dissemination of this e-mail or any attachments is strictly prohibited, and you should refrain from reading this e-mail or examining any attachments. If you received this e-mail in error, please notify the sender immediately and delete this e-mail and any attachments. Thank you.

RECEIVED
By Kirstin Lindbery at 10:17 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Pelican Beach Resort

-----Original Message-----
From: judy mellinger <jnmellinger@hotmail.com>
Sent: Saturday, March 13, 2021 2:50 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; kristin.lindbery@crowwing.us
Subject: Pelican Beach Resort

Hello Kirsten,

We've received the notice of zoning change and variances wanted by the new LLC owner of Pelican Beach Resort. They are asking for too much density of duplexes/cabins for the lot east of County 4 and too much sewage to be handled by such an apparently small drainfield. Pollution of the lake with e. Coli might well result. Runoff from 13 roofs onto land that slopes down to the lake will also carry other pollutants.

Where is the parking area(s)? How large is the dock going to be to allow each unit to have a boat or other watercraft? How much noise will this property engender for the neighbors on each side? We're two properties south of the current resort but still fear for the lake pollution, noise and congestion at the SW corner of Pelican Lake.

Thank you for 'listening' to us.

Jim and Judy Mellinger
Summer address:
26708 CR 4
Nisswa, MN 56468

Sent from my iPhone

RECEIVED
By Kirstin Lindbery at 12:19 pm, Mar 18, 2021

Kirstin Lindbery

Subject: FW: Public Hearing Comments for Parcel 82100789 (Otten/McGann)

From: Jodi Morrison <jodimorrison@yahoo.com>
Sent: Thursday, March 18, 2021 11:03 AM
To: Landservices <Landservices@crowwing.us>
Subject: Public Hearing Comments for Parcel 82100789 (Otten/McGann)

Board Members of the Planning Commission, Board of Adjustment

Thank you for the opportunity to provide comments regarding the requested variance on Parcel #82100789 owned by Randall Otten & Michelle McGann.

We are owners of the adjacent property and have met with Randall and Michelle about their desired use of their newly acquired property. We are in support of their requested variance as noted for this specific hearing.

As mentioned in their application for Variance, we have met with them to ensure that their plans would meet both their needs without compromising our adjacent property.

We remain in support of their requested variance ensuring the following:

1) The Storm Water Drainage plan that limits additional runoff into the road. The road is currently a low spot that pools water during the spring thaw as well as after a rain. The standing water makes for a soft and muddy road. Our request is simply that their storm water draining not add to the water accumulation in the roadway. Their plans for a rock driveway/parking should ensure this is achieved.

2) The structure is not closer to the (main) lake than what they currently have planned. (The main structure/cabin will be 75 feet from the ordinary high water mark and an attached deck will extend up to 12 feet towards the OHM within the 75 foot setback).

Thank you
Jodi & Steve Morrison

Sent from Mail for Windows 10

RECEIVED
By Kirstin Lindbery at 9:13 am, Mar 17, 2021

Kirstin Lindbery

Subject: FW: Objection to Josh Miles Variance/Pelican Lake

From: Lori Moss <loricd8@gmail.com>
Sent: Tuesday, March 16, 2021 4:53 PM
To: Landservices <Landservices@crowwing.us>
Subject: Objection to Josh Miles Variance/Pelican Lake

Dear Commissioners,

My family and I write to you today to communicate our strongest objections to granting the Josh Miles variance for development on Pelican Lake. We speak as three generations of a family who have treasured the natural beauty of the lake for more than 80 years. We are 2nd, 3rd, and 4th generations and remember the fierce and deep love instilled by the first generation. They taught us to respect and protect the gifts that these waters and trees and wildlife are.

The short notice given to those affected around the lake is very troubling, and no decision so consequential should be pushed through without full discussion and transparency and time to consider ramifications. We are concerned about environmental impacts to the water and the wildlife, as well as increased activity on the lake and bay where we live which impacts current homeowners' ability to enjoy the lake as a peaceful retreat.

Lori Moss
Kay Kerr Adair
Christy Price
Hannah Moss
Sanford Price

27201 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Gina.Roach at 1:12 pm, Apr 15, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills - Variance / Zoning

To Whom It May Concern:

I strongly object to the variance because:

1. The size of the lot cannot support the density of the planned development.

2. The increase traffic on the lake will negatively effect the environment of the lake.

3. The plan for 12 boat docks is not realistic because of the depth of the water where they would be located.

4. Pelican Lake has always been a quiet lake, which we have enjoyed for 62 years. We must protect the lake from further development that is not in line with current land use regulations.

Nancy Kerr
27363 Kerrs Point Road
Pequot Lakes, MN. 56472

RECEIVED
By Gina.Roach at 12:25 pm, Apr 16, 2021

Gina Roach

Subject: FW: Opposition to Pelican Beach Holdings, LLC request for resort conversion

-----Original Message-----
From: Richard Nolan <ricknolan112@gmail.com>
Sent: Friday, April 16, 2021 12:18 PM
To: Landservices <Landservices@crowwing.us>
Cc: Mary Nolan <marywielandnolan@gmail.com>; Rick Nolan <ricknolan112@gmail.com>
Subject: Opposition to Pelican Beach Holdings, LLC request for resort conversion

Dear Planning Commission Board of Adjustment,

We want to express our strongest objection and opposition to approval of the proposed Resort Conversion from Pelican Beach Holdings, LLC. After carefully reviewing all the pros, cons, documents, history and issues related to the proposed resort conversion, we are convinced beyond any reasonable doubt that the project would be clearly detrimental to the neighbor's use and enjoyment of their property and set a precedent clearly harmful to the entirety of Pelican Lake, its residents and the environment.

As third generation (over 100 years) property owners on Pelican Lake, we thank you for your consideration of our thoughts and judgement regarding this proposal and urge you to not approve.

Sincerely,

Rick and Mary Nolan

Pelican Lake address: 26591 Ross Point Rd., Nisswa, MN. 56468 Home address: 9120 Garden View Rd., Nisswa, MN. 56468
Email: ricknolan112@gmail.com
Mary's Email: marywielandnolan@gmail.com
Rick: 218-838-9879
Mary: 218-821-7683

RickNolan112@gmail.com

Kirstin Lindbery

Subject: RE: Pelican Beach Holdings, LLC Applications

From: James Pansing <jep@jaypansinglaw.com>
Sent: Wednesday, April 14, 2021 9:47 AM
To: Jacob Frie <Jacob.Frie@crowwing.us>
Cc: JIm De Sena <jcdesena@gmail.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; Patty Pansing Brooks <PattyPansingBrooks@brookspanlaw.com>; Brad Halberstadt <brad@szjlaw.com>
Subject: Pelican Beach Holdings, LLC Applications

Good morning, Jake. I am one of the owners of the property adjacent to the north of the property owned by Pelican Beach Holdings LLC, that has made applications for rezoning, variances and Preliminary Plat Approval. I know Jim has asked you to postpone the Planning Commission hearing scheduled for the 19th based on an incomplete and confusing record regarding the Swenson's "5 year plan" that was approved by the County. I would concur that this matter needs to be postponed for the reasons pointed out by Jim, but also for a different reason.

In 1979, we (the Pansing family) were in a minor dispute regarding a driveway location that appeared to be on our land. We asked Myron Landecker, the local surveyor in Pequot Lakes, to prepare a survey to help us resolve the issue. Myron told us that no surveyor had "run the legals" back to the section markers and in order to get a fully accurate survey he would need to do so. It was quite a bit more expensive but we decided to go ahead with it.

After Myron did this, he informed us that all of the owners in our area were mis-occupying their legal descriptions. In fact, each of the owners along much of the southwest corner of Pelican were occupying 50 to 60 feet of the owner's property to the north of them. Obviously, when we learned that we wanted to rectify the situation. We went so far as to propose quit claim deeds to/from 8 property owners to make it so each of those owners were occupying their property correctly. That went nowhere. Accordingly, we applied for and received a Torrens Certificate to the legal description for the property as we were occupying it. (Please note that a Torrens Certificate of Title does not affect any property except that described in the Certificate.)

The upshot is that, unless a quiet title or other action has been initiated divesting the Pansing family of this 50 to 60 foot strip of land along the southern border of our initially deeded legal description and putting it into the Swenson name (which couldn't have been done without notice to us, which we never received) then the Pansing family continues to hold record title to the north 50 or 60 feet of the property occupied by the old Pelican Beach Resort and for which the Applicant seeks rezoning, variances and preliminary platting.

Because the Applicant's last survey submission specifically stated that the Applicant's survey was prepared without review of the real estate title records, I contacted Stonemark Surveying

last week to make a drawing of the two properties to show where the improvements are located on the ground with reference to the respective legal descriptions. I contacted Stonemark because it bought all of the old Landecker files and records. One of the owners, Cindy, told me that they would not be able to get out to the properties for 4 or 5 weeks. Accordingly, I request that the Commission hearing be postponed to verify this situation and to see what needs to be done to deal with this issue.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

RECEIVED
By Kirstin Lindbery at 2:50 pm, Mar 18, 2021

From: smkoering@gmail.com <smkoering@gmail.com>
Sent: Thursday, March 18, 2021 2:42 PM
To: Landservices <Landservices@crowwing.us>
Cc: Kristin.Lindbery@crowwing.us
Subject: Response letter from Pelican Lakes Association, CWC for Parcel Number 73040571, Meeting 3/18/2021

Hello Kristin,

The attached letter is a statement from the Pelican Lakes Association on Parcel #73040571 due for review today.

Thank you

Susan Koering

President, Pelican Lakes Association of Crow Wing County

612-636-3712

PELICAN LAKES ASSOCIATION OF CROW WING COUNTY

PELICAN LAKES ASSOCIATION OF CROW WING COUNTY

March 18, 2021

Planning Commission/Board of Adjustment
Crow Wing County
326 Laurel Street, 3rd Floor
Brainerd, MN 56401

Planning Commission Members,

The Pelican Lakes Association (PLA) would like to express our reservations regarding the zoning change and planned development of the Pelican Beach Resort Parcel# 73040571.

While our mission does not include advocating for zoning and development, we do represent our 500-plus members in items involving water quality and shoreline issues. As such, PLA has concerns that this re-zoning and move to allow 12 year-round residences on a plat that does not meet current density requirements will put pressure on the shoreline. This area already has had a history of water quality issues. Oversized dock space, septic and drainage integrity, along with impervious changes now, and in the future are issues that have been expressed to the PLA from members around the lake. We have strongly encouraged those members to individually voice those concerns at the hearing scheduled for March 18, 2021.

We ask that you consider all feedback presented and sincerely urge you to vote in a manner that does not present future challenges to Pelican Lake. The PLA Board of Directors remains firmly committed to our stated goal of protecting the water quality, both now and in the future.

With regards,

Susan Koering

Susan Koering
President, Pelican Lakes Association of Crow Wing County

cc: PLA Board of Directors

Kirstin Lindbery

Subject: FW: Response to the following variance Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

From: Shelley Kerr <shelleykerr1996@gmail.com>
Sent: Thursday, March 18, 2021 2:19 PM
To: Landservices <Landservices@crowwing.us>
Subject: Response to the following variance Applicant: Pelican Beach Holdings LLC – Josh Miles - Variances/Zoning

Dear Commissioners,

I strongly object to the variances requested to the minimum lot area, minimum lot width and number of dwellings. I request that the zoning commission DENY these variances, which are out of keeping with the rest of the Pelican Lake community, particularly in this area of the lake which is home to property owners who have been here for decades.

ACTION REQUIRED:
POSSIBLE MOTION: make a recommendation to the County Board of Commissioners to approve/table/deny the following amendment to the Official Land Use Map:

For Parcel 73040571 from Waterfront Commercial (WC) District with Rural Residential 5 (RR 5), to Shoreland District (SD) with Rural Residential 5 (RR 5), involving approximately 4.88 total acres.
AND
POSSIBLE MOTION: To approve/table/deny:
Variances for:
1. Minimum Lot Area of 1,792 square feet where 30,000 square feet is required.
2. Minimum Lot Width of 23 feet where 100 feet is required.
3. To allow six (6) dwelling units in Tier 1 where one (1) is allowed.

Shelley Kerr
27296 Kerrs Point Road
Pequot Lakes, MN 56472

RECEIVED
By Kirstin Lindbery at 8:00 am, Apr 12, 2021

Kirstin Lindbery

From: Darryl Van Kampen <darrylvk@gmail.com>
Sent: Sunday, April 11, 2021 4:27 PM
To: landserices@crowwing.us; Kirstin Lindbery
Cc: Mom; Craig; Melodie; pattypansingbrooks@brookspanlaw.com; jep@jaypansinglaw.com; Karen Y; treciawiewel@gmail.com; hubbpd2fly@gmail.com
Subject: Public Hearing PCBOA Meeting 4-19-2019 Pelican Beach Holdings

To: Planning Commission / Board of Adjustment
Re: Request for Variance by Pelican Beach Holdings LLC
Parcel # 73040571
Notice – PCBOA Meeting APR 19, 2021 Apr 11, 2021

This email comes from Dolores J. Van Kampen, owner and resident since 1959 at 26730 County Road 4, Nisswa, MN 56468, south adjacent property to parcel 73040571. I, her son, Darryl Van Kampen have prepared it for her. We are opposed to the variance requests.

Topics and photos concerning:

1. Historic number of boat slips
2. Standing Water in Tier 1
3. Lot Density parking in Tier 1
4. Cabin History

1. **Boat slips** - Having pictures of the resort pier and boat slips clearly demonstrate there were only 2 or 3 slips over the years: 2009 – 2 slips, 2010 – 3 slips, 2015 – 3 slips, 2019 – 3 slips, 2020 – 3 slips. **There have never been 12 boat slips**.

A few photos:

July 4th, 2020 – from our dock showing 3 slips



From Pelican Beach Resort Facebook page - summer 2013 showing 3 slips



From August 28, 2010 from our dock showing 3 slips



2. **Standing water** - In Tier 1 standing water after heavy rains around proposed lots 1,2 and 5.



3. **Tier 1 Parking** - the cabin density in Tier 1 creates parking and vehicle volume nightmares. Here 7 cars in the proposed lot 1,2,3,4,5,6 area. I've seen 12 or more vehicles in that area, and have witnessed the constant rotation of cars and trucks to enter and exit. Can't imagine what refuse collection will be like.
From July 2018



4. Cabin History

Originally (1950s) the resort consisted of proposed lot areas 5, 6, 7, 8, + 9, and those cabins are still present. In 1981-83 two single story cabins were moved across the frozen lake from Haze Haven resort onto proposed lot 1/2 + 3/4 During 1983 -1993 the single story cabin on proposed lot 1/2 was moved to proposed lot 10, and a two story duplex was built. In addition, the single story cabin on proposed lot 3/4 was raised and a store/game room built underneath. The 2-story structures have been there since at least 1993.

RECEIVED
By Kirstin Lindbery at 1:29 pm, Apr 12, 2021

From: Landservices
To: Kirstin Lindbery
Subject: FW: Conversion of Parcel Number 73040571 - Notice for April 19th Hearing
Date: Monday, April 12, 2021 12:48:37 PM

From: craigvk@aol.com <craigvk@aol.com>
Sent: Sunday, April 11, 2021 11:29 PM
To: Landservices <Landservices@crowwing.us>
Cc: dvk1528@gmail.com
Subject: Conversion of Parcel Number 73040571 - Notice for April 19th Hearing

Dear Board Members:

I am concerned about the notice that was sent for the hearing on April 19th. The second bullet listed under the request states:

- Variances for Density, Lot Area, and Lot With - for Proposed Lots

Why doesn't this bullet include a variance for the number of boat slips?

As I pointed out in my response for the previous hearing, toward the bottom of page 4 of the original information packet it states:

- Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion.

Near the top of page 4 of the original information packet it states:

- Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed.

The statement that there are currently 12 mooring slips is simply not true. The proof that this statement is false was provided by the applicant in the overhead photograph on page 16 of the application, which shows a very long dock - in excess of 200 feet - with 3 boat slips at the end of the dock - 2 of which are hoists with green canopies. The existing situation bears no resemblance to the drawing of mooring slips provided on page 8 of the original information packet. Since the number of mooring spaces cannot increase with this conversion, why doesn't the bullet for variances include the number of mooring slips?

I am concerned that since the situation with the mooring slips is misleading, what other aspects of the proposed conversion are also misleading? For example, there are calculations provided regarding the percent impervious: who made these calculations - the same person who couldn't count the number of existing mooring slips? If they lied about the number of mooring slips, how do I know they haven't lied about the impervious calculations, or other calculations? Has anyone independently verified the calculations in the original proposal?

Once again, I think that this application should be denied because false information was provided.

Sincerely,

Craig L. Van Kampen
Lake address: 26214 County Road 4, Nisswa, MN 56468
Mailing address: 6881 37th Street North, Oakdale, MN 55128

Gina Roach

RECEIVED
By Gina.Roach at 8:29 am, Mar 15, 2021

From: craigvk@aol.com
Sent: Sunday, March 14, 2021 7:58 PM
To: Landservices
Cc: dvk1528@gmail.com
Subject: Parcel Number 73040571 - Resort Conversion Application

Dear Board Members:

I am the owner of a nearby property at 26214 County Road 4 and my mother has owned the property immediately to the south of Pelican Beach Resort since 1959. Therefore, I am very familiar with the area and very concerned about the impact of the proposed conversion. I will not list all of my concerns here because I'm sure that many other people will be expressing similar concerns; however, I've noticed something in the information packet that raises concern beyond the impact of the proposed conversion on the lake and the neighborhood:

On page 4 of the information packet, near the top of the page, it states:

- Mooring and docking issues were discussed; currently there are 12 mooring slips; no additional mooring slips are proposed.

This statement appears to be deliberately misleading. The property has never had 12 mooring slips. In addition, the drawing on page 8 that depicts the existence 12 mooring slips is a fabrication - these mooring slips do not exist and have never existed. Furthermore, the location in which these 12 mooring slips is depicted does not appear to be feasible given the shallow water in that area. To state that "no additional mooring slips are proposed" is not true if the intent is to have 12 mooring slips as depicted.

Toward the bottom of page 4, it states:

- Docks and mooring spaces were discussed; the number of mooring spaces cannot increase with this conversion.

As stated above, there have never been 12 mooring spaces on this property. I believe that there have been at most 3 shore stations and 3-4 mooring buoys, but never 12 mooring spaces as depicted. Since it states at the bottom of page 4 that the number of mooring spaces cannot increase with this conversion, it is impossible for the proposal to include 12 mooring slips without misrepresenting the current number of mooring spaces.

I am very concerned that since the applicant appears to have provided misleading information regarding the number of mooring slips, there may be other misleading or false information in the application which I am not able to so easily uncover. Given the misleading representation that I have pointed out, I believe this application should be denied and the applicant should be prevented from any attempt in the future to obtain approval for converting the use of this property.

Sincerely,

Craig L. Van Kampen
Lake address: 26214 County Road 4, Nisswa, MN 56468
Mailing address: 6881 37th Street North, Oakdale, MN 55128

RECEIVED
By Kirstin Lindbery at 10:49 am, Mar 15, 2021

Kirstin Lindbery

Subject: FW: Parcel 73040571 Pelican Beach Holdings LLC

From: Trecia Wiewel <treciawiewel@gmail.com>
Sent: Monday, March 15, 2021 10:18 AM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>; Landservices <Landservices@crowwing.us>
Cc: Ann Groover <agroover12@gmail.com>; Jim&Judy Mellinger <jnmellinger@hotmail.com>; Brubaker, Dr. Jill H. <jillbru@comcast.net>; willelmquist@attbi.com; Annie Young <annie55102@gmail.com>; Darryl VanKampen <darrylvk@gmail.com>; Trecia Wiewel <treciawiewel@gmail.com>; Patty Pansing Brooks <pattypansingbrooks@brookspanlaw.com>; Amy Gorton <agcircus@aol.com>; Elizabeth Groover <eagroover20@gmail.com>; David,M. McClendon <dmm0674@yahoo.com>; contact@pelicanlakesassociation.org; bill@etmund.com; marypatnolan@rocketmail.com; RMNolie@gmail.com; pelican@uslink.net; jhampl05@gmail.com; ellamnopea@charter.net; ahubbs4@gmail.com; clarebear424@gmail.com; Platt Hubbell <hubbpd2fly@aol.com>
Subject: Parcel 73040571 Pelican Beach Holdings LLC

3-15-21

Greeting Kirstin,

The request submitted for rezoning and variances for Pelican Beach Resort Parcel# 73040571 is of great concern to surrounding residents of Pelican Lake. We are opposed to the rezoning of the resort to Shoreland District which would allow for permanent residents on the resort property. The resort setbacks are currently non compliant with county setbacks and the proposed restructuring of the resort does not correct this issue. The increased density proposed will be detrimental to the health of Pelican Lake as well as the septic systems and the docking changes that are part of the proposal. We are planning to participate in the virtual meeting on 3-18-21.

Concerned Pelican Lake Residents,
Trecia and Steven Wiewel
26668 County Road 4
NIsswa, MN 56401
218-820-5161

RECEIVED
By Kirstin Lindbery at 11:07 am, Mar 15, 2021

Kirstin Lindbery

From: Karen Young <kdyoung49@gmail.com>
Sent: Sunday, March 14, 2021 9:46 PM
To: Kirstin Lindbery
Subject: Public Hearing Thurs. March 18/Parcel 73040571

Karen Young (Seasonal Resident)
26708 County Road 4
Nisswa, MN 56468

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Attention Kirstin (Kiki) & Crow Wing County Board,

I am writing you today regarding the recent hearing notice for proposed changes to the property/parcel #73040571.
(Formerly known as Pelican Beach Resort)

My comments/ questions are as follows:

1. The Resort Conversion consisting of a : Land Use Map Amendment, Lot Variances & Preliminary Plat, are unacceptable

Kirstin Lindbery

From: Karen Young <kdyoung49@gmail.com>
Sent: Sunday, March 14, 2021 10:41 PM
To: Kirstin Lindbery
Subject: KDY: Public Hearing Comments/March 18, 2021/Parcel #730405571, Former PBResort

Karen Young (Seasonal Resident)
26708 County Rd 4
Nisswa, MN 56468

March14, 2021

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Attention Kirstin (Kiki) & County Board,
I am writing you today regarding the recent hearing notice for the proposed changes to the
property/parcel # 73040571 (Former Pelican Beach Resort)

My comments/concerns at this time are as follows:

1. The short time frame between packet information for hearing & hearing dates (6 days), is rather inconsiderate of those affected by the notice...that being said the **conversion requests make no sense for sustaining a quality of LAKE LIFE on Pelican Lake's South End.**
2. The parcel mentioned already has several building setback violations (two shoreline buildings setbacks are less than allowed) and **should not be allowed more variances on this property.**
3. The **proposed plat diagram has inaccurate drawing of 12 docks slips that were never there in reality** and are mentioned in the packet to stay as is and not increase when they have never been there in the first

place!!! All slip sizes of that nature are unheard of in the neighboring zones of this Lake! Also the water depth will not accommodate that design in that location.
4. The conversion looks like the usage of lake life has a potential increase of activity densities that cannot be safe or sustainable at & in the water. (boat traffic, boat storage, dock space, noise)
5. Only about 1/3 of the buildings on site are updated and this property has 60% more structures on it than neighboring lots.
6. **WHAT does THE ADDITION OF ADDING** (POST STAMP SIZE) **LOTS allow THE OWNER OF THIS PROPERTY TO DO WITH THE LOTS?? What is their intent here?**
7. Are the owner's living on the premises? Is this their only property venture?
8. By addressing our concerns, the new property owners and owners of neighboring properties can protect our beloved lake and the reasons we all live and recreate here.

Note: Kirstin, please confirm that you have received this letter. Thank you.

Sincerely,
Karen Young
mailing address: 907 6th Ave SW, Rochester, MN 55902
email: kdyoung49@gmail.com

--
" Laugh everyday especially right before you sleep "

RECEIVED
By Kirstin Lindbery at 1:34 pm, Apr 12, 2021

Kirstin Lindbery

From: Landservices
Sent: Monday, April 12, 2021 12:52 PM
To: Kirstin Lindbery
Subject: FW: Pelican Beach Holdings LLC Conversion plan (Parcel #73040571)

From: AY <annie55102@gmail.com>
Sent: Saturday, April 10, 2021 12:15 PM
To: Landservices <Landservices@crowwing.us>
Subject: RE: Pelican Beach Holdings LLC Conversion plan (Parcel #73040571)

To: Crow Wing County Planning Commission/Board of adjustment

Hello,

We would like to communicate our strong opposition to the Pelican Beach Resort conversion plan. There are many substantiated facts that have been brought to your attention to support the opposition to the Pelican Beach conversion plan; including the fact that the 2 structures that were placed illegally on the waterfront should be removed; and they should **not** be replaced with new structures. Two wrongs don't make a right.

We appreciate your time and look forward to attending the next board meeting via Zoom on Monday, April 19th at 5:00 p.m.

Sincerely,
Todd and Annie Young
311 Pleasant Ave
Saint Paul, MN 55102

RECEIVED
By Kirstin Lindbery at 11:01 am, Mar 15, 2021

Kirstin Lindbery

From: jay young <jry01@msn.com>
Sent: Sunday, March 14, 2021 9:45 PM
To: Kirstin Lindbery
Subject: 3/18/2021 5PM CST Crow Wing County Planning Commission / Board Of Adjustment - Pelican Beach Holdings LLC – Josh Miles
Attachments: pbr-2021.pdf

I am submitting the attached in preparation for the upcoming meeting this Thursday,
I look forward to learning more about this new development.
Very short notice for what looks like a highly unusual request that directly impacts Pelican Lake and neighbors?

Please confirm that you have received this e-mail and PDF file.

Thank you!

Jay Young
jry01@msn.com

PS - picture of the day
http://www.pelicanlakesassociation.org/
(click on the picture to right of the Loon Cam - looking West toward Breezy Point near Pelican Lake public swimming beach)

Jay Young
26708 County Rd 4 North (seasonal resident)
Nisswa, MN 56468

Kirstin Lindbery
Customer Service Specialist – Lead
Crow Wing County – Land Service
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Dear Kirstin and Crow Wing Planning Commission / Board Of Adjustment,

I am writing you today regarding the recent notice of a meeting this Thursday, March 18, 2021 regarding a proposed change to parcel number 73040571 (formerly Swenson's Pelican Beach Resort). Over the years, as this resort has grown, several variances have been allowed - per Crow Wing County Comprehensive Plan(s) - cabins were moved over the ice from Haze Haven, the old garage was replaced with a lodge, the main house was replaced, the old green trailer 10 feet from the lake was moved... As shown on the old map below, historically there were no residential structures east of the "old road" all the way north to Cimino Bay, just a simple boathouse at the resort and a neighboring boathouse to the north. Everyone in this "neighborhood" meets setback requirements except this plot, now no longer a resort?



~1959 – 5 cabins?



parcel number 73040571 (Swenson's Pelican Beach Resort) – 10 cabins currently?

This is an opportunity to return this plot to sustainable density regarding beds, bathrooms, boats, soil conservation and set-backs. The big picture to us all should be the health of this spring fed, headwater lake of the Mississippi – the requested variances are just too much for this neighborhood and plot to absorb?

Variances for:

1. Minimum Lot Area of 1,792 square feet where 30,000 square feet is required. (17x too small)

2. Minimum Lot Width of 23 feet where 100 feet is required. (4x too narrow)

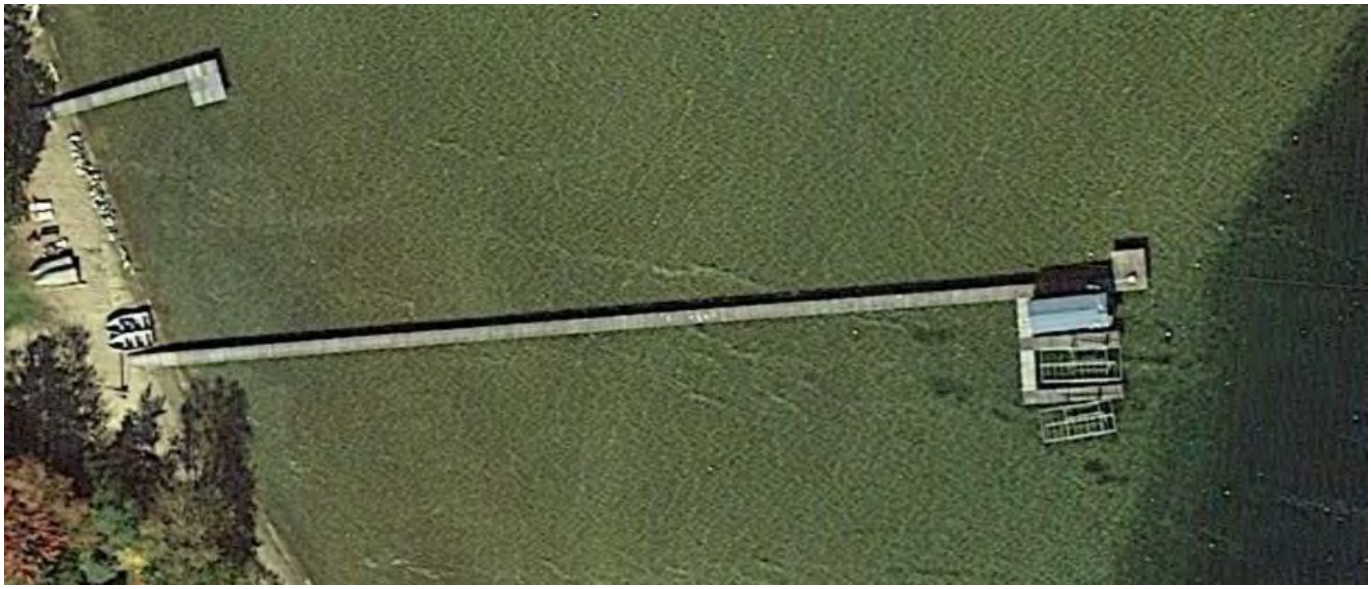
3. To allow six (6) dwelling units in Tier 1 where one (1) is allowed. (6x)

Over the past several years, Pat and Tim Swenson significantly reduced the number of reservations accepted at PBR as they prepared for retirement, we appreciated the reduction of beach parties, inexperienced boaters, and more peaceful lake life. I will miss the Twins games and ice cream and laughter at what was a simple, wonderful little resort.

Steps to improve the shoreline and removal of the firepit would also be welcome. I have enjoyed my time at Pelican Lake for more than fifty years and I hope my family can continue to escape to this wonderful part of Minnesota in the future. Hopefully this transformation from a resort is handled with care and judicious foresight.

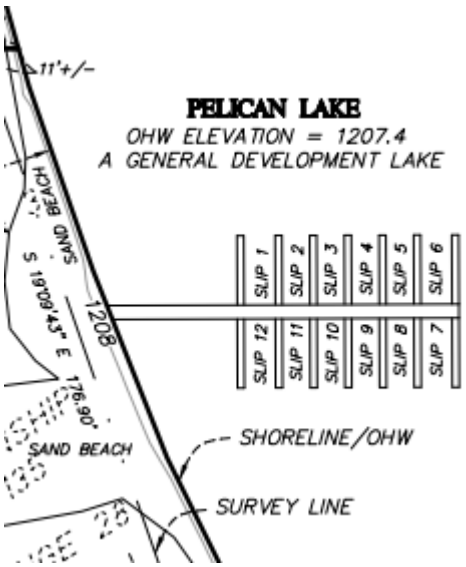
Jay Young
907 6th Ave SW
Rochester, MN 55902
Jry01@msn.com

PS
The statement in the agenda packet (Page 4) is not accurate
"Mooring and docking issues were discussed; currently there are 12 mooring slips"



at the end of the ~100' dock, there are three mooring slips/lifts. Overflow boat parking (never more than three additional) was achieved with mooring balls, which made for some excitement when larger boats detached during storms. Rowboats are kept on-shore as shown.

PSS
The plat map in the packet showing 12 mooring slips is conceptual, not accurate – as shown above – the lake is not deep enough to support twelve full size slips as shown – another variance required?



References:

1959 county map https://ngmdb.usgs.gov/img4/ht_icons/overlay/MN/MN_Pelican%20Lake_805224_1959_24000_geo.jpg
(when was the "old road replaced by CR 4N?)

Crow Wing County Comprehensive Plan 2003 – 2023
https://crowwing.us/DocumentCenter/View/1285/2004_COMPREHENSIVE_PLAN?bidId=

"The number of resorts in Crow Wing County has declined from 126 in 1985 to 97 in 1998 (source: MN Dept. of Revenue). This is a 30% decrease in just 13 years. In Crow Wing County, the resort industry recorded gross sales of $45,127,052 in 2000 and contributed $2,864,853 in sales and uses taxes (Source: MN Dept. of Revenue). For every dollar spent on lodging by a Minnesota tourist, $2.41 is spent on other items (Source: Minnesota Office of Tourism) resulting a net gross sale in Crow Wing County of $153,883,242 from resort guests. When a resort is sold for individual seasonal use, the local economic impact is severe. A commercial resort cottage contributes 10 times more in local revenue than if the cottage is sold for seasonal home ownership (Source: University of Minnesota)."

County Goal:

"Retain existing resorts; assist them with expansion & improvement to allow them to meet growing needs in a manner that doesn't degrade natural resources. Implementation: How: Re-examine the PUD section of the zoning ordinance, insert the Common Interest Community (CIC) statutes in the ordinances, and balance the needs of resorts with the existing local, state, and federal requirements. Who: Crow Wing County Planning Department, Planning Commission, Resorts, Lake Associations, and DNR. When: Fall 2004

Photo #1 - 165' of shoreline with rowboats, kayaks, and non-conforming structures encroaching on the shoreline, water depth is less than 2' at least 50' out from shore



Photo #2 - updated - https://www.facebook.com/pages/Pelican%20Beach%20Resort/108130932561719/



Photo #3 – boat hoists (3 total) and swim raft detail



Photo #4 – boat hoists and mooring balls detail – 100+ feet to drop-off



Photo #5 – Cabin detail (Lot 10?) – looking West – year-round house on hill in background



Photo #6 – interior of "lodge" – not really a duplex? (Lot3/4 – east-most non-conforming structure closest to P Lake)



RECEIVED
By Kirstin Lindbery at 11:20 am, Apr 13, 2021

Gina Roach

RECEIVED
By Gina.Roach at 3:15 pm, Apr 19, 2021

Subject: FW: Response to the following application: Applicant Pelican Beach Holding LLC. Josh Mills: Variance/Zoning Parcel 73040571

From: Shelley Kerr <shelleykerr1996@gmail.com>
Sent: Monday, April 19, 2021 3:06 PM
To: Landservices <Landservices@crowwing.us>
Cc: jep@jaypansinglaw.com
Subject: Response to the following application: Applicant Pelican Beach Holding LLC. Josh Mills: Variance/Zoning Parcel 73040571

To Whom It Concern,

I would like to echo the sentiments of our lake friends and family dating back 30 years. Allowing over development of lots surrounding Pelican Lake would be detrimental to our wildlife, not to mention the environmental impact to the lake.

Pelican Lake has been preserved by many generations. Many families have been diligent in their care of our animal habitat, lessening the impact on the lake and being good stewards of our land. Pelican Beach Holdings proposal to split their lot into "postage stamp" lots

would have a destructive effect on Pelican Lake.

Thank you for your consideration.

Shelley Kerr
27296 Kerrs Point
Pequot Lakes, Minnesota

RECEIVED
By Gina.Roach at 11:32 am, Apr 19, 2021

Gina Roach

Subject: FW: Comments to Planning Board os Adjustments-Josh Miles #73040571 -Land Use

-----Original Message-----
From: Eldon And Nancy <eldonandnancy@aol.com>
Sent: Monday, April 19, 2021 11:21 AM
To: Landservices <Landservices@crowwing.us>
Subject: Comments to Planning Board os Adjustments-Josh Miles #73040571 -Land Use

We are sending our concerns to you the Planning Commission/Board of Adjustment about parcel #73040571.
We own land on the south shore of Pelican Lake. This land has been in the family for 105 years.
We understand that a small seasonal resort is not a sustainable business these days. However, we do feel that transferring this parcel into. 11 “year around cabin/homes” is not good use of this property on Pelican Lake.
This proposed plan creates a density of “year around units that would not be in alliance with the Impervious Requirements of this area. Septic needs for the new proposed plan could not be met in an area this size for 11 year around units. The docks and mooring spaces to accommodate the Proposed Plan would far exceed the number of fishing boats, pontoon boats, or any water vehicles that was originally used at this site as a resort.
We recommend the Board to consider that this permit does not meet the Requirements to protect and preserve the quality of Pelican Lake.

Sincerely,
Eldon and Nancy Lindquist
10400 Pine Road
Nisswa Mn. 56468
Or
1737 Eastridge Ave
Seward Ne 68434

Sent from my iPad

RECEIVED
By Gina.Roach at 10:54 am, Apr 19, 2021

Gina Roach

Subject: FW: Pelican Lake Resort Update

From: wgkerr@wyoming.com <wgkerr@wyoming.com>
Sent: Monday, April 19, 2021 10:07 AM
To: Landservices <Landservices@crowwing.us>
Cc: jep@jaypansinglaw.com; pattypansingbrooks@brookspanlaw.com; carok1964@aol.com
Subject: FW: Pelican Lake Resort Update

Dear Commissioners,

Please accept my concerns regarding the change in character being requested by Pelican Beach Holdings LLC, D.B.A. Pelican Beach Resort. My familiarity with Pelican Lake dates to the 1940's and has continued to the present. The south half of the lake has always been distinguishable from the north. Commercial development on Pelican was, and still is, concentrated around Breezy Point with other scattered locations on CR 3 from Crosslake to Merrifield.

An area of higher development density with increased dockage, moorings and automobile traffic on CR 4 would have a significant impact on the historic pattern of activity on south Pelican. Your scrutiny of the applicants new
and expanded commercial utilization on the subject property is sincerely requested.

Best regards,

W.G. Kerr

P.O. Box 54917
Oklahoma City, OK 73154
Phone (307)733-8829
wgkerr@wyoming.com

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: Mn Rules PUD 6120.3800.pdf; Supplemental Objection to Pelican Holdings LLC application _.pdf

From: Jim Gammello <jgammello@gglaw.net>
Sent: Friday, April 16, 2021 5:14 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; Landservices <Landservices@crowwing.us>
Cc: Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Hi Kiki
Please my Supplemental Submission to the above application. Please include this Supplemental Submission in the Packets for Board members. I also attach a copy of the Minnesota Statue I reference in case the Board members wish to review the source materials for my objection. Sorry my computer decided to go on strike for about an hour this afternoon so I apologize. I had planned to submit by 4:30.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

P.O. Box 2629
14275 Golf Course Drive, Suite 200
Baxter, MN 56425
218-828-9511
Fax: 218-824-8545
http://www.gglaw.net

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
Fax: 320-632-3567

Minnesota State Bar Association
Certified a Specialist
Real Property Law

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6120.3800 PLANNED UNIT DEVELOPMENT.

Subpart 1. **Scope of planned unit development provisions.** Local governments must consider incorporating, with approval of the commissioner, provisions into shoreland management controls to allow planned unit developments. The provisions may allow planned unit developments for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The provisions must be consistent with standards in this part. During the period between adoption of parts 6120.2500 to 6120.3900 and adoption of local government official controls meeting the planned unit development standards in part 6120.3800, preliminary plans for each planned unit development must be reviewed for consistency with part 6120.3800 and approved by the commissioner before final local government approval.

Subp. 2. **Land use district designation.** If local governments allow planned unit developments, the land use districts in which they are an allowable conditional use must be identified in their official controls and on a zoning map. Designation of the districts must be based on consideration of the criteria in part 6120.3200 and the following criteria:

A. existing recreational use of the surface waters and likely increases in use associated with planned unit developments;

B. physical and aesthetic impacts of increased density;

C. suitability of lands for the planned unit development approach;

D. level of current development in the area; and

E. amounts and types of ownership of undeveloped lands.

Expansions to existing commercial planned unit developments involving up to six dwelling units or sites, unless the density determined under subpart 6, item A is exceeded, may be allowed as permitted uses under standards developed by local units of government. The date of effect of official controls adopted by each local government under this part must be the base date for determination of expansions. Expansions exceeding these limits must be processed as conditional uses and meet the standards in this part.

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. a site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities; and

B. documents that explain how the project is designed and will function. These ordinarily include covenants that require membership in a property owners association,

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various easements, a concept statement describing the project, floor plans for structures, and various other drawings or plans.

Subp. 4. **Dwelling unit or site density evaluation.** Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards:

A. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes - first tier	200	200
General development lakes - second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

B. The area within each tier is next calculated, excluding all wetlands, bluffs, or land below the ordinary high water level of public waters. This area is then subjected to either the residential (subpart 5) or commercial (subpart 6) planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

Subp. 5. **Residential planned unit development density evaluation steps and design criteria.** The density evaluation steps and design criteria for residential planned unit developments are contained in items A to D.

A. The area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit development are then compared with these data and map of the evaluation. Local governments may allow some dwelling unit or site density increases for residential planned unit developments above the densities determined in the evaluation if all dimensional standards in part 6120.3300 are met or exceeded. Maximum density increases may only be allowed if all design criteria in subpart 5, item B, are also met or exceeded. Increases in dwelling unit or site densities must not exceed the maximums in the following table. Allowable densities may be transferred

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from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

Maximum Allowable Dwelling Unit Or Site Density Increases

For Residential Planned Unit Developments

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

B. The design criteria are:

(1) All residential planned unit developments must contain at least five dwelling units or sites.

(2) Residential planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of minimum open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) Open space may include outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.

(e) The shore impact zone, based on normal structure setbacks, must be included as open space. At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in their natural or existing state.

(f) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.

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(g) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

(h) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

(3) Centralization and design of facilities and structures must be done according to the following standards:

(a) Residential planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased for developments with density increases. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(c) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(d) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

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(e) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in part 6120.3300, subpart 3, item H, and are centralized.

(f) Accessory structures and facilities may be allowed if they meet or exceed standards in part 6120.3300, subpart 3, item H, and are centralized.

(4) Erosion control and storm water management for residential planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff.

C. Administration and maintenance requirements. Before final approval of all residential planned unit developments, local governments must ensure adequate provisions have been developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.

(1) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

(a) commercial uses prohibited;

(b) vegetation and topographic alterations other than routine maintenance prohibited;

(c) construction of additional buildings or storage of vehicles and other materials prohibited; and

(d) uncontrolled beaching prohibited.

(2) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:

(a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.

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(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

(d) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

D. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

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Subp. 6. **Commercial planned unit development density evaluation steps and design criteria.** The density evaluation steps and design criteria for commercial planned unit developments are contained in items A and B:

A. Density evaluation steps:

(1) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

(2) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development

Floor Area Ratios*

Public waters classes

Average unit floor area (sq. ft.)	Sewered general development lakes; first tier on unsewered general development lakes; urban, agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes; remote river segments
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034

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1,400	.142	.072	.036
1,500	.150	.075	.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

(3) Multiply the useable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

(4) Divide the area computed in subitem (3) by the average determined in subitem (1). This yields a base number of dwelling units and sites for each tier.

(5) Determine whether the project is eligible for any additional density increases. To be eligible, projects must meet all of the design standards in item B, and exceed one or more of them. The local unit of government may decide how much, if any, increase in density to allow for each tier, but must not exceed the maximum allowable density increases listed in the following table:

Maximum Allowable Dwelling Unit Or Site

Density Increases For Commercial

Planned Unit Developments

Tier	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(6) Allowable densities may be transferred from any tier to any other tier further from the shoreland lake or river, but must not be transferred to any other tier closer.

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B. The design criteria are:

(1) Open space. Commercial planned unit developments must contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be preserved as open space.

(b) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, or parking areas, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of open space.

(c) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

(d) All shore impact zones within commercial planned unit developments must be included as open space, and at least 50 percent of these areas must be preserved in their natural or existing state.

(e) Open space may include outdoor recreation facilities for use by guests staying in dwelling units or sites, or the public.

(f) Open space may include subsurface sewage treatment systems if use of the space is restricted to avoid adverse impacts on the systems.

(2) Design of structures and facilities must be done according to the following standards:

(a) Commercial planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be designed and installed to meet or exceed applicable rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(b) Dwelling units or sites must be located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above surface water features, and maximum height. Maximum density increases may only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or other means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

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(c) Structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer, leaf-on conditions. The structure, dwelling unit, accessory structure, or parking area must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(d) Water-oriented accessory structures and facilities may be located within shore impact zones if they meet or exceed design standards contained in part 6120.3300, subpart 3, item H.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable dwelling unit or site in the first tier, notwithstanding existing mooring sites in an existing harbor. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(3) Erosion control and storm water management for commercial planned unit developments must:

(a) Be designed, and their construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

(b) Be designed and constructed to effectively manage reasonably expected quantities and qualities of storm water runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved storm water management plan and consistency with part 6120.3300, subpart 4.

Statutory Authority: *MS s 105.485*

History: *13 SR 3029*

Published Electronically: *June 11, 2008*

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dolly

April 16, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Supplemental Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

Please let this letter serve as a Supplemental Objection to the above application.

This Application must comply with Minn. Rule 6120.3800 for Planned Unit Developments (PUDs). Crow Wing County must apply these state standards. This rule requires the following:

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. A site plan for the project showing property boundaries, surface water features, **existing and proposed structures**, sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities;

Since the Applicant has only illustrated the existing structures, this application in incomplete and must be tabled, or the County must attach a condition that existing structure dimensions shall not change. Suggested conditions are attached as Exhibit A. Moreover, Subd D which deals with resort Conversions specifically requires:

D. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if **all** of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

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Little Falls, MN 56345
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(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and **bluff** impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) if existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions **that preclude exterior expansions in any dimension or substantial alterations**. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements **when they are rebuilt or replaced**.

(4) **Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future.** Efforts must be made during the conversion to limit impacts of high densities **by requiring seasonal use**, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

To approve this application without establishing the dimensions of future buildings would be arbitrary and capricious.

Proposed Conditions are attached as **Exhibit A**.

The Applicant's calculation of impervious coverage is either accurate and the applicant must be held to it as the maximum amount of impervious coverage permitted or the calculation is erroneous and an additional variance application is necessary or the Board of Adjustment should attach an additional condition prohibiting the expansion of any structural dimensions for any structure.

In this case, the developer is proposing lots with zero lot line set back. It must be presumed that the entire lot is building or impervious coverage. Therefore, the actual impervious coverage, unless a limiting condition is placed on this project by the board, is as follows:

Impervious Calculations East of CR 4:

Potential Buildings: 37,883 sf (per lot 1-11 areas indicated)

Bituminous: 7,329 sf (per table)

Gravel:	3,609 sf (per table)
Concrete:	824 sf (per table)
Wood playground:	100 sf (per table)
Proposed parking:	1,800 sf (per table)
Total:	51,545 sf
Gross area East of CR4:	145,798 sf
Impervious Coverage:	35.35% (51,545/145,798)

In order to limit the impacts on adjoining parcels and properties, significant and clear conditions should be attached to any approval. Although this application should be denied for the many reasons stated in the record, on behalf of my clients, the adjacent property owner, I submit the proposed conditions attached as **Exhibit A** with the express understanding that the advancing of these conditions shall not prejudice my client's ability to raise objections to this application before the Board of Adjustment, the County Board, or Minnesota Court.

Sincerely,



James M. Gammello

JMG/lmb
Attachment: Exhibit A: Proposed Conditions

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Supplemental Objection to Pelican Holdings LLC application_ .docx

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: PROPOSED CONDITIONS 4.16.211_.docx

From: Jim Gammello <jgammello@gglaw.net>
Sent: Friday, April 16, 2021 5:17 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; Landservices <Landservices@crowwing.us>
Cc: 'Brad Halberstadt' <brad@szjlaw.com>; 'Tom Pansing' <tpansing@pheblaw.com>; 'Loel Brooks' <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Sorry this attachment dropped from the last email..

From: Jim Gammello
Sent: Friday, April 16, 2021 5:14 PM
To: 'James Pansing' <jep@jaypansinglaw.com>; landservices@crowwing.us
Cc: Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: RE: Applications Pelican Lake Holdings LLC - Parcel #73040571

Hi Kiki
Please my Supplemental Submission to the above application. Please include this Supplemental Submission in the Packets for Board members. I also attach a copy of the Minnesota Statue I reference in case the Board members wish to review the source materials for my objection. Sorry my computer decided to go on strike for about an hour this afternoon so I apologize. I had planned to submit by 4:30.
Thank you
Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

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ELECTRONIC TRANSACTIONS DISCLAIMER: If this communication concerns negotiation of a contract or agreement, this communication does not indicate agreement to conduct transactions by electronic means under Minn. Stat. § 325L.05 or other applicable electronic transactions law.

EXHIBIT A: PROPOSED CONDITIONS

The following proposed conditions are proposed by the adjacent property owner to the north. This proposal shall not prejudice said landowner's ability to object to or appeal, but are advanced in an effort to comprise the impact on our property.

1. All prior and existing CUP conditions shall be complied with.

2. Applicant must comply with Minn. Rule 6120.3800.

3. The following conditions shall be complied with, in addition to any pre-existing CUP requirements; and if there are any pre-existing restrictive zoning conditions that are more restrictive, said conditions shall take precedence over any of the following conditions to the extent that they are more restrictive:

    a. There shall be no increase in building footprints or building length, height, width or area in any Tier. (Minn. Rule 6120.3800 Subp.5.D. 4) Expansion of nonconformities are not permitted under the Ordinance. Applicant has not offered to reduce any non-conformities. Applicant, by its submission, has also asserted that the impervious coverage will not change or at least failed to request a change.
    b. No additional impervious coverage in Tier 1 and impervious coverage in Tier 2 and Tier 3 shall not exceed 25% (structures, driveways, pads, etc.) and impervious coverage on the portion of the property lying west of HWY 4 shall have no increased impervious coverage. The maximum impervious coverage of each proposed lot shall be as follows: lots in Tier 1 shall not exceed current represented impervious coverage (sq ft): Lot 1: 1792.1, Lot 2: 1980, Lot 3: 1873.4, Lot 4: 2063.8, Lot 5: 4026.7. In Tier 2 Lot 6: 3575, Lot 7: 2641, Lot 8: 2913.8, Lot 9: 2452.7, Lot 10: 3063.2, Lot 11: 3752. **No future variances shall be granted increasing the impervious coverage of any lot or Unit.**
    c. Total occupancy of each unit shall be limited to and shall not exceed no more than 2 persons per the number of bedrooms for each approved lot. The total number of bedrooms on the property shall not exceed __ bedrooms. No additional bedrooms shall be created in any of the structures. More specifically as to proposed Lot 1:_____ ,as to proposed Lot 2:_____, as to proposed Lot 3:_____, as to proposed Lot 4:_____, as to proposed Lot 5 two bedrooms, as to proposed Lot 6: two bedrooms, as to proposed Lot 7: three bedrooms, as to proposed Lot 8: two bedrooms, as to proposed Lot 9: three bedrooms, as to proposed Lot 10: two bedrooms, as to proposed Lot 11: four bedrooms. (The current bedroom count is based on the 1991-1993 zoning approval as represented by the Landecker plan and court order). **No future variances shall be granted increasing the number of bedrooms or permissible occupants.**
    d. Maintain the seasonality of the property (April through November) other than the main house. Minn. Rule 6120.3800 Subp.5.D.(4).
    e. Although the number of boat slips or moorings shall be limited to the number of units allowable in Tier 1, pursuant to Minn. Rule 6120.3800 Subp.5.B.(3)(c), because the prior use has been demonstrated to be 3 boat slips, 3 boat slips are

permitted as well as a day dock, without permit slips or moorings, and no overnight moorings shall be permitted for the day use by guests. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

f. There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area.
g. Applicant shall also provide a lake study to evaluate the centralized shore recreation facilities due to the shallowness of the lake at this location, prior to final plat approval.
h. No occupancy of Recreational Vehicles (RVs), campers and trailers on the property and all RVs, campers and trailers shall be parked on the land located west of HWY 4 and may not remain on the property for more than 3 days, unless stored inside the pole barn.
i. Applicant shall submit for review and approval a centralized septic and well system, as previously required by prior CUP and as required by current Minn. Rule 6120.38 et. seq., prior to plat approval.
j. Applicant shall submit a vegetative plan that includes a vegetative buffer on the lakeshore as required by the Ordinance and additional vegetative screening along the north and south boundary line to limit the visibility of the structures and increased activity on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed vegetative buffer plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance
k. Applicant shall submit a parking plan and pedestrian safety plan that addresses the safety risks associated with pedestrian travel across County Road 4 and the storing of trailers and recreational equipment and parking across Hwy 4. The immediately adjacent neighboring property owners shall be provided a copy of the proposed parking plan and pedestrian safety plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
l. Applicant to submit a set of rules for enhancing safety awareness and safety measures for dealing with fires and other safety issues due to the increased number of people on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed safety rules and allowed to comment prior to final plat approval.
m. A sustainable management plan for the on-going operation of the property shall be submitted prior to final plat approval and to assure the neighbors that a management authority will always be on-site and capable of enforcing reasonable restrictions. The development documents must mandate said plan.
n. No rentals for less than one month.
o. A Bluff analysis must establish no bluff or compliance with bluff standards contained in Ordinance and Minn. Rule 6120.3800 Subp.5.D(3). If any area determined to be a bluff, no expansion at all (prior zoning application or findings have referenced a Bluff).

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Response to Pelican Beach Holding Variance
Attachments: Response to Pelican Beach Holding LLC Variance.docx

From: Lisa Boylan <lisaboy@gmail.com>
Sent: Friday, April 16, 2021 5:38 PM
To: Landservices <Landservices@crowwing.us>
Cc: pattypansingbrooks@brookspanlaw.com; jep@jaypansinglaw.com
Subject: Response to Pelican Beach Holding Variance

April 16, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills: Variance/Zoning

I would like to add my strong objections to the already existing chorus of responses. I believe the size of the lot will not support the density of the proposed development. The suggested plan for 12 docks far exceeds what is realistic and sustainable for the small plot of land. The increased traffic on Pelican Lake will contribute unnecessarily to the erosion of the shoreline and will be detrimental to the ecosystem of the lake, which is among the cleanest lakes in the state.

According to a Crow Wing Country Water Quality fact sheet, the mean trophic state index for Pelican Lake falls in the oligotrophic range. "Oligotrophic lakes are characteristic of extremely clear water throughout the summer and sandy or rocky shores. They are excellent for recreation." Not for detrimental projects that will upset the balance of nature and the lake.

My grandparents built on Pelican Lake in 1939 and my family, the Kerr's, have been coming up every year since then. My grandmother and great aunt were drawn to Pelican Lake all those years ago—over the far busier Gull Lake—because of its tranquility. It would be a shame to compromise its enduring natural beauty and the indigenous plants and wildlife that have always flourished there for such a poorly conceived development.

Sincerely,

Elisabeth Kerr Boylan
Co-owner
27287 Kerr's Point Road
Pequot Lakes, MN 56472-3242

April 16, 2021

Response to the following application:
Applicant Pelican Beach Holding LLC.
Josh Mills: Variance/Zoning

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Sincerely,

Elisabeth Kerr Boylan
Co-owner
27287 Kerr's Point Road
Pequot Lakes, MN 56472-3242

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Variance Request Pelican Beach Resort

-----Original Message-----
From: Mike Kerr <jmkerr@ccrh2o.com>
Sent: Sunday, April 18, 2021 12:13 PM
To: Landservices <Landservices@crowwing.us>
Subject: Variance Request Pelican Beach Resort

My name is Mike Kerr and my address is 27296 Kerr's Point Road Pequot Lakes, MN. My family have been seasonal residents on the lake since 1939 and I have been since 1962. I am strongly opposed to the variance request currently before the Board/Commission.

The pressure that the proposed project would put on the lake are inappropriate, unnecessary, and extremely detrimental. The integrity of the current septic system is questionable, the current dock does not accommodate 12 boats, and it seems that there are unresolved issues from the previous variance requests 30 years ago including the appropriateness of future requests for variances.

Pelican Lake is not and has never been a commercial Lake on the order of Gull or the lakes in the Whitefish chain. Perhaps this proposed project would be appropriate elsewhere but it is not on Pelican, even beyond the failure on technical reasons.

Respectfully,

JMK

J M Kerr

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APR 18 2021
BY:

Gina Roach

Subject: FW: Pelican Lake Parcel 73040571 Conversion - Apr. 19, 2021 PCBOC Mtg

From: Darryl Van Kampen <darrylvk@gmail.com>
Sent: Sunday, April 18, 2021 1:13 PM
To: Landservices <Landservices@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: dvk1528@gmail.com; craigvk@gmail.com; mbroden25@aol.com; Karen Y <KDYoung49@GMail.com>; Judy Mellinger <jnmellinger@hotmail.com>; hubbpd2fly@gmail.com; treciawiewel@gmail.com; Ann Groover <agroover12@gmail.com>; pattypansingbrooks@brookspanlaw.com
Subject: Pelican Lake Parcel 73040571 Conversion - Apr. 19, 2021 PCBOC Mtg

Re: Pelican Lake Parcel #73040571 Resort Conversion

To: Crow Wing County Commissioners

We are very concerned about the inaccurate Pelican Beach Holdings resort conversion request.

Land Use Amendment:

The Land Use Amendment request from **3-18-21** - from Waterfront Commercial (WC) to Shoreland District (SD) zoning.

The Land Use Amendment request from **4-19-21** - from Waterfront Commercial (WC) plus Rural Residential RR 2.5 to Shoreland District (SD) plus Rural Residential RR 2.5 zoning.

And yet per the Board's Staffing Report, Permit History section (see page 240 of 4-19-21 Agenda meeting packet) states "**September 2001** – Public Hearing to amend zoning map presently zoned Waterfront Commercial, Rural Residential, to be **re-zoned** Waterfront Commercial. **Approved 11-13-2001.**"

The original 3-18-21 request was correct. The 4-19-21 request is incorrect, and more importantly, why was it changed? **The property is zoned Waterfront Commercial (WS).**

Boat Slips and DNR impact:

The Staff Notes (**3-18-21** Agenda meeting packet) indicated "the number of mooring spaces **cannot increase** with this conversion" as well as "currently there are 12 mooring spaces; no additional mooring slips are proposed." Additionally, the DNR had no concerns with the request.

I think the DNR must be contacted for their position of the environmental impact of **increasing** the number of mooring slips from 3 to 12, or now revised from increasing from 3 to 11 (4-19-21 packet). The DNR was not given accurate information to evaluate the request. A **revised DNR impact statement is necessary** based on the **increasing** (+8/+9) number of mooring slips.

Previous Permits and Conditions:

The Planning and Zoning Dept. issued a variance application approval with conditions May 3, 1991 (4-19-91 agenda packet pages 221-228). Focusing on the 18 conditions listed, number 15 and 16 certainly pertain to the pending request.

#15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.

#16. No more variances shall be granted to this property.

In conclusion, the numerous inaccurate, misleading facets of this request warrant a once and forever board denial of these variance requests.

We strongly oppose this request.

Sincerely,

Darryl Van Kampen for
Dolores J. Van Kampen
26730 County Road 4
Nisswa, MN 56468

Owner of South Adjacent property to Parcel # 73040571.

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

From: WILLIAM ELMQUIST <welmquist@comcast.net>
Sent: Sunday, April 18, 2021 11:38:00 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

Will Elmquist & Jill. Brubaker (seasonal residents)
Chequemates
26708 County Rd 4
Nisswa, MN. 56468
Parcels #73040505 & 73040533

Kirstin Lindbery
Customer Service Specialist - Lead
Crow Wing County - Land Services
326 Laurel Street
Brainerd, MN 56401
kirstin.lindbery@crowwing.us

Sunday, April 18, 2021

Re: Proposed changes to parcel #73040571 (Formerly Pelican Beach Resort)

To whom it may concern,

The Board meeting on 3/18/21 didn't alleviate any of my many concerns and objections to the proposed "resort conversion". In fact, my original concerns were proved valid and many new concerns were generated. The haphazard presentation from the developer was a telling display.

What is the primary motive of the new land owner? It appears that he bought the resort for the sole purpose of subdividing and developing the property for his own financial gain, under the guise of wanting to "get out of the resort business". I'm concerned that the developer hasn't yet offered any response to the numerous concerns and overwhelming objections of the neighbors.

I hope that the Board will not allow itself to get bogged down with septic and drainage technicalities. This proposal and its variance requests would completely undermine the zoning rules and ordinances that I always assumed were in place in order to prevent this type of drastic and destructive action. This proposal should be immediately rejected with prejudice.

Respectfully,
William Elmquist
Jill Brubaker

RECEIVED
APR 1 [illegible]
BY:

RECEIVED
APR 16 2021
BY:

Gina Roach

Subject: FW: Applications Pelican Lake Holdings LLC - Parcel #73040571
Attachments: LETTER To Planning Commission from Pansing family.doc; Tim - Letter to Governor.pdf; Pelican Beach lifts and moorings (1).png; Pelican Beach Lifts and Moorings (2).png; LuPansingLetter.pdf

From: James Pansing <jep@jaypansinglaw.com>
Sent: Friday, April 16, 2021 4:18 PM
To: Landservices <Landservices@crowwing.us>
Cc: Jim Gammello <jgammello@gglaw.net>; Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: Applications Pelican Lake Holdings LLC - Parcel #73040571

Please find attached a letter (with attachments) commenting on the Applications for Variances, Rezone and Preliminary Plat Approval for the BOA hearing Monday, April 19, 2021. Please make sure these get in the Board packets ASAP.

Thank you.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

JAMES E. PANSING, P.C.

ATTORNEY AT LAW

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116 Allegra Lane

SILVERTHORNE, CO 80498

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jep@jaypansinglaw.com

www.jaypansinglaw.com

James E. Pansing, J.D.

April 15, 2021

Planning Commission/Board of Adjustment
326 Laurel Street
Brainerd, MN 56401

Re: Pelican Beach Holdings LLC – Miles, Joshua Applications; Parcel No. 73040571

Dear Commission/Board Members:

I am one of the owners of the parcel immediately north of Pelican Beach Resort which is the subject of a hearing on Monday, April 19, 2021, at 5:00 PM. To begin with, my family is strongly opposed to the Applications for Variances, Rezoning and Preliminary Plat Approval and ask you to deny them. We have had input into the comments submitted by our attorney, Jim Gammello, and our neighbor, Brad Halberstadt, and echo those comments as if stated in this letter.

In my comments in this letter I want to stress the importance of one of one of the Conditions adopted in the May 1, 1991, Actions, as follows:

"15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date." It seems obvious that the Board in 1991 knew the large expansion being requested at that time would be inappropriate for a non-resort. We argue strongly that the requested change to Shoreland District Zoning and this Condition requires this property to be made compliant with the Shoreland District Zoning, which this Application is not. One might argue that by rezoning and obtaining variances that the Applicant would be complying with the zoning regulations. However, if the Board meant to allow the large expansion to remain in place it would not have adopted this Condition to the approval of the expansion. It would make no sense to require the applicant to comply with the current zoning regulations but to allow the applicant to receive massive variances to completely obviate this Condition. The Board obviously meant compliance with the zoning regulations regarding Shoreland District, not Shoreland District completely modified by variances.

If the Board approves the Application, it would beg the question, will any conditions associated with zoning and other approvals ever be enforced? Please note that the Pansing family sued to overturn the approvals granted in 1991, and settled the case relying on the Conditions that were attached, most especially number 15. If this Board ignores this Condition, no objector will be able to rely on conditions applied to any action by the Board.

The second thing I want to address is the number of continuous dock slips, hoists and mooring buoys that will be allowed if the Applications are approved.

We feel that only five should be allowed as provided in Statewide Standards For Shoreland Areas Section 6120.3800 which limits the number to one per Tier 1 Residence. I am attaching a letter from Timothy Swenson to Minnesota Governor A. Carlson in which Mr. Swenson acknowledges that Statewide Standards For Shoreland Areas Section 6120.3800, Item 2e limited him to 4.7 boat slips and moorings.

The Applicant has requested 11 slips on a to-be-constructed new dock. It seems that the Applicant informed the Planning Staff that historically there have been 12 dock slips and/or mooring buoys. I have been to our cabin every year

in the summer for more than 50 years and can tell you unequivocally that there have never been 12 dock slips and/or mooring buoys at Pelican Beach. In fact, the most that I have seen moored or in hoists or in slips is 6. I am attaching a couple of pictures showing the most slips and mooring buoys that I have seen at the Resort. There are 3 boat hoists at the end of the dock and there appear to be 5 mooring buoys. However, I can once again unequivocally state that in more than 50 years, I have seen no more than 3 of the mooring buoys in use mooring boats at any given time.

This requested limitation is necessary for the safety of the neighbors near the Resort. The property that we own is very shallow and when we swim we go out several hundred feet to get into chest deep water. The Resort already has too many boats and they cut across the shallow area where we swim. Please note that when the expansion was approved in May 1, 1991 (as revised on June 19, 1991, by the Board with two conditions added by the court order of February 25, 1993) recognizing this safety issue, this Board placed conditions on the approval relating to these Applications. One of the most important conditions that addresses the safety of the beach, lake shore and boat traffic is that "There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area". See attached letter to the BOA from Lu Pansing (my mother, who is now deceased.)

Once again, if you decide to create 11 single family lots, notwithstanding the express language of the Land Use Ordinance, the safety of the neighbors necessitates limiting the number of continuous slips or mooring buoys to 5 per the Statewide Standards For Shoreland Areas and, at most, 6 per the historical usage.

Because there needs to be control and regulation of the activity and people on such a small lot to reduce the impact on neighboring properties and neighbors, **we also request that other conditions be imposed**. Our attorney, Jim Gammello, has set forth our requests for conditions in his letter in opposition to these Applications.

I appreciate your consideration.

Yours very truly,

[s] Jay Pansing

Jay Pansing

Side-Note: The colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards for Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph E, Section 3, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

Co. decide

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Examples Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seen fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warranted, rather than evaluating on a case by case basis.

SL committee: consensus process

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us how many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

Sincerely,
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

TOTAL P.02

read
5-1-91

2033 South 33rd Street
Lincoln, Nebraska 68506
April 30, 1991

To: The Board of Adjustment
The Court House
Brainerd, Minnesota 56401

From: Lu Pansing, neighbor to the north of the Petitioners,
Tim and Pat Swenson

Dear Members of the Board of Adjustment:

When the Swensons ask that they be given extra space for rentals, it becomes a matter of grave concern to their neighbors. Our concern arises from several causes:

1) The Swensons' 166-foot shoreline is insufficient for the present population. The boats which they now maintain are beached across their property clear to our boundaries.

2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

3) Mr. Swenson has said he will not caution the boaters. This fact, as well, is a matter for concern because health and safety problems will surely occur with increased population.

4) The Swenson property could accommodate the proposed population if the long side of the lot were stretched along the shore. As it is, the lot stretches back across the highway but funnels all the renters onto its tiny beach.

There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.

Respectfully submitted,

Lu Pansing

Lu Pansing





Gina Roach

Subject: FW: <no subject>

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 2:56 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: <no subject>

Hi, Kiki – A couple of hours ago I sent a comment letter for the pelican Beach file. I sent one previously to Jake but it was not addressed to the Board/Commission, but more importantly, it did not contain a very important attachment. I hope you can get it into the packet/record. Thanks.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

Gina Roach

Subject: FW: <no subject>

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 12:10:05 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: <no subject>

Hi, Kirstin – just a heads up. Momentarily, I am going to send an email addressed to the Board. It is basically what I sent Jake on April 14, but addressed to the Board and with a very important attachment that I did not send to Jake. If you can get this into the packet/record, I would be grateful.

Regards,

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

RECEIVED
APR 18 2021
BY:

Gina Roach

Subject: FW: Comments to Plan Comm with Attachments to Replace email to Jake
Attachments: Gustafson Title Letter.pdf

From: James Pansing <jep@jaypansinglaw.com>
Sent: Sunday, April 18, 2021 12:10:57 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Cc: Jim Gammello <jgammello@gglaw.net>; Brad Halberstadt <brad@szjlaw.com>; Tom Pansing <tpansing@pheblaw.com>; Loel Brooks <lbrooks@brookspanlaw.com>; 'Patty Pansing Brooks' <PattyPansingBrooks@brookspanlaw.com>
Subject: Comments to Plan Comm with Attachments to Replace email to Jake

To Crow Wing County Planning Commission/Board of Adjustment
Re: Pelican Beach Holdings LLC Applications
Hearing Date: April 19, 2021
Parcel

I am one of the owners of the property adjacent to the north of the property owned by Pelican Beach Holdings LLC, that has made applications for rezoning, variances and Preliminary Plat Approval. I know Jim Gammello has asked you to postpone the Planning Commission hearing scheduled for the 19th based on an incomplete and confusing record regarding the Swenson's "5 year plan" that was approved by the County. I would concur that this matter needs to be postponed for the reasons pointed out by Jim, but also for a different reason.

In 1979, we (the Pansing family) were in a minor dispute regarding a driveway location that appeared to be on our land. We asked Myron Landecker, the local surveyor in Pequot Lakes, to prepare a survey to help us resolve the issue. Myron told us that no surveyor had "run the legals" back to the section markers and in order to get a fully accurate survey he would need to do so. It was quite a bit more expensive but we decided to go ahead with it.

After Myron did this, he informed us that all of the owners in our area were mis-occupying their legal descriptions. In fact, each of the owners along much of the southwest corner of Pelican were occupying 50 to 60 feet of the owner's property to the north of them. Obviously, when we learned that we wanted to rectify the situation. We went so far as to propose quit claim deeds to/from 8 property owners to make it so each of those owners were occupying their property correctly. (See attached letter from attorney Glenn Gustafson.) That went nowhere. Accordingly, we applied for and received a Torrens Certificate to the legal description for the property as we were occupying it. (Please note that a Torrens Certificate of Title does not affect any property except that described in the Certificate.)

The upshot is that, unless a quiet title or other action has been initiated divesting the Pansing family of this 50 to 60 foot strip of land along the southern border of our initially deeded legal description and putting it into the Swenson name (which couldn't have been done without

notice to us, which we never received) then the Pansing family continues to hold record title to the north 50 or 60 feet of the property occupied by the old Pelican Beach Resort and for which the Applicant seeks rezoning, variances and preliminary platting.

Because the Applicant's last survey submission specifically stated that the Applicant's survey was prepared without review of the real estate title records, I contacted Stonemark Surveying last week to make a drawing of the two properties to show where the improvements are located on the ground with reference to the respective legal descriptions. I contacted Stonemark because it bought all of the old Landecker files and records. One of the owners, Cindy, told me that they would not be able to get out to the properties for 4 or 5 weeks. Accordingly, I request that the Commission hearing be postponed to verify this situation and to see what needs to be done to deal with this issue.

Jay Pansing
James E. Pansing, P.C.
600 Grant St., #201
Denver, CO 80203
Tel. – 720 961-3300
Fax – 303 394-2248
jep@jaypansinglaw.com
www.jaypansinglaw.com

GUSTAFSON AND PLATTO, LTD.
ATTORNEYS AT LAW
510 MAPLE STREET - P. O. BOX 712
BRAINERD, MINNESOTA 56401
218-829-1719

GLEN A. GUSTAFSON
WILLIAM J. PLATTO

PEQUOT LAKES OFFICE:
TELEPHONE 218-568-8481

October 11, 1979

Mr. and Mrs. Pansing
2033 So. 33rd
Lincoln, Nebraska

Mr. and Mrs. Albert O. Ferber
Route #5, Box 371
Brainerd, Minnesota 56401

Mr. and Mrs. Schmid
3987 East County Line Road
White Bear Lake, Minnesota 55110

Mr. and Mrs. James T. Crosby
Route #5
Brainerd, Minnesota 56401

Mr. and Mrs. Charles Porter
528 Myrtle East
Glendora, California 91740

Mr. and Mrs. Don F. McHale
Route #5
Brainerd, Minnesota 56401

Mr. and Mrs. Ed Rech
Route #1, Box 51
Davey, Nebraska 68336

Mr. John Harvey
5100 Eden, Suite 109
Minneapolis, Minnesota 55436

Dear Property Owners:

I have now had a chance to review the legal description and the new, revised plat of survey prepared by Mr. Landecker.

I am enclosing herewith copy of legal descripions prepared by Mr. Landecker describing each parcel as it should have been described and as you are actually occupying the premises at the present time.

In my opinion after reviewing the plat of survey and the legal descriptions from Mr. Landecker, we need the following to accomplish the shifting of the property lines to conform to how each of you occupies the ground:

1. A quit claim deed from Rech to Harvey and a quit claim deed from Rech to McHale. Since there is a possibility that the Rech description overlaps both Harvey and McHale, Rech should give a quit claim deed to each. If Rech has a mortgage on the premises, his bank should give a partial release to the Harvey and McHale descriptions.

2. Harvey gives a quit claim deed to McHale. In addition, any bank who has a mortgage from Harvey should give a partial release to the McHale description. If Harvey's bank wants a new description on its mortgage, a revised mortgage deed should be given to the present Harvey description.

3. McHale will give a quit claim deed to Crosby. If McHale has a mortgage on his property, his bank should give a partial release to the Crosby description. Again, if McHale's bank wants a new mortgage, a revised mortgage deed should be given to the McHale description.

4. Crosby will give a quit claim deed to Ferber. If Crosby has a mortgage, his bank would give a partial release of mortgage to the Ferber description. Again, if Crosby's bank wants a revised mortgage deed, the new Crosby description should be given on a revised mortgage deed.

5. Ferber would give a quit claim deed to both Porter and Schmid. Ferber's bank should give a partial release to Porter of the Porter description, and to Schmid of the Schmid description. If Ferber's bank wants a new mortgage, a revised mortgage deed should be filed with the new legal of the Ferber property.

6. Both Porter and Schmid will give a quit claim deed to Pansing to the Pansing legal description. If Porter and Schmid have mortgages, each of their banks should give a partial release of mortgage to the Pansing legal description. If Porter's bank and Schmid's bank want new mortgage deeds, a revised mortgage deed should be filed with the new Porter description and the new Schmid description.

Giving quit claim deeds in the above fashion to the descriptions as outlined in the enclosed legal descriptions prepared by Mr. Landecker will straighten out all of the problems and re-establish the lines as they should be.

I would estimate my legal fees for accomplishing the above deeding to be somewhere between $300 and $400. I would be charging on an hourly basis, but I would not anticipate my time to go over this estimate. It would be my recommendation that Rech, Harvey, McHale, Crosby, Ferber, Porter, Schmid and Pansing each pay 1/8 of my expense.

I would appreciate a letter back from each one of you approving this method of clearing title and paying of expenses so that I can proceed to draft the necessary deeds. When you write me informing me as to whether I should proceed, I would appreciate knowing whether you do in fact have a mortgage on your property, and I would appreciate some word from your bank as to whether there will be any problem in the bank giving a partial release as above stated.

Please advise.

Very truly yours,
GUSTAFSON AND PLATTO, LTD.

Glen A. Gustafson

GAG:tes
enclosure

Gina Roach

Subject: FW: Variance for Pelican Beach Holdings LLC

From: Rosemary Franzen <Rosemary.Franzen@crowwing.us>
Sent: Saturday, April 17, 2021 7:16:10 PM
To: Gary Griffin <Gary.Griffin@crowwing.us>; Jacob Frie <Jacob.Frie@crowwing.us>; Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Fw: Variance for Pelican Beach Holdings LLC

Please include these in the packet. Thanks

From: Chris Johnson <cmjohnson22@yahoo.com>
Sent: Friday, April 16, 2021 6:36 PM
To: Landservices <Landservices@crowwing.us>; Rosemary Franzen <Rosemary.Franzen@crowwing.us>
Cc: Jacob Frie <Jacob.Frie@crowwing.us>; Stephany Hanson <Stephany.Hanson@crowwing.us>; Richard Nolan <RickNolan112@gmail.com>
Subject: Variance for Pelican Beach Holdings LLC

To Crow Wing County,

I would like to express my objection and opposition to any type of approval for the proposed resort conversion from Pelican Beach Holdings LLC. After reviewing the information packet, I am convinced any granted variance request as currently documented would be absurd and goes against Crow Wing County's implied intent.

The most glaring indicator of intent should raise a red flag with the comment, "property owner would like to get out of the resort business"! The new owner just bought the property in Nov of 2020 and the request was submitted in Jan 2021. Is this individual really getting out of the business and/or did they ever really intend on this continuing as a resort? This is relevant to determine how the board will answer the variance request sheet. Is this a unique situation not created by the owner? It was purchased with the current classification.

In addition, why would Crow Wing County restrict other lake shore owners from rightful property usage through the new short-term rental ordinance via section 5.2 Occupancy (e) which states, "no more than two vacation rental licenses will be issued per parcel" and then allow a developer to portion off land on a small parcel just to sell for a quick profit using reclassification with variances? The buildings existed as a resort before the individual purchased the parcel. What was the county's intent on only allowing 2 vacation rental licenses per parcel and now possibly shift positions to allow use of variances to help a resort reclassify just to sell multiple buildings on one small parcel for a profit? The ordinance only allows for 2 buildings to be used per parcel and does not differentiate between 4.88 acres or 0.50 acres unless you are a resort with another classification. Moving classifications directly contradicts the county's intent of the short-term license requirements along with the land use ordinance.

Allowing this property to convert individual buildings to be sold off goes against ordinance and land use regulations currently on the books. The evidence does not support granting of these variances. This parcel should be operated as a resort as grandfathered or convert back to single parcel restrictions without the ability to have buildings sold off individually.

Chris Johnson
26575 Ross Point Road
Nisswa, MN 56468

Gina Roach

Subject: FW: DNR Comments Pelican Beach Holdings Application
Attachments: 2021-04-16-PelicanBeachHoldingsDNRComment.pdf

From: McNeil, Danielle (DNR) <danielle.mcneil@state.mn.us>
Sent: Friday, April 16, 2021 4:54 PM
To: Jacob Frie <Jacob.Frie@crowwing.us>
Cc: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: DNR Comments Pelican Beach Holdings Application

Hi Jake,

Attached is the DNR comment letter for the Pelican Beach Holdings Application to be reviewed at the PCBOA meeting this coming Monday, April 19th. I do apologize for submitting these comments on such short notice.

Please let me know if you have any questions, or would like to discuss these comments in detail.

Thanks,
Dani

Dani McNeil
Hydrologist | Ecological & Water Resources Division

Minnesota Department of Natural Resources
1601 Minnesota Drive
Brained, MN, 56401
218-203-4367*
Danielle.McNeil@state.mn.us

* Please note: DNR staff are currently working from home and may return your call from an alternative number. Contact via email is strongly encouraged at this time.

mndnr.gov

DEPARTMENT OF NATURAL RESOURCES

April 16, 2021

Jake Frie
Environmental Services Supervisor
Crow Wing County Land Services Department
322 Laurel Street, Suite 15
Brainerd, MN 56401

RE: Pelican Beach Holdings – Resort Conversion Application – Pelican Lake (18-308) – Crow Wing County

Dear Mr. Frie:

Thank you for sending the Pelican Beach Holdings application for a resort conversion to residential development including a land use map amendment, variances for density, lot area and lot width, and a preliminary plat.

The DNR has reviewed this application in the context of the county's Land Use Ordinance and has determined that the application has not been properly evaluated under the existing ordinance. The agenda packet isn't clear on how the project should be treated or evaluated. In some instances, it is treated (based on the tiering and density analysis and the variances requested) as a conservation development. In other instances (based on variances requested), it is treated as if it were a conventional development. In both situations, there are inconsistencies that have not been addressed and thus additional variances are required to address these inconsistencies and to approve this project. Preferably, the project should be redesigned to meet the standards so variances are not required.

Evaluation of Project for Compliance with the Resort Conversion Standards of Article 34.13

This preliminary plat is a resort conversion to a residential development and is regulated by Article 34.13. Under these standards, ALL conversions to residential developments (whether conservation design or conventional) must comply with the Standards in Article 33 and inconsistencies between the existing features of the resort and Article 33 standards (which cover both conservation design and conventional development) must be identified and corrected. There are only two types of residential developments in Crow Wing County, conservation developments that allow higher density with no minimum lot size standards or conventional developments that meet minimum lot size standards.

The agenda packet implies that this is a conversion to conventional development and that any inconsistencies between the existing features and the shoreland district standards (Article 11) and the subdivision code (Article 9) must be identified and corrected or addressed through variances. This project must be evaluated for consistency with the conservation development standards in Article 33. This project is repurposing existing structures for residential uses but with higher density and opens space characteristics similar to conservation development standards. The density and structure configuration in no way resembles a conventional development. If the existing structures were to be razed, then the conversion would be evaluated as a conventional development subject to the minimum

lot size standards. Evaluating this project as a conventional development undermines the purpose of the shoreland standards and the county's own conservation development standards for protecting neighborhood character and shoreland resources.

If the preliminary plat and application were to be reviewed as a conventional development, it still needs to be consistent with Article 33. Article 33 also contains standards for conventional development (Articles 33.12 to 33.13). The conventional development standards in Article 33 are administered based on the standards in Article 11. The project is not consistent with these standards either.

Evaluation of Project for Compliance with the Conservation Development Standards of Article 33

This project proposes to retain the existing resort structures and draw condominium lot lines around each structure based on the existing placement of each structure. This project was reviewed against the standards in Article 33 for inconsistencies, including the provisions for conservation development. Following are the major deficiencies that must be corrected or areas where there is not enough information to make a determination.

Article 33.10.2. This Article specifies the density that is allowed in the first and second tier. The preliminary plat includes a tiering analysis consistent with treatment of the project as a conservation development. This analysis shows that only one dwelling unit is allowed in the first tier and 4.9 units are allowed in the second tier. The applicant is requesting 5 units in the first tier and 6 units in the second tier. The applicant has submitted variance requests to allow these density inconsistencies, acknowledging that this is a conservation development.

It is important to note that conservation developments do not have minimum lot area and width standards, only a density standard. Conventional lot and block developments do not use a tiering analysis or density standard, they require plats to meet minimum lot area and width standards. The tiering analysis provided by the applicant recognizes that this is a resort conversion to a conservation development and is the correct approach for seeking approval.

Article 33.11. B.5. This Article states that the number of allowable continuous watercraft mooring spaces for conservation developments abutting public waters shall not exceed the number of allowable dwelling unit lots in the first tier. Individual docks are not allowed.

The preliminary plat proposes 12 mooring spaces. The preliminary plat includes a tiering analysis consistent with treatment of the project as a conservation development. The tiering analysis states that only one dwelling unit is allowed in the first tier. In order for the plat to be corrected to meet this inconsistency, the number of mooring spaces must be reduced to 1. In order to approve this inconsistency, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless variance are approved for any mooring spaces over one.

Historical photos suggests that a single dock with no more than three moorings slips have been used. There is no written record suggesting that more than three spaces have ever existed. Mooring standards are intended to reduce impacts on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards.

Evaluation of Project for Compliance with the Conventional Development Standards of Articles 33, 11, and 9.

This is not the correct way to evaluate the project, but since it appears to be the approach the county is considering, we provide the following comments. The project is not consistent with these standards either.

Article 11.3 states that all new lots in the Shoreland district shall meet the minimum lot area, width and buildable area requirements in Table 11.1. The applicant is proposing variances to lot area and width. The applicant does not show buildable areas and there is no mention of variances to buildable area lot requirements. The fact that buildable area requirements are required under Article 11 reinforces that the purpose of Article 11 is to provide minimum standards for new conventional lot and block subdivisions where there is room (through the buildable area standards) for septic systems. In order to approve the inconsistency with the buildable lot area standards, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless a variance is approved for not requiring that lots meet the buildable lot area.

Article 11.17 prohibits controlled access lots or any lot, tract, or parcel of land, however designated or described, intended to be used to provide accesses to public waters for owners of non-riparian lots within new minor subdivisions or plats. This plat is proposing to provide riparian access for all 12 non-riparian lots through a common association maintained lot. In order to approve this inconsistency, a variance is needed. A variance for this inconsistency has not been applied for. This project cannot be approved unless a variance is approved for allowing a controlled access lot.

DNR Recommendations:

The plat is incorrectly being reviewed as a resort conversion to conventional development. This is incorrect and undermines the purpose and intent of the shoreland standards and the county's conservation development standards. DNR recommends that the plat be denied as presented. In order to approve as either a conservation development or a conventional development, additional variances must be applied for and approved.

I appreciate the opportunity to comment on this application. If you have any questions regarding my comments, please feel free to contact me at Danielle.McNeil@state.mn.us, or by phone at 218-203-4367.

Sincerely,



Dani McNeil
DNR Area Hydrologist

CC: Seth Goreham, DNR EWR West District Supervisor
Darrell Schindler, DNR EWR Regional Manager
Dan Petrik, DNR Land Use Specialist

RECEIVED
APR 17 2021
BY:

Gina Roach

Subject: FW: Supplemental Objection to Pelican Holdings LLC Zoning Application
Attachments: Supplemental Objection to Pelican Holdings LLC application _.pdf

From: Luanne Baros <lbaros@gglaw.net>
Sent: Saturday, April 17, 2021 2:50:05 PM
To: Kirstin Lindbery <Kirstin.Lindbery@crowwing.us>
Subject: Supplemental Objection to Pelican Holdings LLC Zoning Application

Hi Kiki,

Could you please disregard my Friday submission of the attached Supplemental objection and use this one instead. I lost 1.5 hours on Friday due to computer problems, so I raced to launch my reply rather than take the time it deserved.

Please let me know if you are able to do this. Otherwise circulate this one also as my final Supplemental objection.

Thank you,

Jim

JAMES M. GAMMELLO

Gammello-Pearson
Attorneys at Law

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
320-632-3567 (fax)

14275 Golf Course Drive, Suite 200
P.O. Box 2629
Baxter, MN 56425
218-828-9511 218-824-8545 (fax)

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Gammello-Pearson
Attorneys at Law
James M. Gammello • Thomas C. Pearson • Daniel M. Hawley • Conrad C. Kragness • Samuel J. Dally

April 16, 2021

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Court House
326 Laurel Street
Brainerd, MN 56401

Re: Supplemental Objection to Pelican Holdings LLC Zoning Application
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File Number: 20521.003

Dear Board Members:

Please let this letter serve as a Supplemental Objection to the above-noted application.

This application must comply with Minn. Rule 6120.3800 for Planned Unit Developments (PUDs). Crow Wing County must apply these state standards. This rule requires the following:

Subp. 3. **Information requirements.** Provisions for submission of adequate information by project proponents must be included in official controls. The provisions must include at least the following:

A. A site plan for the project showing property boundaries, surface water features, **existing and proposed structures,** sewage treatment systems, topographic contours at ten-foot intervals or less, and other facilities;

Since the Applicant has only illustrated the existing structures, this application is incomplete and must be tabled, or the County must attach a condition requiring that existing structure dimensions shall not change. See suggested conditions attached as **Exhibit A.**

The county must also assure any action taken on this application complies with Minn. Rule 6120.3800 Subd. 3.D.

D. **Conversions.** Local governments may allow existing resorts or other land uses and facilities **to be converted to residential planned unit developments if all** of the following standards are met:

(1) Proposed conversions must be initially evaluated using the same procedures and standards presented in this part for developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

P.O. 2629 • 14275 Golf Course Drive, Suite 200
Baxter, MN 56425
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▲ Rule 114 Qualified Neutral

100 1st Street SE
Little Falls, MN 56345
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(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(3) **Shore** and bluff **impact zone deficiencies must be evaluated and reasonable improvements made** as part of the conversion. These improvements **must include**, where applicable, the following:

(a) removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

(b) remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(c) **if existing dwelling units are located in shore** or bluff **impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.**

(4) Existing dwelling unit or dwelling site densities that exceed standards in this part may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

To approve this application without insisting on compliance with the above Rules, especially without establishing the dimensions of future buildings would be arbitrary and capricious.

The Applicant's calculation of impervious coverage is inaccurate insofar as it fails to include the proposed lot dimensions in the impervious coverage calculation. In this case, the developer is proposing lots with zero lot line set back. It must be presumed, as a worst-case scenario, that the entire lot is building or impervious coverage. Therefore, the actual impervious coverage, unless a limiting condition precluding exterior expansions in any dimension, is placed on this project by the Board, is as follows:

Impervious Calculations East of CR 4:

Potential Buildings:	37,883 sf (per lot 1-11 areas indicated)
Bituminous:	7,329 sf (per table)
Gravel:	3,609 sf (per table)

Concrete:	824 sf (per table)
Wood playground:	100 sf (per table)
Proposed parking:	1,800 sf (per table)
Total:	51,545 sf
Gross area East of CR4:	145,798 sf **

(**Typically the county does not allow a developer to include lot area on the other side of a Road in this calculation or to include lot area outside of Tier 1 and Tier 2)

Impervious Coverage: 35.35% (51,545/145,798)

If the proposed impervious coverage exceeds 25%, (Table 41.1 of the Ordinance) an additional variance application is necessary, or the Board of Adjustment should attach an additional condition precluding exterior expansions in any dimension for any structure.

Finally, although this application should be denied for the many reasons stated in the record, on behalf of my clients, the adjacent property owner, I submit the proposed conditions attached as **Exhibit A** with the express understanding that the advancing of these conditions shall not prejudice my client's ability to raise objections to this application before the Board of Adjustment, the County Board, or any Minnesota Court. To limit the impacts on adjoining parcels and properties, significant and clear conditions should be attached to any approval.

Sincerely,

James M. Gammello

JMG/lmb
Attachment: Exhibit A: Proposed Conditions

W:\TEXT\20\20521.003 Pansing Plummer Brooks family cabin\Docs\Supplemental Objection to Pelican Holdings LLC application final.docx

EXHIBIT A: PROPOSED CONDITIONS

The following proposed conditions are proposed on behalf of the adjacent property. This proposal shall not prejudice said landowner's ability to object or appeal, but are advanced in an effort to limit the impacts on the neighboring property.

1. All prior and existing CUP conditions shall be complied with.
2. Applicant must comply with Minn. Rule 6120.3800.
3. The following conditions in addition to any pre-existing CUP requirements and if there are any pre-existing restrictive zoning conditions that are more restrictive, said conditions shall take precedence over any of the following conditions to the extent that they are more restrictive:

    a. There shall be no increase in **exterior expansions in any dimension for any structure** in any Tier. (Minn. Rule 6120.3800 Subp.5 D 4)
    b. No additional impervious coverage shall be permitted. Total impervious coverage shall not exceed 25% (structures, driveways, building pads, etc.) and impervious coverage on the portion of the property lying west of County Road 4 shall have no increased impervious coverage. The maximum impervious coverage of each proposed lot shall be as follows: lots in Tier 1 shall not exceed current represented impervious coverage (sq ft): Lot 1: 1792.1, Lot 2: 1980, Lot 3: 1873.4, Lot 4: 2063.8, Lot 5: 4026.7. In Tier 2 Lot 6: 3575, Lot 7: 2641, Lot 8: 2913.8, Lot 9: 2452.7, Lot 10: 3063.2, Lot 11: 3752. **No future variances shall be granted increasing the impervious coverage of any lot or Unit.**
    c. Total occupancy of each unit shall be limited to and shall not exceed no more than 2 persons per the number of bedrooms for each approved lot. The total number of bedrooms on the property shall not exceed __ bedrooms. No additional bedrooms shall be created in any of the structures. More specifically as to proposed Lot 1:_____ ,as to proposed Lot 2:_____, as to proposed Lot 3:_____, as to proposed Lot 4:_____ as to proposed Lot 5: Two bedrooms, as to proposed Lot 6: Two bedrooms, as to proposed Lot 7: Three bedrooms, as to proposed Lot 8: Two bedrooms, as to Proposed Lot 9: Three bedrooms, as to proposed Lot 10: Two bedrooms, as to proposed Lot 11: Four bedrooms. (The current bedroom count is based on the 1991-1993 zoning approval as represented by the Myron Landecker illustration submitted as part of that zoning request). **No future variances shall be granted increasing the number of bedrooms or permissible occupants.**
    d. The seasonality of the property shall be maintained (April through November) for all cabins except the main house. Minn. Rule 6120.3800 Subp.5D 4.
    e. Although the number of boat slips or moorings shall be limited to the number of units allowed in Tier 1, pursuant to Minn. Rule 6120.3800 Subp.5B(3)(c), because the prior use has been demonstrated to be 3 boat slips, 3 boat slips are permitted as well as a day dock that does not have permanent slips or moorings, and no overnight moorings shall be permitted. Launching ramp facilities, including the above referenced small day dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or lots located in other tiers.

f. There shall be a rope or buoy system extending into the water at least 200' from the dock designating the route in and out of the docking area.
g. Applicant shall also provide a lake study to evaluate the centralized shore recreation facilities due to the shallowness of the lake at this location, prior to final plat approval.
h. No occupancy of Recreational Vehicles (RVs), campers and trailers shall be permitted on the property and all RVs, campers and trailers shall be parked on the property located west of County Road 4 and may not remain on the property for more than 3 days, unless stored inside the pole barn.
i. Applicant shall submit for review and approval a centralized septic and well systems, as previously required by prior CUP and as required by current Minn. Rule 6120.38 et. seq., prior to plat approval.
j. Applicant shall submit a vegetative plan that includes a vegetative buffer on the lakeshore as required by the Ordinance and additional vegetative screening along the north and south boundary line to limit the visibility of the structures and increased activity on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed vegetative buffer plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
k. Applicant shall submit a parking plan and pedestrian safety plan that addresses the safety risks associated with pedestrian travel across County Road 4 and the storing of trailers and recreational equipment and parking across County Road 4. The immediately adjacent neighboring property owners shall be provided a copy of the proposed parking plan and pedestrian safety plan and allowed to comment prior to final plat approval. Said plan shall be maintained and the development documents must mandate said maintenance.
l. Applicant shall submit a set of rules for enhancing safety awareness and safety measures for dealing with fires and other safety issues and that address and control noise due to the increased number of people on the property. The immediately adjacent neighboring property owners shall be provided a copy of the proposed safety rules and rules regarding noise management and allowed to comment prior to final plat approval.
m. A sustainable management plan for the on-going operation of the property shall be submitted prior to final plat approval and to assure the neighbors that a management authority will always be on-site and capable of enforcing reasonable restrictions. The development documents must mandate said maintenance.
n. No rentals shall be permitted for less than one month.

RECEIVED
APR 17 2021
BY:

Gina Roach

Subject: FW: Pelican Beach Resort Conversion/Josh Miles Variance

-----Original Message-----
From: Lori Moss <loricd8@icloud.com>
Sent: Saturday, April 17, 2021 11:32 AM
To: Landservices <Landservices@crowwing.us>
Subject: Pelican Beach Resort Conversion/Josh Miles Variance

Dear Board and Committee Members,

We wish to reaffirm our strongest objections to the proposed development of the Pelican Beach resort and to the variance requested by Josh Miles. After attending the last meeting where the issue was discussed, we have only become more troubled by the potential for destructive consequences. We appreciated the opportunity to hear the concerns voiced by the neighbors on adjoining and nearby homes. We are distressed at the thought of a decision being made that threatens the well-being of the wildlife and the water quality and the general peace of the lake. We represent three generations of four that have treasured this precious place. We commit to respecting and protecting it for future generations.

Thank you for your consideration.

Lori Moss
Kay Adair
Hannah Moss
Christy Price
Sanford Price

RECEIVED
By Stacy Westhoff at 3:29 pm, May 20, 2026

June 19, 1991

Mr. Swenson was present. The original decision of May 1, 1991 was reviewed. Mr. Swenson explained the issues and conditions placed on the permit granted on May 1, 1991 he wishes to have changed. Mr. Lothspeich was present representing the Pansings. Also present was Al Cibuzar representing Thirty Lakes Watershed. Discussion ensued regarding the variance granted in 1988 for construction of an addition to Cabin 4 and the length of time the permit is effective for construction of the structure. Mr. Cibuzar showed slides depicting what could happen if lakes are overdeveloped.

June 19, 1991 Action

Motion by Carlson to uphold the action taken on May 1, 1991, with the following exceptions:

- Condition 1 be eliminated.
- Condition 13 be eliminated.
- Condition 14 be eliminated.
- Condition 16 be eliminated.

After further discussion, member Carlson withdrew his motion.

Chairman Geske then passed the gavel to member Pelto.

Motion by Geske to uphold the action taken by the Board of Adjustment on May 1, 1991 in its entirety. Motion died for lack of second.

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

See Lakeshell Zoning File

Name Timothy K. & Patricia Swenson

Address: 12683 Co Rd 4 N
Nisswa, MN 56468

Approved 6/19/91 w/Conditions ✓
Postponed _____ Continuation _____

Denied _____ Appeal _____
By: 7/19/91

Sec. 4, Twp 135N, Rge 28W.,
From , To
PC _____, CB _____, Filed _____

Need Before Permit Release $200.00
$100.00 for Sewer, $100.00 for gage, no lodge etc.
~~$100.00 for Wetlands~~

Fee $100.00, Rcpt #9005431

PERMIT #9004398
Reviewed for Publication _____
Staff Comments _____

TYPE OF APPLICATION:
- Dirtfill/Shoreline Alteration
- Variance
- Conditional Structure/Use
- Amendment Petition
- Planned Unit Development
- Special Permitted Use
- Zoning Change
- Appeal
- Late Filing Fee Consideration
- Reconsideration 9005431

Fee Assessed _____
To be paid by _____

Notice of hearing date on Application 6/19/91
Publication Date: 6/5/91
Clerk/Chairman Township Notified 6/5/91
Adjacent Property Owner Notified 6/5/91

#Notices Sent 18

Legal Description: Part of SE1/4 NE1/4, 4-135-28

'DATE: NOTICE OF PUBLIC HEARING 'PER/APP/RCPT #:9004398'

PETITION FOR: PLANNED UNIT DEVELOPMENT; CONDITIONAL USE: VARIANCE.

PER THE REQUIREMENTS OF CROW WING COUNTY ZONING ORDINANCE.

APPLICANT: SWENSON TIMOTHY K & PATRICIA 12683 CO RD 4 N.
BRAINERD MN 56401

MEETING DATE: 02/06/91 WEDNESDAY. 6:00 PM.
PLACE: COUNTY SERVICE BLDG. MEETING ROOM, BRAINERD, MN.

LEGAL DESCRIPTION: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE1/4 OF NE1/4 S
SEC 04 TWP 135 RGE 28 TWP: LAKE EDWARD
GENERAL LOCATION: WEST SHORE OF LAKE ON PELICAN-GD.

PURPOSE: TO CONSIDER THE APPLICATION(S) REQUESTED ABOVE:
TO CONSIDER CONDITIONAL USE. PLANNED UNIT DEVELOPMENT. & VARIANCE INVOLVING EXPANSION OF EXISTING RESORT OPERATIONS: TO ADD SEVEN (7) RENTAL UNITS, ONE (1) RV PARKING FACILITY, LODGE/MEETING FACILITY & STORAGE/LAUNDRY BUILDING.

(VARIANCE REQUIRED TO EXCEED FOUR (4) RENTAL UNITS IN TIER #1 (5 requested), PER 1989 DNR SHORELAND MANAGEMENT RULES).

ON PROPERTY ZONED WATERFRONT COMMERCIAL.
REASON FOR REQUEST BEING: ADDITION OF SEVEN (7) RENTAL UNITS, RV CAMPSITE, LODGE/MEETING FACILITY AND STORAGE/LAUNDRY FACILITY

DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

A RECONSIDERATION OF THE PLANNING COMMISSION'S DECISION OF MAY 1, 1991 REGARDING THE ABOVE APPLICATION IS SCHEDULED FOR JUNE 19, 1991 AT 6:00 P.M. IN MEETING ROOM 2 OF THE COUNTY SERVICE BUILDING, BRAINERD, MINNESOTA.

FORM NO. 1

Verndale Custom Homes

DEALER NAME _____

HOUSE NO. _____ (office use only)

Each square equals 1 foot

Scale: 3/8" = 1

Pelican Beach Resort
12683 Cty Rd 4 N
Nisswa, Minn.
56468
218-963-2777
Tim & Pat Swenson

166'±

DRAIN FIELD

160'

Garage 12

House

WELL

WELL

660'

99'

900'±

63'±

200'

Tier I

Tier I 200'

Lift Station ±16

±12'

40'

50'±

±21'

100'±

Shore Line

N

S

E

W

*Note! 2-27-92
Bldg. #5's gable ends to be 200' mark of Tier I. Bldg. #6's south wall is 5 feet into Tier I & the north wall is 13' into Tier I.
#6 - 55% in Tier II
45% in Tier I

——— EXISTING SEWER LINES

----- To drain field

1 square = 16⅔'

6 squares = 100'

~~Existing Structures~~
Updated 2-26-92

1- 18x20 Boathouse
2- 14x20 Screenhouse
3- 28x37 Duplex
4- 28x30 Cabin
5- 24x26 Cabin
7- 27x30 Cabin w 12x12 Bdk.
6- 24x24 Cabin
9- 28x30 Cabin
10- 24x24 Cabin w- 8x8 Bdk.
11- 26x36 House, 10x20 Addition 10x20 Entry
12- 28x36 Garage 2-stall
8- 24x24 2 Bdk. Cabins

---G--- Lift-station to existing system

Votes:

STATE OF MINNESOTA

IN DISTRICT COURT

CROW WING COUNTY

NINTH JUDICIAL DISTRICT

* * * * * * * * * * * * * * * * *

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson	COURT FILE NO. C6-91-1259 **APPELLANT'S ANSWER TO RESPONDENT'S INTERROGATORIES**

* * * * * * * * * * * * * * * * *

TO: Crow Wing County, and its attorney, John Remington Graham, Crow Wing County Courthouse, Brainerd, Minnesota 56401, and Timothy Swenson, pro se, 12683 County Road 4 North, Nisswa, Minnesota 56468:

Dennis M. Lothspeich, for his answers to the Interrogatories, states as follows:

1. At the hearing on the motion of the appellee for summary judgment on October 26, 1991, the court held from the bench that the appellee had made out a prima facie case showing the appellee had not exceeded density limits in granting the conditional use permit on may 1 and June 19, 1991, but that the appellant had a right to show at the forthcoming hearing, now scheduled for March 3 and 4, 1993, facts and circumstances which might rebut such prima facie case. Please indicated with reasonable specificity what facts and circumstances you may or will establish at the said forthcoming hearing, which might serve to rebut such prima facie case.

ANSWER: That the property located west of County Road 4 owned by Respondent, Timothy Swenson, has no structures on it, and is not used in any fashion as a part of the resort operation. Additionally, there will be expert testimony to the effect that the property to the west of County Road 4 is in a different drainage area, and that it makes absolutely no sense from an environmental stand point to calculate that property in to the density requirements.

The scientific evidence will also show that a high land use density in the shoreland areas can have a negative impact on the health, safety and welfare, as well as have a detrimental effect on the ecology of the lake.

2. At the hearing on the motion of the appellee for summary judgment on October 26, 1992, the court held from the bench that the appellee had given due regard to the public health, safety, and welfare in granting the conditional use permit on May 1 and June 19, 1991, but that the appellant had a right to show at the forthcoming hearing, now scheduled for March 3 and 4, 1993, facts and circumstances which might rebut such prima facie case. Please indicate with reasonable specificity what facts and circumstances you may or will establish at the said forthcoming hearing, which might serve to rebut such prima facie case.

ANSWER: In addition to the information set forth in our answer to Interrogatory Number 1, there will be information and testimony as to how the proposed expansion will result in increased boat traffic, increased usage of the beach, and a negative impact of the use and enjoyment of the surrounding property.

Dated this 28 day of Nov, 1992.

Dennis M. Lothspeich
Attorney for Appellant
611 Oak Street
Brainerd, MN 56401
(218) 828-3398

C:\wp51\TEMPN-Z\PANSING.ANS

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Court File No. C6-91-1259

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson.

FILED
FEB 25 1993
DARRELL M. PASKE
COURT ADMINISTRATOR
CROW WING COUNTY

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER FOR JUDGMENT AND JUDGMENT

The above-entitled matter came on before the Court pursuant to the written Stipulation of the parties. The Appellant, Lulubel Pansing, was represented by Dennis Lothspeich, O'Hara, Fossum, Hill and Lothspeich, 611 Oak Place, Brainerd, Minnesota 56401. Respondent, Crow Wing County, appeared by and through Crow Wing County Attorney John Remington Graham. Respondents Timothy and Patricia Swenson appeared pro se. Based upon the written Stipulation of the parties, and upon all the records, files, and proceedings herein, the Court issues the following:

FINDINGS OF FACT

1. That this action is for declaratory judgment and other relief with respect to the granting of a Conditional Use Permit by the Crow Wing County Board of Adjustment at its regular meeting of June 19, 1991.

2. That all parties to this action have entered into a written Stipulation proposing to settle all issues raised by this appeal, said Stipulation has been presented to the Court, the Court now finds that said Stipulation is a just and equitable resolution of all issues raised by this appeal.

CONCLUSIONS OF LAW

1. That the Appeal of Lulubel Pansing, is dismissed, and all claims raised by it, subject to the modifications to the permit, and conditions placed upon Respondents Timothy and Patricia Swenson as more fully set forth below.

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

   a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

   b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

ORDER FOR JUDGMENT

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 02/25/93

Robert E. Kautz
Judge of District Court

JUDGMENT

I hereby certify the above Conclusions of Law constitute the Court's Judgment and Decree herein.

Dated: February 25, 1993

Darrell M. Paske
Darrell Paske
Court Administrator
By: [signature]
Deputy

C:\WP51\TEMPN-Z\PANSING.FND

STATE OF MINNESOTA
COUNTY OF CROW WING

DISTRICT COURT
NINTH JUDICIAL DISTRICT

DENNIS LOTHSPEICH
P. O. BOX 624
BRAINERD MN 56401

JOHN R. GRAHAM
CROW WING COUNTY ATTORNEY
COURTHOUSE
BRAINERD MN 56401

TIMOTHY SWENSON
12683 COUNTY ROAD 4 NORTH
NISSWA, MN 56468

PATRICIA SWENSON
12683 COUNTY ROAD 4 NORTH
NISSWA, MN 56468

Notice of Filing of Order

In Re: IN RE: APPEAL OF LULUBEL PANSING FROM THE DECISIONS OF THE CROW WING CTY. BOARD OF ADJUSTMENTS [KAUTZ ASSIGNED]

Case Number: 18-C6-91-001259

You are hereby notified on this date, an order

FINDINGS OF FACT, CONLCUSIONS OF LAW, ORDER FOR JUDGMENT

JUDGMENT

was filed on the above-entitled matter.

Darrell M. Paske
Court Administrator

BY _____
Deputy

Dated February 25, 1993

June 19, 1991

Mr. Swenson was present. The original decision of May 1, 1991 was reviewed. Mr. Swenson explained the issues and conditions placed on the permit granted on May 1, 1991 he wishes to have changed. Mr. Lothspeich was present representing the Pansings. Also present was Al Cibuzar representing Thirty Lakes Watershed. Discussion ensued regarding the variance granted in 1988 for construction of an addition to Cabin 4 and the length of time the permit is effective for construction of the structure. Mr. Cibuzar showed slides depicting what could happen if lakes are overdeveloped.

June 19, 1991 Action

Motion by Carlson to uphold the action taken on May 1, 1991, with the following exceptions:

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After further discussion, member Carlson withdrew his motion.

Chairman Geske then passed the gavel to member Pelto.

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- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

ROY A. LUUKKONEN.....AUDITOR
RICHARD D. ROTTSCHAFER, M.D. .....CORONER
DICK ROSS .....SHERIFF
JOHN REMINGTON GRAHAM.....ATTORNEY
LAUREEN E. BORDEN.....TREASURER
KATHY LUDENIA.....RECORDER
SIEGFRIED STIER .....PERSONNEL COORDINATOR
DUANE A. BLANCK, P.E.....HIGHWAY ENGINEER
ANTHONY E. KERICK.....SURVEYOR
THOMAS J. COWELL.....LAND COMMISSIONER
MARTYN SCHMIDT.....ASSESSOR
DARRELL PASKE.....COURT ADMINISTRATOR
CAROL CARLSON.....COMMUNITY HEALTH ADMINISTRATOR
DENNIS JOHNSON.....SOCIAL SERVICE DIRECTOR
DAVID R. SCHULDHEISZ.....VETERANS SERVICE & EMERGENCY MANAGEMENT
DAVID NEIMAN.....PLANNING & ZONING ADMINISTRATOR

COUNTY COMMISSIONERS
STEVE D. SIEVEK, CHAIRMAN CHERYL GELBMANN, VICE CHAIR
JOHN "JINX" FERRARI MARY KOEP BARBARA R. UPPGAARD

TELEPHONE (218)

CROW WING COUNTY

BRAINERD, MINNESOTA 56401

October 18, 1991

David Neiman
CWC Planning and Zoning Office
Courthouse
Brainerd, MN 56401

Rec'd Date 10/21/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Re: Tim Swensen

Dear Dave:

For your purposes, you should take the approach that in the event that you have an open PUD application that, subject to an appeal either at the Board Adjustment level or the District Court level, you cannot issue a building permit which may be impacted due to the fact that the appeal is focusing on the property, or the buildings, which may well be the subject of the new permit application. In other words, the District Court may make a finding, such as in this case, that the matter can be justifiably permitted, or agreed to, pursuant to the HUD application as it may have an impact on a specific building which is now the subject of a request for a building permit, such that the purpose of the building permit will be totally abrogated or changed by the amended finding by the District Court. Therefore, it is only fair to the applicant to prevent him from getting himself in a position that he will again have to modify the building pursuant to the appeal and may come back at Crow Wing County and argue that the permit should never have been granted in the first place, knowing that the building permit, or the use of the property pursuant to the building permit, may well have been changed due to the appeal process in District Court on the PUD.

Therefore, in direct answer to your questions, at this time it is not timely to issue a permit to Mr. Swensen pursuant to garage modification. It will be timely upon a finding in District Court pursuant to the PUD appeal. Please call if you have any further questions in that regard.

Yours sincerely,

Robert J. Polzak, Deputy
Crow Wing County Attorney

RJP:ao

October 4, 1991

Dave Neiman, Manager
Crow Wing Cty. Planning and Zoning
Brainerd, Mn. 56401

Dave,

As per your request, enclosed is a request for the necessary permit to increase the size of our garage. Currently, our garage is 28x36 feet and we would like to add-on a 16x24 expansion to the north end of the building. (this is bldg. #12 on the enclosed drawing.) The building is currently a two-story block and wood structure and the expansion would be to both levels.

Thank you for your consideration in this matter.

Sincerely,

Timothy K Swenson

Tim Swenson
Pelican Beach Resort
12683 Cty. Rd. 4 No.
Nisswa, Minnesota 56468
963-2777

Side-Note: ... colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards For Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph 6, Section 3, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

Co. decide

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seem fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warrented, rather than evaluating on a case by case basis.

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us hov many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

SL committee: business process

Sincerely,
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

July 18, 1991

Mr. Timothy Swenson
Pelican Beach Resort
12683 County Road 4 North
Nisswa, Minnesota 56468

Dear Mr. Swenson:

Thank you for your letter concerning the management of Minnesota's shorelands. As the recent article in the Minneapolis Star Tribune points out, few issues in Minnesota generate as much interest as the care of our lakes and rivers. The State shoreland rules that are now being implemented by Crow Wing County are the end result of years of work and public involvement that included a committee of twenty-two people representing many diverse interests. This committee had the active involvement of the Minnesota Resort Association which ensured that the interests of resort owners were taken into account throughout the rule development and administrative hearing process.

Counties may adopt more restrictive standards. The requirements for vegetation and selection of color of structures to screen and protect the aesthetics of the area will enhance the lake to the mutual benefit of all, including those people staying at your resort. The shoreland rules are designed to protect the lakes and rivers from unwise development. Setbacks, density standards, vegetation removal, boat mooring, etc. all need to be considered with the impact to the resource in mind. I have asked the Department of Natural Resources to respond to your specific concerns.

In closing, all Minnesotans must do whatever they can to protect our most valuable natural resources, our rivers and lakes. Thank you for your concern.

Warmest regards,

Arne H. Carlson
Governor

RETURN ALL COPIES TO
Thirty Lakes Watershed District
P.O. Box 376
Brainerd, Mn. 56401

P.A. # _____

THIRTY LAKES WATERSHED DISTRICT

Application for permit, permit, and notification of completion

TO BE COMPLETED BY APPLICANT

Name _____

Address _____ Zip _____ Phone _____

Nature of Work _____

Location _____

Lot *Block* *Gov't. Lot* *Sec.* *Twp.* *Rge.* *Lake or Stream*

Procedure to be used to control erosion and sedimentation _____

_____

Sketch of site and work plan must be completed in this space. *(Any changes by the District will be made in red.)*

Rec'd Date 6-28-91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

_____
Applicant

Date _____

TO BE COMPLETED BY DISTRICT

This permit application is hereby denied ☐ approved ☐ by the Board of Managers of the District this _____ day of _____, 19____. Reason for denial ☐

Conditions of approval ☐ _____

_____

_____

_____

_____

_____

This permit is permisive only and does not release the permittee from any liability or obligation imposed by Minnesota Statutes, Federal Law or Local Ordinances. Permits expire one year from date of issuance. Keep permit available for inspection.

Board of Managers

By _____

Rec'd Date 5-28-91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

May 27, 1991

Planning and Zoning Dept.
Crow Wing County
Brainerd Mn. 56401

Subject: Appeal of decision for expansion May 1, 1991 for Pelican Beach Resort.

Due to the continued concerns of neighbors and disappointment with regard to the number of conditions placed on us as requirements for expansion we ask for reconsideration.

When we submitted our plan for expansion we understood that the DNR shoreland management guidelines had been adopted by the county and were the reason for all the conditions placed on our expansion. We have since found out differently. Apparently the only justification for these conditions is in the public health, safety and general welfare of the community and the reduced expansion plans we ask for are not a concern of the State DNR and do not apply since we are adding less than six new units. Until the meeting on May 1, 1991, we thought it was necessary to ask for an extension of our 1988 permit and then found out that this is not the case, it is valid until its five year term expires.

Having considered the above new information, we ask you to eliminate those conditions that do not apply to health, safety and public welfare. Keep in mind, that our request for expansion is all within conforming guidelines of the county of Crow Wing and do not require any increase densities over allowable limits and are all conforming. See attached revised final expansion plan(addition of three units and an R.V. hook-up.)

We request you eliminate the following:

- paint color of all bldgs. an earth tone color. Most of these have no impact on the lake and are white or beige. Since the earth in Crow Wing county is white as many months as earth tone, we feel this is not a health, safety or welfare issue.
- Remove requirement of removal of necessary buildings on the shoreline. We understand the desire of the county to eliminate these but feel we have a need for them. If possible we plan to remove one building, (if possible) but wish that it not be a county requirement.
- Plant screening along the shoreline is another condition we request be removed. This is not part of existing ordinance and will solve no complication with regard to health, safety and or public welfare. The building to be improved (#4) under authorization from 1988 is already screened by nine full-sized jack and norway pines.

The last request for elimination of conditions is:

- The restricition of no more variances shall be granted. It is our opinion that this is a right of ownership that goes beyond any notion of a bargaining chip as a condition of improvement. Please remove this as it is arbitrary and difficult to see what affect it could have on future ownership of the property and its marketability.

The following is the requested and required plan for improvement as relates to the approved motion from the May 1st meeting. In an effort to reach the counties aim of minimizing impact on the lake front and a never ending effort to minimize the concerns of neighbors, we request that we build a side-by-side two-story duplex on the site now occupied by building No. 11 and eliminating the expansion of building No. 9. This will accomplish a number of different things. First, there will be no expansion of rental units in the first two tiers. Second, parking for these units will all be above the first two tiers where there is more than adequate space. Third, it eliminates anymore living units in the area most concerning the neighbors. Fourth, this proposal follows the ideal recommendations of the DNR with regard to expanding away from the lakeshore impact area. (The closest new living unit will be approx. 550' from the lake.)
The second part of improvement will be the already approved construction of an R.V. site at location TT on the map, in tier III.
The third part of the improvemnet will be the already approved construction of a three bedroom living unit above the garage in bldg. No. 12.
Fourth, construction of bldg. No. 13, proposed garage in accordance to zoning regulations regarding bluff guidelines.
Fifth, sleeping quarters in No. 4 limited to three bedrooms.
Sixth, Downstairs of bldg. No. 4 not to be used for sleeping qtrs.
Seventh, tier V across road not to have more than one unit (house) three bedrooms to be used by family and not for rental. Must have own septic and well.
Eight, Designated parking area for each unit meeting planning and zoning acknowledgement.
Nineth, Screening along North and South property lines shall be maintained.
Ten, DNR and Crow Wing county approved slow-minimum wake markers 200' off dock.
Eleventh, roped off swimming area.
Tweleve, maintain boathouse storage bldg. No. 2 and meeting MPCA guidelines with regard to fuel storage in building.

Thirteen- if this property ceases to be used as a resort, the area would be required to comply to zoning regulation of that date.
Fourteen- all units be hooked to a central deep well and central septic system.
Fifteen- Revised site plan. enclosed in this document and these words.

This plan strikes a compromise of minimal impact on the surrounding neighborhood, accomplishes our business goals and is devised using the ideals of both the DNR PUD guidelines and the approved Crow Wing County accepted planning and zoning ordinances without the need for variances, excess density problems or environmental stress on the area.

Sincerely,

Timothy K Swenson

Tim and Pat Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

June 13
~~May 27~~, 1991

Planning and Zoning Dept.
Crow Wing County
Brainerd Mn. 56401

Subject: Appeal of decision for expansion May 1, 1991 for Pelican Beach Resort.

Due to the continued concerns of neighbors and disappointment with regard to the number of conditions placed on us as requirements for expansion we ask for reconsideration.

When we submitted our plan for expansion we understood that the DNR shoreland management guidelines had been adopted by the county and were the reason for all the conditions placed on our expansion. We have since found out differently. Apparently the only justification for these conditions is in the public health, safety and general welfare of the community and the reduced expansion plans we ask for are not a concern of the State DNR and do not apply since we are adding less than six new units. Until the meeting on May 1, 1991, we thought it was necessary to ask for an extension of our 1988 permit and then found out that this is not the case, it is valid until its five year term expires.

Having considered the above new information, we ask you to eliminate those conditions that do not apply to health, safety and public welfare. Keep in mind, that our request for expansion is all within conforming guidelines of the county of Crow Wing and do not require any increase densities over allowable limits and are all conforming. See attached revised final expansion plan(addition of three units and an R.V. hook-up.)

We request you eliminate the following:

- paint color of all bldgs. an earth tone color. Most of these have no impact on the lake and are white or beige. Since the earth in Crow Wing county is white as many months as earth tone, we feel this is not a health, safety or welfare issue.
- Remove requirement of removal of necessary buildings on the shoreline. We understand the desire of the county to eliminate these but feel we have a need for them. If possible we plan to remove one building, (if possible) but wish that it not be a county requirement.
- Plant screening along the shoreline is another condition we request be removed. This is not part of existing ordinance and will solve no complication with regard to health, safety and or public welfare. The building to be improved (#4) under authorization from 1988 is already screened by nine full-sized jack and norway pines.

The last request for elimination of conditions is:

- The restricition of no more variances shall be granted. It is our opinion that this is a right of ownership that goes beyond any notion of a bargaining-chip as a condition of improvement. Please remove this as it is arbitrary and difficult to see what affect it could have on future ownership of the property and its marketability.

The following is the requested and required plan for improvement as relates to the approved motion from the May 1st meeting. In an effort to reach the county's aim of minimizing impact on the lakefront and a never ending effort to minimize the concerns of neighbors, we request that we build 28'x40' three units building on the site now occupied by building No. 4 and eliminating the expansion of building No. 9. We would lift No. 4 and make a two-story building with three-bedrooms on the upper level and then construct a one-bedroom unit on the first floor along with a lodge, common meeting area. The one-bedroom would be approximately 14'x 28' and the remaining 26'x 28' would be occupied by the lodge area. This would accomplish a number of things which impact our resort in a positive fashion. First, this would reduce the number of new rental bedrooms to 4 instead of the six that would be created with the expansion of bldg. 9 and bldg. 12. With this proposal, we would create a one-bedroom units in bldg. 4 and a three-bedroom in bldg. 12, with no planned expansion of bldg. 9. Secondly, the only alteration to the buildings on the resort would be in bldg. 4, number 12 is already framed and roughed-in so very little modification would be necessary, with the exception of an entry-way or three season porch/entry. The neighbors concerns would be minimized since only one impact building would have any noticeable change and we would still be able to realize our expansion goals with the addition of two rental units an R.V. site and a three-bedroom units west of county road No. 4.

Fourth, construction of bldg 13, proposed garage in accordance with zoning regulations regarding bluff guidelines.
Fifth, sleeping quarters in bldg. 4 would be limited to four bedrooms.
Sixth, tier V across road not to have more than one unit (house) with three bedrooms to be used by family and not for rental. Must have own septic and well.
Seventh, designated parking area for each unit meeting planning and zoning acknowledgement. (1½ spaces per rental unit)
Eighth, screening along north and south property lines shall be maintained.
Ninth, DNR and Crow Wing county approved slow-minimum wake markers 200' off dock.
Tenth, roped off swimming area.
Tweleth, maintain boathouse storage area bldg.2 and meeting MPCA guidelines with regard to fuel storage in building.

O'HARA, FOSSUM, HILL & LOTHSPEICH
ATTORNEYS AT LAW
611 OAK STREET
P.O. BOX 624
BRAINERD, MINNESOTA 56401

WILLIAM D. O'HARA, JR.*
JAMES P. FOSSUM
DAVID C. HILL
DENNIS M. LOTHSPEICH

TELEPHONE
(218) 828-3398
FAX
(218) 828-2008

✓ Permit 4800082

February 13, 1992

Rec'd Date 2/14/92
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Mr. Dave Neiman
Crow Wing County Planning
and Zoning Administrator
Crow Wing County Courthouse
Brainerd, MN 56401

Re: Timothy Swenson/Pelican Beach Resort

Dear Mr. Neiman:

You will recall that I represent Lulubel Pansing who is the neighbor of the above-referenced resort. The Board of Adjustment granted certain permits to Mr. Swenson, and that decision has been appealed by my client to District Court. That appeal is still pending before the District Court at this time.

It is my understanding from our recent telephone conversation that you're office has issued no permits of any type, other than the Conditional Use Permits issued by the Board of Adjustment for Mr. Swenson to do any work on the subject property. Furthermore, it is my understanding that the Conditional Use Permit granted by the Board of Adjustment will be on hold pending resolution of the District Court action. If I am mistaken in any of the foregoing, please let me know immediately.

The reason I am seeking clarification on this is that it has come to my attention that Mr. Swenson may believe that he has an existing permit to begin at least some of the work on his property. As I do not believe that is the case, I am now seeking clarification on that.

If I am correct in my belief that Mr. Swenson does not have any permits to commence any work, and he does in fact begin work on his expansion, I do expect the Zoning Office to take whatever action is necessary to prohibit him from doing so.

*ALSO ADMITTED IN COLORADO AND ILLINOIS

If you have any questions about this matter please feel free to contact me.

Sincerely,

Dennis M. Lothspeich

DML:rdl

Enclosures

cc: Jay Pansing
Timothy and Patricia Swenson

Dave

Copy

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Matter of the Appeal of Lulubel Pansing, pursuant to Section 14.1 of the Crow Wing County Zoning Ordinance, from the decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, granting a conditional use permit to Timothy and Patricia Swenson, d. b. a. Pelican Beach Resort

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

No. C6-91-1259

TO THE APPELLANT AND HER COUNSEL, GREETING:

You will please take notice that, at 9:00 A. M. on September 14, 1992, in the public chamber of the district court in the Crow Wing County Courthouse before Hon. John Leitner, Judge, the appellee (viz., Crow Wing County) will bring on for argument the following motion, to wit:

Comes now the appellee, and makes the following motion, to wit:

That the said decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, be affirmed, and summary judgment be granted to the appellee. So moved, because there is no genuine issue of material fact as to the following propositions, to wit:

The conditional use permit granted May 1 and June 19, 1991, does not run against the density requirements set forth in Section 5.4-10-6, including Note 8, as applied by Sections

Rec'd Date 8/4/92
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

2.1-38 and 2.1-39(B) of the Crow Wing County Zoning Ordinance, as those provisions stood on May 1 and June 19, 1991.

The conditions established for the said permit are consistent with the health, safety, and general welfare of the public, and are consistent with law, and were well within the competence and discretion of the said board of adjustment under Section 8.6 of the Crow Wing County Zoning Ordinance, as it stood on May 1 and June 19, 1991.

JOHN REMINGTON GRAHAM
Crow Wing County Attorney
Courthouse
Brainerd, Minnesota 56401
Telephone: 218-828-2938

Counsel for the Appellee

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

Matter of the Appeal of Lulubel Pansing, pursuant to Section 14.1 of the Crow Wing County Zoning Ordinance, from the decisions of the Crow Wing County Board of Adjustment on May 1 and June 19, 1991, granting a conditional use permit to Timothy and Patricia Swenson, d. b. a. Pelican Beach Resort

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

No. C6-91-1259

STATE OF MINNESOTA

COUNTY OF CROW WING

Timothy Swenson, being first duly sworn on oath, deposes and says:

I am a co-proprietor of Pelican Beach Resort. My wife, Patricia Swenson, is also a co-proprietor of the said resort.

My said wife and I hold the property here in question as joint tenants, and not as tenants in common, as evidenced by a certain warranty deed dated May 1, 1986, a certified copy whereof is attached hereto and made a part hereof as exhibit 1. The said property is taxed as one parcel, as appears in a record on file in the auditor's office, a certified copy whereof is attached hereto and made a part hereof as exhibit 2.

A copy of a map of the said property, which shows the units of our resort both now, and before the conditional use permit granted by the board of adjustment at hearings on May 1

and June 19, 1991, which was introduced by counsel for the appellant during a deposition he took of me on July 17, 1992, and which is conceded by me to represent the said property accurately, is attached hereto and made a part hereof as exhibit 3.

The records of the hearings of the board of adjustment on May 1 and June 19, 1991, of which copies are attached hereto and made parts hereof as exhibits 4 and 5, have been served upon me by the planning and zoning administrator. These proceedings show that the conditional use permit here in question was granted subject to nineteen conditions, of which one was later omitted and three were modified on reconsideration.

The papers filed in behalf of the appellant reveal that she seeks a declaratory judgment finding the board of adjustment "had no legal authority to grant a conditional use permit to Timothy and Patricia Swenson for the expansion of their existing resort operation, because the request was contrary to the density requirements of the Crow Wing County Zoning Ordinance and the DNR Shore Management Rules."

The said DNR Shore Management Rules were adopted as part of the Crow Wing County Zoning Ordinance on November 12, 1991, so as to take effect on December 1, 1991, which was several months after the said hearings of the board of adjustment on May 1 and June 19, 1991. I draw from provisions of the said ordinance as they stood at the time my application was made before the board of adjustment.

The property here in question is zoned waterfront commercial. Section 5.4-10-6 of the Crow Wing County Zoning Ordinance,

including Note 8, as it stood on May 1 and June 19, 1991, sets forth the applicable density requirements, and indicates that the applicable formula for lot area was "20,000 square feet for the first unit, plus 10,000 square feet for the second unit, plus 15,000 square feet for each additional unit."

Section 2.1-38 of the said ordinance says, "For purposes of this Ordinance, a lot is a parcel of land, irrespective of its legal description, which has at least sufficient size to meet the minimum requirements for the zoning district, which it lies within pertaining to use, coverage, area and side yards, as may be required. A lot may consist of more or less than a tract of land as hereinafter defined." Section 2.1-39(B) then ordains that the lot area "for unplatted property" shall mean "the actual area of the lot less any area thereof used for roadway purposes, for public roads or for roads serving other tracts or lots of ten (10) acres less in size."

By the foregoing definitions, a lot includes all the property included in the said deed attached hereto and made a part hereof as exhibit 1, which, as can be seen in reference to the map attached hereto and made a part hereof as exhibit 3, constitutes 228,400 sqaure feet (79,000 square feet to the west of County Road 4, together with 149,400 sqaure feet to the east of County Road 4), exclusive of the 16,600 sqaure feet which makes up that part of County Road 4 traversing the parcel conveyed by the said deed.

Section 2.1-39 of the Crow Wing County Zoning Ordinance removes any doubt that the land on both sides of the said county

road may be included in the calculations to determine lot area. The density requirements may be calculated by dividing 228,400 square feet, which is the whole lot less the roadway, by 15,000 square feet, which is the area required for each unit, -- yielding 15.23 allowable units.

My application was to keep the ten units already on the said property (i. e., the units marked 3, 3A, 4, 5, 6, 7, 8, 9, 10, and 11 on the map attached hereto and made a part hereof as exhibit 3), and to add three additional living units, together with a camp site for one recreational vehicle, so as to constitute no more than fourteen units altogether. My said application was approved, subject to various conditions, on May 1 and June 19, 1991. In any event, it is evident that the density requirements of the ordinance, as it stood when the conditional use permit here in question was granted, have been met.

The papers filed in behalf of the appellant reveal that she seeks a declaratory judgment "that the decision of the Crow Wing County Board of Adjustment to grant a conditional use permit to Timothy and Patricia Swenson to expand their existing resort operation was arbitrary, capricious, and unreasonable, and contrary to law, due to the fact that the said proposal would have an adverse effect on the health, safety, and welfare of the public."

It is obvious that the several conditions established by the board of adjustment on May 1 and June 19, 1991, are fairly related to the health, safety, and general welfare, were plainly within the competence and discretion of the board of

adjustment to determine under Section 8.6 of the Crow Wing County Zoning Ordinance.

Timothy K. Swensen

Timothy Swensen

Sworn and subscribed before me on this 9th day of July, 1992.

Alexa M. Oxley

ALEXA M. OXLEY
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires July 21, 1997

EXHIBIT A

COPY

STATE OF MINNESOTA

CROW WING COUNTY

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

* * * * * * * * * * * * * * * *

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meetings of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson	COURT FILE NO. C6-91-1259 **APPELLANT'S INTERROGATORIES AND DEMAND FOR PRODUCTION OF DOCUMENTS**

* * * * * * * * * * * * * * * *

TO: Respondent Crow Wing County, and its attorney, John Remington Graham:

YOU WILL PLEASE TAKE NOTICE that the Appellant, and her attorney, demand answers to the following Interrogatories, under oath within thirty (30) days from the date of service of these Interrogatories, pursuant to Rule 33 of the Minnesota Rules of Civil Procedure. These Interrogatories shall be deemed continuing, so as to require the Respondent and its attorney to file supplemental answers if the Respondent or its attorney obtain further or different information between the time their Answers to Interrogatories are served and the time of trial.

In order to simplify the issues and resolve as many matters of fact as possible before the trial, the Appellant further requests that, if any of these Interrogatories or portions thereof cannot be answered fully, such shall be answered to the extent possible, with the reasons for not answering more fully set out.

INTERROGATORIES

1. Identify the person or persons signing your answers to these questions and identify any other person assisting with the preparation of the answers.

2. Please list, and provide copies of, each and every exhibit, photograph, slide, plat, drawing, model, chart, or other physical demonstrative or illustrative evidence of any kind which you intend to offer into evidence at the trial de novo in this matter, or make part of the record of the proceedings before the Board of Adjustment.

3. Identify all person whom you may call at trial to give testimony in the form of expert opinions or conclusions and, for each such person state following:

a. The subject matter in which he or she may be asked to give expert testimony.

b. His or her qualifications to give expert testimony on that subject or subjects.

c. All facts to which the expert will testify.

d. All opinions or conclusions to which the expert will testify.

e. The grounds for those opinions or conclusions.

4. Excepting those persons listed in your answer to Interrogatory Number 3 above, please list any and all witnesses who will be called to give testimony at the trial in this matter, the address and telephone number for each witness, and the substance of the testimony they will be offering at trial.

5. Do you claim, or is it the position of Crow Wing County that Minnesota Law or County Ordinance requires that the land situated west of County Road 4 described as tiers 5 and 6 of the proposed development be included in the density computations of the Crow Wing County zoning ordinance, or the DNR's shoreland management rules. If your answer is yes, please describe with specificity the statute, rule, or ordinance requiring its inclusion.

6. If your answer to Interrogatory Number 5 is no, do you claim that the decision to include those tracts of land in the density calculations is discretionary with the Crow Wing County Board of Adjustment. If you claim it is discretionary, please describe with specificity the findings of fact made by the Board of Adjustment to support its decision to include those portions of property, and the evidence to support those findings.

7. Do you claim, or will you argue at trial that the Crow Wing County Board of Adjustment made specific findings of fact to support its conclusion that the proposed expansion to the resort would not have an adverse impact on the health, safety, and welfare of the surrounding property owners, and the public. If your answer is yes, please list each and every finding of fact made by the Crow Wing County Board of Adjustment.

8. If your answer to Interrogatory Number 7 is yes, please describe with specificity the evidence relied upon by the Crow Wing County Board of Adjustment to support each and every finding of fact listed in your answer to that Interrogatory.

Dated this 29th day of June, 1992.

O'HARA, FOSSUM, HILL &
LOTHSPEICH

Dennis M. Lothspeich
Attorney No. 179401
Attorney for Appellant
Lulubel Pansing
611 Oak Street P.O. Box 624
Brainerd, MN 56401
(218) 828-3398

c:\wp51\tempn-z\pansing.int

STATE OF MINNESOTA

COUNTY OF CROW WING

IN DISTRICT COURT

NINTH JUDICIAL DISTRICT

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meeting of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson

Court File No. : C6-91-1259

AFFIDAVIT OF SERVICE BY MAIL

COPY

STATE OF MINNESOTA)
) ss.
COUNTY OF CROW WING)

Teresa Hodgman, of the city of Brainerd, county of Crow Wing, in the state of Minnesota, being duly sworn, says that on the 29th day of June, 1992, she served the attached Appellant's Interrogatories and Demand for Production of Documents and Notice of Taking Deposition on John Remington Graham, the attorney for Respondent in this matter, by mailing to him a copy thereof, enclosed in an envelope, postage prepaid, and directed to said attorney at the following address:

Crow Wing County Courthouse, Brainerd, MN 56401

Teresa Hodgman

Subscribed and sworn to before me

this 29th day of June, 1992.

RHONDA D. LOVELL
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Oct. 27, 1997

Rhonda D. Lovell

Notary Public

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF CROW WING

NINTH JUDICIAL DISTRICT

In Re the Appeal of Lulubel Pansing from the decisions of the Crow Wing County Board of Adjustment made at their meeting of May 1, 1991, and June 19, 1991, which grants a Conditional Use Permit to Timothy and Patricia Swenson	Court File No. : C6-91-1259

AFFIDAVIT OF SERVICE BY MAIL

COPY

STATE OF MINNESOTA)
) ss.
COUNTY OF CROW WING)

Teresa Hodgman, of the city of Brainerd, county of Crow Wing, in the state of Minnesota, being duly sworn, says that on the 29th day of June, 1992, she served the attached Appellant's Interrogatories and Demand for Production of Documents and Notice of Taking Deposition on Timothy Swenson, the Respondent in this matter, by mailing to him a copy thereof, enclosed in an envelope, postage prepaid, and directed to said Respondent at the following address:

12683 County Road 4 North, Nisswa, MN 56468

Teresa Hodgman
Teresa Hodgman

Subscribed and sworn to before me

this 29th day of June, 1992.

Rhonda D. Lovell
Notary Public

RHONDA D. LOVELL
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Oct. 27, 1997

COUNTY OF CROW WING
PLANNING AND ZONING DEPARTMENT
COURTHOUSE BRAINERD, MN 56401-3865
(218) 828-3964 FAX (218) 828-2927

MEMO

File Copy

DATE: September 14, 1992

TO: Jack Graham

RE: TIMOTHY & PATRICIA SWENSON
APPEAL OF LULUBEL PANSING
REQUEST FOR DOCUMENTS

FROM: David C. Neiman
Planning & Zoning Administrator

DN

I am having some difficulty identifying just exactly what it is that you need from our files for the Pansing Appeal. (See attached)

Item #1. - It appears that this is your call. I would anticipate that you would sign the answers yourself, possibly listing myself or my staff as assisting with the preparation.

Item #2. - I have absolutely no idea what information you intend to offer into evidence, above and beyond what you have entered thus far. The P&Z files contain several items that could possibly be used, however, you & I should go through them together to decide what is going to be worthwhile evidence.

Item #3. - Your call.

Item #4. - Your call.

Item #5. - The land west of County Road #4 is a part of the whole parcel owned by the Swensons (Copy of legal description attached), is in fact a part of the resort, and may certainly be used to calculate possible expansion capabilities. There is no specific statement in the County Zoning Ordinance, or in the State's SHORELAND MANAGEMENT RULES, directing that this land be excluded from the calculations. Section 5.404114, SITE "SUITABLE AREA" EVALUATION (See attached copy) indicates how the land proposed for development is to be divided into tiers for calculation of suitable areas for future development. That is exactly what was done when we originally helped Tim figure out what could be accomplished by expanding the resort and utilizing the entire property.

Item #6. - See answer to Item #5.

Item #7. - You have the minutes of the Board of Adjustment findings and motions of their decision. If you need additional information to support their decision(s), it may be necessary to have someone transcribe the tapes of the meetings.

Please contact me at your earliest convenience to discuss this matter further in order for you to give me some additional direction as to what information you are going to need.

Form No. 5-A WARRANTY DEED Minnesota Uniform Conveyancing Blanks (1978) DEWALD PUBLISHING NEW ULM, MINN.
Individual(s) to Joint Tenants

No delinquent taxes and transfer entered; Certificate of Real Estate Value (✓) filed ( ) not required
Certificate of Real Estate Value No. 12677
May 5, 19 86
Conrad A. Bye
County Auditor
by
Deputy

STATE DEED TAX DUE HEREON: $ 302.50

Date: May 1, 19 86

STATE OF MINNESOTA)
County of Crow Wing) ss.

I hereby certify that the within instrument was filed in this office for record on the 5th day of May A.D. 1986, at 5 o'clock P.M., and was duly recorded in Book 362 of Deeds on page 27
Sharon L. Peterson
County Recorder

362672

10.00

(reserved for recording data)

FOR VALUABLE CONSIDERATION, Bert R. Avenson and Virginia H. Avenson, husband and wife (marital status), Grantor(s),

hereby convey (s) and warrant (s) to Timothy K. Swenson and Patricia A. Swenson, Grantees as joint tenants, real property in County, Minnesota, described as follows:

South Half (S½) of the following described tract of land situated in the Southeast Quarter of the Northeast Quarter (SE¼-NE¼), Section Four (4), Township One Hundred Thirty-five (135), Range Twenty-eight (28): Beginning at a point on the line between Sections Three (3) and Four (4) extended on the beach of Pelican Lake 1,328 feet North of the quarter section corner; thence South on this line 332 feet; thence North 89 degrees 13 minutes West to the West line of Lot One (1); thence Northerly along this West line of Lot One (1) to a point from which a line running South 89 degrees 37 minutes East will strike the place of beginning; thence South 89 degrees 37 minutes East along this line to the place of beginning, and

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:

Reservations, easements and restrictions of record.

May 5, 19 86 No. MC 1158
Deed tax hereon of $ 302.50
CONRAD A. BYE By
Crow Wing County Auditor/Treasurer

Affix Deed Tax Stamp Here

Bert R. Avenson
Bert R. Avenson

Virginia H. Avenson
Virginia H. Avenson

STATE OF MINNESOTA
COUNTY OF Crow Wing } ss.

The foregoing instrument was acknowledged before me this 1st day of May, 19 86, by Bert R. Avenson and Virginia H. Avenson, husband and wife, Grantor(s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)
Frederick J. Casey, Notary Public
Crow Wing County, Minnesota
My commission expires: 10-24-1988

(NOTARIAL SEAL)

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

Timothy K. and Patricia A. Swenson
Swensons Pelican Beach Resort
Route 5, Box 369
Brainerd, Minnesota 56401

Return To:

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):
Frederick J. Casey
ERICKSON, CASEY, ERICKSON & CHARPENTIER
Attorneys at Law
319 South Sixth Street
P. O. Box 564
Brainerd, Minnesota 56401
218/829-9226

928

Description continued from front side:

That part of Government Lot Four (4), Section Three (3), Township One Hundred Thirty-five North (135N), Range Twenty-eight West (28W), Crow Wing County, Minnesota, lying between the extension Easterly to the shore of Pelican Lake of the North and South lines of tract deeded to Avenson as evidenced by warranty deed dated and filed September 20, 1983, in Book 339 of Deeds, page 352 at the County Recorder's Office in and for said County. Containing 0.45 acres more or less.

STATE OF MINNESOTA } SS
COUNTY OF CROW WING
I, Kathy Ludenia, County Recorder in and for said County and State do hereby certify that the foregoing is a true and correct copy of the document recorded as Book 342 of Deeds, Page 27 of the public records now remaining in my office.

Dated the 17th day of July 19 92

Kathy Ludenia
County Recorder

Deputy

BRAINERD MN 56401

-1 LEGAL DESC: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT
OF LAND SITUATED IN THE SE1/4 OF NE1/4 S

:D LAKE: PELICAN CLASS: GD

CONTR NAME: SELF SITE PLN: N

MISS HDWTRS AREA: N S/S INSTL: AVENSON

ROAD: CSAH #4 EST. ELEV ABOVE G.W.T.: [illegible]

NSTRUCTION/INSTALLATION OF:

RE FAM: GAR/STOR BLDG-LARGE: PUD: CONDITIONAL USE:

: 10-24-90. Expansion of existing resort contingent on:

attached conditions of Court Order 6/19/91 BOA action

May 1, 1991 Action:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to bo used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone oolor immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Goske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

N INITIATED ON THIS
STRUCTURES THAT MEET
ION HAS BEEN APPROVED

5 years from 3/15/90

ORRECT TO THE BEST OF M
PERFORMED IN ACCORDANCE
D ORDERED BY THE COUNTY
LL OTHER APPLICABLE LAWS
IL TO DO AS STATED. THE
ANY WORK DONE NOT I
EQUIREMENTS AND SHALL B
PROSECUTION PURSUANT TO

ISSUED UNLESS OTHERWISE
VE THE RESPONSIBILITY OF
LICANT/CONTRACTOR FOR OBTAINING OTHER APPLICABLE PERMITS
OTHER AGENCIES, UNITS OF GOVERNMENT, ETC.

EMS INSTALLED, ALTERED OR MODIFIED REQUIRE INSPECTION B
OR TO BACKFILLING. ANY DIRT MOVING, SHORE LINE ALTERA
G OF VEGETATION ON WATERFRONT PROPERTY MAY REQUIRE A
EARING. PLEASE CONTACT THE ZONING OFFICE FOR A REVIEW OF
ARTING WORK.

K. Swenson STAFF SIGN: [signature]

2. the visibility of structures and other facilities as viewed from public waters is limited;

3. the site is adequate for water supply and on site sewage treatment; and

4. the types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

B. CONDITIONS ATTACHED TO CONDITIONAL USE PERMITS. The Planning Commission or Board of Adjustment, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

1. Increased setbacks from the Ordinary High Water Level.

2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.

3. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas.

8.8 PERMIT ISSUANCE
When the Planning Commission, or such body as the County Board may designate, approves a Planned Unit Development Permit or Conditional Use Permit, such approval constitutes an instruction to the Zoning Administrator to issue the permit, but if the approval includes any special requirements as conditions for issuance, those special requirements shall be written on the face of the permit when issued. The Zoning Administrator shall thereupon, within five (5) days, issue the permit. If a permit is denied, specific findings of fact and the reasons for the denial shall be given. A copy of the approved Permit and final decisions granting the Planned Unit Development or Conditional Use under local shoreland management controls must be sent to the Commissioner and postmarked within ten days of final action. In the case of a Planned Unit Development Permit, the Permit will remain valid until the project is completed or for five (5) years, whichever comes first.

ARTICLE IX (REPEALED)

CROW WING COUNTY SEWER INSTALLATION INFORMATION

D/B/A PELICAN BEACH RESORT

PROPERTY OWNER TIM SWENSON PERMIT NUMBER 90-0398 DATE 4-25-90

SIZE OF HOME 1 NEW 3 BR + EXISTING RESORT NUMBER OF BEDROOMS _____ TYPE OF HOME _____ SOIL PERC. 83

LINE FROM DWELLING TO SEPTIC TANK: Length SEE DIAGRAM Size _____ Type _____

LINE FROM SEPTIC TANK TO LIFT TANK: Length _____ Size _____ Type _____

SEPTIC TANK: Size & make 1 NEW 1350 SAWYER LIFT TANK: Size & make _____

LINE FROM ___ SEPTIC TANK ___ LIFT TANK TO ___ DIST. BOX ___ DROP BOX ___ MANIFOLD ___ GRAVEL-LESS.

Length _____ Size _____ Type _____

DRAINFIELDS: Bed size _____ MOUNDS: Bed size _____ BERM GRADE _____

DISTRIBUTION BOX: Type & make _____ NO. OF LINES IN BED _____ TOTAL LENGTH OF ALL LINES _____

TRENCHES: Number 7 Width 3' TOTAL LENGTH OF ALL TRENCHES 640'

DROP BOXES: Type & make _____ NUMBER OF DROP BOXES _____

INCHES OF ROCK UNDERNEATH DRAIN PIPES 18" TOTAL CUBIC YARDS USED 130

PRESSURIZED SYSTEMS:

MANIFOLD: Size 2" Length _____ LINES: Number 7 Size 1½"

TOTAL LENGTH OF ALL LINES 640' HOLE SIZE ¼" HOLE SPACING 5'

PUMP: Size & make EXISTING

GRAVEL-LESS SYSTEMS: Diameter of tubing _____ TOTAL LENGTH OF ALL LINES _____

TYPE OF ROCK COVER MATERIAL: Hay _____ paper _____ both _____ other FABRIC

WELL: Shallow _____ Deep _____ SETBACK FROM TREATMENT AREA OK

Have all other State and County provisions and setbacks from dwellings, lot lines, lakes, rivers, and wells (including neighboring wells) been met? Yes If not, explain.

Have old sewage systems, including outhouses, been terminated and filled in? VALVED
If not, will they be? _____ When? _____

LICENSED/CERTIFIED INSTALLER'S SIGNATURE DAN YANNICK

INSPECTOR'S SIGNATURE Jim Magnuson

OTHER NOTES OR COMMENTS:

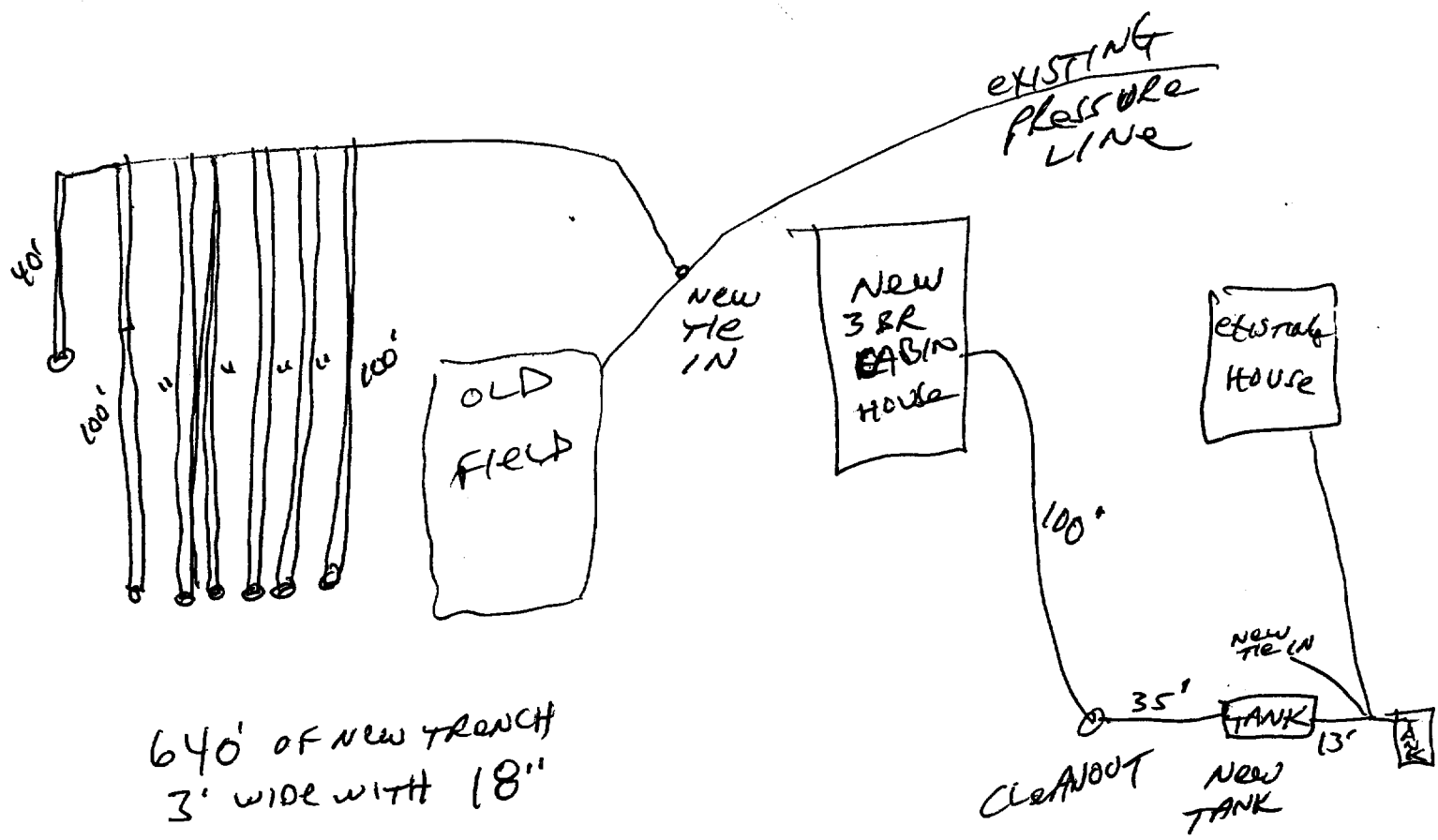
FOR OFFICE USE ONLY

GALS. PER DAY 2352. ÷.83=1952

SQUARE FT. REQ'D. 1288

SQUARE FT. INST'D. 1920

PROVIDE A SKETCH OF THE SYSTEM ON BACK



640' OF NEW TRENCH
3' WIDE WITH 18"

R E CODE: 730041401BA0889

TAXPAYER NAME/ADDRESS
59977 SWENSON, TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N
BRAINERD, MN 56401

FEEOWNER SAME

DEEDED ACRES	TAXABLE ACRES	PLATE	SECTION	TOWNSHIP	RANGE
4.96	4.96	5300	004	135	28

S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN THE SE1/4 OF NE1/4 S
EC. 4: BEG. AT A POINT ON THE LINE BETWEEN SECTIONS 3 & 4 EXTENDED ON THE BEACH
OF PELICAN LAKE 1328 FT N. OF THE QUARTER SECTION CORNER, THEN S. ON THIS LINE 3
32 FT, THEN N. 89 DEG 13 MIN W. TO THE W. LINE OF LOT 1, THEN N'LY ALONG THIS W.
LINE OF LOT 1 TO A POINT FROM WHICH A LINE RUNNING S. 89 DEG 37 MIN E. WILL STR
IKE THE PLACE OF BEG, THEN S. 89 DEG 37 MIN E. ALONG THIS LINE TO THE PLACE OF B
EG. AND ALSO INCLUDING THAT PART OF GOV. LOT 4 SEC. 3 TWP. 135 RNG 28 LYING BETW
EEN THE EXTENSION E'LY TO THE SHORE OF PELICAN LAKE OF THE N. & S. LINE OF TRACT
DEEDED TO AVENSON AS EVIDENCED BY WARRANTY DEED DATED AND FILED SEPT. 20 1983,
IN BOOK 339 OF DEEDS, PAGE 352 AT THE COUNTY RECORDERS OFFICE.

ONE (1) SINGLES PACKAGE for RESORT

Timothy & Patricia Swenson
12682 Co Rd 4 N
Nisswa, MN 56468

Martha Look, Clerk
Lake Edward Twp
11555 Co Rd 4 N
Nisswa, MN 56468

Jay & Lulubel Pansing
c/o Dennis Lothspeich
Attorney
P.O. Box 624
Brainerd, MN 56401

Shirley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

Alan Cibuzar
A&W Research
711 Laurel
Brainerd, MN 56401

Pelican Lake Assoc
HC 87 Box 8110
Merrifield, MN 56465

Jay & Karen Young
12641 Co Rd 4 N
Nisswa, MN 56468

Dr. & Mrs. Alan Plummer
663 Carriage Way NW
Atlanta, GA 30327

Judd Thomas
RR 5
Brainerd, MN 56401

James Pansing, Attorney
885 S. Colorado Blvd
Denver, CO 80222

Russell & Delores Kampen
12655 Co Rd 4 N
Nisswa, MN 56468

Pat & Barbara Wiewel
12578 Co Rd 4 N
Nisswa, MN 56468

Lavonne & John Yound
609 SW 8th Ave
Rochester, MN 55902

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Lu Pansing
2033 S 33rd St
Lincoln, NE 68506

Loel P. Brooks
13th & O St
NBC Center Suite 755
Lincoln, NE 68508-1424

Bob Gnva
12641 Co Rd 4 N
Nisswa, MN 56468

Ron Morriem
DNR
1604 Minnesota Dr
Brainerd, MN 56401

May 1, 1991:

The applicant was present. Dennis Slayton read an overview of the application and two on-site inspection reports into the record. One from Marian Pelto and one from Charles Hofius dated April 18, 1991. There were six letters read into the record, all in opposition to the request. The main concerns were density of development, boat usage and health and safety of neighbors using the lake. Mr. Swenson stated that he does advise boaters of the danger of shallow water in front of the resort. He stated that he must have been misunderstood at the February hearing. He stated that he could not police water skiing. He also stated that they do not have a speed boat. Applicant stated that he would not be adverse to running a buoy line out into the lake to direct boat traffic.

Ralph Jackson was present representing the Pelican Lake Property Owners Association. He read his letter into the record and requested that action be postponed until Thirty Lakes Watershed's concerns can be addressed. Judd Thomas was present representing the Crow Wing County Environmental Protection Association. Questions were discussed

15

regarding the current Ordinance that is in effect. He stated also, as an area resident, that he did not want to see further development of the resort. Al Cibuzar, Thirty Lakes Watershed was present. He stated that Ron Morreim had told him that Pelican Lake is down a foot. He also presented a videotape showing the Resort as it currently exists with infrared photos of nutrient absorption areas. Bruce Yund of Thirty Lakes Watershed was also present. He stated that addition to unit #9 would be eliminated per the applicant's comment from on-site inspection. Bob Griva was present, his concern was with erosion of shoreline on his property and properties adjacent to the resort.

Mr. Swenson stated that they have cut back their expansion plans considerably to try to keep peace with neighbors. Most of expansion is vertical - no or very little dirtmoving would be required as footings are at ground level. Chuck Hofius and Marian Pelto stated that they did not feel that the density would be considerably increased after having attended the on-site inspection. Dennis Slayton read the hearing minutes from June 22, 1988 into the record. John Wallin, Planning Commission member stated that the new DNR regulations have not been adopted, but there is an agreement that if the new DNR regulations are as restrictive they may be used at this point in time, prior to adoption.

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Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Tape 567 1B 5.7-62.5; 2A .1- 62.5; 2B .1-26.1

PLANNING AND ZONING OFFICE
CROW WING COUNTY COURTHOUSE
326 LAUREL STREET
BRAINERD, MINNESOTA 56401-3565

RETURNED TO SENDER
Not Deliverable as Addressed
UNABLE TO FORWARD

BRAINERD
JUN 10 '98
MN

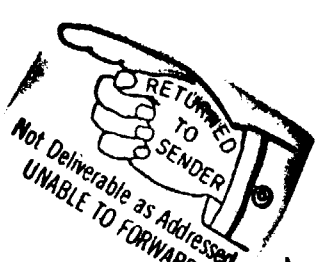
0.32

SHIRLEY & DOUGLAS GREVES
83 RUTTGER RD BOX 125 C
EQUOT LAKES MN 56472

Rec'd Date 6/18/98
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

760

PLANNING AND ZONING OFFICE
CROW WING COUNTY COURTHOUSE
326 LAUREL STREET
BRAINERD, MINNESOTA 56401-3565



BRAINERD
JUN23'98
MN

U.S. POSTAGE
0.32
H METER 429700

PLANNING & ZONING
CO ORDINATORS OFFICE

Stewart - last known

7/6/98

Redelivered

SHIRLEY & DOUGLAS GREVES
HC 83 RUTTGER RD BOX 125 C
PEQUOT LAKES MN 56472

761

RECEIVED
By Stacy Westhoff at 3:29 pm, May 20, 2026

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Tape 567 1B 5.7-62.5; 2A .1- 62.5; 2B .1-26.1

764

Extract Permanent Structure Use

County of Cro

PLANNING

Cour

NameTimothy K. & Patricia Swenson

Address:12683 Co Rd 4 N
Brainerd, MN 56401

Approved 5/14
Postponed
on site 4/18/91,

NEED BEFORE PERMIT RELEASE

Denied Appeal
By: 5/31/91

Type of

Sec. 4, Twp135N, Rge 28W.,
From ,To
PC_____,CB_____,Filed_____

Fee $200.00, Rcpt #9004398

PERMIT # 9004398
Reviewed for Publication 1/22/91
Staff Comments 1/29/91

Notice o
Notice c
Notice c
Public I
Clerk o
Names

TYPE OF APPLICATION:

Dirtfill/Shoreline Alteration
Variance 9004398
Conditional Structure/Use
Amendment Petition
Planned Unit Development
Special Permitted Use
Zoning Change
Appeal
Late Filing Fee Consideration
APPEAL

Fee Assessed
To Be paid by
RECEIPT #

Notice of hearing date on Application ~~10/24/90~~ 2/6/91
Publication Date: ~~10/10/90~~ 1/25/91
Clerk/Chairman Township Notified ~~10/10/90~~ 1/23/91
Adjacent Property Owner Notified ~~10/10/90~~ 1/23/91

#Notices Sent 36 2 16

Legal D

Legal Description:Pt. of SE1/4NE1/4, 4-135-28

Accomp
F el P
lifa

Zip

*DATE: _/_/__

NOTICE OF PUBLIC HEARING *PER/APP/RCPT #:9004398*

PETITION FOR: PLANNED UNIT DEVELOPMENT; CONDITIONAL USE; VARIANCE.

PER THE REQUIREMENTS OF CROW WING COUNTY ZONING ORDINANCE.

APPLICANT: SWENSON TIMOTHY K & PATRICIA 12683 CO RD 4 N.
BRAINERD MN 56401

MEETING DATE: 02/06/91 WEDNESDAY. 6:00 PM.
PLACE: COUNTY SERVICE BLDG. MEETING ROOM. BRAINERD, MN.

LEGAL DESCRIPTION: S. 1/2 OF THE FOLLOWING DESCRIBED TRACT OF LAND SITUATED IN T
HE SE1/4 OF NE1/4 S
SEC 04 TWP 135 RGE 28 TWP: LAKE EDWARD
GENERAL LOCATION: WEST SHORE OF LAKE ON PELICAN-GD.

PURPOSE: TO CONSIDER THE APPLICATION(S) REQUESTED ABOVE:
TO CONSIDER CONDITIONAL USE. PLANNED UNIT DEVELOPMENT. & VARIANCE INVOLVING EXPANSION OF EXISTING RESORT OPERATIONS: TO ADD SEVEN (7) RENTAL UNITS, ONE (1) RV PARKING FACILITY, LODGE/MEETING FACILITY & STORAGE/LAUNDRY BUILDING.
(VARIANCE REQUIRED TO EXCEED FOUR (4) RENTAL UNITS IN TIER #1 (5 requested), PER 1989 DNR SHORELAND MANAGEMENT RULES).

ON PROPERTY ZONED WATERFRONT COMMERCIAL.
REASON FOR REQUEST BEING: ADDITION OF SEVEN (7) RENTAL UNITS, RV CAMPSITE, LODGE/MEETING FACILITY AND STORAGE/LAUNDRY FACILITY

DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

**********FOR OFFICE USE ONLY**********

CHAIRPERSON CWC PC/BOA: _____ APP/DENY __/__/__
CHAIRPERSON CWC BDCMS: _____ APP/DENY __/__/__
APPLICANT SIGN: * Timothy Swenson TEL #: (218)-963-2777 STAFF SIGN D.C. Baumgard

****
* FEE: 200.00
*
* CHK AMT: 200.00
CHK #: 245700
CSH RCV: 0.00

*DATE:

NOTICE OF PUBLIC HEARING *PER/APP/RCPT #:9004398*

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DATED: 01/23/91
CROW WING COUNTY BOARD OF ADJUSTMENT
BY: CHAIRPERSON: RUSS CAUGHEY

January 2, 1991

Pelican Beach Resort

12683 County Road 4 N.
Nisswa, Mn 56468

Subject: 5- year expansion plan

Tier #1: Bldg. #4 is currently a 28x30 three bedroom cabin. Our proposal would be: lift-up bldg. #4 and add on to the north end (approx. 10'x28') to create a new multiple use bldg. which will contain a second-story three bedroom rental unit with outside deminsions of approx. 28'x40'. The first floor would consist of a one-bedroom rental unit (28'x13') and a common lodge/meeting area (28'x27').

DNR calculation figuring 700 sq. ft. per unit.

#6	624 sq. ft.	
#7	518 sq. ft.	(first floor)
#9	518 sq. ft.	(first floor)
#4	1120 sq. ft.	(first floor) Proposed expansion.
total	2780 sq. ft.	(ave. 700 sq. ft.)

Ratio .082x 33,200 sq. ft. = 2722.4 sq. ft. divided by 700= 3.89 units Maximum density increase for Tier #1 is 50% or 3.89 x 1.5 = 5.83 units. Our plan calls for a total of five rental units with minimized use of space thru vertical expansion

Tier #2: (second tier back from lakeshore. This is the area between 200' and 467' back from the lake.)

Convert bldg. #9 into a two-story rental unit. One 2+ bedroom unit on each floor, with outside stairway access to the second floor rental unit.

DNR calculation figuring 800 sq. ft. per unit.

Bldg. #5	624 sq. ft.	ratio .091 x 44322 sq. ft. = 4034 divided by 800ft/unit = 5.04 allowable. Maximum density expansion for Tier #2 is 100% or 10 units total. This is another vertical expansion to minimize use of land space.
Bldg. #7	954 sq. ft.	
Bldg. #8	576 sq. ft.	
Bldg. #9a	840 sq. ft.	
Bldg. #9b	840 sq. ft.	
Bldg. #10	641 sq. ft.	
total	4475 sq. ft.	(ave. 746 sq. ft.)

Tier #3: (third tier back from the lake. This is an area between 467' and 734' ~~xxx~~' back from the lake.) This area is occupied by the owner's home and office and no current rental units. We would like to create one seasonal recreational vehicle pad with hook-ups. Also, develop the current storage space above the garage (28x36 feet) into a three bedroom rental unit. This would not require any additional space since the building is already roughed in. In space #13 erect a single story garage (26x28 feet)

(# 12)

January 2, 1991

Pelican Beach Resort
5-yr. expansion continued.

Tier #5 & #6 (area off-lake, west of county road 4) Long-range plan

Addition of four living units (1 four season and 3 seasonal) in tier #5 and #6. These units would be a combination of cabins and/or travel trailer campsites. This development will be serviced by its own septic and electrical service with a separate well and water system.

DNR calculation figuring 1000 sq. ft. per unit. Ratio .108 x 79000 sq. ft. equals 8,532 divided by 1,000 ft/unit = 8.532 units allowed in these two tiers without exceeding density limitations.

Included in this development will be a garage/storage/laundry bldg.

This is a remote area across the county road from the lake and back 1000' from the shoreline.

Affidavit of Publication

State of Minnesota)
County of Crow Wing) **ss.**

(Published in The Brainerd Daily Dispatch Jan. 25, 1991. 1t.)

NOTICE OF PUBLIC HEARING

Petition for: Planned Unit Development; Conditional Use; Variance. Per the requirements of Crow Wing County Zoning Ordinance.

Applicant: Swenson, Timothy K. & Patricia; 12483 Co. Rd. 4 N., Brainerd, Mn. 56401. Meeting Date: 02/06/91, Wednesday, 6:00 p.m. Place: County Service Bldg., Meeting Room, Brainerd, Mn.

Legal Description: S. ½ of the following described tract of land situated in the SE¼ of NE¼ S, Sec. 04, Twp. 135, Rge. 28, Twp.: Lake Edward.

General Location: West Shore of lake on Pelican-GD.

Purpose: To consider the application(s) requested above:

To consider Conditional Use, Planned Unit Development & Variance involving expansion of existing resort operations; to add seven (7) rental units, one (1) RV parking facility, lodge/meeting facility & storage/laundry building, variance required to exceed four (4) rental units in Tier #1 (5 requested), per 1989 DNR Shoreland Management Rules), on property zoned Waterfront Commercial.

Reason for Request Being: Addition of seven (7) rental units, RV campsite, lodge/meeting facility and storage/laundry facility.

Dated: 01/23/91
CROW WING COUNTY
BOARD OF ADJUSTMENT
By: Chairperson: Russ Caughey

Kari Lake

says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as The Brainerd Daily Dispatch, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed **Notice of Public Hearing**

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for **1** successive weeks; it was first published on **Friday** the **25th** day of **January**, 19**91**, and was thereafter printed and published on every _____ to and including _____, the _____ day of _____, 19___; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

By: Kari Lake

Title: **Agent**

Subscribed and sworn to before me on this **25th** day of **January**, 19**91**

Joyce Caughey
Notary Public, Crow Wing County, Minnesota

(Notarial Seal)

My Commission Expires _____

Publication Fee $ **21.19**

JOYCE CAUGHEY
NOTARY PUBLIC - MINNESOTA
CROW WING COUNTY
My Commission Expires Nov. 13, 1993

RATE INFORMATION

(1) Lowest classified rate paid by commercial users for comparable space	$ **5.65** /column inch
(2) Maximum rate allowed by law for the above matter	$ **8.00** /column inch
(3) Rate actually charged for the above matter	$ **5.65** /column inch

Tim Swenson
Pelican Beach Resort
12683 Cty. Rd. 4 No.
Brainerd, Mn 56401

SCALE
1" = 100'

4 UNITS
#14, 15, 16, 17 TILER #5 & #6

N

Proposal: Bldg. #12
Add approximately 15'x28' & finish 2nd floor into office & Living Area (3 bdr.) & Registration Lodge. Include new septic & possibly a new well.

Proposal: Excavate R.V.-Pad with sewer & electric

Proposal: Bldg #4
Lift-up & build new 1st floor. Completed building would be duplex with 3 bdrm unit on each floor. 2-story
* Also, outside-Access ½ Bath.

* Proposed = R.V. hook-up.

166'±

TILER #4

Pressurized Drainfield

1500 gal. tk

Expansion new garage 26x28

TILER #3

* Proposed: Convert 28x36 upper Level of garage into 3 bdrm. unit, with septic

13

12

11

1200 gal

Well

TILER #2

900'±

10

9

Septic Line

Lift-up & make 2-unit 1-2+ bdrm up 1-2+ bdrm-down

600 gal

8

7

1400 gal

1400 gal

Septic Lines

5

6

TILER #1

* Proposed: Lift, 28x30' Cabin & build 2-story (28x40') bldg. 1-3 bdrm rental up, & 1-bdrm Rental down (28x13) and Lodge (28x27)

3 3A

4 4½

500 gal

500 gal

2

1

1. — 18'x20' Boathouse
2. — 14'x20' Screen house
3. — 28'x37' Duplex (3A) (2-story) 6 Bdrms
4. — 28'x30' 3 bdr. Cabin
5. — 24'x26' 2 bdrm Cabin
6. — 24'x26' 2 bdrm Cabin
7. — 27'x30' Cabin w 12x12 bdrm.
8. — 24'x24' Cabin 2 bdrm.
9. — 28'x30' 3 bdrm Cabin
10. — 24'x24' 8x8-L 2 bdrm Cabin
11. — 26'x36' House - 4 bdrm. 10x20 Addition 10x20 entry
12. — 28'x36 Garage 2-story.
13. — future site garage detached - 26'x28'

Shoreline

THOMAS JOHN JUSTIN
12325 CO RD 4 N.
BRAINERD MN 56401

730033204AA0009

THOMAS JOHN J., ETUX ESTATE
12325 CO RD 4 N.
BRAINERD MN 56401

730033204AA0009

HUBBELL NEVAH
106 W. 14TH STR. 25TH
FLOOR
KANSAS CITY MO 64105
730033204AB0009

CROW WING COUNTY C/O CROW WING CO AUDITOR
CROW WING CO COURTHOUSE
BRAINERD MN 56401

730033204B00009

PELICAN LAKE, INC.
P.O. BOX 71
OKLAHOMA CITY OK 73101

730041102A00009

NORRGARD FLORENCE E.
BOX 379
NISSWA MN 56468

730041102C00009

REFERENCE ONLY; PLATTED PROPERTY
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730041102DAZ009

THOMAS JOHN JUSTIN
12325 CO RD 4 N.
NISSWA MN 56468

730033204AA0009

THOMAS JOHN J., ETUX ESTATE
12325 CO RD 4 N.
BRAINERD MN 56401

730033204AA0009

HUBBELL NEVAH
106 W. 14TH STR. 25TH
FLOOR
KANSAS CITY MO 64105
730033204AB0009

CROW WING COUNTY C/O CROW WING CO AUDITOR
CROW WING CO COURTHOUSE
BRAINERD MN 56401

730033204B00009

UNDIVIDED I

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TOTAL NO OF

PRINTED

Concerned Party Lo

exclude Chm

DNR

*** THIS LAB

*** AGAINST

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UNDIVIDED INTEREST

7313900090A0999

REFERENCE ONLY; PLATTED PROPERTY
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PANSING LULUBEL E C/O JAY PANSING
RETURNED 1990
NO VALID ADDRESS
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730041102H00009

TOTAL NO OF LABELS PRINTED 27

UNDIVIDED INTEREST

Concerned Only Lept 12
excludes Chrm & Cath, 3
DNR 36

7313900090A0999

*** THIS LABEL JOB WAS RUN ***
*** AGAINST THE LATEST UPDATE ***
*** OF THE NAME ADDRESS FILE. ***

774

PELICAN LAKE, INC.
P.O. BOX 71
OKLAHOMA CITY OK 73101

730041102A00009

NORRGARD FLORENCE E.
BOX 379
NISSWA MN 56468

730041102C00009

REFERENCE ONLY; PLATTED PROPERTY
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730041102DAZ009

HARVEY JOHN & DARLENE M
4305 COUNTRY CLUB RD
EDINA MN 55424

730041102DB0009

KITCHEN HAROLD R. & MARCELLA
P O BOX 418
NISSWA MN 56468

730041102DC0009

MC HALE DONALD F. & VIRGINIA
12777 CO RD 4 N
NISSWA MN 56468

730041102E00009

CROSBY JAMES T. AND BETTY J.
12769 CO RD 4 N
BRAINERD MN 56401

730041102F00009

MORGADO PIERETTE TASSE BEACH & TOWN MOTEL
1010 FEDERAL HWY 5 S
HOLLYWOOD FL 33020

730041102G00009

PANSING LULUBEL E C/O JAY PANSING
RETURNED 1990
NO VALID ADDRESS
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730041102H00009

PANSING LULUBEL E.
2033 S. 33RD ST
LINCOLN NB 68506

730041102I00009

DE PAOLI ROBERT & BARBARA
12724 CO RD 4 N.
NISSWA MN 56468

730041102J00009

THE NORTHWEST PAPER CO.
CLOQUET, MN 55720

730041300000009

SWENSON TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N.
BRAINERD MN 56401

730041401BA0001

VAN KAMPEN RUSSELL & DOLORES
203 S LANCASTER
MT PROSPECT IL 60056

730041401C00009

YOUNG JOHN A. ETAL % ANN M.GROOVER,TREA
1065 PLUMMER LANE SW
ROCHESTER MN 55902

730041401D00009

WIEWEL BARBARA J.
12578 CO RD 4 N.
NISSWA MN 56468

730041401E00009

HARVEY DAVID K. & MARY L.
7010 KNOX AVE S
RICHFIELD MN 55423

7313900090A0AD0

ECKARDT KARL E & LIZA LINDMAN
P O BOX 110
NISSWA MN 56468

7313900090A0AE0

JOHNSON CURTIS O. ETAL
BOX 248
PEQUOT LAKES MN 56472

7313900090A0AF0

GROSS RUSSELL G & ROSE
5453 STEPETZ RD 53
AURORA MN 55705

7313900090A0AG0

JENSEN DAVID E.
141 E. WHEELOCK PKWY
ST. PAUL MN 55117

7313900090A0AH0

GROSS WAYNE E. & MARY JANE & ROBERT GROSS
3338 FILLMORE ST NE
MINNEAPOLIS MN 55418

7313900090A0AI0

HARVEY JOHN & DARLENE M
4603 OAK DR
EDINA MN 55424

730041102DB0009

KITCHEN HAROLD R. & MARCELLA
P O BOX 418
NISSWA MN 56468

730041102DC0009

MC HALE DONALD F. & VIRGINIA
12777 CO RD 4 N
BRAINERD MN 56401

730041102E00009

CROSBY JAMES T. AND BETTY J.
12769 CO RD 4 N
BRAINERD MN 56401

730041102F00009

MORGADO PIERETTE TASSE
1010 S FEDERAL HWY 5
HOLLYWOOD FL 33020

730041102G00009

PANSING LULUBEL E. C/O JAY PANSING
720 S COLORADO BLVD
SUITE 1000
DENVER CO 89222
730041102H00009

PANSING LULUBEL E.
2033 S. 33RD ST
LINCOLN NB 68506

730041102I00009

DE PAOLI ROBERT & BARBARA
12724 CO RD 4 N.
BRAINERD MN 56401

730041102J00009

THE NORTHWEST PAPER CO.
CLOQUET, MN 55720

730041300000009

SWENSON TIMOTHY K & PATRICIA SWENSONS PEL BCH RST
12683 CO RD 4 N.
BRAINERD MN 56401

730041401BA0001

VAN KAMPEN RUSSELL & DOLORES
203 S LANCASTER
MT PROSPECT IL 60056

730041401C00009

YOUNG JOHN A. ETAL % ANN M.GROOVER,TREA
1065 PLUMMER LANE SW
ROCHESTER MN 55902

730041401D00009

WIEWEL BARBARA J.
12578 CO RD 4 N.
BRAINERD MN 56401

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HARVEY DAVID K. & MARY L.
7010 KNOX AVE S
RICHFIELD MN 55423

7313900090A0AD0

ECKARDT KARL E & LIZA LINDMAN
P O BOX 110
NISSWA MN 56468

7313900090A0AE0

JOHNSON CURTIS O. ETAL
BOX 248
PEQUOT LAKES MN 56472

7313900090A0AF0

GROSS RUSSELL G. & ROSE
RTE 2 BOX 34
GARNER IA 50438

7313900090A0AG0

JENSEN DAVID E.
141 E. WHEELOCK PKWY
ST. PAUL MN 55117

7313900090A0AH0

GROSS WAYNE E. & MARY JANE & ROBERT GROSS
3338 FILLMORE ST NE
MINNEAPOLIS MN 55418

7313900090A0AI0

UNDIVIDED INTEREST

7313900090A0999

DATE: FEBRUARY 6, 1991

TO: CROW WING BOARD OF ADJUSTMENT

SUBJECT: PROPOSED VARIANCE APPLICATION FOR THE PELICAN BEACH RESORT

FROM: ALAN W. CIBUZAR
TECHNICAL REPRESENTATIVE
THIRTY LAKES WATERSHED DISTRICT
BRAINERD, MN. 56401

INTRODUCTION

THE THIRTY LAKES WATERSHED DISTRICT HAS MONITORED WATER QUALITY ON PELICAN LAKE SINCE THE EARLY 1970'S AND HAS TRACKED THE IMPACT OF DENSE DEVELOPMENT ON THE LAKE.

THE PROPOSED EXPANSION OF PELICAN BEACH RESORT WILL INCREASE THE DENSITY OF "LAKE USERS" IN A RESIDENTIALLY ZONED AREA OF THE LAKE. THIS INCREASE OF LAKE USERS ON A 166 FOOT FRONTAGE WILL IMPACT THE RESIDENTS ALONG THE SHORELINE AND JEOPARDIZE THE SAFETY OF LOCAL RESIDENTS AS WELL AS RESORT GUESTS.

SUBSEQUENTLY, IT IS IMPERATIVE THAT PROPER, WELL STRUCTURED PLANNING BE IMPLEMENTED TO PRODUCE A RESTRUCTURING OF THE RESORT WHICH IS COMPATIBLE WITH THE ENVIRONMENT, LOCAL RESIDENTS AND THE RESORT OWNERS.

THE FOLLOWING ARE CONCERNS WHICH THE DISTRICT HAS CONCERNING THE PROPOSED EXPANSION OF THE PELICAN BEACH RESORT.

CONCERNS

THE DISTRICT IS UNABLE TO MAKE A DETERMINATION OF IMPACTS DUE TO A LACK OF THE FOLLOWING INFORMATION (WHICH IS REQUIRED TO BE REVIEWED PRIOR TO MAKING A DECISION UNDER SECTION 6120.2800 "PLANNED UNIT DEVELOPMENT" OF THE STATEWIDE STANDARDS FOR MANAGEMENT OF SHORELAND AREAS).

1. A SCALED MAP DEFINING SURFACE WATER FEATURES (DOCKS ETC.)

2. A TOPOGRAPHIC CONTOURS MAP WITH CONTOURS AT TEN FOOT INTERVALS OR LESS.

3. AN EXPLANATION OF HOW THE PROJECT WILL FUNCTION
   A. TOTAL NUMBER OF GUESTS
   B. PARKING AND TRAFFIC PLAN
   C. A BEACH PLAN
   D. A BOATING PLAN
   E. PROPOSED OPEN AND CLOSING DATES

4. THE PARKING AREAS THE SITE PLAN WITH THE AREA OF IMPERVIOUS SURFACE IN EACH TIER.

5. THE LOCATION OF A REPLACEMENT SEPTIC SYSTEM.

6. ALL SETBACKS FOR ALL STRUCTURES TO THE ORDINARY HIGH WATER LEVEL, LOT LINES, WELLS (OLD AND NEW), SEPTIC SYSTEMS (OLD AND NEW),

UNIT - UNIT, ETC.

7. VEGETATIVE SCREENING PLAN.

IT IS RECOMMENDED THAT AN ONSITE INSPECTION BE CONDUCTED DURING THE OPERATING SEASON.

Dr. and Mrs. Alan E. Plummer
663 Carriage Way, Northwest
Atlanta, Georgia 30327

Rec'd Date 4/6/84
Time
PLANNING & ZONING
COORDINATOR'S OFFICE

Dear Board of Adjustment,

It is our understanding that Jim and Pat Swenson, if given permission, intend to rent up to 30 bedrooms in an area that has 166' at the beach line. If one assumes that all bedrooms can sleep at least two people, sometimes three if children are vacationing too, 60-80 renters would have to share the beach.

It is customary at Pelican Beach Resort to moor most of the boats out in the lake, not beside the dock. Adding more guests boats within the 166' water area, bounded by two sets of neighbors, will be very crowded. This creates an extremely dangerous hazard for swimmers as well as other boats.

The green space that is suggested as appropriate for an R.V. pad, a laundry and storage shed, and a meeting facility is in jeopardy. We believe in protecting our environment.

In conclusion, the human density situation that the Swensons

Dr. and Mrs. Alan L. Plummer
663 Carriage Way, Northwest
Atlanta, Georgia 30327

would allow is truly a devastating problem for the area. The lake, the beach, and the forest will suffer.

It is our hope that you will deny the Severson request.

Sincerely,

Virginia P. Plummer
(Mrs. Alan L.)

Alan L. Plummer, MD

Phone: 404-237-4759

February 3, 1991

read
5-1-91

Mrs. John A. Young
609 - 8th Avenue S. W.
Rochester, Minnesota 55902

April 25, 1991

Crow Wing Board of Adjustment
Planning and Zoning Office
Court House
Brainerd, MN. 56401

Dear Board of Adjustment,

This letter is in regard to the proposed development by Jim and Pat Svenson.

We are concerned about adding another 2 story building in Tier #1. While there are many 2 story places on the lake, none are placed so as to block a neighbors view of the lake.

This space that is being created to provide a game room and meeting place could very easily, at some future date, be turned into another rental unit!

We objected before and we object now to development in Tier #1.

adding 2 story buildings right on the lake shore. Loud and clear that the space is being over-used.

There were many questions brought up at the meeting 2-6-91 by Alan Cibuzar of the 30 Lakes Watershed District and by Joel Brooks, Son-in-law of Mrs. Lee Parsons. Has the board addressed these issues? We feel they are important and need answers before any decision is made.

Please do not allow any more development in Tier #1.

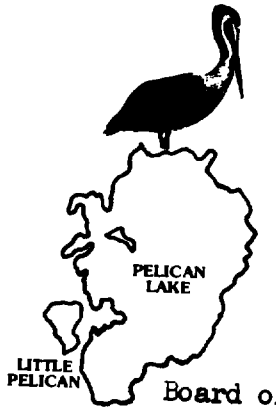
Thank you -

Sincerely,

Jarvonne Young

Jack Young

Summer address:
12641 County 4 N. Nisswa, MN. 56468



PELICAN LAKES PROPERTY OWNERS ASSOCIATION

Box 823 Nisswa, Minnesota 56468

May 1, 1991

Rec'd 5/1/91 @ Mtg

Read by R. Jackson

Board of Adjustment
Crow Wing County Courthouse
Brainerd, MN 56401

Re: Pelican Beach Resort Application
Pat and Tim Swenson

Dear Board Members:

My name is Ralph Jackson, and my address is HC 87, Box 8110, Merrifield, 56465. I am here to represent the Pelican Lakes Property Owners Association regarding the subject application. This association has 185 individual property owner members on Big and Little Pelican Lakes.

We first learned of the application for proposed changes at this resort by means of the notice of hearing to be held on February 6, 1991. I attended the hearing and asked to be invited when an on-site inspection was the action taken.

The on-site inspection revealed some interesting things about the resort. The rental units are mostly located on the gentle sloping land from the lake westward to the hill or bluff on the property. In other words, the guests seem to be somewhat concentrated in a comparatively small part of the total resort area. The lake shore here and on adjacent properties seems to be suffering noticeable erosion from wind, wave, and boat action. The adjacent properties are zoned residential and have seasonal houses. The number of people in this shoreland area during the summer, including the resort, could easily present a density problem for beach, swimming, and boating activities.

We support the need for addressing the concerns set forth on February 6 by the Thirty Lakes Watershed District. Most of these items relate directly to guest activities in the relatively concentrated cabin and lakefront areas. It is our request that no action be taken until these concerns have been satisfactorily answered.

Our association also wonders about the future of resorts like this one. Are the owners willing to agree to the Staff Comments of February 6? Such an agreement should be made a part of any permit.

Last of all, under what ordinance is this application being considered? Because the new Shoreland Management Ordinance has not been adopted, any permits issued at this time must be in compliance with the existing ordinance.

For the Board of Directors,

Ralph A. Jackson

Ralph A. Jackson, President

LICHTENFELS, PANSING & MILLER
ATTORNEYS AT LAW
885 SOUTH COLORADO BOULEVARD
DENVER, COLORADO 80222
PHONE (303) 722-6500
TELEFAX (303) 722-9270

J. REID LICHTENFELS
JAMES E. PANSING
ROBERT H. MILLER

April 30, 1991

Russ Caughey, Chair Person
Crow Wing County Board of Adjustments
Planning & Zoning Office
Courthouse
Brainerd, Minnesota 56401

Re: Timothy K. Swenson and Patricia Swenson

Dear Board Members:

I am writing this letter to supplement the letter I wrote to you on February 5, 1991, in opposition to the variance request of Timothy K. Swenson and Patricia Swenson. I commend to your attention the information set forth in that letter, but I feel additional information should also be considered:

1. In February, you scheduled a site visit for May 18, 1991. In reliance on that date, I made reservations on Continental Airlines to come to the site visit. On or about April 15, 1991, I received a notice that the site visit had been moved to April 19, 1991. Not only did this waste my money (my tickets were nonrefundable), it made it so I could not attend the site visit.

2. I feel that a site visit was inappropriate in April. My major objections to the variance requested by the Swensons relate to boat traffic. I suspect you didn't see a boat on the lake. As such, the site visit accomplished little. Therefore, I request that a new site visit be scheduled during the height of the summer, at a time that will allow the Board to view the property while it is being operated as a resort.

3. Next, it is imperative that you understand that our objection is based on the health, safety and welfare of the surrounding property owners. There are just too many boats in the resort's small beach area to be safe. Mr. Swenson has (I believe) six aluminum boats, one ski boat, one pontoon boat, and two pedal boats, or a total of nine boats. It is not unusual to see four additional ski boats owned by visitors to the resort tied up at the resort. These, plus Mr. Swenson's boats make a total of thirteen boats. With the addition of four additional residential

Rec'd Date 5/1/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

and/or rental units, it is not unrealistic to think in terms of 15 or 16 boats at one time. In fact, if each unit had one boat at the resort, I count 12, plus the 9 Mr. Swenson has, a total of 21 boats would be using a beach area slightly larger than a standard residential lot. This is an accident waiting to happen!

4. Another very important aspect of this variance request that you should be aware of is the fact that the water is quite shallow in front of our property (just north of the Swenson's). In fact, it is necessary to wade out several hundred feet in order to get into waist deep water. That is the closest to shore that we can swim. All of the boats at the resort buzz in, out, around and through our swimming area. Several of us are lap swimmers. Numerous children play in the area. Our swimming raft is anchored in this area, in water that is approximately 3½' deep, but approximately 250' from shore. Some limitation is necessary. The present situation is bad. It would be unsafe to increase the problem by increasing the number of units (which would translate into more boats).

5. Finally, it seems that if the Board is inclined to allow the variance, they should put some controls on the boating traffic to protect the neighboring properties from the overuse of the water areas immediately adjacent to the beach. Either a limitation on the total boats to be moored, or a buoy line or some other system to route the boats using the resort away from the shallow swimming areas should be a minimum requirement.

Once again, we feel the negative aspects of the resort should not be expanded. Zoning is intended to protect surrounding property from inappropriate uses. The shape of the Swenson property with very little shoreline and the present heavy use have already burdened surrounding property owners. Please do not increase the problem by allowing the additional 20 or so people to use the property that will be the result if the variance is approved.

Yours very truly,

James E. Pansing

JEP/cc

Read 5-1-91

April 28, 1991

Crow Wing County Board of Adjustment
Crow Wing County Courthouse
Brainerd, Minn. 56401

Dear Mr. Slayton and Board Members,

On February 6th, 1991 we wrote to you our concerns about overuse of land and water in a petition by Tim and Pat Swenson d/b/a Pelican Beach Resort at 12683 Co. Rd. 4 N. Nisswa, Minn. on the S.W. shore of Pelican Lake.

New plans proposed, do not in any way change the density on the property or lessen the impact on the environment.

If a second floor and addition is allowed??? How can we be sure that we will not see another conditional use for a third floor, in the years to come. I am not sure that neighbors were advised about the second floor of Cabin #3. Surely that blocked the neighbors to the south from seeing the lake to the north.

On Cabin #4 if an expansion to the north with bedrooms above and Lodge, playroom below was added. What would happen if the renters didn't like the noise. Vacationing children and some adults in any number will carry a lot of noise that near the water. Once established that area also, could be made into more rental units. If extension of 1988 variance is asked for it should be questioned

The proposed R.V. sight is unnecessary if cabins are available.

A proposed 3 bedroom 4 season unit on the west side of the highway does not show any size, position on the backlot or any plans for septic system.

After living on this lakeshore for 65 years we object to so much added pressure ecologically to Pelican Lake.

Very sincerely,

Patrick and Barbara Wiewel
12578 Co. Rd. 4. North
Nisswa, Minn. 56468

Rec'd Date 4/29/91
Time
SWENSON
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Rec'd 5-1-91

April 28, 1991

Mr Dennis P. Slayton and
Planning and Zoning Board
Crow Wing County Courthouse
Brainerd, MN 56401

Rec'd Date 4/29/91
Time Swenson
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Mr. Slayton and Board Members,

We continue to be concerned about the density of the development planned by the Swensons along Pelican Lake - especially in Tier #1. Has it been determined that Tier #1 does not already include cabin #6 on the drawing dated 1-17-91? 200' back from the lake's high water mark is no longer the same 200' it was 2-5 yrs ago. The shoreline has been changing in this SW part of the lake. We (2 properties south) have lost approx. 10' of beach in the past 10 yrs. I expect Swensons have lost some also. We are concerned Tier #1 may already have cabin #6 and maybe cabin #5 in it.

Aside from Tier #1's density of buildings, their crowded appearance from the lake and from neighbor's property, we are worried about the density of boats, children + adults in this relatively narrow beach front. This major safety concern was covered in our letter to you dated 1-29-91.

We are concerned the existing boathouse will not be removed from Tier #1, and that a multi-use or lodge area below a 2 bedroom unit will not remain a lodge for long. How can vacationers sleep above an indoor recreational area for up to 50 people? Would this

lodge area
then be able to be converted to more bedrooms because it already 'exists'? We feel this lodge plan as it is is not realistic and will lead to even greater density of bedrooms on Tier #1.

Thank you for listening to our questions and concerns about this development. Please read them into the minutes on May 1st since we can't be there.

Sincerely,

James and Judith Mellinger
12641 Co. Rd 4 N
Nisswa, MN 56468

read 5-1-91

2033 South 33rd Street
Lincoln, Nebraska 68506
April 30, 1991

To: The Board of Adjustment
The Court House
Brainerd, Minnesota 56401

From: Lu Pansing, neighbor to the north of the Petitioners,
Tim and Pat Swenson

Dear Members of the Board of Adjustment:

When the Swensons ask that they be given extra space for rentals, it becomes a matter of grave concern to their neighbors. Our concern arises from several causes:

1) The Swensons' 166-foot shoreline is insufficient for the present population. The boats which they now maintain are beached across their property clear to our boundaries.

2) The boats they maintain make their departure or approach to the shore where our children swim. The reason for this is that their shoreline and ours are extremely shallow. Consequently, the swimmers must go farther out than is necessary on most shores. Since inexperienced boaters frequently cut straight across our deck and swimming area, we feel there is already a safety hazard. With more people renting cabins there and with more boats as well, we would have a tragedy waiting to happen.

3) Mr. Swenson has said he will not caution the boaters. This fact, as well, is a matter for concern because health and safety problems will surely occur with increased population.

4) The Swenson property could accommodate the proposed population if the long side of the lot were stretched along the shore. As it is, the lot stretches back across the highway but funnels all the renters onto its tiny beach.

There are other reasons too numerous to note. However, for a grandmother concerned for her two-year old grandson as well as the other grandchildren, their health and safety come first.

Respectfully submitted,

Lu Pansing

Lu Pansing

730212102J00009

Chequemates
12641 County Road, 4N
Brainerd, Minnesota 56401
January 28, 1991

Mr. Russ Caughey
Chair, Planning and Zoning Commission
Court House
Brainerd, Minnesota 56401

Dear Mr. Caughey:

This letter is a response to the notice of the Commission that it will consider on Wednesday, February 6, 1991 a Planned Unit Development: Conditional Use: Variance submitted by Timothy Swenson and Patricia Swenson of 12683 County Road North, Brainerd, MN 56401.

We oppose the variance for the following reasons:

1. The development will detract from the appearance of the property, which is prime Minnesota waterfront vacation property.
2. The development will create a significantly higher density of vacationers--people, vehicles, boats--than is currently present in the surrounding area.
3. The development will detract unreasonably from the current use of many surrounding neighbors of their property as a vacation area.
4. The development will significantly lower the value of adjacent property, both to the current owners and to future owners.

We hope the Commission will consider our opinion as it debates the pros and cons of the Variance.

Sincerely yours,
Richard Brubaker
Nancy Brubaker

Richard and Nancy Brubaker
601 Memorial Parkway SW 55902

Rec'd Date 2/1/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Read 2/6/91 Mtg.

1-29-91

Planning and Zoning Office
Crow Wing County Board of Adjustment
Crow Wing County Courthouse
Brainerd, Minn. 56401

Dear Mr. Caughey and Board Members:

It has come to our attention that Timothy and Patricia Swenson d/b/a Pelican Beach Resort at 12683 Co. Rd. 4 North are once again asking for variances for further growth of their Resort which has only 126 feet of Lakeshore.

We object to this expansion because of the density on the land in terms of additional population using the facilities provided and the number of boats and traffic on the lake. There is one R.V. Campsite on N.E. Pelican and that should be enough. The addition of seven rental units, lodge and Laundry storage would require additonal septic enlargement.

This additional pressure will certainly affect the ground water and ultimately Pelican Lake.

As George Orning of Freshwater Institute writes of 14% growth to the area by the year 2000 not including the summers swelling population. The time is (NOW) to be concerned about our lakeshore.

Sincerely,

Pat and Barbar Wiewel
12578 Co. Rd. 4 North
Nisswa, Mn. 56468

We would be obliged with an onsite inspection of plans and property.

Rec'd Date 2/1/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Oct 3, 1990

Dave.

We have decided to re-think our expansion plans and would like to be withdrawn from the variance board meeting (oct. 24, 1990) until a later date.

I will contact your dept. in the next three weeks to discuss changes

Sincerely,
Tim Swenson - Pelican Beach Resort

Read 2/6/91 mtg.

James and Judith Mellinger
12641 County Rd 4 N
Nisswa, MN 56468

James F Mellinger
922 8th Ave SW
Rochester MN 55902-6309

Jan. 30, 1991

Planning and Zoning Office
Courthouse
Brainerd, MN 56401

Rec'd Date 2/4/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Sir,

We are writing in response to the Planned Unit Development and Zoning Variance Timothy and Patricia [redacted] requested. We realize they want to increase their income base for a more successful resort, but feel overbuilding on Tier #1 and adding such unit density will be destructive to both the lakefront and vacationers.

We oppose the variance for the following reasons:

1- 17 rental units (plus an unstated # of RVs) on a narrow lot poses sewage disposal problems, swimming & boat safety problems and noise pollution for neighbors.

2- Dense beachfront development is risky because ice can cause about 1 ft of erosion each year. (We have experienced this as have other neighbors.)

3- The DNR density ruling is new - not "out of date" - and should be seriously taken.

4- Two story buildings on Tier #1 block lake viewing, and lake breezes by other vacationers and neighbors. Top prices are paid both to rent or own Pelican Lake property in this area.

Please consider our thoughts. We also request an on site inspection of the property before any action is taken.

Sincerely,

James F. Mellinger
Judith Mellinger

Read 2/6/91 Mtg.
2-2-91

We are opposed to the proposed planned development for

12683 Co. Rd. 4 N
Nisswa, MN 56468

Our concern is due to the large scale of expansion planned for the resort.

1. The number of people using the facility. The possibility of over seventy people in a limited space and small beach area. Even now, at times, some areas are crowded with all the cars and boat trailers.

2. With the increased population, the amount of liquid waste going into the drain field will be doubled.

3. The increased number of boats. They have four buoys in the lake for guest to moor their boats and don't know how they could provide for many more.

Russell and Dolores Van Kampen
12655 Co. Rd. 4. N.
Nisswa, MN 56468

Rec'd Date 2/6/91
Time
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dolores J. Van Kampen

Russell Van Kampen

Brainerd Planning
& Zoning Commission
Brainerd, MN 56401

Rec'd Date 2/1/91
Time
PLANNING & ZONING
COORDINATORS OFFICE

Jay Young
12641 County 4 North
Nisswa, MN 56468

To the planning & zoning commission: received at the meeting

I am opposed to the proposed additions to Pelican Beach Resort on Pelican Lake for the following reasons:

The resort is over built at present. I went to the resort as a child (late 1960's) and there were five cabins in addition to the winter home. Now there are nine cabins. No land has been added. The proposed additions would bring the total number of units to 16.

I am worried about possible water & air pollution (RV dumpsite, seven additional cabins, Charcoal & beach fires), not to mention the noise and visual pollution (The new developments have NOT enhanced the area.). Just how many people can that limited (less than 200') amount of shoreline support? Similar resorts in the area (with like acreage) have only 5 or 6 units.

Neighbors on either side have lost visual access to the lake, multi-story units located on the shoreline detract from the natural beauty of the lake. Land management is NOT being practiced here, and the local area will suffer for it.

Thank you for viewing this letter

Jay & Karen Young

Read 2/6/91 Mtg.
609 8th Ave. S.W.
Rochester, Minn.
55902
Jan. 31, 1991

Planning and Zoning Office
Court House
Brainerd, Minn. 56401

Rec'd Date 2/4/91
Time 9:15 am/pm
PLANNING & ZONING
CO-ORDINATOR'S OFFICE

Dear Board of Adjustment and
Planning and Zoning Commission,

My letter is in regard to the Planned Unit development: Conditional Use and Variance request by the [redacted] of 12683 County 4 North on Pelican Lake.

My husband and I strongly object to the enlarging and additions to cabin #4 in tier #1. Tier #1 is already a very crowded area. Besides 2 cabins there is a boat house which is also used as a store, a screen house, playground with playground equipment and the beach area. (We've all lost about 20 ft. of beach in the last 18 years due to erosion) Tier #1 is where the resorters spend most of their time. More units, even though they are across the road add to the noise and busyness at the beach front and on the lake.

We request an on-sight inspection of the Swenson property noting especially the area in tier #1, and tiers 4, 5 & 6.

We would not object to putting a second story on cabin 9 in tier #2 and the finishing of the garage for a cabin in tier #3.

I understand that the Swensons

want more units but please do not grant the variance for tier #1 development and please consider the over-crowding of the property and neighborhood in Tiers 4, 5 and 6.

Our address is 12641 County 4 North, we property away to the South. We have exactly the same size land with no development in tier #1. We have 6 cabins in tier #2 with a total of 16 bedrooms as opposed to the seventeen present 27 bedrooms. Our place is plenty busy! Especially our tier #1 area and lakefront.

Thank you.

Sincerely,

Lavonne Young

John A. Young

Robert V. and Ann M. Groover
Chequemates
12641 County Rd 4 N
Nisswa MN 56468

Planning and Zoning Office
Crow Wing County Courthouse
Brainerd, MN. 55401

Dear Sirs,

In reply to your notification of the petition filed by Timothy K. and Patricia [redacted] of 12683 Co.Rd. 4 N., Brainerd, MN. for a Planned Unit Development, conditional use and variance for expansion of their existing resort operations, the following outlines our sincere concerns. Our property is the second property south of the petitioning resort.

The owners proposal to add seven (7) rental units, one RV parking facility (size and capacity unspecified), and a lodge/meeting facility and storage/laundry facility represents considerable expansion within a relatively small space which is bordered on both sides by private seasonal dwellings. This would obviously result in an increased population density within the resort and on its beach, as well as an increase in boat traffic in the area. Such would have an adverse effect on adjacent and nearby properties.

In the recent past the owners received a variance for erecting a two story unit on their beachfront property which adversely effects lake view for adjacent properties. Their proposal apparently includes expanding a second cabin on that beachfront into a two-story structure. This would further block lake view and negatively effect the shoreline, as well as defy DNR shoreland management rules. The board should note that the natural erosion of the beachfront of the properties along that portion of the western shore has been significant over the past several years, averaging one to two feet per year.

The creation of a RV facility is very worrisome, especially since the number of vehicles to be accomodated is not specified. Such could increase the population density considerably, along with potential pollution and sewage problems.

In our view, the proposed expansions of the resort present many potential problems which could adversely affect the quality of the lake and lake shore in the area. Thus, we cannot support the petition without further information as to the details of the proposed expansions. We would like to request an onsight inspection of the property to consider these concerns.

Sincerely,

Robert V. Groover

Ann M. Groover
1065 Plummer Lane
Rochester MN 55902

Rec'd Date 2/4/90
Time
PLANNING & ZONING
COORDINATOR'S OFFICE

February 1, 1991

Read 2/6/91 mtg

LICHTENFELS, PANSING & MILLER
ATTORNEYS AT LAW
885 SOUTH COLORADO BOULEVARD
DENVER, COLORADO 80222
PHONE (303) 722-6500
TELEFAX (303) 722-9270

J. REID LICHTENFELS
JAMES E. PANSING
ROBERT H. MILLER

Rec'd Date 2/6/91
Time
PLANNING & ZONING
COORDINATOR'S OFFICE

February 5, 1991

Russ Caughey, Chair Person
Crow Wing County Board of Adjustments
Planning & Zoning Office
Courthouse
Brainerd, Minnesota 56401

Dear Board Members:

I am writing this letter in opposition to the application of Timothy K. and Patricia Swenson for a variance to the zoning code to allow an increase in total rental units above that otherwise allowed. My opposition is based on the following:

1. The subject property is located between properties used for purely residential purposes. No other commercial uses exist within at least one mile in either direction.

2. The subject property is already over-utilized, considering the fact that it is long and narrow, with very little shore-line when compared with its total acreage.

3. During the summer, there are routinely ten to twelve boats on a beach of only 166' (which is only 2/3 more than a standard lot). This boat traffic problem is exacerbated by the long shallow shelf in front of the property. The result is numerous boats motoring in shallow areas where our families, including our young children, routinely swim and play. Additional rental units mean additional boat traffic and this property cannot support any additional traffic.

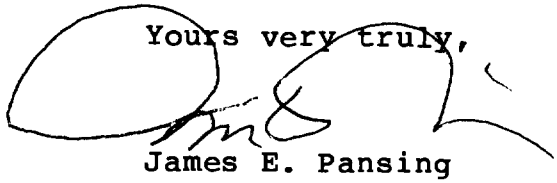
4. After the expansion of Unit 3 one year ago, a noticeable increase in noise and boat traffic was apparent. More boat traffic and noise would be an unreasonable burden to the surrounding neighbors.

5. The long, narrow aspect of this property means that any approved variance to the zoning code will immediately affect the continguous neighbors. This is because all proposed buildings are within a very few feet of the south (VanKampen) and north (Pansing) property lines.

In summary, the noise and boat traffic is presently above a reasonable level. The maximum levels were written into the zoning code for a reason and that was to protect surrounding property owners. Granting of variances is appropriate in certain instances in which minor adjustments are requested where mitigation or proof of non-affect exist. However, this is clearly an instance where a very major variance from the zoning code is requested, injury to neighboring property is evident, and no mitigation is possible, and therefore, variance is inappropriate.

Please turn down this application.

Yours very truly,



James E. Pansing

JEP/cc

Timothy and Patricia Swenson On-Site Inspection April 18, 1991

This on-site inspection was made at the Pelican Beach Resort with Charles Hofius, Board of Adjustment member. We were met at the site by Mr. and Mrs. Swenson. Also present were Ralph Jackson, representing the Pelican Lakes Property Association, and Pat Stern and Bruce Yund of the Thirty Lakes Watershed District.

Tier One Development--There are presently three rental units located here. Raising cabin four to put in a second story and adding on to the north side of this building will create five total rental units and a lodge area. The addition will be on the north end and no closer to the lake than the existing cabin.

Tier Two Development--Four rental units exist here now. Raising building nine and thus adding another rental unit, increases the units to five.

Tier Three Development--This area currently has the owner's 3-4 bedroom home and a two-story garage. Converting the upper level of the garage into a four-season three-bedroom unit, excavating for a one-unit RV pad with hook-ups, and adding a new 26 x28 ft. garage are planned. The new garage will be set back from the bluff area.

All of these developments appear appropriate providing that:

1. All units be hooked to a central well and central septic system.
2. Earth tone colors be used.
3. Open spaces be kept open.
4. Appropriate screening be used along lakeshore and side lot lines.
5. Existing boathouse be removed.
6. No further variances be issued, as an increase in more lake users could bother and jeopardize the safety of local residents and guests.

The units of this resort should not be sold as private family units or condominiums. If this property ceases to be used as a resort, the area would revert to single family residential use.

Marian Pelto

Marian Pelto

Timothy & Patricia Swenson On-Site Inspection Miles 12

This on site inspection was made on April 18, 1991 at 5:00 p.m. with Marian Pelto, member of the Board of Adjustment. Mr & mrs Swenson met u s on th e site., also present was Ralph Jackson, Pelican Lake Property owner Ass. Pat Stern & Bruce Yound of the 30 lakes watershed.

The following measur ements was taken at the site.
Building No.-1 (20.0' x 18.0') is 23.0' from the h igh water line. This building is use for storage.
Building No.-2 (20.0' x 12.0') screen house is located 16.0' from the high waterline.
Building No.-4 (28.0' x 30.0') a cabin is located 83.0' from the high water line. The applicant wish to raise the cabin and make this a 2 story building. The 1st floor would be used as lodge and storage area. They would like to build a 2 story 8.0' x 28.0' screen porch on the north end of the cabin. Their would not be any more people sleeping after construction than at present.
Building No.-9 (28.0' x 30.0') cabin with an 8.0'x 15.0' deck on th eouth side. the cabin is approximate 22.0' south of the north property line. The applicant would like to raise the cabin and make it a 2 story unit, with 3 bed-rooms in each unit. This would increase the rental space by 6 people.
Building No.-12 (28.0' x 36.0') 2 storys, garage on the bottom and storage area above. The applicant would like to develope this into a 3 bed-room rental unit on the top story where the storage area is. This would sleep 6 people.
The applicant would like to build a 26.0' x 28.0' garage north-west of building No.-12. He would like to make a R-V site approximate 30.0' west of cabin NO.-10. This would sleep a maximum of 3 people.

West of Co. r oad #-4 the Applicant owns a lot that is 450.0' deep x 160.0' wide (72000 sq. ft.) or 1.65 acres. They would like to build a house on this lot for their son.

This writer would r ecommend that the following cabin No-4 - Cabin No-9 and building No-12 be approved. The R-V site be approved for one site only. The approval should be on the following conditions - all building East of Co. Road - 4 be hooked up to one central sewer system and one well. The well to be considered a deep well. Paint existing and propose buildings a earth tone. and that open space be maintained in all 3 tiers. West of Co. Road No-4 the home should be a one family home only and that it have it own wa ter and sewer system.

Respectfully Submitted
Charles H. Hofius
Charles H. Hofius

Timothy K. & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dr. & Mrs. Alan Plummer
663 Carriage Way NW
Atlanta, GA 30327

James Pansing, Attorney
885 S. Colorado Blvd
Denver, CO 80222

Russell & Delores Van Kampen
12655 Co Rd 4 N
Nisswa, MN 56468

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Pat & Barbara Wiewel
12578 Co Rd 4 N
Nisswa, MN 56468

Richard & Nancy Brubaker
601 Memorial Pkwy SW
Rochester, MN 55902

Ann M. Grover
1065 Plummer Ln
Rochester, MN 55902

Lavonne & John Young
609 SW 8th Ave
Rochester, MN 55902

Lulubel Pansing
c/o Jay Pansing
720 Colorado Blvd, Suite 1000
Denver, CO 89222

Russell & Delores VanKampen
203 S. Lancaster
Mt. Prospect, IL 60056

Alan Cibuzar
A&W Research
711 Laurel
Brainerd, MN 56401

30 Lakes Watershed
Box 376
Brainerd, MN 56401

Pelican Lake Assoc
c/o Ralph Jackson
Rte 5 Box 394

Jay & Karen Young
12641 Co Rd 4 N
Nisswa, MN 56468

Shireley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

Timothy & Patricia Swenson
12682 Co Rd 4 N
Nisswa, MN 56468

Martha Look, Clerk
Lake Edward Twp
11555 Co Rd 4 N
Nisswa, MN 56468

Shirley Wallin, Clerk
Pelican Twp
HCR 2 Box 263
Pequot Lakes, MN 56472

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A& W Research
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Pelican Lake Assoc
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Merrifield, MN 56465

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Nisswa, MN 56468

Pat & Barbara Wiewel
12578 Co Rd 4 N
Nisswa, MN 56468

LaVonne & John Yound
609 SW 8th Ave
Rochester, MN 55902

James & Judith Mellinger
12641 Co Rd 4 N
Nisswa, MN 56468

Lu Pansing
2033 S. 33rd St
Lincoln, NE 68506

Loel P. Brooks
13th & O St NBC Center Suite 755
Lincoln, NE 68508-1424

& Judd Thomas
RR 5
Brainerd

Swenson

Bob Griva
12641 Co. Rd. 4 N.
Nisswa, MN 56468

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

April 8, 1991

Timothy & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr. Swenson:

The attached excerpts from the minutes of the Board of Adjustment meeting of April 3, 1991 pertain to your application.

The On Site Inspection has been set for Thursday, April 18,1991 at 5:00 P.M.

The application has been rescheduled on the May 1, 1991 Board of Adjustment hearing at 6:00 P.M. in the County Service Building, Room 2, Brainerd, MN. Please consider this your notification of same.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.
cc: Concerned Party List

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

May 3, 1991

Timothy & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr.& Mrs. Swenson:

The attached excerpts from the minutes of the Board of Adjustment meeting of May 1, 1991 pertain to your application.

Your Variance application has been approved with conditions. Due to the concerned parties your permit cannot be released for nine (9) days in order to give the concerned parties time in which to request a Reconsideration. If no such request has been made your permit will be released upon receipt of the permit fee of $220.00 and a revised site plan. However, the concerned parties have thirty days in which to file an Appeal in District Court. See attached yellow sheet.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.
cc: concerned party list

and storage area above. The applicant would like to develope this into a 3 bed-room rental unit on the top story where the storage area is. This would sleep 6 people.
The applicant would like to build a 26.0' x 28.0' garage north-west of building No.-12. He would like to make a R-V site approximate 30.0' west of cabin NO.-10. This would sleep a maximum of 3 people.

West of Co. r oad #-4 the Applicant owns a lot that is 450.0' deep x 160.0' wide (72000 sq. ft.) or 1.65 acres. They would like to build a house on this lot for their son.

This writer would r ecommend that the following cabin No-4 - Cabin No-9 and building No-12 be approved. The R-V site be approved for one site only. The approval should be on the following conditions - all building East of Co. Road - 4 be hooked up to one central sewer system and one well. The well to be considered a deep well. Paint existing and propose buildings a earth tone. and that open space be maintained in all 3 tiers. West of Co. Road No-4 the home should be a one family home only and that it have it own wa ter and sewer system.

Respectfully Submitted
Charles H Hofius
Charles H. Hofius

May 1, 1991:

The applicant was present. Dennis Slayton read an overview of the application and two on-site inspection reports into the record. One from Marian Pelto and one from Charles Hofius dated April 18, 1991. There were six letters read into the record, all in opposition to the request. The main concerns were density of development, boat usage and health and safety of neighbors using the lake. Mr. Swenson stated that he does advise boaters of the danger of shallow water in front of the resort. He stated that he must have been misunderstood at the February hearing. He stated that he could not police water skiing. He also stated that they do not have a speed boat. Applicant stated that he would not be adverse to running a buoy line out into the lake to direct boat traffic.

Ralph Jackson was present representing the Pelican Lake Property Owners Association. He read his letter into the record and requested that action be postponed until Thirty Lakes Watershed's concerns can be addressed. Judd Thomas was present representing the Crow Wing County Environmental Protection Association. Questions were discussed

COUNTY OF CROW WING
PLANNING AND ZONING DEPT
COURTHOUSE, BRAINERD, MN 56401
(218) 828-3964

February 7, 1991

Timothy K. & Patricia Swenson
12683 Co Rd 4 N
Nisswa, MN 56468

Dear Mr. & Mrs. Swenson:

The attached excerpts from the minutes of the Board of Adjustment Meeting of February 6, 1991 pertain to your application.

Your application has been postponed in order that members of the Board of Adjustment may make an on site inspection of the property. The on site inspection will be Saturday, May 18, 1991 at 9:00 A.M. The application will be rescheduled for the next available Board of Adjustment meeting and you will be notified of the date as soon as the agenda dates have been set.

Should there be further questions, please feel free to contact this office.

Sincerely,

Dennis P. Slayton,
Assistant Planning and
Zoning Administrator

DPS:jr

Encl.

cc: Concerned party list.

Base density, including the increase of one, three bedroom unit, has not been attained.

Conditions that may apply.

1. All units be earth tone in color.
2. Additional screening along property lines and Highway.
3. All units, existing and proposed, be hooked to a central septic system and a central well.

It would appear appropriate to increase the density as indicated providing all conditions shall be met for each Tier.

Further, it would appear appropriate to grant a Conditional Use Permit and Planned Unit Development Permit with the following conditions.

1. Units not be sold as individual units (condominium or private family residences).
2. When the property ceases to be used as a rental/resort area, the area would revert to single family residential use and comply with all current regulations.
3. The applicant submit an erosion control plan and planting plan indicating type, amount and size of screening to be used. The screening should be substantial.

Further, the Board should set a time line for the painting of the cabins, removal of the boathouse, commiserate with the additions to Tier 1 development.

By: Dennis Slayton

<u>February 6, 1991</u>

Mr. Swenson was present. Staff Comments were read. Also read were the representative five letters of concern. The applicant stated the sewer system was updated and drainfield enlarged within the last two years and that there is no erosion problem currently on the property. The applicant also stated that the work he wished to do to Cabin 4 was previously authorized by the Board of Adjustment on June 22, 1988.

Al Cibuzar was present representing Thirty Lakes Watershed District and presented the concerns of the District. Also present as concerned parties were Lou Pansing, Lowell Brooks, Ralph Jackson, representing the Pelican Lake Property Owners Association, and Ann Grover, with their concerns being the density of people on the property, the effect it would have on the lake and safety of people utilizing the lake and beach area. Discussion ensued.

The option of 45 days for rescheduling the application was explained to the applicant and he indicated the 45 day option could be waived.

February 6, 1991 Action

Motion by Hofius supported by Pelto to postpone the application in order for an On Site Inspection to be conducted on May 18, 1991 at 9 a.m. by members Hofius and Pelto, with three area representatives and a representative from the Pelican Lake Property Owners Association also invited to attend, with the application being rescheduled to the first Board of Adjustment meeting following the On Site Inspection. All members voted "AYE". Motion carried.

Tape 557, 1A, 48.8 to 2A, 19.6

RECEIVED
By Stacy Westhoff at 3:30 pm, May 20, 2026

Memorandum of Comments and Objection to the Requests of Pelican Beach Holdings, LLC for the Land Use Map Amendment, Conditional Use Permit for a Resort Conversion Variances and Preliminary Plat Related to Parcel Number 73040571

TO: Planning Commission / Board of Adjustment (via email landservices@crowwing.us)

FROM: Bradley J. Halberstadt (26838 County Road 4, Nisswa)
Mailing Address: 33 Spyglass Place, Dellwood, MN 55110

RE: Submission of Comments for Public Hearing scheduled May 21, 2021

DATE: May 20, 2026

INTRODUCTION

This Memorandum is submitted in response to the Notice for Public Hearing regarding various requests of Pelican Beach Holdings, LLC (the "Applicant") and invitation to submit comments on these requests. For the reasons set forth below, please add my comments to what I assume will be a chorus of legitimate concerns and attendant objections to these requests – as well as an objection to the limited time allowed to submit such responses. Given the time constraints, however, there is simply no way of presenting a complete argument or factual record in this short time period.

FACTS

Here we go again…….. It was 5 years ago that requests for resort conversion were filed (original and amended) and later withdrawn - after objections were filed by more than 37 neighbors, one of their lawyers, the Pelican Lake Association, Lake Edward Township and the DNR. Both the facts and arguments contained in those objections remain relevant to the present reformatted requests of the Applicant – this time without seeking any variances (probably because Applicant realized they wouldn't be granted and so why not dress it up in a slightly different manner but ask for the same result).

The present request for conditional use permit to allow a resort conversion ends at the same destination as the last applications - 11 residential lots and 11 mooring spaces jammed within a narrow lot on 166 feet of lakeshore. More importantly, the existing dwellings and purported mooring spaces related to Applicant's property are such radical nonconformities they wouldn't stand a chance for approval as a new development. Prior comments show these radical variations in lot size, density and claimed mooring spaces – and also raised valid concerns over the safety, health and general welfare by converting these to private residences. Those prior comments raise real concerns over private algae

blooms, septic stress, boat traffic, noise, overcrowding, inconsistencies with the neighborhood, setting bad precedent, failing to follow rules, etc.

Since the existing resort buildings are so radically outside the limits of lot size and density, it is understandable that the neighbors cried foul in 1991 and conditions were placed on the proposed expansion – as well as why so many neighbors cried foul when the last applications for resort conversion were filed in 2021……. Many of those same concerns led to numerous conditions to be placed on the resort's Conditional Use Permit over 35 years ago that remain valid today.

On May 1, 1991, those conditions were:

Motion by Hofius supported by Rybolt to grant the conditional use permit to add onto the existing resort with the following conditions:

1. Raise Cabin #9 by one story not to increase the number of bedrooms by more than 3;
2. Building number 12 - make living quarters in storage area on second floor not to have more than three bedrooms;
3. Building number 13, proposed garage to be constructed according to the zoning regulations regarding bluff guidelines.
4. RV parking site not to be constructed for more than one unit with three bedrooms.
5. Sleeping quarters in #4, three bedrooms.
6. Downstairs on the storage area or lodge not to be used for sleeping quarters.
7. Tier #5, across road not to have more than one unit (house) three bedrooms to be used by family and not a rental unit. Must have its own septic system and well.
8. Designated parking area for each unit meeting planning and zoning approval.
9. Screening along North and South property lines shall be maintained. There shall be screening installed along the lakeshore approved by the Planning & Zoning Office.
10. There shall be a rope or buoy system extending into water at least 200' from the dock designating the route in and out from docking area. DNR shall be consulted for their recommendations.
11. There shall be a roped area for swimming.
12. Boathouse shall be left as is. It is a storage shed for the units. It shall be painted in earth tone color immediately. MPCA regulations for storage or petroleum products shall be strictly adhered to.
13. Unit number one, the screen porch shall be moved back into tier two.
14. Earth tone colors be used as buildings need painting. Units 1 and 4 and the lakeward side of 3 will be earthtone within two years.
15. If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date.
16. No more variances shall be granted to this property.
17. All units be hooked to a central deep well and central septic system.
18. Revised site plan be presented prior to issuance of permit

Members Carlson, Hofius, Pelto and Rybolt voting "Aye", member Geske voting "Nay", motion carried.

Motion by Hofius, supported by Rybolt to allow the Planned Unit Development to continue with proposed revision and conditions as listed above. All members voting "Aye".

Permit Document 69089, page 40.

The Swensons moved for reconsideration and the conditions were slightly revised on June 19, 1991 as follows:

Motion by Pelto supported by Rybolt to amend the action taken by the Board of Adjustment on May 1, 1991 regarding granting of a Conditional Use Permit as follows:

- Condition 9 read "Screening along North and South property lines shall be maintained. There shall be vegetation installed along the lakeshore as approved by Planning & Zoning".
- Condition 13 be omitted.
- Condition 14 read "Buildings be painted an earth tone color, those colors being a variety of tans, browns, greens that would blend in with the environment".
- Condition 16 read "Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.

On roll call vote, members Pelto, Rybolt and Carlson voted "AYE", member Geske voted "NAYE". Motion carried.

2A, 9.4 to 3A, 7.5

Permit Document 69089, page 1.

The Conditional Use Permit was appealed by the Pansings and resulted in an order dated February 25, 1993 directing the County to issue the Conditional Use Permit with the revised conditions imposed by the Board (paragraph 3):

2. That the Crow Wing County Zoning Office shall be authorized and directed to release to Timothy and Patricia Swenson the Conditional Use Permit which is the subject of this action, which has been previously approved by the Crow Wing County Board of Adjustment subject to the following additional limitations:

a. No expansion shall be allowed on building number nine, as set forth on the site plan which is attached hereto and incorporated herein by reference. Said cabin shall be deleted from the Conditional Use Permit to be issued by the Crow Wing County Zoning Office.

b. The recreational vehicle parking site approved as part of the original Conditional Use Permit shall be deleted from the Permit, and the Respondents Timothy and Patricia Swenson shall not be allowed to place said RV parking site anywhere on the subject property.

3. That said permit referred to in paragraph two above shall be subject to all other conditions and limitations previously imposed by the Crow Wing County Board of Adjustment.

ORDER FOR JUDGMENT

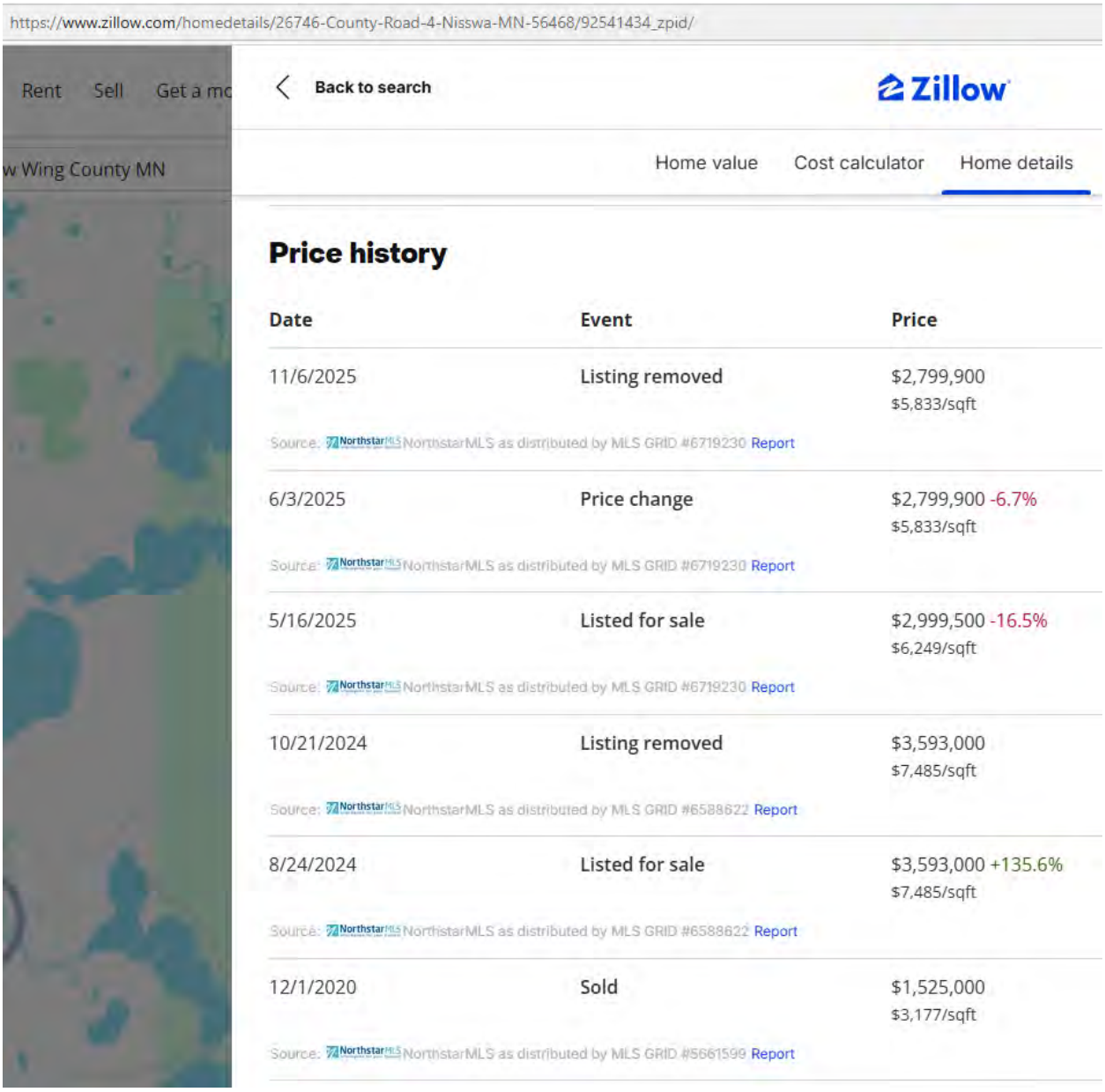
LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 02/25/93

Robert E. Kautz
Judge of District Court

Permit Document 69089, page 8.

In 2020, the Swensons decided to get out of the resort business and sell the property to Applicant. It's not clear if Applicant also purchased the Swensons' underlying resort business. Applicant's actions from 5 years ago prove that they bought the property with no intention to use it as a resort – simply seek to immediately flip the property claiming entitlement to a resort conversion and make money by selling the postage stamp lots (the last applications in 2021). The property has been for sale for the last 2 years (not as a resort but corporate retreat, etc.) for a price of more than double what was paid. Here is the listing history from Zillow:



In addition, the last listing information shows that the property was listed for sale not as a resort – but as a single family residence and is described as a large private estate or corporate retreat:



26746 County Road 4 Nisswa, MN 56468

View All 53 Photos

MLS #6719230 CLIP #6104124859

Beds	Baths	Size	Days on OneHome
8	6(5 full ·1 half)	5,448 sqft	174



Legacy property with Perfect 176' of level Sand Beach on Pelican Lake in Nisswa, MN. Beautiful 4,000Sqft Custom home with 5 bedrooms, 4 bathrooms, woodburning stone fireplace, 28' cathedral ceilings, beautiful kitchen with granite counters, custom millwork throughout, Screen porch, and a Lower-level walkout basement. The 1800sqft year-round 3-bedroom 2 bath guest house has been recently remodeled with custom floors, doors and Trim! The property has multiple other out building but the lakeside lodge and cottages are the real charmers. The oversized 3.3-acre lot opens up many possibilities including a large private estate or corporate retreat. Located just minutes to Downtown Nisswa and Breezy Point!

Read Less

Features

Type: Single Family Residence **Year Built:** 2009 **Lot Size Area:** 3.30 acres

Apparently, no takers on Applicant's attempts to sell the property over the last two years - as we are back to seeking to chop up the property into tiny lots again and try to make money that way…….

OBJECTION BASED ON LIMITED NOTICE

Again, we are given basically no notice (just over 3 business days) to provide comments before a public hearing to consider an application packet containing over 160 pages of documents related to these requests – not to mention go back and review the last 2 applications that were filed by Applicant just over 5 years ago and all of the objections that were filed (the objections alone totaled just over 175 pages). In order to preserve the record of both facts and argument from the last applications, I have emailed to landserivces@crowwing.gov the numerous objections that were filed in 2021 by the neighbors, one of their lawyers, the Pelican Lake Association, Lake Edward Township and the DNR from the last applications – which contained the same requests as the current applications. I have also emailed copies to landserivces@crowwing.gov of relevant prior permit histories that are referenced in this Memorandum. Many other things should probably be added to the record if this moves forward – but I wanted to provide as much of a record as possible with both of these items.

I understand there will be arguments that the Land Ordinance has changed (slightly) and that the DNR has apparently changed its position – but facts are kind of a troublesome thing as facts don't change……. Many of the prior comments pointed to factual and legal issues related to the prior applications as did many others – and those issues were never answered before Applicant withdrew the prior applications in 2021.

Like before, there remain missing facts that must be gathered before any decisions are made on the present applications and Applicant should be given the opportunity to supplement the record with additional evidence related to the issues raised by past and current objections. I simply don't see how such an important issue that gathered so many negative comments from neighbors across the lake can be considered upon little over 3 days business notice with such a checkered past. For this reason, the applications should be tabled until – at least – the next meeting of the Board.

ANALYSIS OF THE REQUESTS

I. QUESTIONS SURROUNDING APPLICANT'S RIGHT TO SEEK RESORT CONVERSION (AGAIN)

Obviously, the Land Use Ordinance recognizes the challenges faced by resorts and does allow resort conversions under Article 34.13. But, there are important limitations on the consideration of any resort conversion – especially in this case. Given the time constraints, I have to be brief, but here goes……

A. Condition 15 of the Current CUP Bars Conversion

During the review of 2021 applications, there were significant holes in the permit history related to this property – and it took some digging by Jake (then at the County) to locate various records related to the history of this property and the granting of the present conditional use permit back in 1991 through litigation that ended in 1993. See Prior Comments, pages 053-062. Those records, however,

demonstrate that there were a substantial number of conditions that were placed on the Conditional Use Permit to expand the resort – because of significant issues raised by the neighbors, Pelican Lake Association and the township. In fact, the matter was appealed to the District Court that issued an order that directed the County to issue the Conditional Use Permit with those conditions (that order is also contained in the Permit history).

One of those conditions bars the present application for resort conversion. Condition 15 imposed in connection with the former resort expansion permit finally issued in 1993 that mandates that:

> **"If this property ceases to be used as a resort, the area would be required to comply to zoning regulations of that date."**

Note what that condition doesn't say – that the area would be required to comply to the zoning regulations of that date – but you can get around those zoning regulations by seeking further variances. The requests in the current application are all failures to comply to the zoning regulations of the date that the former resort ceased operating and must be denied.

Condition 15 makes sense from a historical perspective. Thirty-five years ago, the neighbors were afraid not only of what might result from the former resort expansion – but what would happen if it ceased to operate as a resort. See Link 69090 of the Online Permits – also included in the Agenda Packet. The compromise that was adopted by the Board was to place a condition that said if you are no longer a resort, then the property had to convert back to what the zoning regulations required – single family residence, minimum lot sizes, minimum lot areas and maximum densities. Reading these comments, you can understand why the neighbors were concerned about this expansion and that the Board dealt with these concerns by adding Condition 15. Almost prophetic as the application seeks to do exactly what people feared – expand the former resort even more after it ceased operations……

But if you dig a little deeper you find out that they prohibited EXACTLY what is being proposed today. On page 44 of Document 69090 on the property's permits (located at https://gis.crowwing.us/link/reports/DocViewer/showdoc.aspx?docid=69090&appname=PZ_PERMITS) you find the following On-site Inspection document dated April 19, 1991 drafted by Marian Pelto, a Board Member that voted on the resort expansion and conditions:

Timothy and Patricia Swenson On-Site Inspection April 18, 1991

This on-site inspection was made at the Pelican Beach Resort with Charles Hofius, Board of Adjustment member. We were met at the site by Mr. and Mrs. Swenson. Also present were Ralph Jackson, representing the Pelican Lakes Property Association, and Pat Stern and Bruce Yund of the Thirty Lakes Watershed District.

Tier One Development--There are presently three rental units located here. Raising cabin four to put in a second story and adding on to the north side of this building will create five total rental units and a lodge area. The addition will be on the north end and no closer to the lake than the existing cabin.

Tier Two Development--Four rental units exist here now. Raising building nine and thus adding another rental unit, increases the units to five.

Tier Three Development--This area currently has the owner's 3-4 bedroom home and a two-story garage. Converting the upper level of the garage into a four-season three-bedroom unit, excavating for a one-unit RV pad with hook-ups, and adding a new 26 x28 ft. garage are planned. The new garage will be set back from the bluff area.

All of these developments appear appropriate providing that:

1. All units be hooked to a central well and central septic system.
2. Earth tone colors be used.
3. Open spaces be kept open.
4. Appropriate screening be used along lakeshore and side lot lines.
5. Existing boathouse be removed.
6. No further variances be issued, as an increase in more lake users could bother and jeopardize the safety of local residents and guests.

The units of this resort should not be sold as private family units or condominiums. If this property ceases to be used as a resort, the area would revert to single family residential use.

Marian Pelto

Marian Pelto

This document further amplifies exactly what was meant by Condition 15 that was voted on by Marian and the other Board members:

"<u>The units of this resort should not be sold as private family units or condominiums</u>. <u>If property ceases to be used as a resort, the area would revert to a single family residential use</u>."

If the condition itself isn't clear enough (which I believe it is), Ms. Pelto's comment drives it home. **<u>You can't sell the units of the resort as private family units or condominiums</u>** – exactly what is being sought in applications. Equally clear is the understanding that the property resorts to single family

residential use when the resort operations cease.

This couldn't be clearer – and it that's not the only reference to the direction that the units of the resort should not be sold as private family units or condominiums and if the property ceased to be used as a resort then it would revert back to existing zoning regulations. Page 44 of Document 69090 from the property's permitting history also contains that same description of the condition:

Timothy & Patricia Swenson
Planned Unit Development, Variance
Page 3

Base density, including the increase of one, three bedroom unit, has not been attained.

Conditions that may apply.

1. All units be earth tone in color.
2. Additional screening along property lines and Highway.
3. All units, existing and proposed, be hooked to a central septic system and a central well.

It would appear appropriate to increase the density as indicated providing all conditions shall be met for each Tier.

Further, it would appear appropriate to grant a Conditional Use Permit and Planned Unit Development Permit with the following conditions.

1. Units not be sold as individual units (condominium or private family residences).
2. When the property ceases to be used as a rental/resort area, the area would revert to single family residential use and comply with all current regulations.
3. The applicant submit an erosion control plan and planting plan indicating type, amount and size of screening to be used. The screening should be substantial.

Further, the Board should set a time line for the painting of the cabins, removal of the boathouse, commiserate with the additions to Tier 1 development.

By: Dennis Slayton

Again, once the property ceases to be used as a resort, the property reverts to **single family residential use** and no selling the individual units.

Perhaps there is something that I missed in reviewing the prior permits, but Condition 15 with this additional commentary leading up to their adoption, certainly appears to bar any resort conversion.

The applications should be denied for this reason alone. Everyone agreed that when the resort ceased to operate – which effectively took place when the Swensons sold the property and the Applicant attempted to immediately flip and tried to sell as a non-resort property – it should revert to single family residential use and comply with all current regulations. After all, Applicant has tried to sell the property as a single family residence for the past 2 years (see facts set forth above).

B. Is Applicant a "Resort"?

During the 2021 application, the response from Lake Edward Township challenged whether the Applicant could seek a resort conversion as Applicant failed to provide proof of licensure by the State of Minnesota and there was an assertion that no resort license had been issued to Applicant by the Minnesota Department of Health. See Prior Comments at 008. The Township pointed out that the Land Use Ordinance required that the definition of a resort must be a commercial establishment and that commercial establishment must be fully licensed and permitted under the appropriate state and local regulation. *Id.* citing page 172 of the Land Ordinance. The Township went on to say that even if the Applicant produced evidence of such licensure (which I don't believe is in the application packet) that Applicant still should not be treated as a resort as the proposed use does not comprise a commercial establishment as it was simply a developer's effort to divide a parcel into as many lots for resale as possible for resale under the guise of a resort conversion. *Id.* That said, Applicant should be allowed the opportunity to supplement the record with evidence of Minnesota Department of Health licenses for the years of 2021 through 2026, resort insurance, rental records and any other evidence of full licensure and permitting – assuming the Board, for some reason, doesn't conclude that the resort conversion is barred by clear mandates Condition 15.

In addition, to qualify as a "resort" under the Land Ordinance, "All cabins, rooms, dwelling units or enclosures must also be available for rent for more than 50% of the days while in operation during the year." Article 46.2.272. There is no evidence of Applicant meeting this requirement in the application packet either. Typically, this information may not be necessary – but since the Applicant stated they really had no intention to operate the resort and immediately sought conversion in 2021 and it has been listed for sale during most of the last 2 years, there really should be such evidence that such availability took place during 2021 through 2026 to even qualify as a "resort" for purposes of a resort conversion. Again, Applicant should be allowed the opportunity to supplement the record with evidence for the years of 2021 through 2026 to show that it qualifies as a "resort" under the definition in the Land Ordinance.

II. MOORING PROBLEMS

Not surprisingly, the biggest lightning rod in the application for many residents relates to the proposed 11 mooring spaces – a shocking number considering the shallow nature of this part of the lake and approximately 165 feet of shoreline. While everyone seems to agree on the rule, there is wide divergence on what facts apply to that rule.

Everyone seems to agree with the last DNR comments that any resort conversion under Article 34.13 must comply with Article 33.11.B.5's limitation that the number of mooring spaces may not exceed the number of allowable dwelling unit lots in the first tier – in this case, that is only 1 mooring space. See Prior Comments, page 175 and Application Packet, page 91. The last DNR comments stated:

> Historical photos suggests that a single dock with no more than three moorings slips have been used. There is no written record suggesting more than three spaces have ever existed. Mooring standards are intended to reduce impacts on the aquatic environment and to protect aquatic habitat. The DNR strongly discourages variances from mooring standards.

That didn't work very well last time, so Applicant switched gears in this application and now claims that the resort qualifies for "grandfathering" of mooring spaces (presumably under Minnesota Statute §394.36) alleging that there were always 11 mooring spaces at the resort (the original application claimed 12). The Existing Dock Exhibit at page 53 of the Application Packet purports to show these mooring spaces by including the outline of 3 boats in the lifts at the end of the dock, the outline of 2 boats tied to the dock and the outline of 6 boats that are purportedly tied to concrete pillars/boat ties. Note 2 discloses that "The existing concrete pillars/boat ties and dock system have been digitized from 2023 Google Earth aerial imagery."

The Application Packet states that (i) the DNR must determine the allowable permanent mooring spaces for the converted development; (ii) the Resort has 200+ feet dock where guests tie their boats; (iii) 6 permanent concrete mooring buoys placed in the lake by previous owners; (iv) Applicants stated these have been used for many years, overnight and weekly; and (v) the DNR requested evidence of the historical mooring use (photos, maps, documentation). Application Packet at p. 91.

Unless I missed it, the Application Packet does not contain any further evidence regarding the historical mooring use – other than the DNR's email stating that "We have reviewed the existing mooring exhibit provided for Pelican Beach Holdings. We have also looked at some other historical aerial photos of resort mooring in general." Application Packet at p. 83. Unlike last time, however, this information apparently convinced that the DNR that more than 1 mooring spot was allowed as the email states "We agree that there is a history of consistent continuous mooring of 11 watercraft at the resort." Application Packet at p. 83.

Since I've never seen anything close to 11 watercraft at the resort during my 5 summers at the lake and numerous prior comments related to mooring at the resort universally stated that there was never even close to that number of boats moored at the resort (see Prior Comments) – I had to do a little research and ask some more questions……

First, let's start with the "grandfathering rule" under Subdivision 1 of Minn. Stat. §394.36, which provides:

> Continuation of nonconformity; limitations. Except as provided in subdivision 2, 3, or 4, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, although the use or occupation does not conform to the official control. If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its estimated market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy

Two things must be met, therefore, to qualify for "grandfathering" under Minn. Stat. §394.36 - (i) the nonconformity must have been lawful at the time of installation (making it a lawful nonconformity); and (ii) the lawful nonconformity must not have ceased to be used for a period of more than one year.

In our case, that means that the concrete pillars must have been (i) installed prior to the adoption of the Shoreland Rules in 1991 and (ii) used each year since installation.

Second, let's turn to the facts. The Application Packet doesn't provide an installation date for the 6 concrete pillars. Instead, it simply states that they were placed in the lake by the previous owners – but no date of when these concrete pillars were placed. In fact, there is no evidence at all showing that these concrete pillars placed in the lake prior to 1991 to qualify as legal nonconformities. Absent such evidence of legal nonformity, the purported mooring spaces cannot be "grandfathered" under Minn. Stat. §394.96.

Interestingly, Mr. Swenson wrote a letter to the Governor just prior to enactment of the Shoreland Rules stating that those Rules would limit him to only 4.7 mooring spaces for his guests. See Document 69089 at p. 14:

JUL-17-1991 10:18 FROM CONSTIT.SVCS/APPOINTMENTS TO 64799 P.02

Side-Note: The ... colors to minimize impact while the new DNR offices in Brainerd are on the water & painted an off-blue color that is truely distinctive & provides absolutely NO screening at all.

Governor: If you can respond this week, I would appreciate it. Tim Swenson

July 8, 1991

Governor A. Carlson
State of Minnesota
Capital Bldg.
St. Paul, Mn.
FAX 612-297-1198
Attn. Donnette

Governor:

My wife and I own and operate a small family resort in the Nisswa area, on Pelican Lake. Like other small businesses we are constantly trying to make a living through expansion and good business decisions. The county we live in, Crow Wing, is in the process of adopting the DNR "Statewide Standards for Management of Shoreland Areas" (July 3, 1989). As a result of inquires about adding more rental units we have been asked to plan around the framework of these guidelines. This is where the problem begins.

Section 6120.3800 deals with Planned Unit Development ie. resorts. Subparagraph 6, Section 5, item 2C states that vegetation is required to screen buildings from the view of water as a condition of improvement. It goes on to say that specific colors will be used when painting to further screen the structures. Problem: who decides how much vegetation is necessary and where to place it. Second, who decides what color I have to paint my cabins as a condition of any improvement? Do you think government has gone too far?

Co. decides

The same section, item 2e, states that we will not be allowed anymore space for watercraft than a number equal to the number of dwellings permitted in the first tier of property. Example: Our land, using the DNR formulas for density, will allow for 4.7 dwellings in our first tier. We now have 9 cabins total and will have 11 after expansion. BUT, we would be restricted to 4.7 spaces for watercraft to be continuously beached, moored, or docked. This means seven families will not have access to a boat. Do you think something is wrong?

Unfortunately, Crow Wing county has seen fit to apply these standards to any and all improvements of Commercial waterfront and is intending to apply all these requirements regardless of whether it is needed or warranted, rather than evaluating on a case by case basis.

I question whether the state government should be involved in telling us to plant trees to block views, dictate the colors we are to paint our buildings and tell us how many boats we are allowed to have available for our guests. I hope you agree or can offer some logical explanation for us, in the resort business, to understand this kind of selective discrimination.

SL committee: lousenuss process

Sincerely,
Tim Swenson

Timothy Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

That certainly implies that Mr. Swenson realized he could only have 4.7 mooring spaces and did not have those concrete pillars in place at the time. Bottom line, there is no evidence that these concrete pillars were put in before 1991 and thus no basis for a decision that these are legally nonconforming mooring spaces subject to "grandfathering."

Just to be sure, I asked the DNR if they had been provided any evidence that the concrete pillars were installed prior to 1991 or they had any record of any permission granted by the DNR to place these in the lake. Jake confirmed that no he had no such information.

Finally, I asked for all evidence provided by Applicant or relied upon by the DNR to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort. Assuming those 6 concrete pillars were legally nonconforming, that means that evidence would have to show that since 1991 there had not been more than a year where any of them had not been used. I guess that might be possible if you had a picture from every year from 1991 through 2026 that showed a boat moored to each pillar. Or someone who had been there every year since 1991 who could make such a claim. But there certainly wasn't that information in the Application Packet and since Jake asked for that proof from the Applicant, it is incumbent on the Applicant to provide that evidence. Jake said he used Google Earth aerial maps – but I think that was only back to 2008 – but those were not provided as requested for review so we could all see those pictures. In addition, that review could not have shown actual use for each year since 1991 when the concrete pillars would have had to been installed to qualify as legal nonconformities (as he said it was back to 2008). And that evidence isn't part of the Application Packet. That evidence should really be placed in the record……

Here are the questions and indented responses that Jake immediately provided after my request and copied to Chris Pence and Nicholette Dunlap at the County:

1. I see the limitation for mooring under the Shoreland Regulations 6120.3800 Subp. 5.B.(3)(c) and Land Use Ordinance Article 33.11.B.(5) - 1 mooring spot per dwelling in Tier 1 - but where is the exception for grandfathering of mooring spots under the Shoreland Regulations and the Land Use Ordinance? I'm sure it's there, I'd just like to see it. Doesn't the ability to "grandfather" lapse if there use discontinues for a period of 12 months? See, e.g., Minn. Stat. Sec. 394.36.

> It would seem that Statute 394.36 fits here, but ultimately interpretation of this statute in context with the use of the existing resort and proposed use is up to Crow Wing County to determine. I encourage you to contact the County for questions related to this topic.

2. I know you mentioned that you looked at the 2023 Google Earth Map and said other maps were kind of grainy, but can you provide a list of all evidence that you reviewed to conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort and, for transparency purposes, provide that evidence in a return email?

> I perused the exhibits provided by the applicant as well as Google Earth images as far back as 2008.

3. Can you explain how the evidence described in 2. above demonstrates a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the images and observed what appeared to be concrete anchors and/or boats moored in open water in addition to boat lifts and boats physically attached to a single dock facility.

4. Over what years did you conclude that there was a history of consistent continuous mooring of 11 watercraft at the resort?

I perused the exhibits provided by the applicant as well as Google Earth images dating as far back as 2008.

5. What evidence was provided to demonstrate exactly when the concrete pillars were installed by the previous owner?

I have not received any evidence about their placement nor by whom or when.

6. Does the DNR have any records of the previous owner seeking permission to install concrete pillars for mooring boats in the lake? If so, please provide such records.

I have not received any evidence about their placement nor by whom or when. We do not have written records of the concrete pillars being placed in the lake.

7. Are there specific buoy requirements for attaching to mooring locations? Was there any evidence of the historical consistent continuous placing of buoys on the concrete pillars? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when. As to how concrete pillars/buoys are regulated – if placed seasonally and removed seasonally, that would seem to be under the pervue of the County's Water Surface Ordinance for regulation. If placed permanently and not removed seasonally, that would seem to be a structure regulated by DNR through a permit. In this case, if placed permanently, those small individual structures appear to have been in place for quite some time and we have no plans to require removal of the structures at this time. Should the resort conversion be approved, the DNR will require removal of the concrete pillars/buoys with placement of watercraft at mooring spaces proposed on the single docking facility prior to its operation as a residential use.

8. Was there any evidence of the permitting for placement of buoys for mooring? Isn't that a requirement under Rule 6110.1500 Subparts 1 and 4? If so, was that information provided by the Applicant?

I have not received any evidence about their placement nor by whom or when.

Bottom line, we don't have the evidence to show (i) that the concrete moorings were installed prior to 1991 in order to qualify as legal conformities; and (ii) evidence of actual annual use from 1991 to 2025. I think it is only fair that Applicant (and neighbors) should have the opportunity to provide

additional evidence to support the "grandfathering" claim – namely, evidence demonstrating (i) when the concrete pillars were installed; (ii) required use in every year since installation along; (iii) compliance with buoy permitting and use required for use of concrete mooring usage - and make it part of the record so no challenges are made in the future over whether there was sufficient evidence to demonstrate the "grandfathering" exception to the DNR's prior conclusion that the resort was entitled to only 1 mooring space. The last thing we need is another appeal related to this property……..

III. IMPERVIOUS QUESTIONS AND ISSUES RELATED TO CONDITION 16

Finally, there are also questions regarding compliance with impervious limits. Presently, the resort exceeds the impervious limitations on the east side of County Road 4. Shouldn't that be addressed? And the application discusses 11 garage units tied to the existing dwellings. Are those to new garages on the west side of County Road 4? Won't that change the impervious numbers? Might that also be an issue that impacts density and triggers Condition 16?

In response to all of the negative comments related to the resort expansion in 1991, Condition 16 as revised (not eliminated as claimed on page 48 of the Application Packet) - states that:

> **Recommend to future Boards of Adjustment that any variances that might increase the density of people in this area be denied.**

It sure seems like selling off individual dwellings as year-round (versus seasonal), adding 11 garages for these dwellings across a dangerous part of 50 mile per hour County Road 4 and putting in a centralized dock with 11 mooring spaces with lifts, etc. is certainly going to increase the density of people in the area. And without a resort owner to police and have a vested interest in enforcing whatever rules might be on paper as part of an association agreement, etc., it's not hard to imagine the permanent residents will be parking expandable trailers, ice houses, motorhomes right next to each dwelling to house additional guests, etc. This will add to the impervious problems, runoff, septic and create the same nightmares from increased density of people that led the Board 35 years ago to recommend to future Boards to not allow. Condition 16 is just another reason to deny the present application.

IV. QUESTIONS RELATED TO HEALTH, SAFETY, GENERAL WELFARE, ETC.

A review of the comments demonstrate valid concerns over the resort expansion in 1991 and attempted resort conversion in 2021. As set forth above, the Board placed substantial conditions on the Conditional Use Permit 35 years ago to address those valid concerns. The truth is that many of those

conditions were ignored (buoyed swimming areas, dock roping, painting, etc.). But that doesn't mean that we should ignore those conditions today or newly triggered Conditions 15 and 16.

In addition, the concerns of the neighbors over whether the resort conversion fits within the neighboring community cannot be ignored. There is no other property on the south side of Pelican Lake that is remotely similar to the resort configuration or deviations from the Land Use Ordinance. The prior comments show real concerns over environmental issues including traffic, lake runoff, effect on wildlife, boating hazards, traffic hazards, negative impacts on the lake, etc.

On March 19, 2026, the Board considered an interim use permit for a wedding venue in Merrifield (parcels 53040581, 53040582, 53040583) because of the concerns related to noise, lighting, incompatibility with residential character of neighborhood, impact on lake and wetland area, traffic, road safety and water quality issues. The Board determined that the use is incompatible with the surrounding residential neighborhood and environmental context. See Minutes from Board Meeting of 3/19/96 at https://granicus-azasp-hypatia.s3.amazonaws.com/BbRMkvMaqQ5VL2wCjPtYzNPH?response-content-disposition=inline%3B%20filename%3D%22Approved%20PCBOA%20March%20Meeting%20Minutes.pdf%22%3B%20filename%2A%3DUTF-8%27%27Approved%2520PCBOA%2520March%2520Meeting%2520Minutes.pdf&response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIATHOFOHMMNY5Z5H5B%2F20260520%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Date=20260520T154711Z&X-Amz-Expires=300&X-Amz-SignedHeaders=host&X-Amz-Signature=07fa3bc5ad3c6a20d48bd86d0a1fb7403f76907cd6e57a7cf5cb2ee06e005011.

The numerous prior comments from the applications in 2021 reflect many of these same concerns, if not more, related to the present application. So, too, do the comments from 35 years ago related to the resort expansion. The residents genuinely care about preserving the jewel of the lakeshore and the lake that our forefathers preserved for us and we want to preserve for our children and those that have the privilege of making their way to the lake. That doesn't mean that we wish to exclude access to the lake – but the protections embodied in the Land Use Ordinance and the potential for a parade of horribles by countless children crossing County Road 4 to get their beach toys stored in a garage across a 50 mile per hour road with limited visibility is a disaster waiting to happen. And the shallow nature of the lake at this property and the neighbors swimming while boats cut through will only get worse with the 11 mooring spots that never really existed before in this narrow beach area. There are valid reasons for the limitations on the number of dwellings in Tier 1 and Tier 2 as well as the limits on the number of mooring spaces for new developments. In short, chaos created by this proposed conversion an understatement and the potential for damages to the lakeshore, lake and potentially human lives is real…….. But I will let all the prior (and future) comments deal with many of those issues.

V. LAST WORD ON IMPORTANCE OF ENFORCING CONDITIONS

Let me end by asking you to consider a very insightful comment submitted by Jay Pansing in response to the 2021 applications regarding the failure of the Board to honor existing conditions (Condition 15 in particular):

> If the Board approves the Application, it would beg the question, will any conditions associated with zoning and other approvals ever be enforced? Please note that the Pansing family sued to overturn the approvals granted in 1991, and settled the case relying on the Conditions that were attached, most especially number 15. If this Board ignores this Condition, no objector will be able to rely on conditions applied to any action by the Board.

Prior Comments, page 159.

This comment echoes numerous comments raised by neighbors in 2021 related to the fear over setting bad precedent. If conditions are not enforced, then there is no reason to issue them nor any reason to follow them. Enforcement of rules is what separates us from chaos. If there are no rules, then we all fail…..

Condition 15 is such a rule. It was put in place for good reason and everyone agreed to it – including Mr. Swenson (see letter of Tim Swenson dated May 27, 1991):

May 27, 1991
Page 3.

Thirteen- if this property ceases to be used as a resort, the area would be required to comply to zoning regulation of that date.
Fourteen- all units be hooked to a central deep well and central septic system.
Fifteen- Revised site plan. enclosed in this document and these words.

This plan strikes a compromise of minimal impact on the surrounding neighborhood, accomplishes our business goals and is devised using the ideals of both the DNR PUD guidelines and the approved Crow Wing County accepted planning and zoning ordinances without the need for variances, excess density problems or environmental stress on the area.

Sincerely,

Timothy K Swenson

Tim and Pat Swenson
Pelican Beach Resort
12683 County Road 4 No.
Nisswa, Mn. 56468
218-963-2777

Document 69089, page 19).

Failing to enforce this agreement that was adopted as Condition 15 as well as the other existing conditions is not only unfair – but would set a terrible precedent that we cannot afford to occur. Perhaps said best by the character of Winston in *John Wick: Chapter 2:*

"Rules. Without them, we live with the animals."

CONCLUSION

I wish I had more time and apologize for the typos and poor sentence structure. Like in 2021, there are a lot of unanswered questions and valid issues that must be further investigated. Applicant should be given an opportunity to review these issues, a chance to provide the missing evidence and address the comments from the past and present. In addition, the public should have time to fully consider this controversial request and seek comment from the Pelican Lake Association and Lake Edward Township, etc. This is true in light of all of the prior comments regarding the impacts to the general health and welfare of Applicant's proposal on the community. Consequently, I request that the applications be tabled for at least a month to provide all parties an opportunity to more fully address the applications and give the Board an opportunity to read the comments that are coming in just minutes before the meeting – unless the Board decides to summarily deny the requests under existing Condition 15 or 16. Thank you for considering these comments.

RECEIVED
By Stacy Westhoff at 12:41 pm, May 21, 2026

Stacy Westhoff

From: PCBOA
To: LandservicesVM
Subject: RE: Opposition to the Pelican Beach Holdings Application - Public Comment

From: Daniel Pansing <dpansing@meritcapital.com>
Sent: Thursday, May 21, 2026 12:12 PM
To: LandservicesVM <Landservices@crowwing.gov>; pcba@crowwing.gov
Subject: Opposition to the Pelican Beach Holdings Application - Public Comment

You don't often get email from dpansing@meritcapital.com. Learn why this is important

To the Crow Wing County Planning Commission:
I'm Dan Pansing and my wife and I are under contract to acquire the property at 26826 County Road 4 (two lots north of the subject Pelican Beach Resort property) on June 15, 2026. I am also part of the family that has peacefully enjoyed the property neighboring the resort to the north of the current resort for all of my 55 years so I am quite familiar with the resort property and its historical usage. (I am not an attorney as will no doubt become evident to you on your review of the following comment, but given the time constraints here, I felt the need to submit this as is so as to register my objection to what's happening.)

I only recently became aware of the proposed conversion since the formal plans and all that is involved were posted on the County site only a week ago. I was absolutely shocked by the proposal/plans. In particular, I'm troubled by the false assertions made to the DNR and the ultimate review conducted related to historical boat sites at the property. I'm equally troubled by the proposed increase in usage on the relatively small property and the apparent lack of any meaningful review in this regard. It will impact noise, boat traffic, health and safety for the neighbors. I strongly urge and request that the board defer its decision for 60 days, to provide time for other landowners on the lake to consult with counsel, review plans more thoroughly, demonstrate the actual historical usage, poll the neighbors, etc. I believe the statute permits a delay and that should be granted here so that the neighbors, all of whom will be highly impacted, can adequately respond (note that prior efforts regarding the same property and similar project drew significant negative response once there was adequate time for review).

1) As mentioned, I've been at the lake every summer for various periods over the last 55 years. I've never seen anything approaching eleven 30-foot boats at the resort property. Never. The assertion that historically something approaching 11 boats were moored on the property (ever, much less continuously) is patently false. Even a light investigation of the facts around this would make that clear. Certainly, there may have been a peak weekend or two where as many as 4 or 6 boats were moored there, but never anything approaching 11 boats and never anything consistently at a level over 4 or 6. Approving this project would result in a massive change to the lake's usage relative to its current/historical usage.

   For support of this number from the applicant, I saw an overhead picture that purports to show something approaching eleven 30-foot boats, but the count includes a "Maui Mat," and a swim platform as well as two or three Wave Runners. Even with that, the count doesn't reach 11 and it

appears the applicant only supplied one picture at on only one date as evidence (if there's more I don't see it in the agenda). And this clearly shows what would have to be considered peak usage. See the first two pictures below which look southwest toward the resort docks across a significant portion of the reviewed mooring area from our beach. While not perfect given timing constraints, careful review of the first picture shows a Maui Mat and a swim platform which appear in the application to be counted as 30-foot boats. Further, the second picture at a wider angle clearly shows not more than 4 or 5 boats along with the mat, swim platform and Wave Runner. Again, the DNR has been misled.

The third picture below is of a dog taken looking toward the resort docks from our neighboring family beach that shows the much more typical state of the resort boat area for the last many years. This shows nothing beyond the three slips on the end of the dock (only one occupied) and a swim platform (note that there is clearly no evidence of moorings or buoys in the water where they are purported to be). Naturally, the applicants cherry picked their photo/s. If this were really the usage level, they should be able to turn up additional photos on many additional dates evidencing it (and could in theory do that during the extension as well). I found the pictures below quickly searching through my phone for five minutes this morning. I'm certain even a light investigation and discussion with others along the shoreline will turn up clear refutation of the false assertions around this high level of historical moorings. The DNR has been misled and more work should be done to true up the facts here so the application can be corrected and right-sized. I ask for a statutorily permitted delay to allow this work to be done. This is in the County's interest as well as the interest of the DNR.







Note: Admittedly, these pictures could be improved and marked with more time and I would be happy to send electronic versions of my photos, if a method exists as this may be helpful for closer review, etc. (again, timing is too short to have allowed for this.)

2) I'm further highly troubled by the density of the proposed project. The number of units for a property of this size is outsized on its face, but clearly will be well in excess of what's historically gone on at the resort property for many years (it hasn't even been operational for several years). This is likely to have a serious negative impact on the nearby families' enjoyment of the lake as well as their property values, water quality, noise levels, boat traffic, etc. During the requested deferral, I intend to get educated on the history here, rules in this regard and address this more directly with the board as to health and safety issues and the law. <u>There just hasn't been sufficient time to ascertain what's being requested and respond.</u>

This decision is too important for this board to rush into based on a one-sided effort without adequate time for a comprehensive review and input from the community. After nearly 70 years of truly continuous family usage, we've had fewer than 7 days to respond to something that may have a massive negative impact on our lake. Prior applications were met with significant resistance. The statute allows more time for just this reason and the delay should be granted. Given what's at stake for the future of Pelican Lake as well as the long history of this kind of activity by these owners and the significant public record of historical opposition, a 60 day delay only makes sense. Thank you.

Respectfully submitted,
Daniel E. Pansing
4040 Ellington Ave.
Western Springs, IL 60558
C:773/294-8519

Daniel E. Pansing | **Merit Capital Partners**
191 North Wacker Drive, Suite 1100 | Chicago, IL 60606
O: 312.592.6160 | **C: 773.294.8519**
dpansing@meritcapital.com | www.meritcapital.com

RECEIVED
By Stacy Westhoff at 12:42 pm, May 21, 2026

Stacy Westhoff

From: Trecia Wiewel <treciawiewel@gmail.com>
Sent: Thursday, May 21, 2026 11:33 AM
To: PCBOA
Subject: Pelican Beach Holdings LLC

You don't often get email from treciawiewel@gmail.com. Learn why this is important

5-21-2026

Greetings Crow Commission Board of Adjustment,
I received the letter concerning the land use amendment for Crow Wing Parcel # 73040571 and have concerns for the changes to the land use and the timing information packet was sent out. It was not available 5-14-2026 as stated in the letter. It is a long information packet and due to the short time that the information about the changes to the land use have been available I am requesting more time to study the information.
Regards,
Trecia Wiewel & Steven Wiewel
26668 CR 4
Nisswa, MN 56468

RECEIVED
By Stacy Westhoff at 1:10 pm, May 21, 2026

Stacy Westhoff

From: LandservicesVM
Sent: Thursday, May 21, 2026 1:07 PM
To: PCBOA
Subject: FW: Letter Re: Pelican Holdings LLC Zoning Application
Attachments: Letter Re Pelican Holdings LLC Zoning Application.pdf

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From: Cody Schmidt <cschmidt@gqlaw.net>
Sent: Thursday, May 21, 2026 12:50 PM
To: LandservicesVM <Landservices@crowwing.gov>; Jim Gammello <jgammello@gqlaw.net>; Tom Pearson <tpearson@gqlaw.net>
Cc: Julie Fox <jfox@gqlaw.net>
Subject: Letter Re: Pelican Holdings LLC Zoning Application

You don't often get email from cschmidt@gqlaw.net. Learn why this is important

To whom it may concern,
Please see the attached letter for todays PCBOA meeting. We are requesting that it be sent to the members for discussion at the meeting this afternoon.

Sincerely,

CODY D. SCHMIDT
ATTORNEY AT LAW

Gammello-Pearson
Attorneys at Law

14275 Golf Course Drive, Suite 200
Baxter, MN 56425
218-828-9511
Fax: 218-824-8545

100 First Street Southeast
Little Falls, MN 56345
320-632-3606
Fax: 320-632-3567

http://www.gqlaw.net

IRS Circular 230 Notice:
To ensure compliance with requirements imposed by the IRS, we inform you that, except to the extent expressly provided to the contrary, any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

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The information in this communication, including any attachments, is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender immediately and delete the material from all sources. This communication was not intended to waive the attorney/client or any other privilege.

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Gammello-Pearson
Attorneys at Law

James M. Gammello • Thomas C. Pearson • Andrew B. Kalis • Conrad C. Kragness • Cody D. Schmidt

May 21, 2026

Planning Commission and Board of Adjustment Members
Crow Wing County Historic Courthouse
326 Laurel Street
Brainerd, MN 56401

Re: Support of the Pelican Holdings LLC Zoning Application, Subject to Certain Conditions
On behalf of Pansing/Plummer/Brooks Family Cabin, LLC
Our File No. 20521.003

Dear Board Members:

GENERAL BACKGROUND:

I represent the Pansing/Plummer/Brooks Family Cabin owners ("Pansing") who are the neighbors immediately to the north of Pelican Holdings LLC. The Pansing Family Cabin is a multi-generational property as the Pansings have owned property on Pelican Lake for many decades. Being the most impacted lots (along with Brent and Mary Urdahl to the South), it is important for my clients' opinions and voices to be heard in this discussion.

While there may be legal challenges available to them, my clients are generally agreeable with the proposed "conversion" as long as there are some simple additions/clarifications made to the CUP. As stewards of Pelican Lake, the Pansing Family very much would like certainty about what the use and appearance of their area of Pelican Lake will be, now and into the future. The suggested changes/clarifications/incorporations requested by the Pansing Family are as follows:

DOCKAGE:

While there may be legal arguments against the proposed dock on the May 13, 2026 survey, the Pansings have concluded that the dock plan, with 11 mooring locations on a single dock structure may be the best outcome for the situation, with some reasonable conditions placed in the CUP.

The county has already identified the dock as a potential issue but as noted in #6 of the Potential Conditions, the county should include a condition in the CUP that the Association maintains the dock as depicted in the May 13, 2026 COS, with a maximum of 11 mooring slips, and no additional mooring apparatuses of any kind including no free floating moorings. If this happens, the Pansings would support the dock plan.

CONDITIONAL USE PERMIT:

While the current owners, the original Declarants, agree to no short-term rentals, simply having the restriction in the Declaration does not set it in stone. Declarations can be changed with the required votes. My clients would just like to tie the no short-term rentals/VRBO to the CUP for the PUD as a specific condition. Adding no short-term rentals/VRBO to the CUP would ensure that this property is used in a fashion with the single-family characteristics of the area.

Allowing these individual units to operate as STRs would turn a resort with 1 owner and 11 units into the potential to have 11 resorts functioning with 11 different owners, simply by getting an STR permit from the county.

My clients also request a CUP condition that prohibits RVs, campers, tents and any other sleeping facilities on the property.

My clients also request a CUP condition that prohibits parking of RVs, trailers, etc. on the property.

My clients also request a CUP condition that there shall be no beaching of watercraft at the property.

DECLARATION:

This Declaration seems to only be in draft form; for example, Block 2 Lot 1 is not addressed in the Declaration, and no updated survey has been done to eliminate this additional lot, despite the applicants seemingly being willing to eliminate that as an extra lot or to incorporate it as a common lot. Prior to the final hearing in front of the County Board, my clients would like to see any updated draft Declaration in what they believe is final form, and we would like the opportunity to vet the second draft and possibly recommend revisions to it if we see the need. There are other aspects of the Declaration that need revision, as well, including a prohibition on VRBOs and more specifically with respect to the limit on mooring sites and some other matters. While we understand that the Declaration is only in draft form, we intend to communicate with the applicant's lawyer who drafted the Declaration in order to seek revisions to the Declaration.

CONCLUSION:

The Pansings are trying to be good neighbors and stewards of Pelican Lake. They are not trying to be difficult or make unreasonable demands, they simply want to have some certainty about what their neighboring property on Pelican Lake will look like and how it will operate with this conversion.

The Pansings concerns can be greatly reduced by incorporating these simple requests:

1. Tie the dock size of 11 slips and the layout as a condition of the CUP.

2. Condition approval on no short-term rentals/VRBOs and have updated declarations provided at least one week prior to the final meeting on the application.

Sincerely,

Cody D. Schmidt

CDS/cjb

cc: Clients

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

675

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: June 1, 2025 THRU December 31, 2025

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

260

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: January 1, 2024 THRU December 31, 2024

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

275

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 15, 2023 THRU December 31, 2023

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

246

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 1, 2022 THRU December 31, 2022

ISSUED TO:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Rd 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

POST
CONSPICUOUSLY

MINNESOTA DEPARTMENT of HEALTH
625 Robert Street North, P.O. Box 64975
Environmental Health Division
St. Paul, Minnesota 55164-0975
(651) 201-4500

NOT TRANSFERABLE
AS TO PERSON
OR PLACE

Fee Paid: $425.00

679

LICENSE NO. FBL-501-55429 FOR THE OPERATION OF:

License Categories: Base Fee - FBL, Category 1 Establishment, Hospitality Fee, 0-Private Sewer, 10-Resort

LICENSE PERIOD: May 29, 2021 THRU December 31, 2021

ISSUED TO:

Pelican Beach Resort
5829 County Rd 13
Nisswa, Minnesota 56468

ESTABLISHMENT NAME:

Pelican Beach Resort
26746 County Road 4
Nisswa, Minnesota 56468

License Type(s): Resort

County: Crow Wing

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Linda & Philip Tidd – Oak Ridge Terrace –Preliminary Plat

PREVIOUS ACTION:

May 21, 2026– The Planning Commission/Board of Adjustment made a motion to recommend approval of the preliminary plat of “Oak Ridge Terrace” to the County Board of Commissioners.

COMMENTS:

Mission Township Resolution Approving Preliminary Plat 4/13/2026

No other comments were received

Legal Description: Part of NE ¼ NW ¼

Section 6 Township 136 Range 27

Mission Township

PID: 77060515

RECOMMENDED BOARD ACTION:

Approve the preliminary plat of “Oak Ridge Terrace” with 5 lots

Approximate length of presentation: 5 minutes

Property Owner: Linda & Philip Tidd

Authorized Agent: Kevin McCormick

Parcel Number: 77060515

Township: Mission

Legal Description: Part of NE ¼ NW ¼
Section 6 Township 136 Range 27

Commercial District
Minimum lot size: 40,000 square feet
Minimum buildable area: 15,000 square feet
Minimum lot width: 100 feet

Development Review Team Meeting: 1/26/2026
Application Submitted: 3/16/2026
60 Day Action Deadline: 5/15/2026
60 Day Waiver: 7/14/2026
Wetland: No wetland Letter 7/18/2025
Septic: Winter Window
County Board: 6/09/2026

Current Land Use District: Commercial

Adjacent Land Use District:
North: Crosslake
South: Rural Residential 2.5
East: Commercial
West: Rural Residential 2.5

Request:

- Preliminary Plat:
  - "Oak Ridge Terrace" with 5 lots

Potential Conditions:

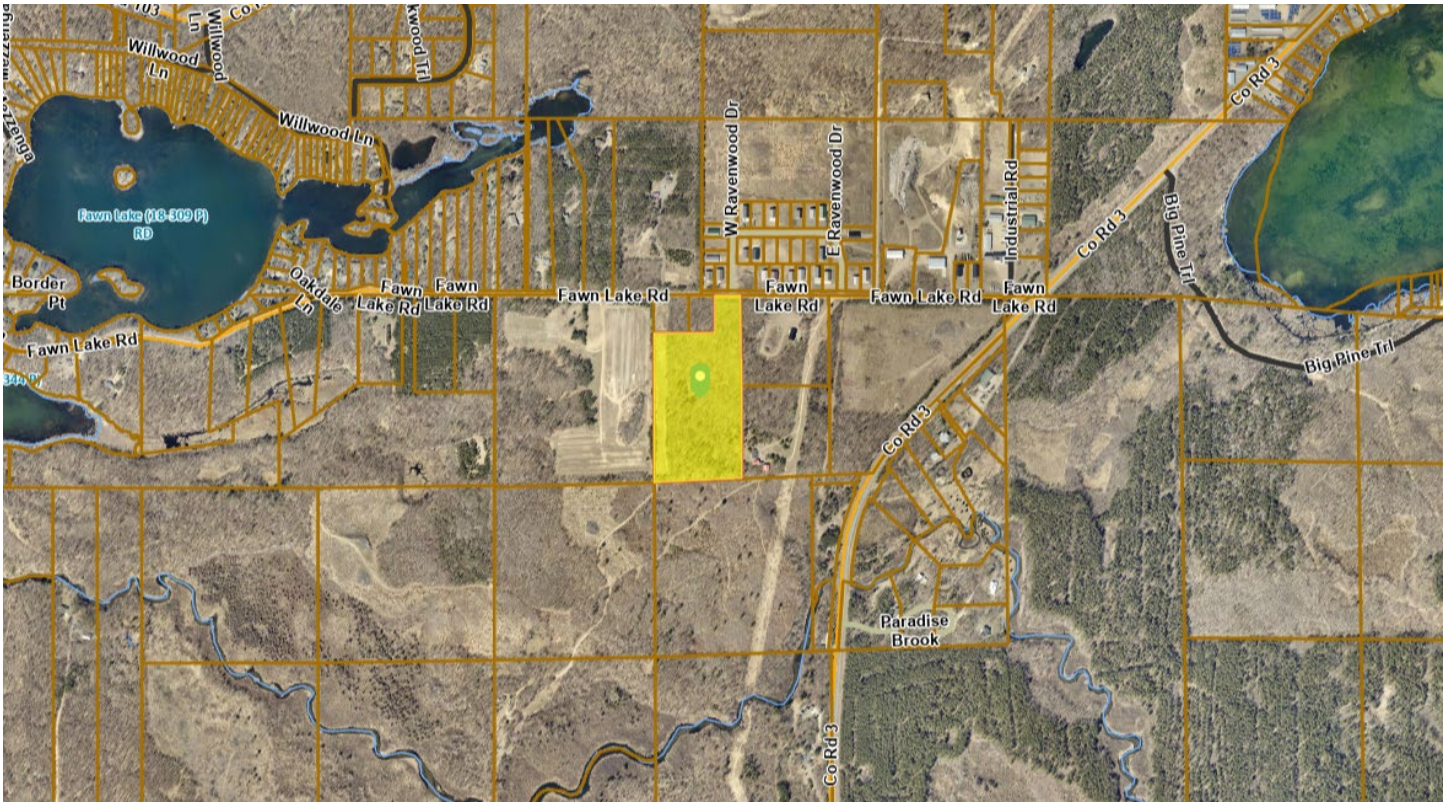
1. Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board
2. All applicable required improvements (Article 9.8) shall be effectively implemented
3. If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.
4. Documentation of plat monuments completed
5. Title Commitment (Before Final Plat)
6. Site Suitabilities must be submitted before final plat
7. Prior to final plat, it is required to amend the existing 66 foot across PID 77060533 to grant legal ingress/egress use for Tidd's.

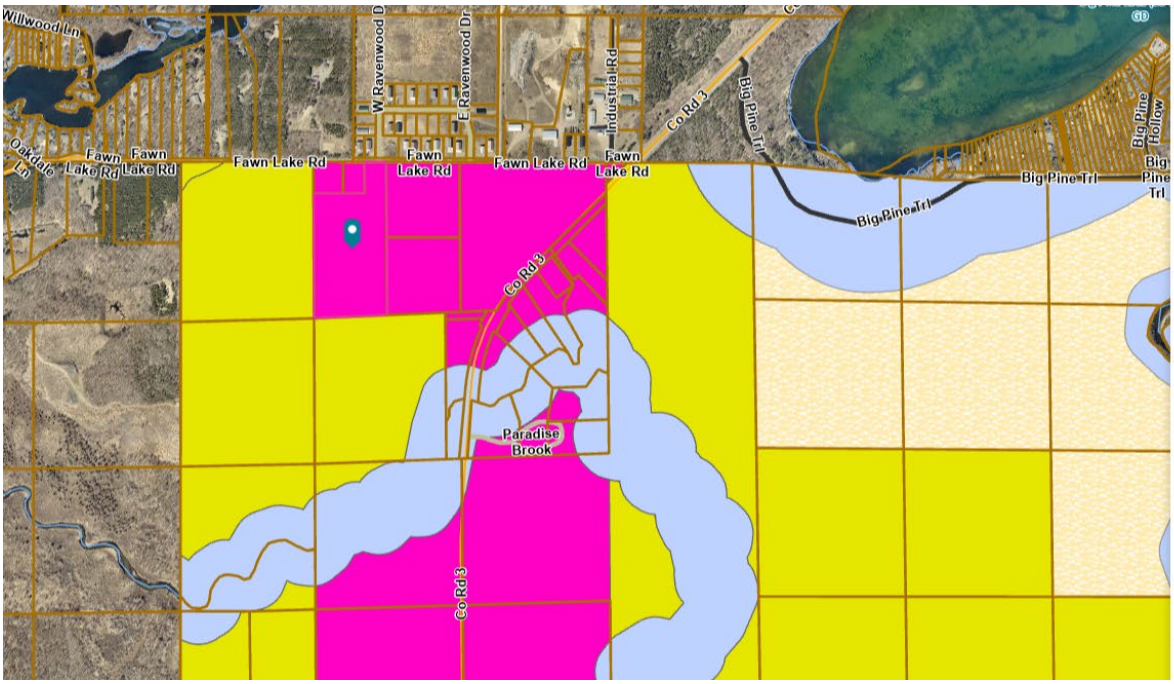
Permit History:

- 7/16/1976 – Land use permit for 26x30 garage
- 8/24/1976 – Public Hearing to amend zoning classification from waterfront Commercial to Residential – Approved
- 4/12/1982 – Conditional Use Permit for planned unit development, mobile home park– Canceled at applicant's request.
- 7/01/1984 – Sewer certificate of installation

Agencies Notified and Responses Received:
CWC Highway Department: No comment received as of 5/14/2026
MN DNR: No comment received as of 5/14/2026
SWCD: No comment received as of 5/14/2026
Mission Township Resolution Approving Preliminary Plat 4/13/2026

Per findings of fact discussed 5/21/2026, the application submitted 3/16/2026, the staff report, public testimony, and as shown on the Certificate of Survey dated 2/24/2026; Located in Mission Township, Crow Wing County, Minnesota





Township
City
Private
Public- Privately Maintained
Minimum Maintenance

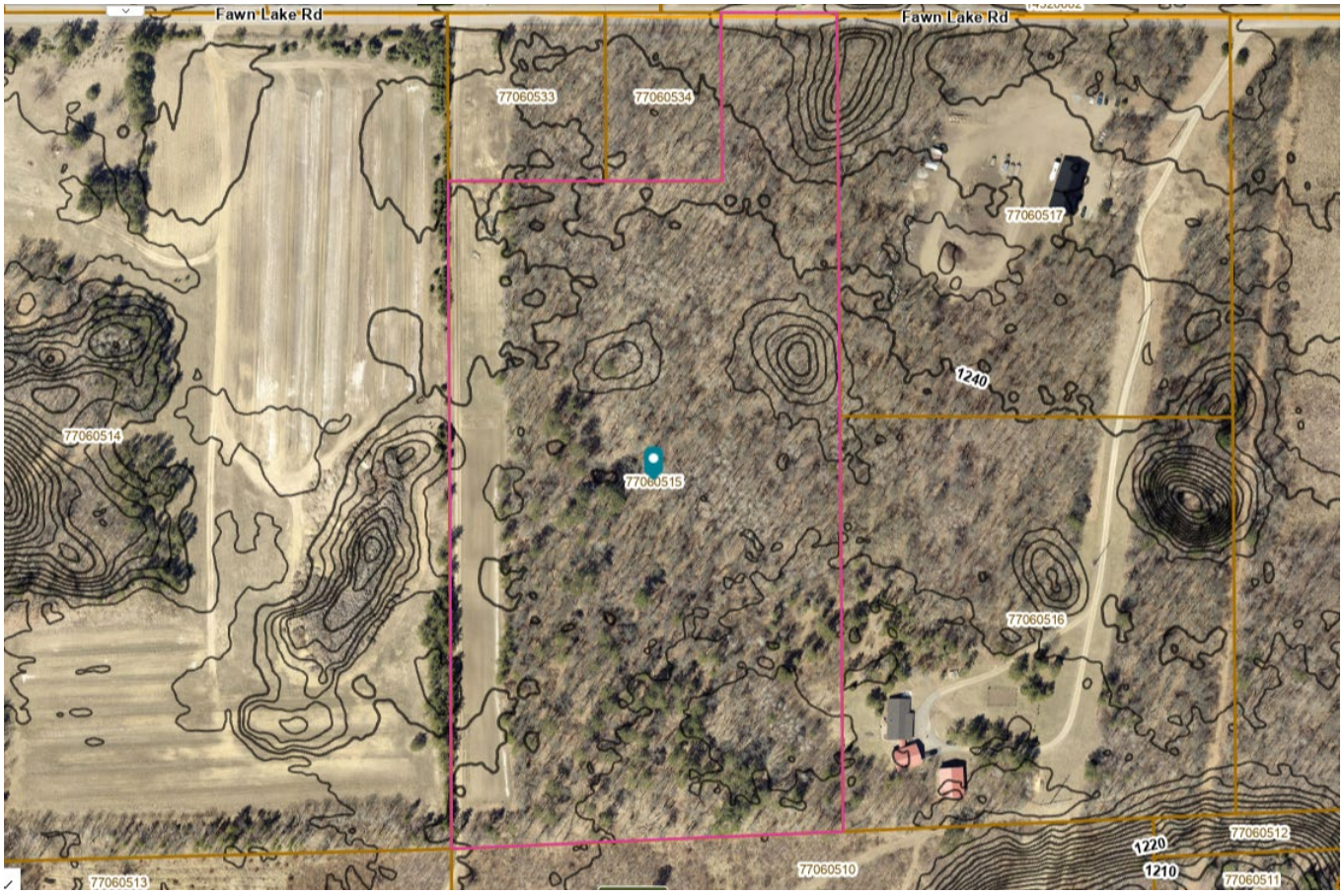
Land Use Map

Land_Use_Classification

- Agricultural/Forestry District
- Commercial District
- Commerical Industrial District
- Rural Residential - 1
- Rural Residential - 2.5
- Rural Residential - 5
- Rural Residential - 10
- Shoreland District
- County Administered
- Waterfront Commerical
- Other

Reference Basemap


Fawn Lake Rd
Fawn Lake Rd
77060533
77060534
77060517
77060514
77060515
77060516
77060512


Fawn Lake Rd
Fawn Lake Rd
77060533
77060534
77060517
1240
77060514
77060515
77060516
77060512
1220
1210
77060513
77060510
77060511

PRELIMINARY PLAT

OAK RIDGE TERRACE

Part of the NW 1/4 - NE 1/4
Section 6 Township 136 North Range 27 West
Crow Wing County, Minnesota

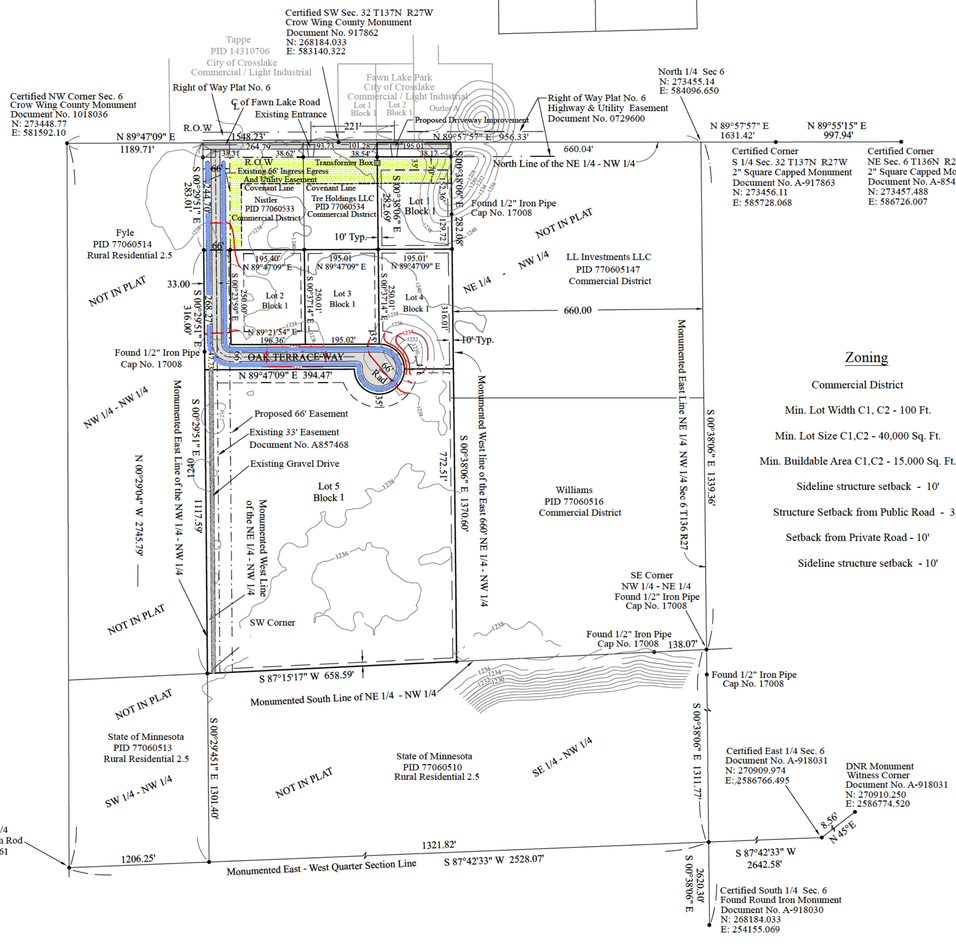
N
W E
S
0 200 400

Legend

- Set ½" Rebar Cap Number 15294
- Found Survey Monument
- Structure Setback Lines
- Existing Conservation Declaration
- Existing Contours
- Proposed Contours
- Storm Ditching

VICINITY MAP
SECTION 6 TOWNSHIP 136 NORTH RANGE 27 WEST





Legal Description

Document No. 1018236 Abstract

That part of the Northeast Quarter of the Northwest Quarter lying West of the East 660.00 feet. Section 6 Township 136 North Range 27 West Crow Wing County, Minnesota more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 6 Township 136 North Range 27 West; thence North 89 degrees 47 minutes 09 seconds East, assumed bearing along the North line of said Section 6 a distance of 1548.23, to the monumented southeast corner of Section 31 Township 137 North Range 27 West; thence North 89 degrees 57 minutes 57 seconds East 101.28 feet, to the point of beginning of the tract to be described; thence continuing North 89 degrees 57 minutes 57 seconds East 195.01 feet, to the northwest corner of the East 660.00 feet of said ; Northeast Quarter of the Northwest Quarter; thence South 00 degrees 38 minutes 06 seconds East, along the West line of said East 660.00 feet of the Northeast Quarter of the Northwest Quarter 1370.60 feet to the southwest corner of said East 660.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 87 degrees 15 minutes 17 seconds West along South line of said Northeast Quarter of the Northwest Quarter 658.59 feet, to the southwest corner of said Northeast Quarter of the Northwest Quarter; thence North 00 degrees 29 minutes 51 seconds West along the West line of said Northeast Quarter of the Northwest Quarter 1117.59 feet, to the easterly extension of the South line of the North 283.00 of the Northwest Quarter of the Northwest Quarter ; thence North 89 degrees 47 minutes 09 seconds East 460.47 feet; thence North 00 degress 38 minutes 06 seconds West 282.69 feet, to the point of beginning.

Subject to Fawn Lake Road Right of Way Plat No. 6

Subject to an 66' ingress egress and utility easement over under and across the West 66 feet of the North 283.01feet of the Northeast Quarter of the Northwest Quarter.

Subject to easements, covenants, conditions, restrictions, and reservations of record

Note: Proposed Lot 1 Block 1 is restricted by Declaration of Covenants, Conditions and Restrictions Document No. 1018237

Zoning

Commercial District

Min. Lot Width C1, C2 - 100 Ft.

Min. Lot Size C1,C2 - 40,000 Sq. Ft.

Min. Buildable Area C1,C2 - 15,000 Sq. Ft.

Sideline structure setback - 10'

Structure Setback from Public Road - 35'

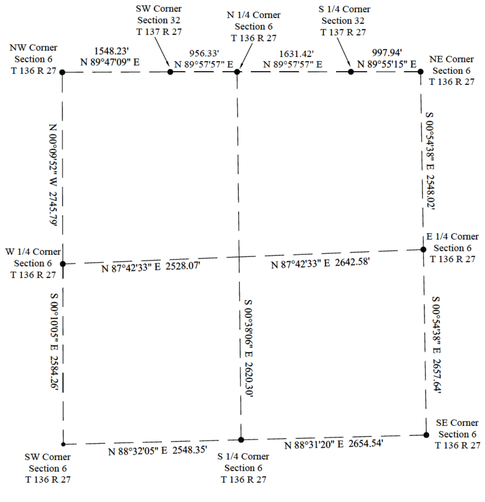
Setback from Private Road - 10'

Sideline structure setback - 10'

Notes:

1. No bluffs are contained on property.
2. No Steep Slopes are present on the property.
3. No historical sites are know to be contained on property.
4. No FEMA Zone or BFE has been established.
5. Existing Zoning Commercial District.
6. No Wetlands are present on the property. Verified by Meister Environmental Services Certified Wetland Delineation No.1031 completed on July 18th 2025.
7. Contour Intervals 2' obtained from Crow Wing County LIDAR North zone.
8. Current & Proposed Access is from Fawn Lake Road.
9. Vegetation and topographic alterations will comply with current ordinance requirements.
10. Utilities will be serviced by individual wells and septic systems.
11. Existing soils indicate predominantly Sandy Loam, Loam Sand and Sand soils as indicated in the soil suitability reports
12. No endangered , threatened, rare or critical species , both flora and fauna have been observed on site.
13. Ample domestic water is available in the area as indicated by the Crow Wing County Aquifer Mapping. The area indicates water aquifer depths ranging from 50' to greater than 75' in depth.
14. Proposed Oak Terrace Way is to be dedicated for public use.

Section 6 Detail



Lot 1 Block 1

Total Boundary Area 55,065 +/-, 1.2 Acre +/-

Total Boundary Area Less R.O.W. Plat 47,585 +/-

Total Buildable Area 34,829 Sq. Ft.+/-

Lot 2 Block 1

Total Boundary Area 48,964 +/-, 1.1 Acre +/-

Total Buildable Area 30,915 Sq. Ft.+/-

Lot 3 Block 1

Total Boundary Area 48,751 +/-, 1.1 Acre +/-

Total Buildable Area 35,876 Sq. Ft.+/-

Lot 4 Block 1

Total Boundary Area 58,222 +/-, 1.3 Acre +/-

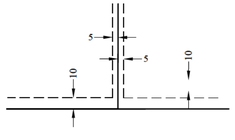
Total Buildable Area 45,752 Sq. Ft.+/-

Lot 5 Block 1

Total Boundary Area 11.7 Acre +/-

Total Buildable Area 10.3 Acre +/-

DRAINAGE AND UTILITY EASEMENTS ARE AS SHOWN



BEING 5 FEET IN WIDTH AND ADJOINING ALL INTERIOR SIDE LOT LINES AND 10 FEET IN WIDTH AND ADJOINING ALL ALL ROAD RIGHT OF WAY LINES UNLESS OTHERWISE SHOWN

Existing PID No. 77060515

Total Acreage to be developed 17.9 Acres

Total Acreage to be developed less County Road right of way 17.7 Acres

Fee Owner : Philip & Linda Tidd

Developer : Philip & Linda Tidd

Planner / Designer: Kevin McCormick Land Design Solutions LLC.

Professional Land Surveyor: John Hinzmann Jr. PLS No. 15294

Professional Civil Engineer: John Hinzmann Jr. PLS No. 1529

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE WEST LINE OF THE NE - NW QUARTER TO HAVE AN ASSUMED BEARING OF S 00° 29' 51" E

9853

GRADING & STORMWATER MAN AGMENT PLAN

Storm Water Treatment Calculation Private Drive

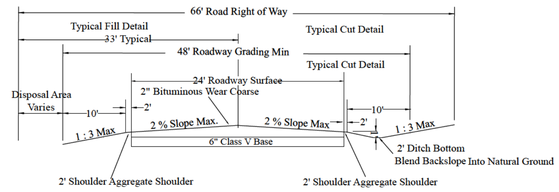
(Surface Area) 28,831 x 0.80 (coefficient) x 0.523 (6.28 " 24 hr 100 yr event) = 12,063 Cubic Ft. Storage Required

Total Top of Ditch Surface Area = 19,826 sq. ft.

Total Bottom Ditch Surface Area = 6,884 sq. ft.

Total volume capacity 13,355 cubic ft. provided

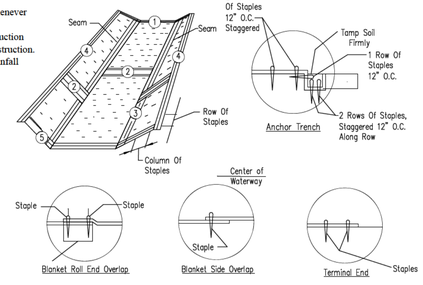
Drainage Ditch Treatment
Construction Typical



Temporary Erosion Control Notes

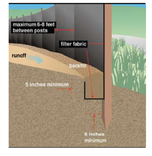
a) Use of temporary berms, straw bails, or silt fencing to divert flow from unprotected slopes to stabilize ditches, and to diver sediment laden runoff .
b) Temporary berms, straw bails, or silt fencing shall be constructed at the top of all erodible cut slopes as designated by a person certified in the preparation, installation, or inspection of SWPPP and erosion control methods.
c) Stabilize temporary berms outside limits of construction with vegetation or rip rap whenever the profile grade is greater than 2%.
d) Construct the temporary berms, straw bails, or silt fencing outside the limits of construction before actual project construction begins and seed berm within 15 calendar days of construction.
e) Maintain the Temporary berms, straw bails, or silt fencing by inspecting after each rainfall and/or once weekly and repair as needed
f) Temporary berms may remain in place as permanent berms.

DITCHING DETAIL



SILT FENCE DETAIL

SILT FENCE DETAIL "A"



SILT FENCE DETAIL "B"



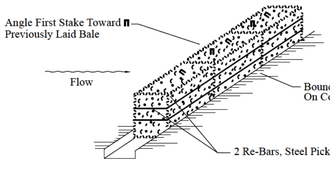
Best Management Practices shall be adhered to in the installation of all silt fencing. All silt fencing shall also be maintained as needed throughout the project site, for the duration of the project. No silt fencing shall be removed until turf has been establishment throughout the construction area for this site.

Bales shall be placed at the top of slope or on the contour and in a row with ends tightly abutting the adjacent bales.

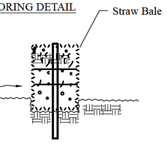
Bales shall be securely anchored in place by either two stakes or re-bars driven through the bale. The first stake in each bale shall be driven toward the previously laid bale at an angle to force the bales together. Stakes shall be driven flush with the bale. not to block or impede storm flow or drainage.

Inspection shall be frequent and repair replacement shall be made Bales shall be removed when they have served their usefulness so as

BEDDING DETAIL



ANCHORING DETAIL



Revised 04/27/2026 Decreased drawing scale to 200

Revised 04/07/2026 Removed OUTLOT A ; OAK TERRACE WAY to be dedicated to the public

Land Design Solutions
Complete Land Development Consultation Services
11821 Lake Trail Crosslake Minnesota 56442
218 820 0854
landdesignsolutions.co

I hereby certify that this survey was completed by me, or under my direct supervision and that I am a duly licensed Civil Engineer and Land Surveyor of the State of Minnesota.

PRELIMINARY PLAT
Survey Prepared for: Phil & Linda Tidd
12168 County Road 11
Pequot Lakes, MN 56472

DATE 02/24/2026 | SCALE 1" = 200' | PROJECT NO. 25-025B

MISSION TOWNSHIP
CROW WING COUNTY, MINNESOTA
Resolution No. 2026-02

RESOLUTION APPROVING THE PRELIMINARY PLAT OF OAK RIDGE TERRACE

WHEREAS, Kevin McCormick ("**Applicant**") and Phil and Linda Tidd ("**Owners**") submitted an application to Mission Township ("**Town**") for preliminary approval of a plat to be located on property within the Town that is legally described in the attached Exhibit A ("**Property**");

WHEREAS, the Applicant proposes to create five single lots, without creating any new streets, parks, or other public ways, as part of the plat to be called "Oak Ridge Terrace" ("**Subdivision**");

WHEREAS, a copy of the plat for the proposed Subdivision to be located on the Property is attached hereto as Exhibit B;

WHEREAS, Crow Wing County ("**County**") is ultimately responsible under the County's Subdivision regulations for processing and acting on Applicant's request for preliminary plat approval and then final plat approval for the Subdivision, however, pursuant to the Mission Township Subdivision Ordinance ("**Town Ordinance**") and Minnesota Statutes, section 505.09, the County is prohibited from approving a plat within the Town unless the Town Board first approves the plat and the laying of streets and other public ways shown on it;

WHEREAS, under Section 8 of the Town Ordinance, the Applicant must apply to the Town for preliminary plat approval for the Subdivision before seeking preliminary approval from the County;

WHEREAS, under Section 8(c) of the Town Ordinance, the Town Board is to review an application for approval of a preliminary plat at a regular meeting, with the Applicant expected to attend to answer questions from the Town Board, and the Town Board may condition its approval of the preliminary plat; and

WHEREAS, the Town Board considered the Applicant's request for preliminary plat approval at its April 13, 2026, meeting and hereby finds and determines as follows:

a. The proposed Subdivision uses the conventional development design, not the conservation development design, and so is consistent with the Town Ordinance.

b. The proposed Subdivision does not create any new infrastructure for which the Town may be responsible.

c. The lots being established as part of the Subdivision have access to a public road,

though any new accesses to be constructed must first receive approval from the affected road authority.

d. The County is responsible for determining compliance of the Subdivision with the County's subdivision regulations and with any other County zoning regulations which may apply.

e. The Town Board determines the Subdivision is consistent with the Town Ordinance and the public interests.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board that it hereby approves the preliminary plat of the Subdivision, subject to compliance with all of the following conditions:

1. The Applicant is solely responsible for seeking and obtaining all approvals for the proposed Subdivision from the County and for complying with all other applicable federal, state, and local, laws, rules, regulations, and ordinances and for obtaining any permits or permissions which may be required.

2. The Applicant is not required to enter into a development agreement with the Town regarding the proposed Subdivision.

3. The Applicant is responsible to provide for Town approval on the final plat registered with Crow Wing County and the Town Chairperson is authorized to execute the final plat on the Town's behalf once the County issues its final approval for the Subdivision.

4. Under Section 8(d) of the Town Ordinance, approval of the preliminary plat is conditioned on the final plat being substantially similar to the preliminary plat approved by the Town Board. If there are any significant changes between the approved preliminary plat and the proposed final plat, the developer shall be required to obtain Town Board approval of the proposed final plat before seeking final approval from the county. A significant change in the plat requiring additional approval from the Town Board includes, but is not necessarily limited to, a change in the number of proposed lots, the addition, extension, or relocation of any platted roads, or the addition or removal of any dedicated park land or stormwater facilities.

Adopted on this 13th day of April 2026.

BY THE TOWN BOARD

NAOMI SCOTT
Clerk, Mission Township, Crow Wing Co., MN
Notarial Officer (ex-officio notary public)
My term is indeterminate

Attest: _____
Naomi Scott, Clerk

_____
Jon Auge, Chair

EXHIBIT A

Legal Description of PID 77060515

That part of the Northeast Quarter of the Northwest Quarter lying West of the East 660.00 feet. Section 6 Township 136 North Range 27 West Crow Wing County, Minnesota more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 6 Township 136 North Range 27 West; thence North 89 degrees 47 minutes 09 seconds East, assumed bearing along the North line of said Section 6 a distance of 1548.23, to the monumented southeast corner of Section 31 Township 137 North Range 27 West; thence North 89 degrees 57 minutes 57 seconds East 101.28 feet, to the point of beginning of the tract to be described; thence continuing North 89 degrees 57 minutes 57 seconds East 195.01 feet, to the northwest corner of the East 660.00 feet of said ; Northeast Quarter of the Northwest Quarter; thence South 00 degrees 38 minutes 06 seconds East, along the West line of said East 660.00 feet of the Northeast Quarter of the Northwest Quarter 1370.60 feet to the southwest corner of said East 660.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 87 degrees 15 minutes 17 seconds West along South line of said Northeast Quarter of the Northwest Quarter 658.59 feet, to the southwest corner of said Northeast Quarter of the Northwest Quarter; thence North 00 degrees 29 minutes 51 seconds West along the West line of said Northeast Quarter of the Northwest Quarter 1117.59 feet, to the easterly extension of the South line of the North 283.00 of the Northwest Quarter of the Northwest Quarter ; thence North 89 degrees 47 minutes 09 seconds East 460.47 feet; thence North 00 degrees 38 minutes 06 seconds West 282.69 feet, to the point of beginning.

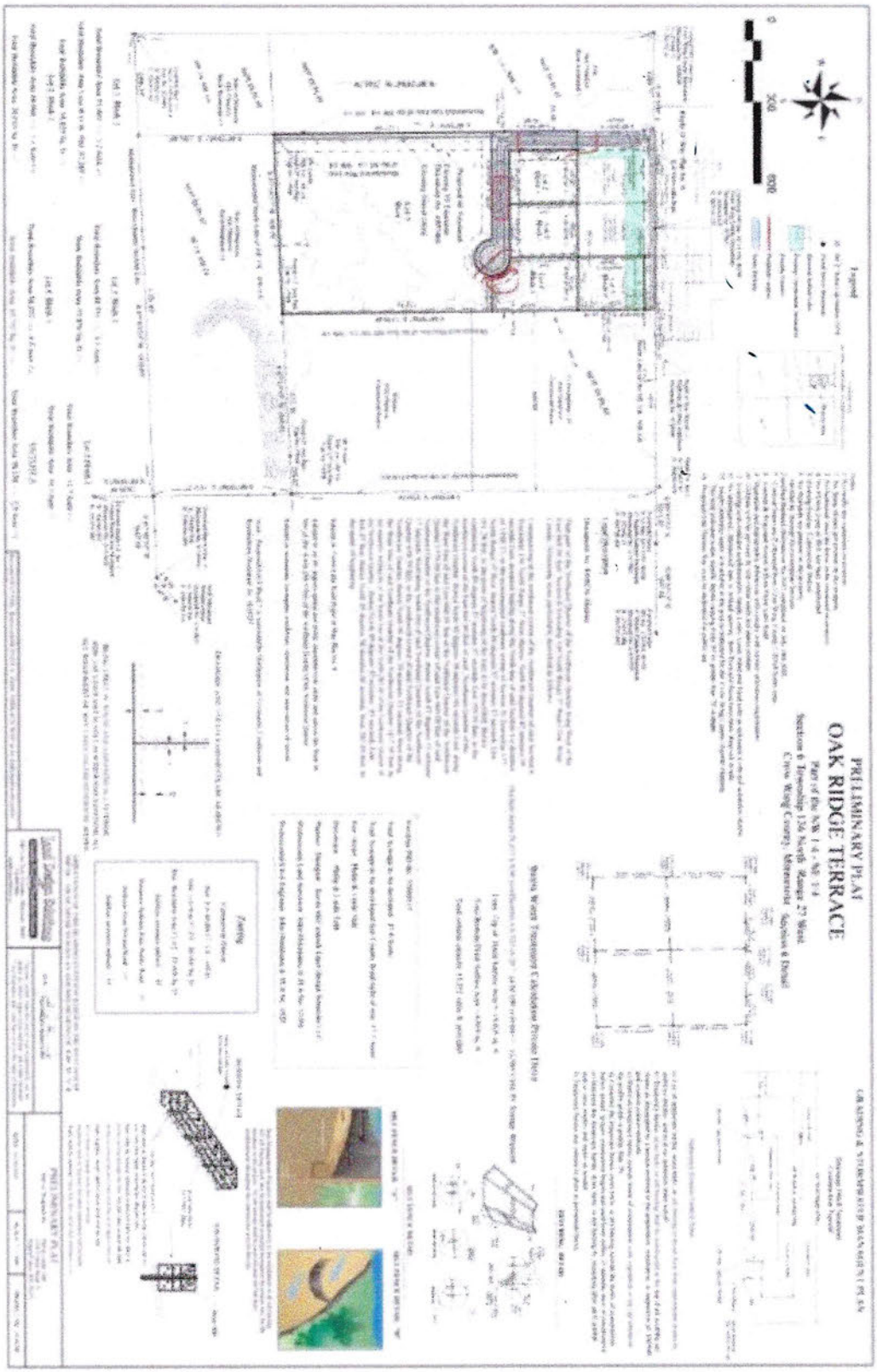
Subject to Fawn Lake Road Right of Way Plat No. 6

Subject to an 66' ingress egress and utility easement over under and across the West 66 feet of the North 238.01feet of the Northeast Quarter of the Northwest Quarter.

Subject to easements, covenants, conditions, restrictions, and reservations of record.

EXHIBIT B

Preliminary Plat of the Subdivision



PROJECT OULINE

TO: Crow Wing County Planning Commission

FROM: Kevin McCormick Project Manager Land Design Solutions LLC

DATE: March 16, 2026

RE: **Preliminary Plat of OAK RIDGE TERRACE**

Planning Commission Members,

On behalf of my clients, Philip and Linda Tidd, I am submitting the preliminary plat of Oak Ridge Terrace for your review.

The proposed subdivision is zoned "Commercial District".

The project includes five lots, all of which exceed the minimum requirements set by the Crow Wing County subdivision ordinance in the Commercial Zoning district.

Key details of the plat include:

- Tree Preservation: A Declaration of Covenants, Conditions and Restrictions Doc. No. 1018237 provides a 70-foot tree preservation restriction over Lot 1 Block 1 .
- Access and Easements: An existing 66-foot easement across Parcel 77060533 provides access to the private roadway (Outlot A.)
- A 66-foot easement along the west line of Lot 5, Block 1 is provided for potential future access to additional parcels not owned by the applicant.
- Roadway Specifications: The private roadway will be constructed as a gravel drive according to County and Township road specifications, allowing for future paving or Township maintenance of the roadway.
- The proposed “Storm Water” calculations provide for the treatment of the 100 year storm event in the constructed ditches as shown on the preliminary plat. All storm water is contained with the project site

- A roadway maintenance agreement will be provided prior to recording the plat.
- The existing entrance from Fawn Lake Road accessing Lot 1, Block 1 will be augmented to meet current County Highway Department requirements.

Thank you for your for time and consideration in the approval of the proposed subdivision.

Please feel free to contact me with any questions or concerns you may have

Respectfully submitted.

Land Design Solutions LLC.



Kevin T McCormick Owner
Professional Land Surveyor North Dakota/Wisconsin
Direct 218.820.0854
E-mail kevin@landdesignsolution.net

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

WHEREAS, Philip Tidd and Linda Tidd (hereinafter "Declarant") is the owner of the real property described as follows:

Tracts A, B, & C of NEI/4 OF NWI/4 EXC E 660 FT THEREOF (See attached Exhibit "A")

WHEREAS, Declarant makes this the Declaration of Covenants, Conditions, and Restrictions to protect the development of the real estate above.

NOW, THEREFORE, Declarant does hereby declare that the real property described above shall be held, transferred, sold, conveyed, and occupied, subject to the Covenants, Conditions, and Restrictions as hereinafter set forth.

1. There will be a No Cut Zone established to retain screening from the Township road for Tract A, B & C. The zone will be 70 feet to the south from the road right of way of Fawn Lake Road. Also on Tract A 30 feet No Cut zone easterly form the right of way of the easement along the westerly line of Tract A. The No Cut does not limit the removal of dead or diseased trees. The intent is to retain healthy trees in a forest setting.

2. There will be no hunting allowed.

3. The foregoing Covenants, Conditions, and Restrictions establish uniform plan for the benefit of the parties hereto, their heirs, successors, and assigns, and shall continue as covenants running with the land in favor of said parties, their heirs, successors and assigns for a term of 20 years from the date of this document. At the expiration of 20 years, said covenants will renew for an additional 10 years to be reviewed for renewal every 10 years thereafter.

CROW WING COUNTY MINNESOTA
Document No.: 1018237 ABSTRACT
12/12/2025 03:51 PM Total Pages: 4
Fees/Taxes in the Amount of: $46.00

GARY GRIFFIN
County Recorder
Deputy: Tamrap

Philip A Tidd

By _____

STATE OF MINNESOTA)

)SS.

COUNTY OF CROW WING)



The foregoing instrument was acknowledged before me this 21st day of October, 2025 by Philip A Tidd.

x Lorelie Huesmann
Title: Notary Public
Exp Date: January 31, 2027



Linda A Tidd

By _____

STATE OF MINNESOTA)

)SS.

COUNTY OF CROW WING)

The foregoing instrument was acknowledged before me this 21st day of October, 2025 by Linda A Tidd.



x Lorelie Huesmann
Title: Notary Public
Exp Date: January 31, 2027

Drafted by:
Larson Group
Keller Williams Realty
35770 Allen Ave Suite 2
Crosslake MN 56442

Tract A

That part of the Northeast Quarter of the Northwest Quarter lying West of the East 660.00 feet. Section 6 Township 136 North Range 27 West Crow Wing County, Minnesota more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 6 Township 136 North Range 27 West; thence North 89 degrees 47 minutes 09 seconds East, assumed bearing along the North line of said Section 6 a distance of 1,189.71 feet to the northwest corner Northeast Quarter of the Northwest Quarter the point of beginning of the tract to be described; thence continuing North 89 degrees 47 minutes 09 seconds East 264.79 feet; thence South 00 degrees 38 minutes 06 seconds East 283.01 feet, to the easterly extension of the South line of the North 283.00 of the Northwest Quarter of the Northwest Quarter; thence South 89 degrees 47 minutes 09 seconds West 265.46 feet, to the West line of said Northeast Quarter of the Northwest Quarter; thence North 00 degrees 29 minutes 51 seconds West 283.01 feet, to the point of beginning

Subject to Fawn Lake Road Right of Way Plat No. 6

Subject to an 66 f oot ingress egress and utility easement over under and across the West 66 feet of the North 283.01 feet of the Northeast Quarter of the Northwest Quarter.

Subject to easements, covenants, conditions, restrictions, and reservations of record

Tract B

That part of the Northeast Quarter of the Northwest Quarter lying West of the East 660.00 feet. Section 6 Township 136 North Range 27 West Crow Wing County, Minnesota more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 6 Township 136 North Range 27 West; thence North 89 degrees 47 minutes 09 seconds East, assumed bearing along the North line of said Section 6 a distance of 1454.50, to the point of beginning of the tract to be described; thence continuing along said North line North 89 degrees 47 minutes 09 seconds East 93.73 feet, to the monumented southeast corner of Section 31 Township 137 North Range 27 West; thence North 89 degrees 57 minutes 57 seconds East 101.28 feet; thence South 00 degrees 38 minutes 06 seconds East 282.69 feet, to the easterly extension of the South line of the North 283.00 of the Northwest Quarter of the Northwest Quarter; thence South 89 degrees 47 minutes 09 seconds West 195.01 feet; thence North 00 degrees 38 minutes 06 seconds West 283.01, to the point of beginning.

Subject to Fawn Lake Road Right of Way Plat No. 6

Subject to easements, covenants, conditions, restrictions, and reservations of record

Remnant-(TRACT C)

That part of the Northeast Quarter of the Northwest Quarter lying West of the East 660.00 feet. Section 6 Township 136 North Range 27 West Crow Wing County, Minnesota more particularly described as follows:

Commencing at the northwest corner of the Northwest Quarter of said Section 6 Township 136 North Range 27 West; thence North 89 degrees 47 minutes 09 seconds East, assumed bearing along the North line of said Section 6 a distance of 1548.23, to the monumented southeast corner of Section 31 Township 137 North Range 27 West; thence North 89 degrees 57 minutes 57 seconds East 101.28 feet, to the point of beginning of the tract to be described; thence continuing North 89 degrees 57 minutes 57 seconds East 195.01 feet, to the northwest corner of the East 660.00 feet of said ; Northeast Quarter of the Northwest Quarter; thence South 00 degrees 38 minutes 06 seconds East, along the West line of said East 660.00 feet of the Northeast Quarter of the Northwest Quarter 1370.60 feet to the southwest corner of said East 660.00 feet of said Northeast Quarter of the Northwest Quarter; thence South 87 degrees 15 minutes 17 seconds West along South line of said Northeast Quarter of the Northwest Quarter 658.59 feet, to the southwest corner of said Northeast Quarter of the Northwest Quarter; thence North 00 degrees 29 minutes 51 seconds West along the West line of said Northeast Quarter of the Northwest Quarter 1117.59 feet, to the easterly extension of the South line of the North 283.00 of the Northwest Quarter of the Northwest Quarter ; thence North 89 degrees 47 minutes 09 seconds East 460.47 feet; thence North 00 degrees 38 minutes 06 seconds West 282.69 feet, to the point of beginning.

Subject to Fawn Lake Road Right of Way Plat No. 6

Subject to an 66 foot ingress egress and utility easement over under and across the West 66 feet of the North 283.01 feet of the Northeast Quarter of the Northwest Quarter.

Subject to easements, covenants, conditions, restrictions, and reservations of record

Development Review Team (DRT) Meeting Minutes

Date: January 26, 2026
Time: 10:30 am
Facilitator: Nicholette Dunlap (Senior Environmental Specialist)
Recorder: Stacy Westhoff (Planning Coordinator)

Attendees

- Nicholette Dunlap – Senior Environmental Specialist
- Stacy Westhoff – Planning Coordinator
- Matt Keller – County Highway Department
- Keven McCormick – Applicant
- Jon Auge – Mission Township Representative
- Chris – Environmental Services Manager

Agenda & Key Discussion Points

Project Overview

- **Proposal:** To plat property in Mission Township (off Lake Road).
- **Current Status:**
    - Two portions previously handled via administrative subdivision.
    - Moving into formal platting process.

1. **Road Access & Easement**

    - 66-ft easement proposed for private road access.
    - Discussion on **private vs. public road dedication**:
        - Ordinance currently requires outlot for access serving more than two parcels.
        - Concerns about long-term maintenance and future township responsibility.
    - Suggested approach:
        - Quarter-share interest among lot owners with a road maintenance agreement.
        - Consider dedicating as a public street upfront to avoid confusion.

2. **Conservation & Restrictions**

    - Property includes conservation area:
        - 70-ft setback from road for preservation.
    - Existing conservation declaration noted; verification needed.

3. **Lot Configuration**

    - Lots 1–3 and additional lots discussed.
    - Lot numbering adjustments suggested for clarity.
    - Commercial zoning confirmed for the area; potential for future development.

4. **Easement Expansion**

    - Existing 33-ft easement may need expansion to 66 ft for access.
    - State land involvement noted; easement alignment to be clarified.

Next Steps

- Update survey and confirm easement details.
- Prepare preliminary plat with correct lot numbering and conservation notes.
- Follow up with applicant and township on maintenance agreement and access standards.
- Timeline: Preliminary plat expected to move quickly; calendar provided for deadlines.

Action Items

- **Applicant:**
    - Work with surveyor to finalize plat and easement.
    - Ensure conservation restrictions are included in legal documents.

Platted Subdivision - 77060515 - McCormick - Saved

Application

Application Summary | Plat | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) *	77060515 ×
Parcel number *	77060515
Owner name	TIDD, PHILIP A & LINDA A
Physical address	
Physical city	
Physical zip	
Township	MISSION TOWNSHIP
Shoreland District	No
Shoreland Protection Zone	No
Riparian	No
Within 500ft of the Mississippi	No
Lake/River	
Deeded acres	17.90
Zoning	RR-2.5

Owner Information

Name *	TIDD, PHILIP A & LINDA A	Mailing Street 1 *	12698 County Road 11
Phone Number *	[redacted]	Mailing Street 2	---
Email *	[redacted]	Mailing City *	Pequot Lakes
		Mailing State *	Minnesota
		Mailing Zip code *	56472

Application Type	Platted Subdivision ×

Applicant Information

Applicant *	Kevin McCormick ×
Is Applicant the Property owner *	I am not the owner.
Authorized Agent Name	---
Public Hearing Agent Type	Surveyor
Contractor License Number	---
Email	[redacted]
Phone	[redacted]
Assisted at Counter	No
Customer Service Rep	
Application Submit Date	3/16/2026

Preliminary or Final Plat

Is this a preliminary plat or final plat?	Preliminary plat

Required Items - Preliminary Plat

Development Review Team (DRT) Meeting	Yes
DRT Meeting Date	---
Are you submitting preliminary plat and final plat together	---
Is a survey on file following the requirements of Article 9 & 44 of the Land Use Ordinance	---
Enter number of proposed lots	5
Enter number of proposed Out-lots	1
Do all lots have access to a 66' wide road?	---
Required septic information on file	---
Is wetland info on file with CWC?	Yes

Findings of Fact

Does the proposed plat conform to the County's Comprehensive Plan?	Yes promotes development of land
Is the proposal consistent with the existing County Subdivision Ordinance? Specify the applicable sections of the ordinance.	Yes no rezoning is required, all lots exceed the minimun requirments
Are there any other standards, rules or requirements that this plat must meet? Specify other required standards.	None
Is the proposed plat compatible with the present land uses in the area of the proposal?	Yes the plat is surrounded by comercial zoning and commercial development
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	Yes all requirments have been met
How are the potential environmental impacts being resolved? (Does the plat meet County standards?) Explanation should include: Stormwater, Erosion/Sediment Control, Wetlands, Floodplains, Shoreland, Septic Systems	No environmental encumbrances are expected, Minimal grading is required for the development.
Have the potential public health, safety or traffic generation impacts been addressed?	Yes, low impact to the area. Access to the property in existing.

CROW WING COUNTY
MINNESOTA

NOTICE OF DECISION

Property Owner: Linda & Philip Tidd

Authorized Agent: Kevin McCormick

Parcel Number: 77060515

Township: Mission

Your application for the Preliminary Plat of "Oak Ridge Terrace" has been recommended for approval to the County Board of Commissioners on May 21, 2026, by the Planning Commission. Your application will now be placed on the June 9, 2026, County Board Agenda.

Conditions:

1. **Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board**
2. **All applicable required improvements (Article 9.8) shall be effectively implemented**
3. **If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.**
4. **Documentation of plat monuments completed**
5. **Title Commitment (Before Final Plat)**
6. **Site Suitabilities must be submitted before final plat**
7. **Prior to final plat, it is required to amend the existing 66 foot across PID 77060533 to grant legal ingress/egress use for Tidd's.**

Date: 5/22/2026

Chris Pence

Chris Pence Environmental Services Manager

CROW WING COUNTY STAFF PRELIMINARY FINDINGS OF FACT SUPPORTING/DENYING A PRELIMINARY PLAT

Name of Applicant: Linda & Philip Tidd Date: May 21, 2026

PID: 77060515

FINDINGS OF FACT:

1. ***Does the proposed plat conform to the County's Comprehensive Plan?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- Goal 1: Plan for residential development that meets the needs of residents of all ages and income levels, focusing on an aging population and moderately priced housing for area workers. Balance interests between short-term rentals and long-term housing needs. Support the development of housing that balances natural resources, creates a sense of community, and connects to recreational amenities and open space. (pg. 68)
  - Policy 1: Promote policies and development that make housing more attainable for all income levels and abilities, especially workers, seniors, and first-time homebuyers.
  - Policy 2: Pursue development opportunities that provide for all stages of life and are accessible to all residents.
  - Policy 3: Encourage mixed-use development to create neighborhoods and communities around existing and new housing.

2. ***Is the proposal consistent with the existing County Subdivision Ordinance? Specify applicable sections of the Ordinance.***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- Mission Township considered the plat and approved it on April 13, 2026, satisfying the township notification and consideration requirements of Article 9.6(E)(2).
- Meets minimum Commercial District lot standards (40,000 sq ft lot area, 15,000 sq ft buildable area, 100 ft width) required under Article 16.4, Table 16.1.
- A winter window form was received 03/16/26 for septic site suitability.

3. ***Are there any other standards, rules or requirements that this plat must meet?***
   Yes ☐ ***No*** ☒ ***Why or why not?***

- A winter window form was received 03/16/26 for septic site suitability.
- A no wetland letter was provided as a result of a wetland delineation of the parcels and was submitted to the Land Services Department on 07/16/2025 by Ben Meister.
- Prior to final plat, it is required to amend the existing 66 foot across PID 77060533 to grant legal ingress/egress use for Tidd's.

4. ***Is the proposed plat compatible with the present land uses in the area of the proposal?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- This property is zoned Commercial District. The properties to the west, east and south are a mix of residential and commercial. The properties to the north are in the City of Crosslake and are commercial in nature. The two forty-acre parcels to the south are DNR property.

5. ***Does the plat conform to all applicable performance standards in Article 9 of the Subdivision Ordinance?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Mission Township considered the plat and approved it on April 13, 2026, satisfying the township notification and consideration requirements of Article 9.6(E)(2).
- The proposed plat meets the requirements of Articles 9 and 16 of the Land Use Ordinance.
- A winter window form was received 03/16/26 for septic site suitability.
- A no wetland letter was provided as a result of a wetland delineation of the parcels and was submitted to the Land Services Department on 07/16/2025 by Ben Meister.

6. ***How are the potential environmental impacts being resolved? (Does the plat meet County Standards?)***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Stormwater: This will be administered through the land use permit process for each individual lot.
- Erosion/Sediment Control: This will be administered through the land use permit process for each individual lot.
- Wetlands: A no wetland letter was provided as a result of a wetland delineation of the parcels and was submitted to the Land Services Department on 07/16/2025 by Ben Meister.
- Septic Systems: A compliance inspection was received for the existing system on 9/19/24, A winter window form was received 04/06/26 for septic site suitability.

7. ***Have the potential public health, safety or traffic generation impacts been addressed?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- There will be no public health, safety or significant traffic generated impacts from this plat.
- A winter window form was received 03/16/26 for septic site suitability.
- A wetland delineation of the parcels was submitted to the Land Services Department on 03/23/2026 by Brinks Wetland Services.

8. ***Other issues pertinent to this matter: None***

9. ***Township recommendation: Approval on 4/13/26***

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Sean Gragert – Hooker Landing –Preliminary Plat

PREVIOUS ACTION:

May 21, 2026– The Planning Commission/Board of Adjustment made a motion to recommend approval of the preliminary plat of “Hooker Landing” to the County Board of Commissioners. The Planning Commission/Board of Adjustment also approved a variance to allow the access road to be 33 feet instead of the required 66 feet.

COMMENTS:

No Township comments received

Two comments received from the Public

No other comments or recommendations received

Legal Description: Part of Government Lot 2

Section 06 Township 137 Range 26

Fairfield Township

PID: 60060516

RECOMMENDED BOARD ACTION:

Approve the preliminary plat of “Hooker Landing” consisting of 2 lots

Approximate length of presentation: 5 minutes

Property Owner: Sean Gragert

Authorized Agent: Justin Horstman

Parcel Number: 60060516

Physical Address: 38509 Pickerel Trail, Crosslake, MN, 56442

Township: Fairfield

Legal Description: Part of Government Lot 2
Section 06 Township 137 Range 26

Pickerel Lake – Natural Environment – Lake Setback of 150 feet
Minimum lot size: 80,000 square feet
Minimum buildable area: 40,000 square feet
Minimum lot width: 200 feet

Development Review Team Meeting: 03/09/2026
Application Submitted: 4/07/2026
60 Day Action Deadline: 6/06/2026
60 Day Waiver:
Wetland: Delineation 3/23/2026
Septic: Compliance inspection 9/19/2024 – Winter window for site suitability
County Board Meeting: 6/09/2026

Land Use District: Shoreland

Adjacent Land Use:
North: Pickerel Lake, Shoreland
South: Shoreland
East: Shoreland
West: Pickerel Lake

Request:

1. Variance:
    - Road access width of 33 feet where 66 feet is required.

2. Preliminary Plat:
    - “Hooker Landing” with 2 lots

Potential Conditions:

Variance:

- None

Preliminary Plat:

1. Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board

2. All applicable required improvements (Article 9.8) shall be effectively implemented
3. If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.
4. Documentation of plat monuments completed
5. Title Commitment (Before Final Plat)
6. Site Suitabilities must be submitted before final plat

5/07/2026 On-Site Comments: Griffin, Pence, Dunlap, Westhoff, Best, Maske

- Notification published in the Brainerd Dispatch on 4/25/2026
- Only one additional parcel is being added, even though the applicant has the opportunity to request more.

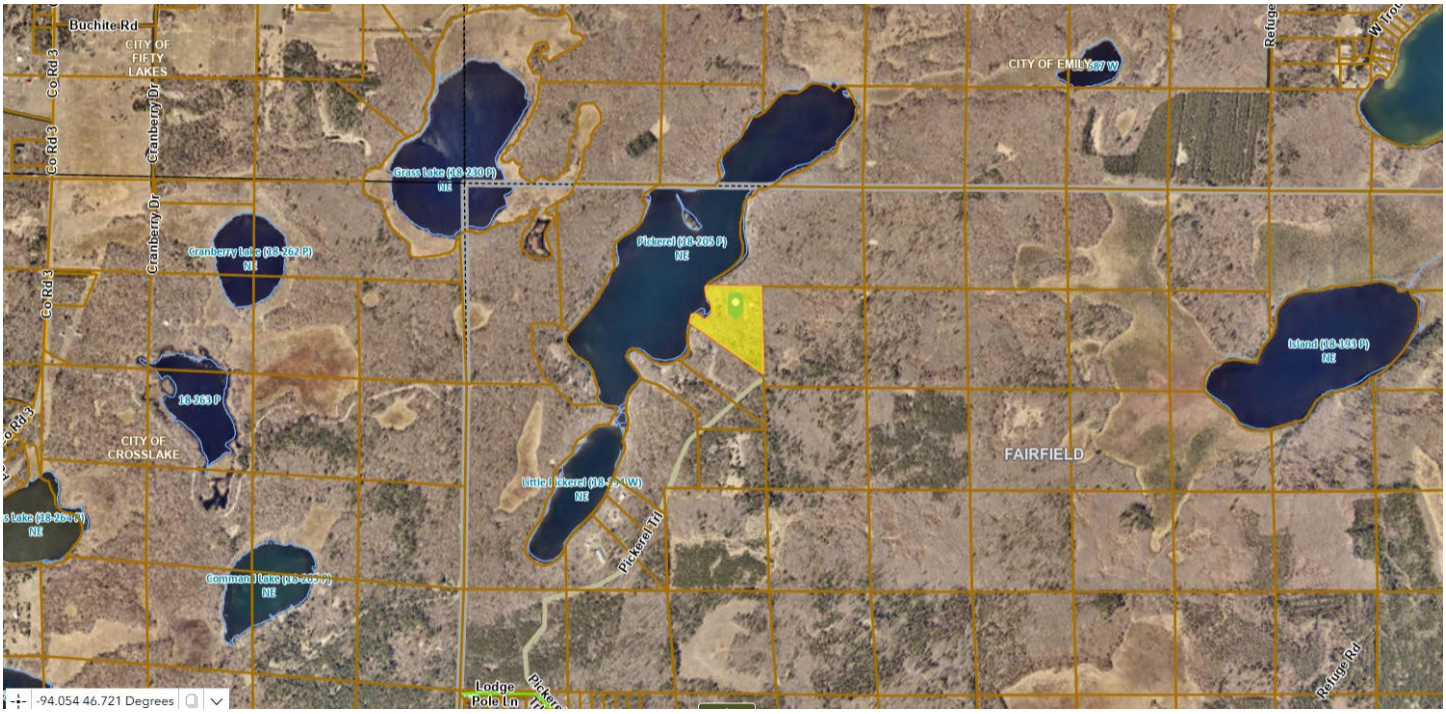
Permit History:

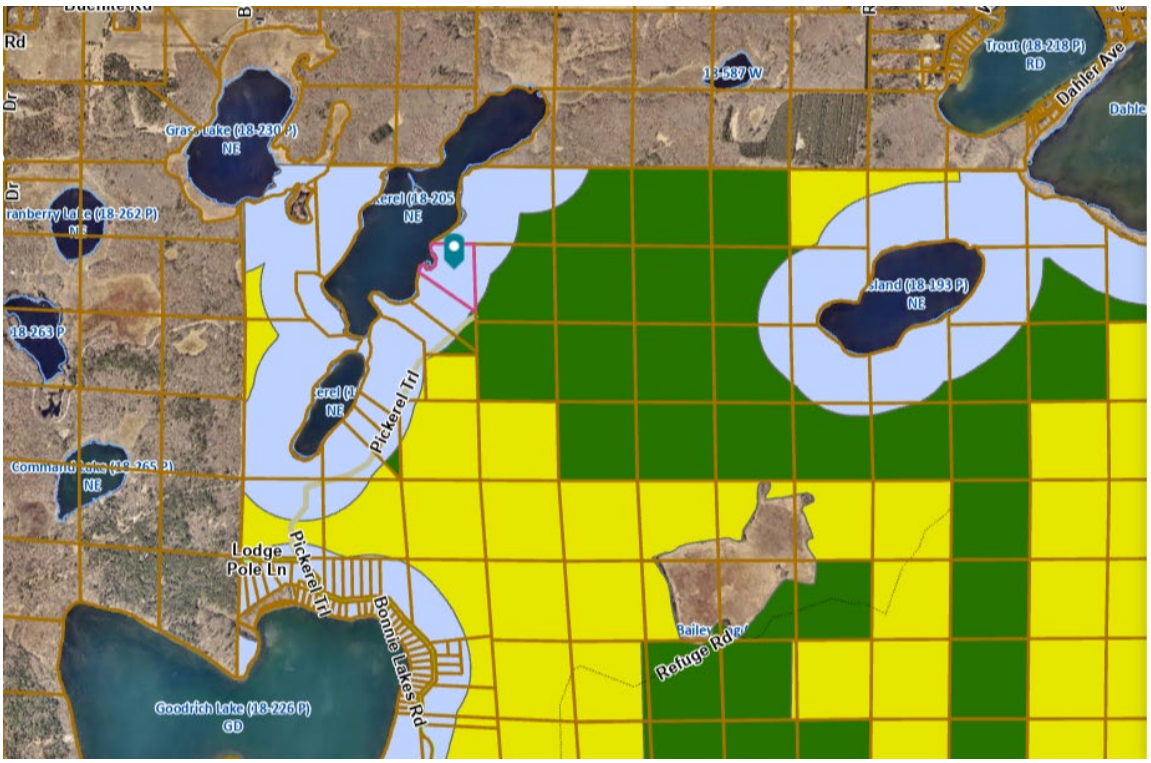
- 12/13/1988 – Public Hearing – zoning reclassification from Agricultural to Rural Residential
- 10/31/2003 – Land Use Permit – Construct 40x60 garage with living quarters, to install new septic system.
- 04/21/2004 – Sewer Certificate – 2 bed system
- 01/08/2010 – Land Use Permit – Upgrade existing septic system
- 03/02/2010 – Administrative Decision – Decision: Permit issued in 2003 should have been a dwelling and not guest quarters.
- 04/15/2010 – Public Hearing – Home Business that provides counseling
- 05/03/2010 – Sewer Certificate – 5-bedroom system.
- 04/24/2013 – Shoreland Alteration permit – Redo steps/access to lake.

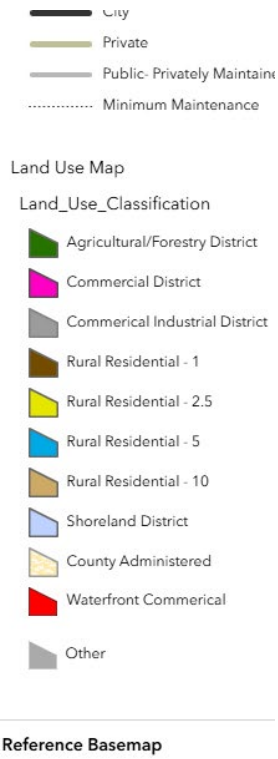
Agencies Notified and Responses Received:
CWC Highway Department: No comment received as of 5/14/2026
MN DNR: No comment received as of 5/14/2026
SWCD: No comment received as of 5/14/2026
Fairfield Township: No comment received as of 5/14/2026

Public Hearing notifications:
Mailing notification sent on 5/08/2026 to owners in a ½ mile radius of parcel.
Published in the Brainerd Dispatch on 5/09/2026

Per findings of fact discussed 5/21/2026, the application submitted 4/07/2026, the staff report, on-site conducted 5/07/2026, public testimony, and as shown on the Certificate of Survey dated 3/06/2026; Located in Fairfield Township, Crow Wing County, Minnesota


Buchite Rd
CITY OF FIFTY LAKES
Co Rd 3
Cranberry Dr
Grass Lake (18-230 P)
NE
Cranberry Lake (18-262 P)
NE
Pickerel (18-205 P)
NE
CITY OF EMILY
Island (18-193 P)
NE
18-263 P
CITY OF CROSSLAKE
FAIRFIELD
Pickerel Trl
Lodge Pole Ln
Refuge Rd
-94.054 46.721 Degrees

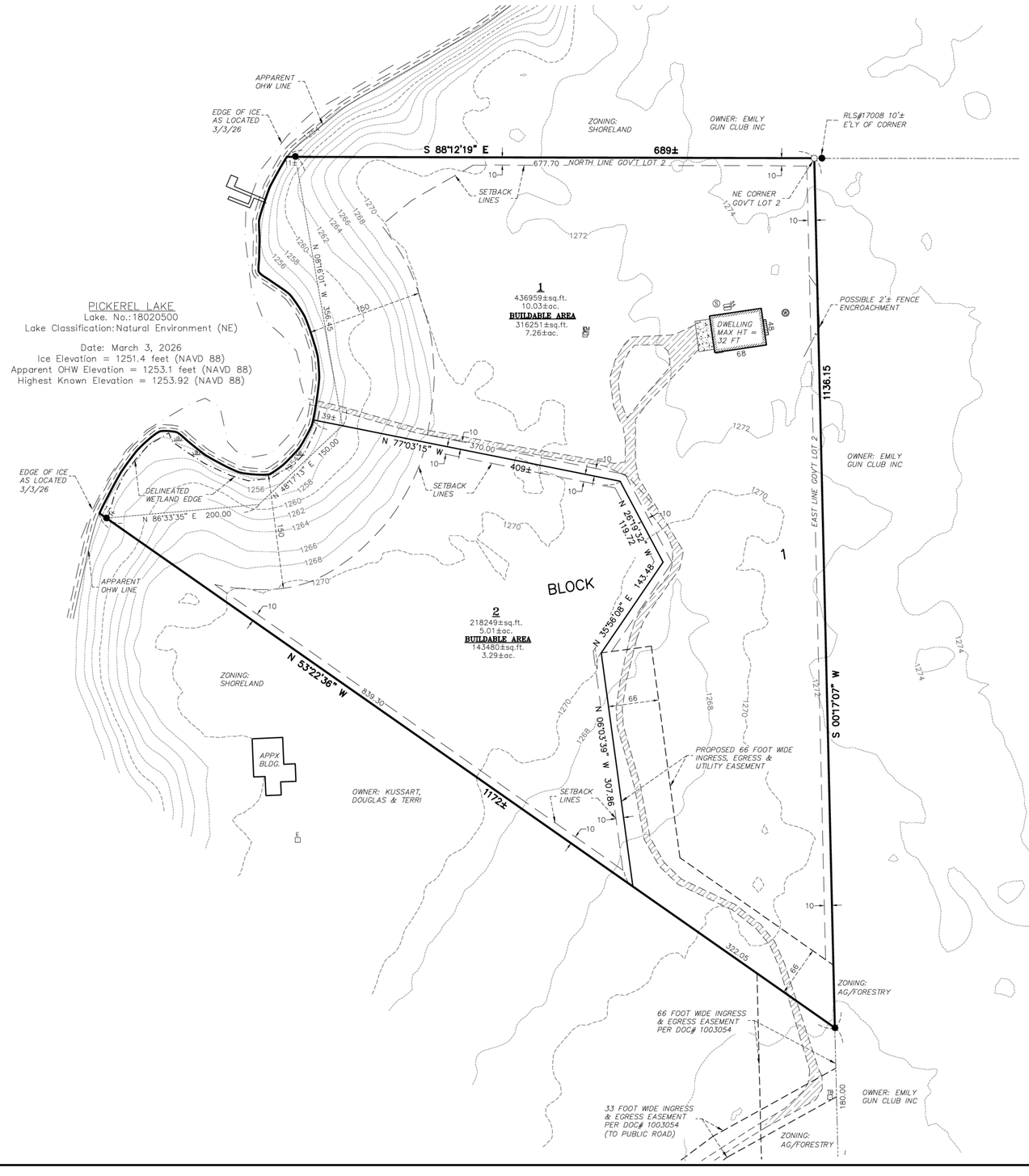

Trout (18-218 P)
RD
Dahler Ave
Grass Lake (18-230 P)
NE
Cranberry Lake (18-262 P)
NE
Pickerel (18-205
NE
Island (18-193 P)
NE
18-263 P
Pickerel Trl
Lodge Pole Ln
Bonnie Lakes Rd
Refuge Rd
Goodrich Lake (18-226 P)
GD


City
Private
Public- Privately Maintaine
Minimum Maintenance
Land Use Map
Land_Use_Classification
Agricultural/Forestry District
Commercial District
Commerical Industrial District
Rural Residential - 1
Rural Residential - 2.5
Rural Residential - 5
Rural Residential - 10
Shoreland District
County Administered
Waterfront Commerical
Other
Reference Basemap


Pickerel (18-205 P)
NE
60060516
60060514
60060515
60060503


Pickerel (18-205 P)
NE
60060516
60060514
60060515
60060503

HOOKER LANDING
PRELIMINARY PLAT





GRAPHIC SCALE

80 0 40 80 160

(IN FEET)

LEGEND

- DENOTES 1/2 INCH IRON PIPE SET AND MARKED WITH RLS 59285 CAP.
- DENOTES FOUND SURVEY MONUMENT
- DENOTES TELEPHONE PEDESTAL
- DENOTES ELECTRIC BOX
- DENOTES ELECTRIC METER
- DENOTES WELL
- DENOTES SEPTIC MANHOLE
- DENOTES L.P. TANK
- DENOTES DELINEATED WETLAND
- DENOTES DECK
- DENOTES GRAVEL SURFACE
- DENOTES CONCRETE SURFACE
- DENOTES ELECTRIC FENCE
- 1260 DENOTES 2 FOOT LIDAR CONTOURS (NAVD 88)

DESCRIPTION -(As Per Doc. No. -1003054 Parcel No.: 60060516)

That part of Government Lot 2, Section 6, Township 137, Range 26, described as follows: Beginning at the Northeast corner of said Government Lot 2; thence South 0 degrees 17 minutes 07 seconds West, assumed bearing along the East line thereof 1136.16 feet; thence North 53 degrees 22 minutes 36 seconds West 1171 feet, more or less to the shoreline of Pickerel Lake; thence Northeasterly along said shoreline to the North line of said Government Lot 2; thence South 88 degrees 12 minutes 19 seconds East along said North line. 688 feet, more or less, to the point of beginning.

SURVEYOR'S NOTES:

1. *Bearing Orientation: The east line of Government Lot 2 of Section 6, Township 137, Range 26 is assumed to have a bearing of South 00 degrees 17 minutes 07 seconds West.*
2. *Benchmark: Top of Well Casing. Elevation = 1275.92 feet (NAVD88)*
3. *The field survey was completed on 3/5/2026. There was approximately 12 inches of snow cover across the property being surveyed.*
4. *Arro Land Surveying of Brainerd, INC. has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.*
5. *Existing Certificate of Survey, dated 11-18-1991, prepared by David Landecker, MN Lic. No. 17008 was referenced in the preparation of this survey.*
6. *The utilities as shown on this survey were developed from the visible utilities across your property and is not implied nor intended to be the complete inventory of utilities in this area. It is the client's responsibility to verify the location of all utilities prior to construction or improving your property.*
7. *Property Zoning: Shoreland*
8. *Setback Requirements: OHW (NE) = 150 feet Property Line = 10 feet*
9. *The apparent OHW as shown is an approximate location based on observations made in the field to be utilized for approximate parcels areas and should not be utilized for building setback purposes. Should an accurate OHW be needed it is recommended the MNDNR hydrologist be contacted for a determination.*
10. *There if no available flood information for Pickerel Lake.*

LAND AREA:
15.04 ACRES

MINIMUM LOT REQUIREMENTS:

MINIMUM LOT AREA	=	80,000 sq ft
MINIMUM LOT WIDTH	=	200 feet
MINIMUM LOT BUILDABLE	=	40,000 sq ft

Mn DNR:
Mn DNR has not established the Ordinary High Water Elevations. The 150 foot setback as shown on this survey is measured an apparent OHW with an elevation of 1253.1 feet (NAVD 1988).

WETLAND:
Delineated by: Mitch Brinks
Certified Wetland Delineator #1007
only on Lot 2
Date: 3/23/2026

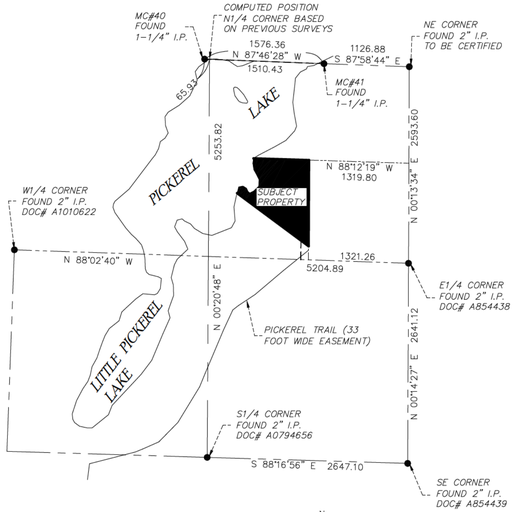
BENCHMARK:
Elevation = 1275.92 feet (NAVD 88).
Top of well casing.

OWNER-DEVELOPER:
Sean Gregert
38509 Pickerel Trail
Crosslake, MN, 56442

PARCEL No.
60060516

ZONED:
Shoreland

SURVEYOR:
ARRO Land Surveying of Brainerd, INC.
20396 Division Road
Brainerd, MN 56401
(218) 820-2738



VICINITY MAP
SECTION 6, TOWNSHIP 137, RANGE 26
NO SCALE



IMPERVIOUS SURFACE:

EXISTING
Lot 1 Area = 436959 sq ft

Dwelling = 3264 sq ft
Concrete Surface = 797 sq ft
Bituminous Surface = 14913 sq ft
Total Impervious Surface = 18974sq ft

18974/436959 = 0.043
Existing Impervious Surface = 4.3%

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the state of Minnesota.

Dated this 6th day of March 2026

By: Jared A. Spaid, Minnesota License No. 59285

20396 Division Rd
Brainerd, MN 56401
(218)820-4407

ARRO
Land Surveying
of Brainerd, INC.

PRELIMINARY PLAT
Part of Gov't Lot 2,
Sec. 6, T.137, R.26
Crow Wing County, MN

CLIENT: Justin Horstman

DRAWN BY: JAS CHECKED BY: JAS
CREW: JAS, KDE JOB NUMBER: 26-013B

NO.	DATE	BY	REVISION DESCRIPTION
01	4/10/26	JAS	PLAT NAME
02	5/7/26	JAS	OWNER REMARKS
03	5/12/26	JAS	CWC REMARKS

DEVELOPMENT REVIEW TEAM (DRT) — MEETING MINUTES
Date: March 9, 2026
Time: 10:30 AM
Attendees:
• Nicholette Dunlap – Environmental Specialist
• Stacy Westhoff – Planning Coordinator
• Chris Pence – Environmental Services Manager
• Rob Hall – Highway Department
• Justin – Authorized Agent
• Jordan – Surveyor

Project Overview

The project is a parcel split in Fairfield Township at the end of Pickerel Trail. The proposal is to divide one parcel into two lots: approximately 10 acres and 5 acres.

Access & Easements

• The property currently has a 66-foot ingress/egress easement, transitioning from a 33-foot easement on Pickerel Trail.
• Staff confirmed access widths meet requirements for the area.
• A variance will be needed for the 66-foot access easement, which the Board must review.
• Staff noted that once the easement reaches the applicant's property, it may be reduced to 33 feet since it functions as a driveway. This could increase buildable area and is optional for the applicant.

Septic & Wetland Requirements

• Because delineation and inspection cannot be completed in winter conditions, the project will use the winter window form, requiring wetlands and septic documentation by July 1.
• Surveyor and septic work will proceed once ground conditions allow.

Road Maintenance Discussion

Chris raised concerns reported by neighbors regarding maintenance of Pickerel Trail, including difficulties coordinating upkeep.
• Justin acknowledged the issue and explained that road maintenance is informally shared by residents, but that one neighboring landowner resists tree trimming and access

improvements, contributing to maintenance challenges.
• Staff noted the applicant should expect potential public comments related to these concerns as the project moves to review.

Highway Department Review

Rob Hall confirmed there are no impacts to County Road 36 and had no concerns regarding the proposed parcel split.

Applicant Building Intent

Justin noted that a 52 × 78 ft structure is planned for construction on one of the resulting lots.

Next Steps

• Submit two applications: plat application and variance application.

Platted Subdivision - 60060516 - Horstman - Saved

Application

Application Summary | Plat | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) * 60060516

Parcel number *	60060516
Owner name	GRAGERT, SEAN &
Physical address	38509 PICKEREL TRL
Physical city	CROSSLAKE
Physical zip	56442
Township	FAIRFIELD TOWNSHIP

Shoreland District	Yes
Shoreland Protection Zone	Yes
Riparian	Yes
Within 500ft of the Mississippi	No
Lake/River	PICKEREL
Deeded acres	15.14
Zoning	AGF

Owner Information

Name *	GRAGERT, SEAN &	Mailing Street 1 *	9207 Telford Crossing
Phone Number *	[redacted]	Mailing Street 2	---
Email *	[redacted]	Mailing City *	Brooklyn Park
		Mailing State *	MN
		Mailing Zip code *	55443

Application Type: Platted Subdivision

Applicant Information

Applicant *	Justin Horstman
Is Applicant the Property owner *	I am not the owner.
Authorized Agent Name	---
Public Hearing Agent Type	---
Contractor License Number	---
Email	[redacted]
Phone	---
Assisted at Counter	No
Customer Service Rep	
Application Submit Date	4/7/2026

Preliminary or Final Plat

Is this a preliminary plat or final plat?	Preliminary plat

Required Items - Preliminary Plat

Development Review Team (DRT) Meeting	Yes
DRT Meeting Date	3/9/2026
Are you submitting preliminary plat and final plat together	No
Is a survey on file following the requirements of Article 9 & 44 of the Land Use Ordinance	Yes
Enter number of proposed lots	2
Enter number of proposed Out-lots	0
Do all lots have access to a 66' wide road?	No
Required septic information on file	Yes
Is wetland info on file with CWC?	Yes

Findings of Fact

Does the proposed plat conform to the County's Comprehensive Plan?	yes
Is the proposal consistent with the existing County Subdivision Ordinance? Specify the applicable sections of the ordinance.	yes
Are there any other standards, rules or requirements that this plat must meet? Specify other required standards.	no
Is the proposed plat compatible with the present land uses in the area of the proposal?	yes
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	yes
How are the potential environmental impacts being resolved? (Does the plat meet County standards?) Explanation should include: Stormwater, Erosion/Sediment Control, Wetlands, Floodplains, Shoreland, Septic Systems	NA
Have the potential public health, safety or traffic generation impacts been addressed?	NA

CROW WING COUNTY
MINNESOTA

NOTICE OF DECISION

Property Owner: Sean Gragert

Authorized Agent: Justin Horstman

Parcel Number: 60060516

Physical Address: 38509 Pickerel Trail, Crosslake, MN, 56442

Township: Fairfield

Your application for the Preliminary Plat of "Hooker Landing" has been recommended for approval to the County Board of Commissioners on May 21, 2026, by the Planning Commission. Your application will now be placed on the June 9, 2026, County Board Agenda.

Conditions:

1. **Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board**
2. **All applicable required improvements (Article 9.8) shall be effectively implemented**
3. **If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.**
4. **Documentation of plat monuments completed**
5. **Title Commitment (Before Final Plat)**
6. **Site Suitabilities must be submitted before final plat**

Date: 5/22/2026

Chris Pence Environmental Services Manager

CROW WING COUNTY STAFF PRELIMINARY FINDINGS OF FACT SUPPORTING/DENYING A PRELIMINARY PLAT

Name of Applicant: Sean Gragert Date: May 21, 2026

PID: 60060516

FINDINGS OF FACT:

1. ***Does the proposed plat conform to the County's Comprehensive Plan?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- Goal 1: Plan for residential development that meets the needs of residents of all ages and income levels, focusing on an aging population and moderately priced housing for area workers. Balance interests between short-term rentals and long-term housing needs. Support the development of housing that balances natural resources, creates a sense of community, and connects to recreational amenities and open space. (pg. 68)
  - Policy 1: Promote policies and development that make housing more attainable for all income levels and abilities, especially workers, seniors, and first-time homebuyers.
  - Policy 2: Pursue development opportunities that provide for all stages of life and are accessible to all residents.
  - Policy 3: Encourage mixed-use development to create neighborhoods and communities around existing and new housing.

2. ***Is the proposal consistent with the existing County Subdivision Ordinance? Specify applicable sections of the Ordinance.***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- The proposed plat exceeds the minimum Shoreland District lot size standards for Pickerel Lake, a Natural Environment Lake. (80,000 sq. ft. lot area, 40,000 sq. ft. buildable, 200 foot lot width).
- The proposed plat meets the requirements of Articles 11 and 33 of the Land Use Ordinance.
- With approval of the proposed variance the plat would meet all other requirements of Article 9 of the Land Use Ordinance.

3. ***Are there any other standards, rules or requirements that this plat must meet?***
   Yes ☐ ***No*** ☒ ***Why or why not?***

- A variance for a 33-foot access easement where 66 feet is required.
- A compliance inspection was received for the existing system on 9/19/24, A winter window form was received 04/06/26 for septic site suitability.
- A wetland delineation of the parcels was submitted to the Land Services Department on 03/23/2026 by Brinks Wetland Services.

4. ***Is the proposed plat compatible with the present land uses in the area of the proposal?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- This property is zoned Shoreland District and is surrounded by shoreland, and residential uses.

5. ***Does the plat conform to all applicable performance standards in Article 9 of the Subdivision Ordinance?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- The proposed plat meets the requirements of Articles 11 and 33 of the Land Use Ordinance.
- With approval of the proposed variance the plat would meet all other requirements of Article 9 of the Land Use Ordinance.
- A variance for a 33-foot access easement where 66 feet is required.
- A compliance inspection was received for the existing system on 9/19/24, A winter window form was received 04/06/26 for septic site suitability.
- A wetland delineation of the parcels was submitted to the Land Services Department on 04/16/2026 by Brinks Wetland Services.

6. ***How are the potential environmental impacts being resolved? (Does the plat meet County Standards?)***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Stormwater: This will be administered through the land use permit process for each individual lot.
- Erosion/Sediment Control: This will be administered through the land use permit process for each individual lot.
- Wetlands: A wetland delineation of the parcels was submitted to the Land Services Department on 03/23/2026 by Brinks Wetland Services.
- Septic Systems: A compliance inspection was received for the existing system on 9/19/24, A winter window form was received 04/06/26 for septic site suitability.

7. ***Have the potential public health, safety or traffic generation impacts been addressed?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- There will be no public health, safety or significant traffic generated impacts from this plat.
- A compliance inspection was received for the existing system on 9/19/24, A winter window form was received 04/06/26 for septic site suitability.
- A wetland delineation of the parcels was submitted to the Land Services Department on 03/23/2026 by Brinks Wetland Services.

8. ***Other issues pertinent to this matter: None***

9. ***Township recommendation: None***

RECEIVED
By Stacy Westhoff at 2:50 pm, May 18, 2026

5/18/2026

TO: Crow Wing County Land Services Department

322 Laurel Street
Brainerd, MN 56401
(218) 824-1010

Attention = "PCBOA"
Public Comments

FAX = 218-824-1126
(Total pgs. including Face Sheet = 4)

Regarding =

Linda M. Bastian
Cell = (218) 513-9153
38423 Pickerel Trail
Cross Lake, MN 56442-3118

Kenneth J. & Linda M. Bastian
38423 Pickerel Trail
Crosslake, MN 56442 - 3118
1-218-513-9153
pickereltrail@gmail.com
18 May 2026

PLANNING COMMISSION / BOARD OF ADJUSTMENT
Historic Court House, 3rd Floor, County Board Room
326 Laurel Street
Brainerd, MN 56401

RE: Formal Legal Opposition to Proposed Road Widening on Pickerel Trail and Real Property Subdivision at Pickerel Lake, Crow Wing County

REF: 1). Parcel Number: 60060516 Public Hearing Information pertaining to Sean Gragert, 38509 Pickerel Trail Notice, dated 5/5/2026

Dear Honorable Commissioners,

This correspondence is in accordance with REF: 1) outlined above and is formally submitted to register definitive opposition to the proposed infrastructure variances and land development applications currently under review for the properties situated along Pickerel Trail and Pickerel Lake within the jurisdiction of Crosslake, Minnesota. As a legally interested party and titled property owner directly impacted by this application, I respectfully request the Planning and Zoning Commission deny the requested subdivision permits and road-widening variances. The current development layout fails to comply with state and local land-use laws, infringes upon private property rights, and presents severe public safety and environmental liabilities.

I. Unlawful Material Alteration and Encroachment of Private Access Easements

Pickerel Trail operates as a private access corridor encumbered by expressly defined ingress, egress, and utility easements. Under well-established Minnesota property law, the scope and dimensions of a private easement are legally fixed by the instrument of creation and cannot be unilaterally expanded, widened, or overburdened to accommodate a commercial or residential subdivision without the explicit, written consent of all burdened landowners.

- **Infringement of Property Rights:** Any unauthorized expansion or grading beyond the recorded legal boundary of Pickerel Trail constitutes an unlawful encroachment, a physical trespass, and a cloud on the titles of the underlying property owners.

- **Impairment of Essential Access:** The construction and physical reconfiguration required to widen the roadway will significantly impair established residential ingress and egress, create structural liabilities for existing private driveways, and disrupt the orderly maintenance of the corridor.

II. Exacerbation of Public Safety Hazards and Infrastructure Insufficiency

The existing physical geometry, topography, and subgrade of Pickerel Trail are inherently deficient for accommodating increased traffic volumes or heavy equipment access.

- **Pedestrian and Vehicular Risk:** Forcing a thoroughfare widening to facilitate increased residential density introduces significant traffic burdens onto a roadway completely devoid of safety shoulders or pedestrian walkways. This directly escalates the risk of vehicular collisions and compromises the safety of local residents.
- **Emergency Service Obstruction:** The proposed modifications jeopardize the integrity of a critical single-access ingress route. Bottlenecking this corridor during the construction or operational phases poses an unacceptable liability by risking delayed response times for emergency vehicles deployed by Crosslake Police and Fire Services.

III. Non-Compliance with Environmental Regulations and Preservation Mandates

Pickerel Lake is a sensitive natural environment requiring strict adherence to local zoning protections and state natural resource mandates. The high-density subdivision of riparian land presents immediate, irreversible threats to the ecological equilibrium of the water body.

- **Impervious Surface and Runoff Violations:** The introduction of multiple residential structures, accessory buildings, and expanded impervious roadway surfaces will exponentially accelerate nutrient-rich stormwater runoff. This runoff directly degrades the water quality of Pickerel Lake, facilitates accelerated eutrophication, and disrupts critical aquatic habitats.
- **Statutory Shoreland Conflicts:** The proposed parcel configurations fail to satisfy the strict minimum lot-width, setback, and area thresholds dictated by the City of Crosslake Shoreland Ordinance and Minnesota Rules, Chapter 6120. Furthermore, the localized soil dynamics and high-water table along Pickerel Trail are unsuited for the increased sub-surface septic system density required by this subdivision.

IV. Conclusion and Demand for Administrative Action

The proposed development fails to meet the statutory criteria required for the granting of variances or conditional use permits. The application prioritized private enrichment at the direct expense of established property rights, public safety, and mandatory environmental stewardship.

Consequently, I respectfully petition the Planning and Zoning Commission deny the subdivision application and all associated road-widening variances. I further request that this formal opposition be entered into the official public record for these proceedings.

Thank you for your attention to this matter.

Respectfully submitted,

Linda M. Bastian Linda M. Bastian, 5/18/2026

Kenneth J. Bastian Kenneth J. Bastian 5/18/2026

38423 Pickerel Trail

CrossLake, MN 56442-3118

CC:

- Crow Wing County Land Services Department (FAXED letter 5/18/2026)
- Minnesota Department of Natural Resources (DNR) — Area Hydrologist
- Crow Wing Soil & Water Conservation District

RECEIVED
By Stacy Westhoff at 10:34 am, May 21, 2026

May 21, 2026 p.1

William Schrader
17165 County Road 36
Crosslake, Mn. 56442
612-859-7148
sailinggrace1@yahoo.co

38275 Pickerel Trail my other cabin

Re:
-Pickerel Trail Private Dangerous Road (driveway):
-Authorized agent: Justin Horstman. Owners: Sean Gragert.
-Request to reduce fifteen to one five acre lot and one ten.
-Trying for 32' road variance from 66' suggest normal.
-Inspecting the roads dangerous infrastructure! Qualifications?

Dear Sirs:

I would like to see Justin Horstmen dream come true but keep in mind this was a self inflected problem he brought on and now I feel the owners are to be on the receiving end and have to let it happen to be nice guys! I would say yes if the road was safe but it is not! Needs to be brought up to a safe road before giving a road 32' variance!

Nobody twisted Mr. Horstman's arm to spent all the prep work and money, etc. to have five acres to go for a 32' variance. I believe the road dangers should have raised a many red flags from the start and he should have done more research ahead of time. I really feel the cart was put before the horse and all caution was thrown to the wind on minimizing the dangerous road infrastructure.

I do not approve the five acre split and the 32' variance on the present 32' wide road unless the entire one mile long dirt narrow Pickerel Trail road is fixed and redone to fit the increased safety needs.

Surprise...There is not a 32' width across the entire road yet it says 32' easement needed. The is giving a false narrative on our situation. Oh.. lets just

make the road wider by taking out the owners trees and widening out the road with a big bull dozer to 32'! Wrong!

That will never happen due to the way the easement is written for all the owners!

I set this up from the start to preserve the wilderness against a sibling that might have got carried away and flexed some muscle. It is illegal for an owner to just say, well I am going to black top the entire mile long road because I have a 32' easement....nope...ask my attorney Raymond Charpentier!

To make it safe we also need to have a comprehensive maintenance plan in place. Mr. Horstman said he could easily fix everything needed on that road to make it safer. I need to know if he is going to pay for all the costs too? Not a guarantee the road will handle anything more than just his five acre request when all is done.

After Mr. Horstman promises to alway fix the road how do you enforce the the needed maintenance to keep trees cut over the road, grading, snow plowing, etc. etc.for fire trucks, etc? All ears and good luck! I tried for forty years to have owners help with getting a road grader once in a while and voted down! Winter plowing and helping with the right equipment are down by very few of us.

The County needs to put a *moratorium for three years* on any additional five aces spilts. This will give everyone a chance to come up with a safe usable road that can handle more traffic safely and if not do some reworking the road to make it wider and take out the three dangerous curves.

Effect on *five* acres lots has on the road verses todays fifteen acres:
Now: 5 cabins..... 4 people/cabin is a total of 20 people.
After: *five* plus twelve cabins is 17 cabins . " " " " " 68 people.
Road: Increases to 17 cabins more than triples the number on that road.

Pickerel Trail has no exits out the other end and has no proper place to turn around and this counts as doubling the traffic flow at the one and only entrance! All vehicles enter and leave in the same spot and on that first the four blocks and is a "BOTTLE NECK".

That was an old logging road fifty five years ago that were hauling logs by a four wheel drive heavy trucks going 10 MPH and could not pass each other in

most spots it was so narrow! Thats Pickerel Trail same danger spot and has got to be totally widened and straighten!

That is the same road nothing was done to it all these years! It was not made for any safety in mind. Like I said, it is a trail for logging used for four months and when they are done logging it they come back another seventy five years later when the trees regrow for another harvest!

Then the last twenty six years Potlatch leased it to five hunters to uses. It got sold three yeas ago and the county hasn't planned for one improvement to make it safe for anyone, especially us owners on Pickerel Lake.

If Jonny Jones private bought that and opened it up for everyone to use the owners on Pickerel Lake would sue him to stop any extra traffic because it is not built up to any safety standards and I am using my *attorney* to looking into the rights of us owners on the end of Pickerel Trail! We have a 32' easement over that land they bought so how does that work?

How in anybody's right mind and conscience as either a company, individual or government (county planning and zoning) owned has the right mind to come in and open it up and says to the public do as you want and walks away from the new dangers it presents to the owners, etc. at the end of that road?

Injuries and death from someone hitting a person will happen, trust me for two serious accident and many near misses already have on the first four blocks and it dangerous curves. One family moved it with seven children and move out do the dangers it presents when their kids on walking and on bicycles.

It wasn't made for opening it up to the public for endless hunters, walker, bikers, snowmobiles! countless cars, people, fire trucks, ambulances, UPS, FED X, lumber trucks, etc.

No more 32' road variance on five acre lots until a plan is come up with allow the road to handle more cars, people, emergency vehicles, etc.

WE have major road safety issues NOW and can't afford more people raising the probability factors on injuries and accidents unless the road

What professional degrees or license did those that came out have in order to qualify the safety of that road? I asked if I could meet them on the road during inspection and Stacy said no problem. That never happened!

I am hearing the people that went out to inspect Pickerel Trail do not see a problem with the road.... which is just not true in my book! To come to that conclusion is nothing but pathetic and irresponsible in such a short check!

Mr. Horstman told me one of the road inspectors told him if the owners don't like the variance on 32' and five acres there is fifteen acres for sale on the end of the road to buy and their problems are solved"! Sarcastic? Say again!!!

I hope that is not true and if it is I am appalled and horrified to think that level of experience and expertise is what is making very important decisions on road safety and dangers. We all know with more people more accidents?

We have moms, dads, sons, daughters, grand children using that road and trusting it will be safe...which it is not....right now! We have to trust the Planning and Zoning board to come to then rescue big time!

Do these inspectors have road engineering degrees? You can't go out on the inspection and do a squat and squint method where you go up to curves and squat down and squint then turn 180 degrees and do it again and come up with the conclusion the road is safe!

A full scale inspection and summary has to be hired for professionals to make sure the road will safe for the general public and the private owners. A thirty minute drive down that road on a nice spring day is a far cry from what is need to protect people!

Try it in the winter with the snow is pushed to the sides and builds up with plow snowed and the road can often times be to narrow on over 75% where cars have to back up to find a wide enough spot for another to pass. *Not safe!*

Or try it is the spring thaw of four plus weeks and the road turns to muddy ruts up to 12" and a normal car will not make it through and down to a single lane. Not good for emergency vehicles and adding more people and chances they are called out for emergencies will not work!

How does anyone come to the conclusion that road is safe without talking to all five owners about the terrible near accidents, the two accidents, speeding and by one particular person seemingly being under the drinking too much **"fire water"** influence and racing motorcycles over 60 on the road and around the three dangerous curves, and having both of the terrible accidents on the second curve and one with me.

Nobody can walk any part of Pickerel Trail starting back I am guessing for years because of one individual and before that the road safety was marginal.

Please name me one thing that makes our road safe for I can name you countless things that make it dangerous!. That road infrastructure will cause injury or kill someone especially if you add more cabins and people using it.

Now the county bought 1200 acres and letting countless people on that road to hunt, walk, bike, etc. and they do nothing to improve it for safety or maintenance. They took down all our traffic safety signs, etc. and that sure didn't help matters. The now park on the side of that narrow road too.

I did the sub-division back thirty six years ago and the Crow Wing County Planning and Zoning said the only safe acreage was six fifteen acre lots and that was just fine, it stopped a lot of additional owners coming in and held the traffic to somewhat of a safe level!

Now years later the people and cars must have gotten smarter safer and for the Planning and Zoning to look at passing small five acre lots adding and so many more people! Your going to have injuries and maybe even death by accidents from cars on your hands! Is that what you want when you now are getting an idea how dangerous that road is to stop the added people and smaller lots.

You can say, oh Mr. Schrader doesn't want more people back in his little wilderness and that is the number one reason for his safety push! That my friends is the second reason and **#1 is safety on that road is out of control!**

Nobody even knows if the first four blocks of the mile long road is public, etc. That part of the road is an old 55 year old narrow winding logging road 10' to 18' foot wide road not fit for even todays owners. YOU CAN'T ADD MORE PEOPLE WITHOUT FIXING THE ENTIRE MILE ROAD INFRASTRUCTURE !

The council has to hold off passing the 32' variance and five acres request until there is a full turnkey professional study and interview with each current

owners to come up with a safe plan. I would think Planning and Zoning would realize to make Pickerel Trail safe a professional study and planning's is much

needed and hold off passing the variance until they their due diligence to save people from getting injured or killed.

Problem is us land owners could be put into a class action law suit with the county just because it is over our land.

I have hired Ray Charpentier and Lange Law office from Brainerd to help put off the 32' variance for the time being until the road is fixed! He could not be here due to the short notice but I have met with him twice already!

I would approve the 32' road variance on five acre lot for Sean Gragert, his agent Justin for just this one time five acre plot and the county put a hold on any other five acre plots approved until the three conditions are met:

1. Five acres is the minimum on Pickerel Lake for our immediate area on Pickerel Trail and Planning and Zoning agree to never ask for a variance on anything less than five acres after Sean Gragert's is approved . That road will be maxed and always be dangerous and more people will just add to everyones dangers and lack of safety.

Try to have Sean Gragert come up with a contract and agreement for other owners to sign stating just his five acre request will be the only one approved for the future and a **moratorium** has to be signed by the other owners and Planning and Zoning. This moratorium will will be lifted once the road infrastructure on the entire road it deemed meet and safe after a three year trial.

2. Must have a detailed plan to *fix the road infrastructures problems,* like make the current road a "little wider" but remember a width 32' current road easement doesn't make the road 32' and it is 10' to 22' all along the entire road.

Identify all the road dangers, lack of safety, good maneuverability, ease for meeting others on the road especially in the winter, save emergency vehicles on road width and turns, traffic signs, proper road widths and approved by the majority of owners, figure out what's what with County land on the first four blocks on our road and their plans or needed changes to help make it safe,etc.

3. Have a plan 110% foolproof agreement signed by all neighbors on road all maintenance issues with some teeth to it to make it work for many years.

4. The State, County and us land owners have to do the diligence and come up what is the potential amount of new cabins, more traffic, a plan that will hold for

fifty plus years goal for the county land, state land and the owners on Pickerel Trail plan.

5._ARTICLE 9 SUBVIDISION OF LAND ON MINNESOTA REQUIREMENTS:

9.7 PLAT DESIGN STANDARDS P.37
A. ROADS
8. .....a2. Shall have a minimum 66' right-of-way!

9. ..... " " " " " " " " .

C. Lots.
2. Every lot must have adequate legal access to an approved public or approved private road.

9.8 REQUIRED IMPROVEMENT :C
All public roads shall be built to the requirements of the road authority and be designed by an engineer licensed in the state of Minnesota. What about the first four blocks on County land that joins the rest of Pickerel Trail?

1. The subdivider shall be required to maintain all public road, in the subdivision and provide for year-round maintenance until acceptance of the road by the authority.

7. There are a lot of unanswered questions about the first four blocks of the dirt road Pickerel Trail over the county land.

There needs to be a lot of work done and more information before you can allow a five acre lots on Pickerel Lake and a 32' variance.

My history to save people lives and have safe roads.

1. I am all about road safety and putting my money were my mouth is! My five siblings and I inherited Pickerel property and we used the Boy Scout friends driving recklessly, under the influence of, speeding, racing, an (

2. The Scout director came to me and ask if we could use the old logging (p.8) road instead of the Boy Scout road and they would cut my siblings off for good! I told them I could so I too could help save a life and give the Scouts back the innocence people go out there to find. I was a Boy Scout and it was great!

I was blessed to have Potlatch Company and Leo and Francis Franzer give me and my family the permanent easement needs to use the old narrow logging road to gain ingress and egress.

I told the Boy Scouts when the new road easement deal was done I told them its was all set to sue all six of us Schrader's and take us to court to stop our use.

They had to pay three of my money hunger and selfish siblings around $16,000 each to sign off on the Boy Scout road and myself and the other two siblings took nothing!

This happened back around 1993 and the wonderful Boy Scouts could have some peace of mind but more importantly a safer road!

It cost me dearly to get that "Old Potlatch Logging Road and Frazer land" legally written up for a life time easement for my family plus I surveyed the center of the entire road. I spent thousands back then to protect Scouts kids and family!

I did get this easement over the fifty years old abandoned narrow dangerous logging road (still as it was back then improved) but never imagined it would cause such dangers filled with not only my careless siblings but new and even worse dangerous neighbor driving habits! Go figure!

For that reason I kept praying for good neighbors over the years and all that brought me were more terrible drivers when it came to driving and caring for their neighbors!

What a terrible *sh/t show* that just transferred over to back on Pickerel road!

Boy Scouts were safe, Schrader's were not on logging road. Bitter sweet!

---

2. I am all about road safety! Around 2007 Smile Again Ministry came in and what a sad challenge for road safety as both husband and wife loved to go 30-45 MPH on our narrow road where twenty tops is too fast.

They then wanted to build two twelve plexus and add additions to their house for living quarters for families that lost a child. Good cause for I lost a brother as six months when I was twelve.

The neighbor and I spend thousand of dollars to stop the two twelve plexus because of the dangerous road infrastructure as it still stands today would not support any safety for two seven and nine year old neighbors children walking and biking on the old logging dangerous logging road part. They would leave their bikes hidden on the Bonnie Lakes Road to get on the bus!

I told the ambitious owner I would stop them unless the infrastructure was totally redone to make the road safe and he said, " if the road was good for him it was good for the retreat"! WRONG, and my neighbor and I stopped it.

Those two little kids were safe on that road!

---

3. I am all about road safety and about 1980 the property owners of Emily Rod and Gun Club who's land butt up to the Schrader's decided to illegally cut us off from using that other end of the road to go out to where the Emily Golf course end up. We used that road (trail) since 1963 to get into Pickerel Lake. They put up a gate and the us Schrader's kids had no money to stop it but were right on the bases of our Prescriptive Easement rights.

It was so sad because the old president Wally Grunhom and I were such good friends and he gave me a key for the gate but he was out voted. We remained such close friends up until he died thirty years later.

So, after forty years the Gun Club saw we improved our road and it would save them half an hour getting into Crosslake.

That again would have made more dangerous traffic on our road which in not safe and they had to be stopped! They brought a law suit saying Pickerel Trail was a public road and my other neighbor and I spent thousand of dollars to stop them and they lost! The best Edina attorneys learned a hard lesson! Karma?

4. I am still all about road safety at 72 I am tired fighting selfish interests at the expense of the owners on Pickerel Trail! The state and country directives told to go from fifteen acres to protect our Natural Environmental Lake is no longer and all sad in the name of progress! Now they can go down to 2 1/2 acre and throw any and all caution to the wind!

Chip the Chief of the fire department was to get me a letter to say how dangerous that road is and need to be fixed.

The oxymoron of it all is the state came and spent over a million to buy up one third of Pickerel Lake lake shore and trees and preserve it into an *Aquatic Management* area, now the Boy Scouts are selling 683 acres and turning it into an Aquatic Management Area and helps shut down the RV site and four cabins, boat kept on Pickerel Lake, etc. The last recent push for protecting the wilderness, wet lands and lakes is the State buying 1,200 acres butting up to my forty five acres and putting it into the same kind of restrictions to protect everything about the area.

But, the County and their changing ideas over the last fifty years wants to go across our lake and squeeze as many people onto the lake as possible. I am not understanding that! WOW!

I am about done fighting for the safety and peace on our road. I am seventy two and had enough of country and state progress at the cost of the wilderness, protection of our Environmental lake, protection on Pickerel Trail, etc.

I won't be around much longer which is good for ever since 1963 I can't stand to watch so called process on our lake and property erode my smaller lots sizes. What a shame and wilderness take away.

Again, I hope you let Justin do this thing on five acres and I am fine with him 100% to help the road issues and lake. He will be a great neighbor but it hurts that most likely others will follow with more five acres or less requests.

But first lets get the dangerous road fixed as I spelled out and I am looking forward to him and his family to take my place too protect things at Pickerel. I would love to pass the torch to him and my kids!

Thanks to all you board members for you are only doing you job and thank you for allowing me to divide my forty five acres on Pickerel recently so when I pass my children can enjoy Pickerel. Never thought my forty five acres would have to end that way.

Special thanks to Chris Pence always getting back to me in a timely manner and for or putting up with me! Pickerel Lake has a way of hardening a person after sixty two years to protect it.

God bless everyone in Land Development, Crow Wing Planning and Development and Pickerel Lake.

Thank you God, my mom, dad, grandparents for making Pickerel happen! Once in a lifetime! I was blessed!

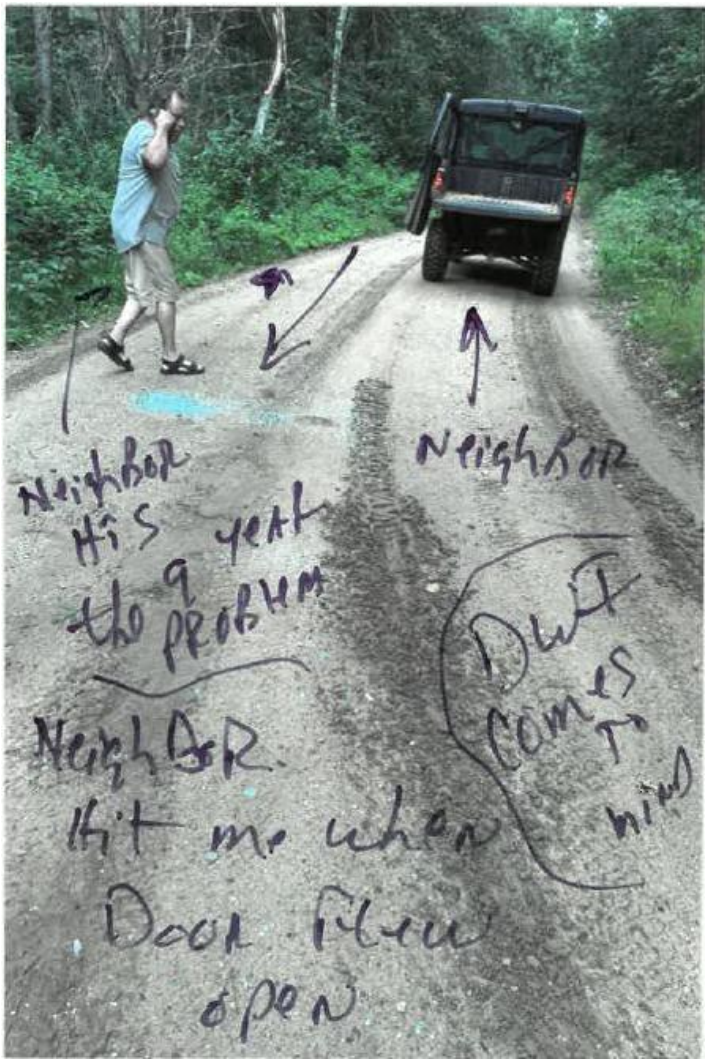
I wish you all well!

William Schrader
612-859-7148
sailinggrace1@yahoo.com

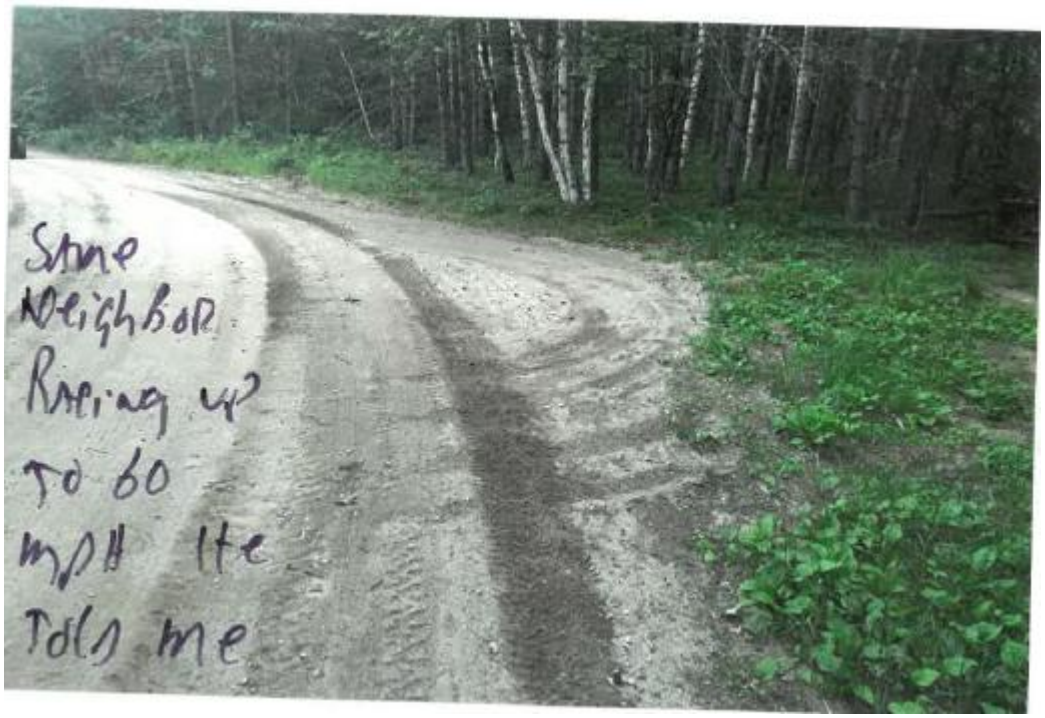
P.S. Really sorry for the grammar and spelling etc. I was under the weather and didn't have time to proof it properly.

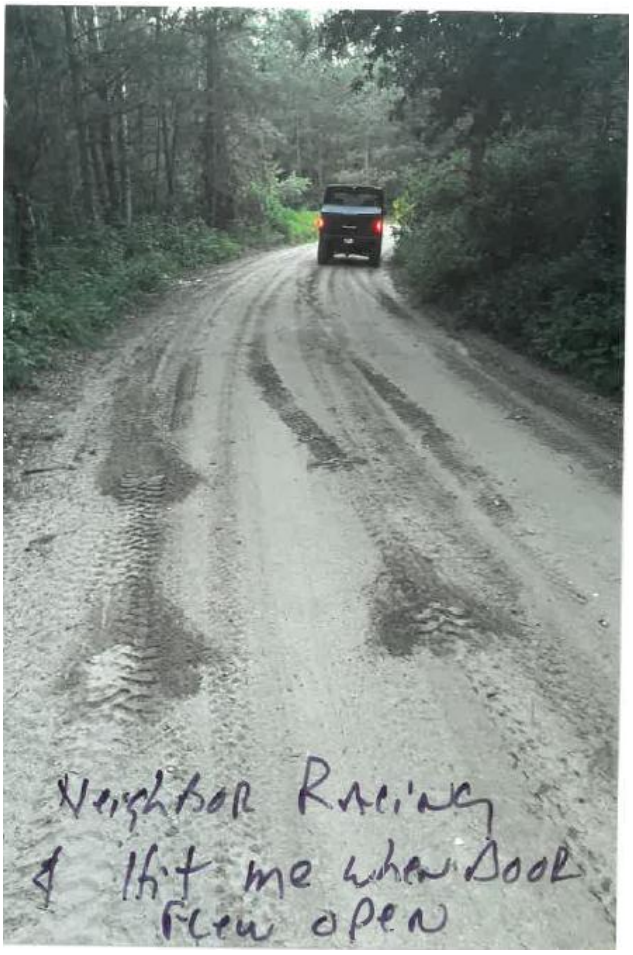

Road Problems
NO DRAINAGE


Road Problems
NO DRAINAGE

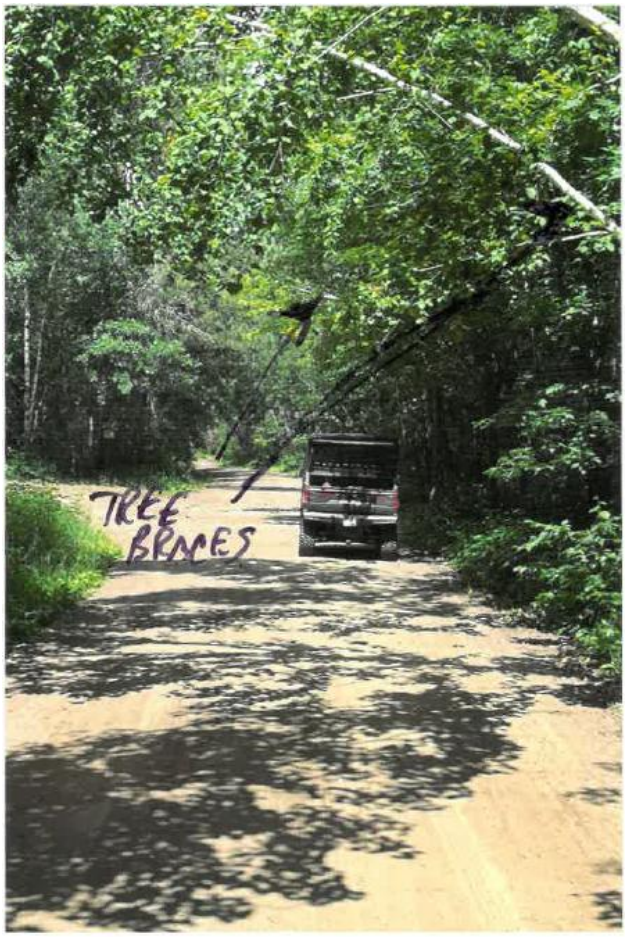

Neighbor
Hits
the
PROBLEM
Neighbor
Hit me when
Door flew
open
Neighbor
Dust
comes
wind


Road Nathan -
Neighbor speeding
& Door flew
open & Hit me!


Stone
Neighbor
Racing up
To 60
MPH He
Tells me


Neighbor Racing
& Hit me when Door
flew open


NEIGHBOR speeding
ALWAYS
MY TRACTOR


TREE
BRANCHES


TREE BRANCHES
OVER ROAD

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: R and R Landscaping and Construction Inc – Ann Lake Acres –Preliminary Plat

PREVIOUS ACTION:

May 21, 2026– The Planning Commission/Board of Adjustment made a motion to recommend approval of the preliminary plat of “Ann Lake Acres” to the County Board of Commissioners. The Planning Commission/Board of Adjustment also approved a variance to allow the access road to be 33 feet instead of the required 66 feet.

COMMENTS:

Deerwood Township recommends approval 5/11/2026

No other comments were received.

Legal Description: Part of SE ¼ of SE ¼

Section 16 Township 46 Range 28

Deerwood Township

PID: 59160504

RECOMMENDED BOARD ACTION:

Approve the preliminary plat of “Ann Lake Acres” consisting of 2 lots

Approximate length of presentation: 5 minutes

Property Owner: R and R Landscaping and Construction Inc – Greg Rono

Parcel Number: 59160504

Township: Deerwood

Legal Description: Part of SE ¼ of SE ¼
Section 16 Township 46 Range 28

Ann Lake – Natural Environment – Lake Setback of 150 feet

Minimum lot size: 80,000 square feet
Minimum buildable area: 40,000 square feet
Minimum lot width: 200 feet

Application Submitted: 2/09/2026
Action Deadline: 4/10/2026
60 Day Waiver: 6/08/2026
Applicant Extension: 7/01/2026
County Board: 06/09/2026
Wetland: 4/16/2026
Septic: 12/01/2025

Land Use District: Shoreland

Adjacent Land Use:
North: Shoreland
South: Shoreland
East: Shoreland
West: Commercial

Request:

1. Variance for:
   - Road access width of 33 feet where 66 feet is required.

2. Preliminary Plat:
   - “Ann Lake Acres” consisting of 2 lots

Potential Conditions:

Variance:

- None

Preliminary Plat:

1. Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board
2. All applicable required improvements (Article 9.8) shall be effectively implemented

3. If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.
4. Documentation of plat monuments completed
5. Title Commitment (Before Final Plat)

3/05/2026 On-Site Comments: Best, Auge, Larson, Maske, Pence, Dunlap, Westhoff

- Notification published in the Brainerd Dispatch on 2/21/2026
- Needs to be tabled until wetland can be delineated to ensure buildable lot size meets standards.

12/08/2025 Development Review Team Meeting Notes:

- This parcel is Abstract
- Need variance for 33' easements for access
- Easement agreement in works
- Plat + Variance needed
- Tract C – BLA to neighboring property
- Suitability's done
- Wetland delineation done

Permit History:

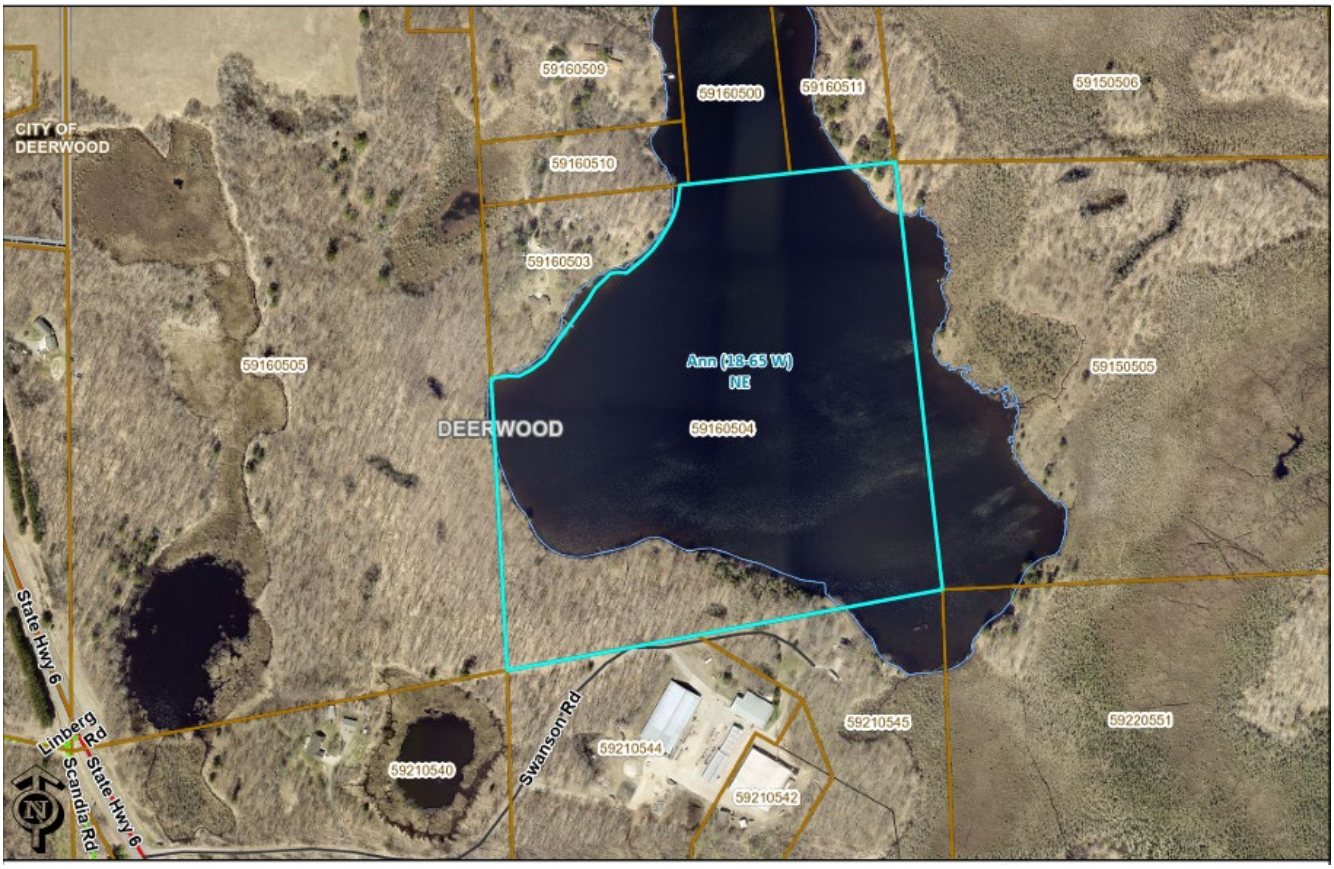
- None

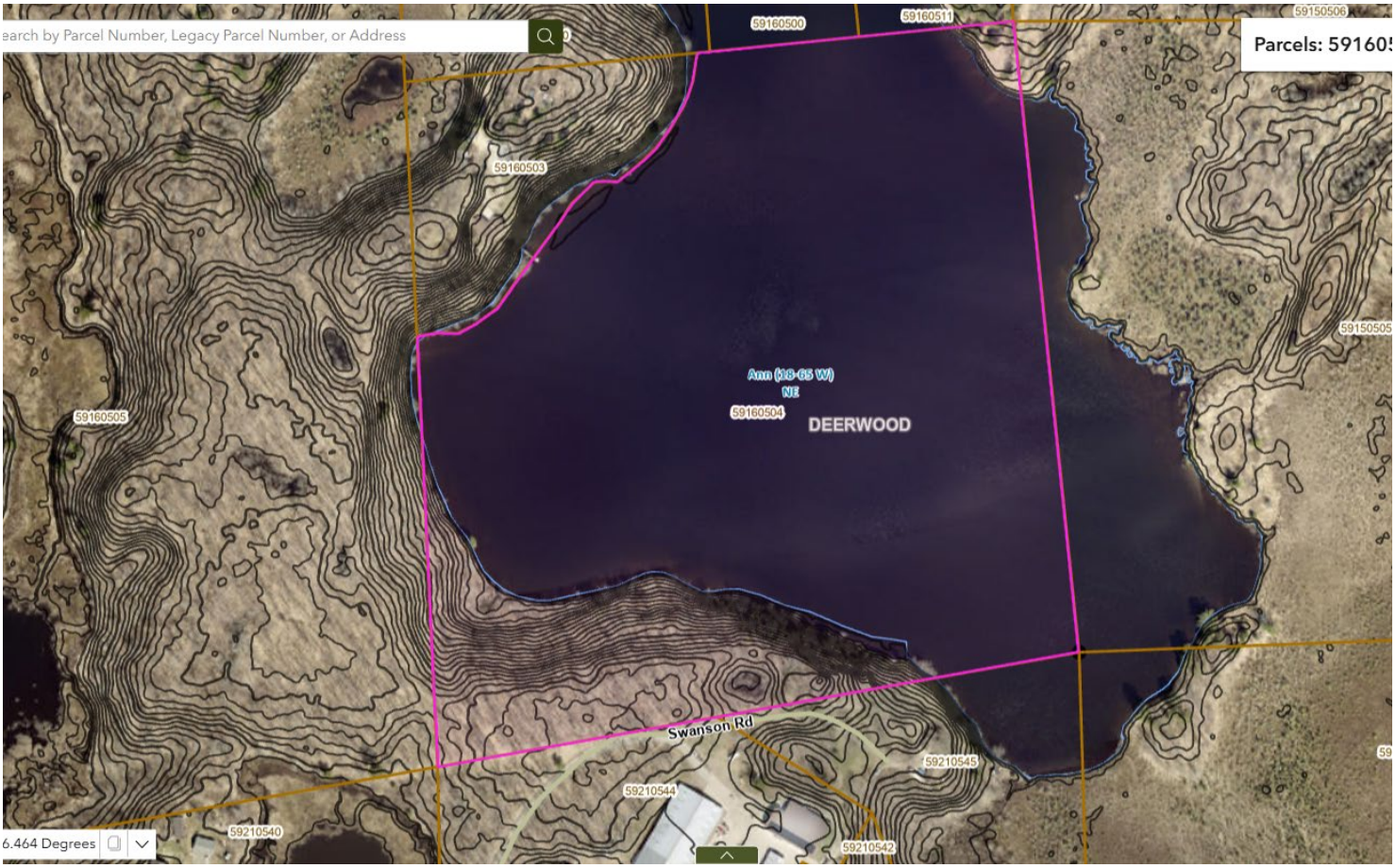
Agencies Notified and Responses Received:
CWC Highway Dept.: No comment received as of 5/14/2026
MN DNR: No comment received as of 5/14/2026
SWCD: No comment received as of 5/14/2026
Deerwood Township recommends approval 5/11/2026

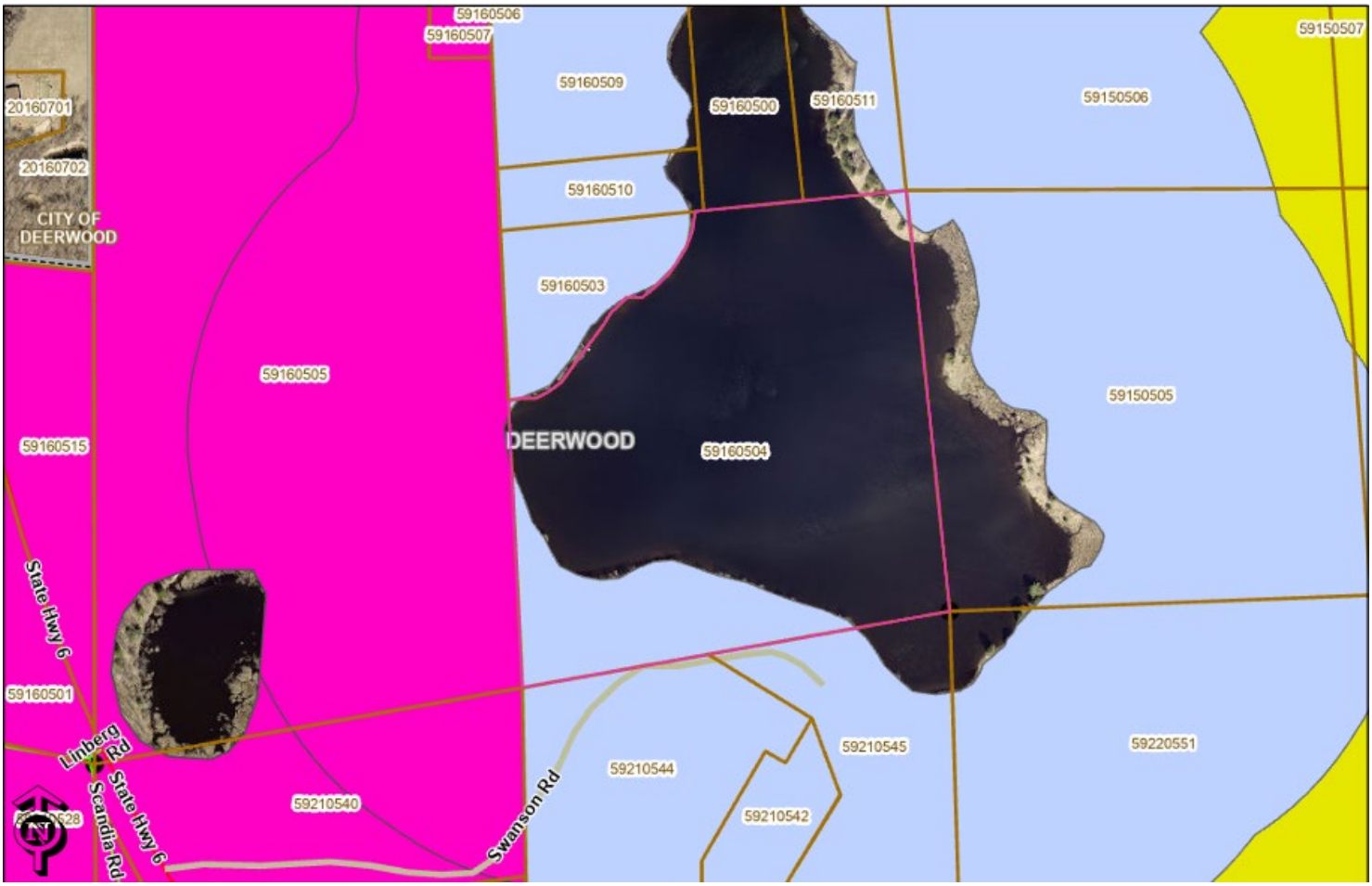
Public Hearing notifications:
Mailing notification sent on 5/08/2026 to owners in a ½ mile radius of parcel.
Published in the Brainerd Dispatch on 5/09/2026

Per findings of fact discussed 5/21/2026, the application submitted 2/09/2026, the staff report, on-site conducted 3/05/2026, public testimony, and as shown on the Certificate of Survey dated 4/24/2026; Located in Deerwood township, Crow Wing County, Minnesota


CITY OF
EERWOOD
Reno (18-67 P)
RD
Anne Lake Rd
Anne
Lake Rd
Jim (18-64 P)
NE
18-63 P
State
Hwy 6
Linberg Rd
Swanson Rd
Overlook
Ln
Arena Dr
N Hamlet Rd

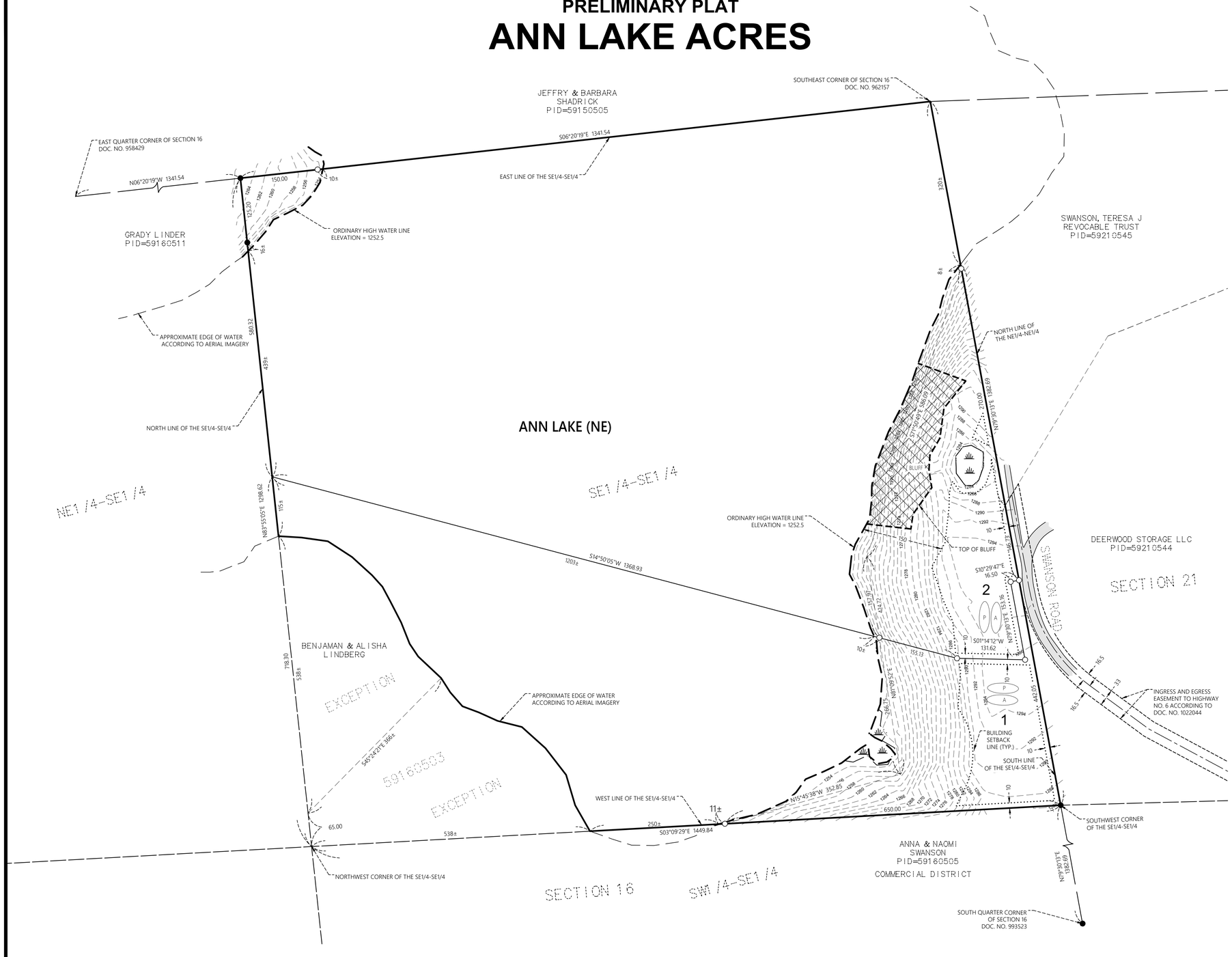

CITY OF
DEERWOOD
DEERWOOD
Ann (18-65 W)
NE
59160509
59160500
59160511
59150506
59160510
59160503
59160505
59150505
59160504
59210545
59220551
59210544
59210540
59210542
Swanson Rd
State Hwy 6
Linberg Rd
Scandia Rd


earch by Parcel Number, Legacy Parcel Number, or Address
Parcels: 59160
59160500
59160511
59150506
59160503
59150505
59160505
59160504
DEERWOOD
Swanson Rd
59210545
59210544
59210540
59210542
6.464 Degrees


59160506
59160507
59150507
59160509
59160500
59160511
59150506
20160701
20160702
CITY OF DEERWOOD
59160510
59160503
59160505
59150505
59160515
DEERWOOD
59160504
State Hwy 6
59160501
Linberg Rd
Scandia Rd
State Hwy 6
59210540
Swanson Rd
59210544
59210545
59220551
59210542

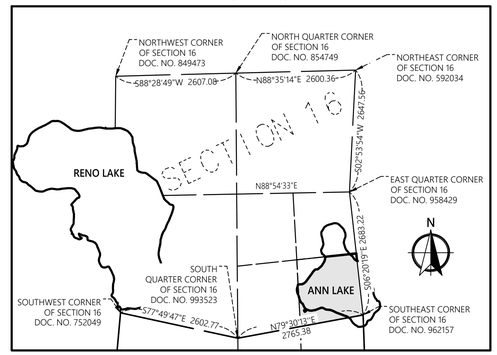
PRELIMINARY PLAT

ANN LAKE ACRES



VICINITY MAP

SECTION 16,
TOWNSHIP 46, RANGE 28,
CROW WING COUNTY, MINNESOTA
(NOT TO SCALE)



OWNER:	R AND R LANDSCAPING AND CONSTRUCTION INC 37590 STATE HWY 47 AITKIN, MN, 56431
DESCRIPTION:	PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 16, TOWNSHIP 46, RANGE 28, CROW WING COUNTY, MINNESOTA
SURVEYOR:	CHAD M. CONNER WIDSETH 7804 INDUSTRIAL PARK DR, BAXTER MN
AREA:	38.3 ACRES , MORE OR LESS
ZONING:	SHORELAND DISTRICT
DATE:	APRIL 24, 2026

N

0 100 200

SCALE IN FEET

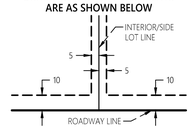
ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE DATABASE; NAD83

ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988

BENCHMARK IS MNDOT GEODETIC POINT GRAIN ELEVATION =1300.76 NAVD 88

- DENOTES FOUND IRON MONUMENT
- DENOTES 1/2 INCH DIAMETER BY 18 INCH LONG IRON PIPE SET AND MARKED BY RLS #41643
- DELINEATED WETLAND
- PRIMARY SEPTIC SITE
- ALTERNATE SITE
- BITUMINOUS SURFACE

DRAINAGE & UTILITY EASEMENTS ARE AS SHOWN BELOW



BEING 5 FEET IN WIDTH & ADJOINING ALL INTERIOR LOT LINE(S) AND BEING 10 FEET IN WIDTH & ADJOINING ROADWAY LINE(S)

LOT AREAS:

LOT 1
TOTAL AREA = 11.5± ACRES
BUILDABLE AREA = 40,000 SQ. FT
TOTAL AREA ABOVE OHW = 120,375± SQ. FT.

LOT 2
TOTAL AREA = 26.8± ACRES
BUILDABLE AREA = 40,017 SQ. FT.
TOTAL AREA ABOVE OHW = 162,200± SQ. FT.

SURVEYOR'S NOTES:

THE WETLANDS ON THE SUBJECT PROPERTY ARE SHOWN ACCORDING TO THE WETLAND DELINEATION COMPLETED BY MITCH BRINKS, MINNESOTA CERTIFIED WETLAND DELINEATOR NO. 1007, ON APRIL 16, 2026.

THE SEPTIC SITES AS SHOWN ON THE SUBJECT PROPERTY ARE ACCORDING TO MASCHLER SEPTIC CONSULTANTS LLC.

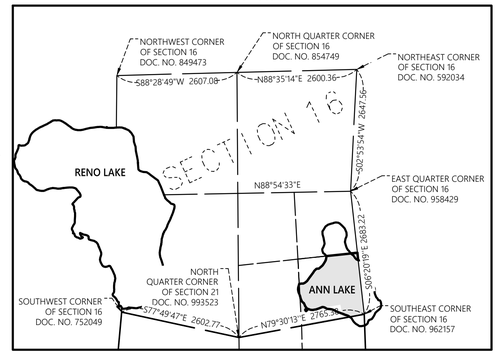
WIDSETH
ARCHITECTS ▪ ENGINEERS ▪ SCIENTISTS ▪ SURVEYORS

PRELIMINARY PLAT

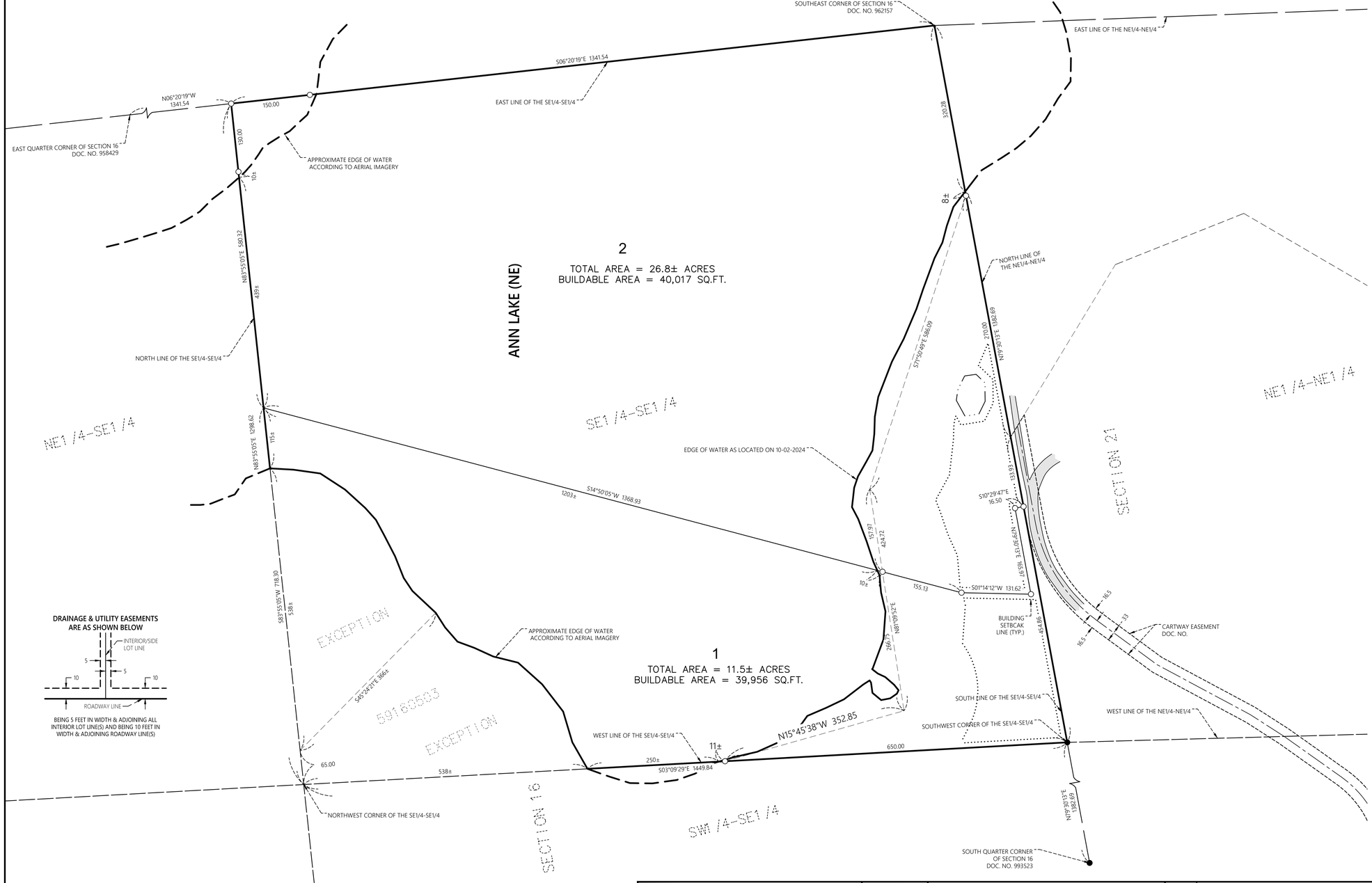
ANN LAKE ACRES

VICINITY MAP

SECTION 16,
TOWNSHIP 46, RANGE 28,
CROW WING COUNTY, MINNESOTA
(NOT TO SCALE)



OWNER:	R AND R LANDSCAPING AND CONSTRUCTION INC 37590 STATE HWY 47 AITKIN, MN, 56431
DESCRIPTION:	PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SECTION 16, TOWNSHIP 46, RANGE 28, CROW WING COUNTY, MINNESOTA
SURVEYOR:	CHAD M. CONNER WIDSETH 7804 INDUSTRIAL PARK DR, BAXTER MN
AREA:	38.4 ACRES , MORE OR LESS
ZONING:	SHORELAND DISTRICT
DATE:	JANUARY 28, 2026



DRAINAGE & UTILITY EASEMENTS ARE AS SHOWN BELOW

BEING 5 FEET IN WIDTH & ADJOINING ALL INTERIOR LOT LINE(S) AND BEING 10 FEET IN WIDTH & ADJOINING ROADWAY LINE(S)

N
0 100 200
SCALE IN FEET

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE DATABASE; NAD83

ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 NAVD 88

BENCHMARK IS MNDOT GEODETIC POINT GRAIN ELEVATION =1300.76 NAVD 88

● DENOTES FOUND IRON MONUMENT

○ DENOTES 1/2 INCH DIAMETER BY 18 INCH LONG IRON PIPE SET AND MARKED BY RLS #41643

BITUMINOUS SURFACE

WIDSETH
ARCHITECTS ▪ ENGINEERS ▪ SCIENTISTS ▪ SURVEYORS

DRAWN BY: ABS
CHECKED BY: CMC

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

CHAD M. CONNER LIC. NO.: 41643 DATE: MM/DD/YYYY

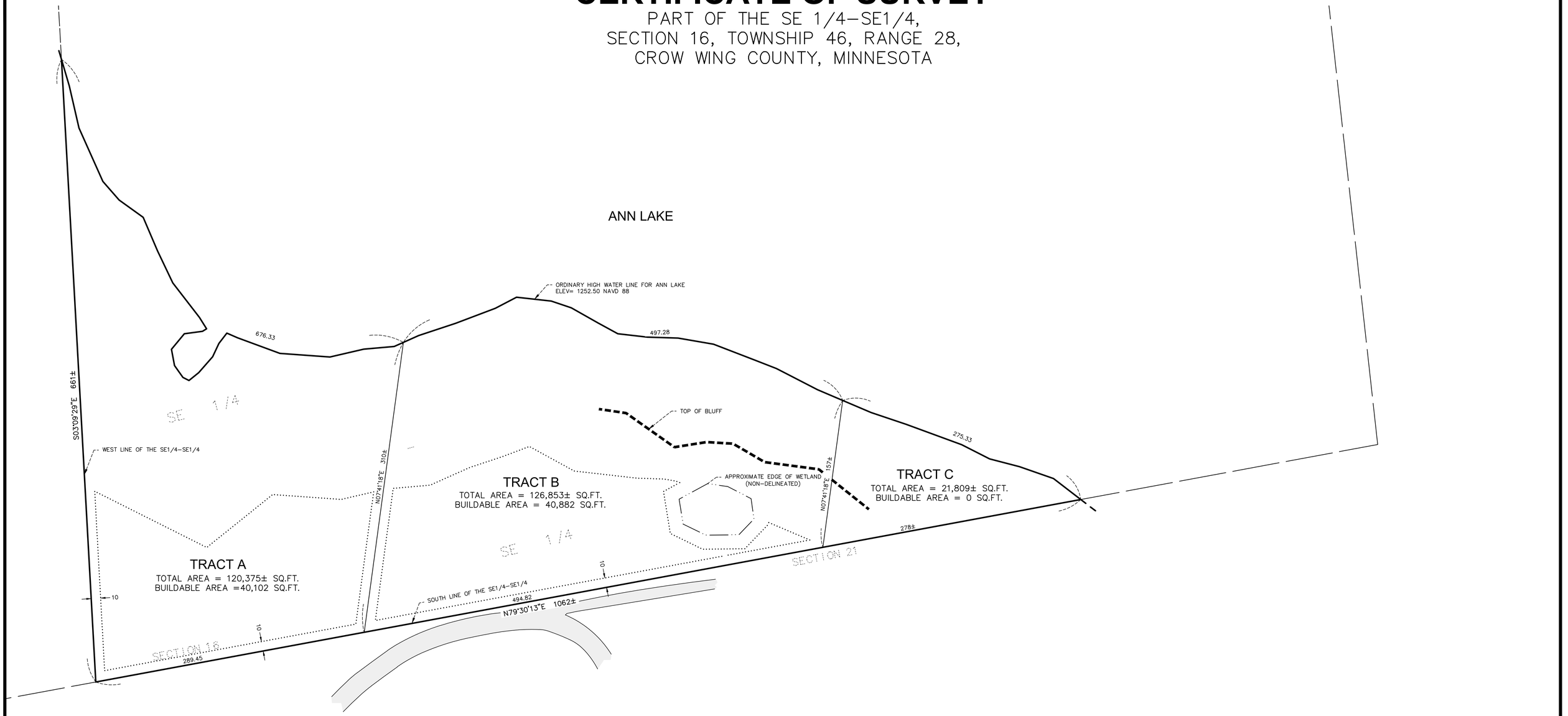
DATE	AMENDMENT DESCRIPTION

PREPARED FOR:
R AND R LANDSCAPING AND TREE REMOVAL

PROJECT #: 2025-12089

CERTIFICATE OF SURVEY

PART OF THE SE 1/4–SE1/4,
SECTION 16, TOWNSHIP 46, RANGE 28,
CROW WING COUNTY, MINNESOTA



NORTH

0 50 100

SCALE (IN FEET)

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE DATABASE NAD 83

ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 NAVD 88

● = DENOTES FOUND IRON MONUMENT

○ = DENOTES 1/2 INCH DIAMETER BY 18 INCH LONG IRON PIPE MONUMENT SET AND MARKED RLS # 41643

DATE:	10-07-2024
SCALE:	AS SHOWN
DRAWN BY:	ABS
CHECKED BY:	CMC
FILE NUMBER:	2024-11724

DATE	AMENDMENTS	BY

PREPARED FOR: **R & R LANDSCAPING & TREE REMOVAL**

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

CHAD M. CONNER DATE: LIC. NO. 41643

© 2024 WIDSETH SMITH NOLTING & ASSOCIATES, INC.

WIDSETH
ARCHITECTS ▪ ENGINEERS ▪ SCIENTISTS ▪ SURVEYORS

RECEIVED
By Stacy Westhoff at 12:32 pm, Mar 10, 2026

DEERWOOD TOWNSHIP RECOMMENDATION FORM

On March 9, 2026, the Town Board of Deerwood discussed the variance and Preliminary Plat request for R and R Landscaping and Construction, Inc. – Greg Rono

Variance Request for:

- Road Right of way width of 33 feet where 66 feet is required.

Preliminary Plat for:

- "Ann Lake Acres" consisting of 2 lots.

After reviewing the Request, the Town Board:

__X__ **RECOMMENDS APPROVAL**

With the following Conditions:

_ __RECOMMENDS DISAPPROVAL:

With the following Reasons:

____HAS NO RECOMMENDATION, BUT WILL FORWARD THE REQUEST TO THE PLANNING COMMISSION OR BOARD OF ADJUSTMENT

SIGNED:

Township Clerk

Supervisor

Supervisor

Supervisor

CAROL PUNDT
Clerk, Crow Wing County, Minnesota
Notarial Officer (ex-officio notary public)
My term is indeterminate.

PLANNING & ZONING RECOMMENDATION FORM

DEERWOOD TOWNSHIP RECOMMENDATION FORM

On May 11, 2026, the Town Board of Deerwood discussed the variance and Preliminary Plat request for R and R Landscaping and Construction, Inc. – Greg Rono

Variance Request for:

- Road Right of way width of 33 feet where 66 feet is required.

Preliminary Plat for:

- "Ann Lake Acres" consisting of 2 lots.

After reviewing the Request, the Town Board:

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With the following Conditions:

_ _**RECOMMENDS DISAPPROVAL:**

With the following Reasons:

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SIGNED:

Township Clerk

Supervisor

Supervisor

Supervisor

CAROL PUNDT
Clerk, Crow Wing County, Minnesota
Notarial Officer (ex-officio notary public)
My term is indeterminate.

Platted Subdivision - 59160504 - Conner - Saved

Application

Application Summary | Plat | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) *	59160504
Parcel number *	59160504
Owner name	R AND R LANDSCAPING AND...
Physical address	0
Physical city	DEERWOOD
Physical zip	56444
Township	DEERWOOD TOWNSHIP

Shoreland District	Yes
Shoreland Protection Zone	Yes
Riparian	Yes
Within 500ft of the Mississippi	No
Lake/River	ANN
Deeded acres	37.89
Zoning	SD

Owner Information

Name *	R AND R LANDSCAPING AND CO...	Mailing Street 1 +	37590 State Highway 47
Phone Number +	218-839-3371	Mailing Street 2	---
Email +	randrsales@live.com	Mailing City +	Aitkin
		Mailing State +	MN
		Mailing Zip code +	56431

Project Specifics

Enter number of proposed lots	2
Enter number of proposed Out-lots	0
How is the property accessed	Easement
If easement, is it recorded?	Yes
If applying for a septic, please select type from the drop down box	---
Is this a preliminary plat or final plat?	Preliminary plat
Is wetland info on file with CWC?	Yes

Findings of Fact

Does the proposed plat conform to the County's Comprehensive Plan?	Yes
Is the proposal consistent with the existing County Subdivision Ordinance? Specify the applicable sections of the ordinance.	Yes, by providing new residential housing opportunities
Are there any other standards, rules or requirements that this plat must meet? Specify other required standards.	No
Is the proposed plat compatible with the present land uses in the area of the proposal?	Yes
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	Yes
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	Yes
How are the potential environmental impacts being resolved? (Does the plat meet County standards?) Explanation should include: Stormwater, Erosion/Sediment Control, Wetlands, Floodplains, Shoreland, Septic Systems	There are no perceived environmental impacts. Proposed lots meet county standards.
Have the potential public health, safety or traffic generation impacts been addressed?	Yes

CROW WING COUNTY
MINNESOTA

NOTICE OF DECISION

Property Owner: R and R Landscaping and Construction Inc – Greg Rono

Parcel Number: 59160504

Township: Deerwood

Your application for the Preliminary Plat of "Ann Lake Acres" has been recommended for approval to the County Board of Commissioners on May 21, 2026, by the Planning Commission. Your application will now be placed on the June 9, 2026, County Board Agenda.

Conditions:

1. **Final plat must be submitted within 12 months of Preliminary Plat approval by the County Board**
2. **All applicable required improvements (Article 9.8) shall be effectively implemented**
3. **If this plat proposes to disturb 1 acre or more of soil, a Stormwater Pollution Prevention Plan (SWPPP) must be approved by the MPCA for their records prior to construction, tree clearing, and/or land grading and implemented on-site.**
4. **Documentation of plat monuments completed**
5. **Title Commitment (Before Final Plat)**

Date: 5/22/2026

Chris Pence Environmental Services Manager

CROW WING COUNTY STAFF PRELIMINARY FINDINGS OF FACT SUPPORTING/DENYING A PRELIMINARY PLAT

Name of Applicant: R&R Landscape & Construction Inc. Date: May 21, 2026

PID: 59160504

FINDINGS OF FACT:

1. ***Does the proposed plat conform to the County's Comprehensive Plan?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- Goal 1: Plan for residential development that meets the needs of residents of all ages and income levels, focusing on an aging population and moderately priced housing for area workers. Balance interests between short-term rentals and long-term housing needs. Support the development of housing that balances natural resources, creates a sense of community, and connects to recreational amenities and open space. (pg. 68)
  - Policy 1: Promote policies and development that make housing more attainable for all income levels and abilities, especially workers, seniors, and first-time homebuyers.
  - Policy 2: Pursue development opportunities that provide for all stages of life and are accessible to all residents.
  - Policy 3: Encourage mixed-use development to create neighborhoods and communities around existing and new housing.

2. ***Is the proposal consistent with the existing County Subdivision Ordinance? Specify applicable sections of the Ordinance.***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- The proposed plat meets the minimum Shoreland District lot size standards for Ann Lake, a Natural Environment lake (80,000 sq. ft. lot area, 40,000 sq. ft. buildable, 200 foot lot width).
- The proposed plat meets the requirements of Articles 11 and 33 of the Land Use Ordinance.
- With approval of the proposed variance, the plat would meet all other requirements of Article 9 of the Land Use Ordinance.

3. ***Are there any other standards, rules or requirements that this plat must meet?***
   Yes ☐ ***No*** ☒ ***Why or why not?***

- A variance for a 33-foot access easement where 66 feet is required.
- Site suitabilities were submitted to the county on 12/01/2025. There is adequate room on all parcels for two type one (1) subsurface sewage treatment systems.
- A wetland delineation of the parcels was submitted to the Land Services Department on 04/16/2026 by Brinks Wetland Services.

4. ***Is the proposed plat compatible with the present land uses in the area of the proposal?***
   Yes ☒ ***No*** ☐ ***Why or why not?***

- This property is zoned Shoreland District and is surrounded by shoreland, commercial and residential uses.

5. ***Does the plat conform to all applicable performance standards in Article 9 of the Subdivision Ordinance?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- The proposed plat meets the requirements of Articles 11 and 33 of the Land Use Ordinance.
- With approval of the proposed variance the plat would meet all other requirements of Article 9 of the Land Use Ordinance.
- A variance for a 33-foot access easement where 66 feet is required.
- Site suitabilities were submitted to the county on 12/01/2025. There is adequate room on all parcels for two type one (1) subsurface sewage treatment systems.
- A wetland delineation of the parcels was submitted to the Land Services Department on 04/16/2026 by Brinks Wetland Services.

6. ***How are the potential environmental impacts being resolved? (Does the plat meet County Standards?)***
Yes ☒ ***No*** ☐ ***Why or why not?***

- Stormwater: This will be administered through the land use permit process for each individual lot.
- Erosion/Sediment Control: This will be administered through the land use permit process for each individual lot.
- Wetlands: A wetland delineation of the parcels was submitted to the Land Services Department on 04/16/2026 by Brinks Wetland Services.
- Septic Systems: Site suitabilities were submitted to the county on 12/01/2025. There is adequate room on all parcels for two type one (1) subsurface sewage treatment systems.

7. ***Have the potential public health, safety or traffic generation impacts been addressed?***
Yes ☒ ***No*** ☐ ***Why or why not?***

- There will be no public health, safety or significant traffic generated impacts from this plat.
- Site suitabilities were submitted to the county on 12/01/2025. There is adequate room on all parcels for two type one (1) subsurface sewage treatment systems.
- A wetland delineation of the parcels was submitted to the Land Services Department on 04/16/2026 by Brinks Wetland Services.

8. ***Other issues pertinent to this matter: None***

9. ***Township recommendation: Approval on 5/11/26***

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

PCBOA	Chris Pence
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: Mark & Carol Holzer – “Riverwood Shores on Whitefish” – Final Plat

PREVIOUS ACTION:

April 17, 2025 – The Planning Commission/Board of Adjustment recommend approval of the preliminary plat of “Riverwood Shores on Whitefish” to the County Board of

Commissioners.

May 13, 2025 – County Board of Commissioners approved the preliminary plat

April 16, 2026 – The Planning Commission/Board of adjustment approved an extension of an additional 12 months to record the final plat

COMMENTS:

April 15, 2025 - Jenkins Township recommended approval

Legal Description: Gov Lot 3 & Part of the NW ¼ of SE ¼

Section 12 Township 137 Range 29

Jenkins Township

PID: 72120549 & 72120550

RECOMMENDED BOARD ACTION:

Approve the final plat of “Riverwood Shores on Whitefish” with Eighteen (18) total lots

Approximate length of presentation: 5 minutes

RIVERWOOD SHORES ON WHITEFISH

North Quarter corner of Sec. 12, Twp. 137, Rng. 29 Document Number 267207 CIM

West Quarter corner of Sec. 12, Twp. 137, Rng. 29 Document Number 854448 CIM

East Quarter corner of Sec. 12, Twp. 137, Rng. 29 Document Number 988053 2" Iron Pipe

S 00° 18' 04" W 2620.72

S 89° 40' 03" E 2626.05

S 89° 40' 03" E 1314.10

North line of the NW1/4 SE1/4

S 89° 40' 03" E 1314.10

S 89° 40' 03" E 800.00

S 89° 40' 03" E 800.00

N 00° 18' 04" E 50.00

RLS 57077

246.15

County Road 15

66' Open

50

50.00

175.00

175.00

450.00

Wildamere Drive

85.22

47.20

135.53

32.97

33

33

1314.10

EXCEPTION

391.40

514.21

200.98

568.11

107.14

Drainage Easement

S 09° 53' 10" W 38.99

S 40° 12' 20" W 196.98

N 50° 25' 38" W 53.69

△= 25° 44' 17"
L= 140.60
R= 313.00
CB= N 75° 59' 22" W
CH= 139.43

18

N 39° 34' 22" E

S 39° 34' 22" W

253.14

625.00

N 89° 40' 03" W 448.41

122.81

208.45

S 50° 25' 38" E 486.39

513.35

NW1/4 SE1/4

3

2

1

17

16

15

14

N 00° 18' 04" E 625.00

N 00° 18' 04" E 625.00

N 00° 18' 04" E 371.86

51.54

66

△= 21° 24' 05"
L= 385.85
R= 1033.00

△= 30° 16' 03"
L= 545.70

△= 10° 59' 32"
L= 185.52
R= 967.00

△= 30° 16' 03"
L= 510.84

△= 16° 17' 43"
L= 275.02

East line of the NW1/4 SE1/4

S 50° 25' 38" E 656.06

S 61° 25' 11" E 730.39

268.77

175.00

175.00

N 89° 40' 03" W 350.00

N 71° 49' 44" W 196.70

200.10

4

△= 08° 51' 58"
L= 159.85

62.69

N 80° 41' 42" W 496.40

△= 02° 58' 48"
L= 50.30

S 77° 42' 54" E 753.83

124.63

67.84

259.24

5

256.05

GARRARD TRAIL

228.29

BLOCK 1

N 00° 18' 04" E 2039.92

S 81° 16' 22" E 64.95

N 80° 41' 42" W 455.83

S 09° 18' 18" W 566.44

199.85

Drainage Easement S 08° 49' 11" W 200.11

296.07

S 00° 25' 46" W 2390.75

West line of the NW1/4 SE1/4

275.48

6

776.80

S 09° 18' 18" E

South line of the NW1/4 SE1/4

1/2" IRON PIPE

North line of Gov't Lot 3

272.09

N 09° 18' 18" E

S 81° 02' 34" E 66.64

138.30

SEC. 12, TWP. 137, RNG. 29

N 33° 56' 19" E 95.52

S 56° 01' 41" E 106.18

362.83

S 80° 41' 42" E 200.79

△= 21° 16' 26"
L= 173.03

△= 24° 40' 00"
L= 200.62
R= 466.00

Drainage Easement
△= 03° 23' 34"
L= 27.59

S 33° 58' 19" W 94.70

N 80° 41' 42" W 412.72

185.97

66

HERBERT WAY

N 80° 41' 42" W 200.79

S 09° 18' 18" W 144.36

135.36

65.43

△= 24° 40' 00"
L= 172.21
R= 400.00

78.54

41.41

△= 144° 51' 15"
L= 166.86

R= 66.00

L1

L2

L3

L4

△= 323° 05' 30"
L= 372.30

△= 81° 38' 47"
L= 94.05
R= 66.00

△= 300° 00' 00"
L= 345.58

△= 142° 53' 12"
L= 164.59

N 56° 01' 41" W 104.01

172.65

68.64

△= 280° 26' 40"

△= 72° 50' 25"
L= 83.91

△= 62° 45' 01"
L= 72.28

N 90° 00' 00" E 230.00

S 27° 14' 59" E 140.65

107.30

400.10

7

West line of Gov't Lot 3

S 77° 39' 31" W 346.17

△= 30° 29' 52"
L= 35.13

S 47° 09' 40" W 211.08

△= 44° 58' 09"
L= 51.80

GOV'T LOT 3

S 00° 18' 04" W 633.00

S 00° 25' 46" W 592.00

234.88

230.00

8

9

10

11

12

13

S 00° 18' 04" W 275.00

S 00° 18' 04" W 386.00

LOT 10

East line of Gov't Lot 3

1/2" IRON PIPE

220+/-

S 53° 53' 52" E 246.59

N 86° 43' 33" E 200.39

S 87° 18' 27" E 200.17

S 73° 37' 08" E 321.61

79+/-

72+/-

63+/-

Survey line

S 56° 04' 06" E 239.85

S 00° 25' 46" W 550.00

270.10

LOT 11

131+/-

112.01

LOT 12

1/2" IRON PIPE

BLOCK 1

N 87° 18' 08" E 200.30

41+/-

22+/-

Pine River

(Natural Environment Classification)

KNOW ALL PERSONS BY THESE PRESENTS: That Mark Holzer and Carol Holzer, husband and wife, owners of the following described property:

The Northwest Quarter of the Southeast Quarter (NW¼ SE¼) and Government Lot Three (3), Section Twelve (12), Township One Hundred Thirty-seven (137), Range Twenty-nine (29), Crow Wing County, Minnesota.

Have caused the same to be surveyed and platted as RIVERWOOD SHORES ON WHITEFISH, COUNTY ROAD 15, WILDAMERE DRIVE, GARRARD TRAIL, HERBERT WAY, the roads indicated on the plat is hereby dedicated to the public, and also dedicating the easements as shown on this plat for drainage and utility purposes only.

In witness whereof said Mark Holzer and Carol Holzer, husband and wife, have hereunto set their hands this_____ day of _____, 20___.

_____ Mark Holzer

_____ Carol Holzer

State of Minnesota
County of _____

The instrument was acknowledged before me this _____ day of _____, 20___, by Mark Holzer and Carol Holzer.

_____ (Signature)

_____ (Name Printed)

Notary Public, _____ County, Minnesota

My Commission Expires: _____

I hereby certify that I have surveyed and platted the land described on this plat as RIVERWOOD SHORES ON WHITEFISH and that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on the plat; that all monuments depicted on the plat have been correctly set; that as of the date of this certificate, all water boundaries and wetlands, as defined in Minnesota Statutes 505.01, Subd. 3, are shown and labeled on the plat; and that all public ways are shown and labeled on the plat.

_____ Jordan Chouanard, Land Surveyor
Minnesota License Number 57077

State of Minnesota
County of Crow Wing

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by Jordan Chouanard, Minnesota License Number 57077.

_____ (Signature)

_____ (Name Printed)

Notary Public, _____ County, Minnesota

My Commission Expires: _____

Department of Auditor - Treasurer

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 20_____ on the land hereinbefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this ___ day of _____, 20___.

_____ Gary Griffin, Auditor-Treasurer for Crow Wing County, Minnesota

Crow Wing County Board of Commissioners

Be it known that on this _____day of _____, 20_____, the Crow Wing County Board of Commissioners did hereby _____ this plat of RIVERWOOD SHORES ON WHITEFISH.

Crow Wing County Board of Commissioners

By _____, Chair

LOT 7

LOT 8

LOT 9

FIRST ADDITION TO DELIA BAY

ORIENTATION OF THIS BEARING SYSTEM IS BASED ON THE CROW WING COUNTY COORDINATE SYSTEM

0 100 200

SCALE IN FEET

Drainage and utility easements are shown thus:

Side lot line

5 5 10

5 5 10

Public way

Being five feet in width and adjoining side lot lines and being 10 feet in width and adjoining public ways, unless otherwise indicated on this plat.

LINE DATA TABLE		
ID	BEARING	LENGTH
L1	S 54° 51' 15" E	66.00
L2	S 45° 35' 26" W	66.00
L3	S 39° 18' 18" W	66.00
L4	N 20° 41' 42" W	66.00

MAPPING LEGEND

CONTROLLED ACCESS

PROPERTY BOUNDARY MONUMENT LEGEND

- SET IRON PIPE WITH CAP STAMPED "RLS 57077"
- FOUND IRON MONUMENT
- GOVERNMENT SECTION CORNER MONUMENT
- X COMPUTED POSITION

KLD
KRAMER LEAS DELEO
SURVEYING • ENGINEERING • PLANNING
BRAINERD ST. CLOUD

1120 Industrial Park Road
Brainerd, MN 56401
218-829-5333

13 North 11th Avenue
St. Cloud, MN 56303
320-259-1266

Crow Wing County Land Services:

On December 3, 2025, I reviewed and checked the proposed final plat of RIVERWOOD SHORES ON WHITEFISH, with regard to the following items:

- Certification by Licensed Land Surveyor.
- Mathematical closure of the outside boundaries of the plat and the outside boundaries of the parcels.
- Boundary line designation.
- Sufficient mathematical data necessary to locate and retrace all interior and exterior lines.
- All curve data, if applicable.
- Dedication as compared with the plat graphics.
- Scale of drawing.
- Street and easement dedication and widths, if applicable.
- Required monuments shown on plat.
- Scale, north arrow and basis for bearings shown on plat.
- Water elevation and benchmark, if applicable, shown on plat.
- I find the plat to agree substantially with Minnesota Statutes 160.085 & 160.14 and the MSPS Plat Manual regulating the above data.

Respectfully,

Paul Herkenhoff

_____ Paul Herkenhoff, PS 45875

24314 Smiley Road, Suite C, Nisswa, MN 56468
Office 218-961-0090 • lakesareasurveying.com

CROW WING COUNTY
MINNESOTA

NOTICE OF DECISION

Property Owner/Applicant: Mark & Carol Holzer

Authorized Agent: Jordan Chouanard

Parcel Numbers: 72120550 & 72120549

Physical Address: 37622 County Road 15 Pequot Lakes, MN 56472

Township: Jenkins

Your request for an extension of the final plat recording deadline has been approved. On April 16, 2026, the Board of Adjustment granted an additional twelve (12) months for recording the final plat for "Riverwood Shores on Whitefish." This extension applies to the Eighteen (18) lots included in the plat, which was originally approved by the County Board on May 13, 2025.

Date: 4/17/2026

Chris Pence Environmental Services Manager

CHICAGO TITLE INSURANCE COMPANY

File No.: 25-8023

ALTA COMMITMENT FOR TITLE INSURANCE
Issued by
CHICAGO TITLE INSURANCE COMPANY

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, CHICAGO TITLE INSURANCE COMPANY, a Florida corporation, (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within 180 days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

CHICAGO TITLE INSURANCE COMPANY

Countersigned:

By: _____
Authorized Officer or Agent

Crow Wing County Abstract Co., Inc.
423 Laurel St
Brainerd, MN 56401
Tel:218-829-7368
Fax:218-829-8586

By: _____
Michael J. Nolan
President

Attest: _____
Marjorie Nemzura
Secretary

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by CHICAGO TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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COMMITMENT CONDITIONS

1. DEFINITIONS

a. "Discriminatory Covenant": Any covenant, condition, restriction, or limitation that is unenforceable under applicable law because it illegally discriminates against a class of individuals based on personal characteristics such as race, color religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or other legally protected class.

b. "Knowledge" or "Known": Actual knowledge or actual notice, but not constructive notice imparted by the Public Records.

c. "Land": The land described in Item 5 of Schedule A and improvements located on that land that by State law constitute real property. The term "Land" does not include any property beyond that described in Schedule A, nor any right, title, interest, estate, or easement in any abutting street, road, avenue, alley, lane, right-of-way, body of water, or waterway, but does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.

d. "Mortgage": A mortgage, deed of trust, trust deed, security deed, or other real property security instrument, including one evidenced by electronic means authorized by law.

e. "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.

f. "Proposed Amount of Insurance": Each dollar amount specified in Schedule A as the Proposed Amount of Insurance of each Policy to be issued pursuant to this Commitment.

g. "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.

h. "Public Records": The recording or filing system established under State statutes in effect at the Commitment Date under which a document must be recorded or filed to impart constructive notice of matters relating to the Title to a purchaser for value without Knowledge. The term "Public Records" does not include any other recording or filing system, including any pertaining to environmental remediation or protection, planning, permitting, zoning, licensing, building, health, public safety, or national security matters.

i. "State": The state or commonwealth of the United States within whose exterior boundaries the Land is located. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and Guam.

j. "Title": The estate or interest in the Land identified in Item 3 of Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

a. the Notice;
b. the Commitment to Issue Policy;
c. the Commitment Conditions;
d. Schedule A;
e. Schedule B, Part I—Requirements; and
f. Schedule B, Part II—Exceptions; and
g. a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company is not liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

a. The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
   i. comply with the Schedule B, Part I—Requirements;
   ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
   iii. acquire the Title or create the Mortgage covered by this Commitment.

b. The Company is not liable under Commitment Condition 5 a. if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by CHICAGO TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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c. The Company is only liable under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
d. The Company's liability does not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Condition 5.a. or the Proposed Amount of Insurance.
e. The Company is not liable for the content of the Transaction Identification Data, if any.
f. The Company is not obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
g. The Company's liability is further limited by the terms and provisions of the Policy to be issued to the Proposed Insured

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT; CHOICE OF LAW AND CHOICE OF FORUM

a. Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
b. Any claim must be based in contract under the State law of the State where the Land is located and is restricted to the terms and provisions of this Commitment. Any litigation or other proceeding brought by the Proposed Insured against the Company must be filed only in a State or federal court having jurisdiction.
c. This Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind,
whether written or oral, express or implied, relating to the subject matter of this Commitment.
d. The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
e. Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
f. When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT IS ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent closing, settlement, escrow, or any other purpose.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. CLAIMS PROCEDURES

This Commitment incorporates by reference all Conditions for making a claim in the Policy to be issued to the Proposed Insured. Commitment Condition 9 does not modify the limitations of liability in Commitment Conditions 5 and 6.

10. CLASS ACTION

ALL CLAIMS AND DISPUTES ARISING OUT OF OR RELATING TO THIS COMMITMENT, INCLUDING ANY SERVICE OR OTHER MATTER IN CONNECTION WITH ISSUING THIS COMMITMENT, ANY BREACH OF A COMMITMENT PROVISION, OR ANY OTHER CLAIM OR DISPUTE ARISING OUT OF OR RELATING TO THE TRANSACTION GIVING RISE TO THIS COMMITMENT, MUST BE BROUGHT IN AN INDIVIDUAL CAPACITY. NO PARTY MAY SERVE AS PLAINTIFF, CLASS MEMBER, OR PARTICIPANT IN ANY CLASS OR REPRESENTATIVE PROCEEDING. ANY POLICY ISSUED PURSUANT TO THIS COMMITMENT WILL CONTAIN A CLASS ACTION CONDITION.

11. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Amount of Insurance is $2,000,000 or less may be arbitrated at the election of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

This page is only a part of a 2021 ALTA® Commitment for Title Insurance issued by CHICAGO TITLE INSURANCE COMPANY. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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CHICAGO TITLE INSURANCE COMPANY

ALTA COMMITMENT FOR TITLE INSURANCE
issued by
CHICAGO TITLE INSURANCE COMPANY

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:
Issuing Agent: Crow Wing County Abstract Co., Inc.
Issuing Office: Brainerd, MN 56401
Issuing Office's ALTA® Registry ID: #0001525, Brainerd office **and** #1027150, Crosslake office
Loan ID Number:
Commitment Number: C-25-8023
Issuing Office File Number: C-25-8023
Property Address: 37622 County Road 15, Pequot Lakes, MN 56472 and Near Pequot Lakes, MN 56472.
Revision Number:

SCHEDULE A

1. Commitment Date: April 9, 2025 at 8:00 A.M.

2. Policy to be issued:
a. 2021 ALTA® Owner's Policy
Proposed Insured: **Purchaser with contractual rights under a purchase agreement with the vested owner identified at Item 4 below.**
Proposed Amount of Insurance: **$100,000.00.**
The estate or interest to be insured: **Fee Simple.**

3. The estate or interest in the Land at the Commitment Date is: **Fee Simple.**

4. The Title is, at the Commitment Date, vested in:

Mark Holzer and Carol Holzer.
NOTE: Mark Holzer and Carol Holzer *shown in the public record as joint tenants*.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Chicago Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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5. The Land is described as follows:

CROW WING COUNTY

The NW¼SE¼ and Government Lot Three (3), Section 12, Township 137, Range 29.

ABSTRACT PROPERTY

Countersigned:

By: _____
Authorized Officer or Agent

Crow Wing County Abstract Co., Inc.
423 Laurel St
Brainerd, MN 56401
Tel:218-829-7368
Fax:218-829-8586

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SCHEDULE B, PART I—Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

2. Pay the agreed amount for the estate or interest to be insured.

3. Pay the premiums, fees, and charges for the Policy to the Company.

4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

Plat of RIVERWOOD SHORES ON WHITEFISH shall be put of record in County Recorder's office for County of Crow Wing Minnesota.
NOTE: Plat signatures must include consent of Lender.

5. Affidavit regarding **Seller / Borrower / Corporation / LLC** must be provided for our review.

6. Mortgage in first position shown at **item #10** on Schedule B Section II. Lender consent is required for the platting of RIVERWOOD SHORES ON WHITEFISH.

7. For each policy to be issued as identified in Schedule A, Item 2, the Company shall not be liable under this commitment until it receives a designation for a Proposed Insured, acceptable to the company. As provided in Commitment Condition 4, the Company may amend this commitment to add, among other things, additional exceptions or requirements after the designation of the Proposed Insured.

8. The Proposed Policy amount(s) must be increased to the full value of the estate or interest being insured, and any additional premium must be paid at that time. An Owner's policy should reflect the purchase price or full value of the Land. A Loan Policy should reflect the loan amount or value of the property as collateral. Proposed Policy Amount(s) will be revised and premiums charged consistent therewith when the final amounts are approved

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SCHEDULE B, PART II—Exceptions

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I—Requirements are met.

2. Rights or claims of parties in possession not shown by the Public Records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.

4. Easements, or claims of easements, not shown by the Public Records.

5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

6. Taxes or special assessments which are not shown as existing liens by the Public Records.

7. The right to the subsurface minerals is a separate interest in land.

8. 2025 taxes in the amount of $1,140.00 are not paid.
NOTE: First half due and payable by May 15, 2025 and second half payable on or before October 15, 2025.
NOTE: 2024 and prior taxes are paid in full.
Tax I.D. #72120550.
NOTE: Current taxes must be paid in full, split fees may apply, and City/County approval may be required to record the plat of RIVERWOOD SHORES ON WHITEFISH.

   2025 taxes in the amount of $872.00 are not paid.
NOTE: First half due and payable by May 15, 2025 and second half payable on or before October 15, 2025.
NOTE: 2024 and prior taxes are paid in full.
Tax I.D. #72120549.
NOTE: Current taxes must be paid in full, split fees may apply, and City/County approval may be required to record the plat of RIVERWOOD SHORES ON WHITEFISH.

SCHEDULE B, PART II—Exceptions - Continued

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9. Special Assessments hereafter levied.
NOTE: There are no unpaid special assessments as of the date of this commitment, except the $25.00 Solid Waste Assessments payable with the 2025 taxes, as to Tax I.D. #72120550.
NOTE: This does not include a search for special assessments at the local municipality.

10. Mortgage, Adjustable Rate Rider and Second Home Rider, dated December 27, 2024 and filed December 31, 2024 as Document No. 1005044, executed by Mark Holzer and Carol Holzer, married to each other TO First National Bank North to secure the amount of $715,000.00.

11. Flowage rights of the United States of America.

12. Easement for Highway purposes conveyed to the County of Crow Wing, State of Minnesota in Book 224 of Deeds, page 75.

13. Crow Wing Cooperative and Light Company Right-of-Way Easement conveyed in Document No. 492988.

14. Access to that part of Government Lot 3, Section 12, Township 137, Range 29, that lies with in the Pine River is accessed solely via water.

15. Rights of the United States of America, State of Minnesota, County of Crow Wing, local municipality or other local government and the public in and to that part of the land lying within the bed of Pine River or Whitefish Lake.

16. This policy does not insure title to artificially filled lands, submerged lands, or land which may have been under water or which has been added to the subject land by accretion, reliction or avulsion.

17. Rights of the public and owners of land bordering Pine River to the continued and uninterrupted flow of the water of Pine River.

18. Rights of the public and owners of land bordering Pine River or Whitefish Lake to navigational and/or riparian recreational and/or other rights to use said water.

SCHEDULE B, PART II—Exceptions - Continued

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INFORMATIONAL NOTES:

1. **CHAIN OF TITLE**: Pursuant to conveyance dated December 27, 2024 and filed December 31, 2024 as Document No. 1005043.

2. **NOTICE:** **ALL CLOSING DOCUMENTS REQUIRING NOTARIZATION MUST BE SIGNED IN THE PRESENCE OF ONE OF THE FOLLOWING:**

   a. A Chicago Title Insurance / Fidelity National Financial Employee **OR**
   b. An Attorney Actively Licensed within the State of Document Signing - A Statement Certifying Licensing MUST be provided on the Law Office Letterhead **OR**
   c. A Bancserv Notary Public **OR**
   d. An Employee of a Closing/Title Company that has provided our office with a copy of their E & O Insurance with coverage of $100,000.00 or Higher.

Please contact us for the following forms that will need to be completed by the Notary acknowledging the signing of the Closing Documents:
NOTARY PUBLIC CERTIFICATION and NOTARY'S AFFIDAVIT
Brainerd Office No. 218-829-7393 or lori.johnson@cwcac.com
Crosslake Office No. 218-692-3091 or cwcac2@crosslake.net

3. If the parties intend to pre-sign documents or use a Power of Attorney, the executed documents must be reviewed by A Chicago Title Insurance Company/ Fidelity National Financial Employee prior to close.
4. If the property is Torrens, WE REQUIRE Examiner of Titles PRE-Approval on conveyance documents involving Power of Attorney.
5. This form does not cover utility bills against the subject property not shown on tax or assessment records..
6. The Company is not in possession of an Abstract of Title for the property.
7. Notice: Due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.

8. Exhibit C –LIMITATION LANGUAGE FOR LIMITATION TO AMOUNT OF FEE PAID FOR SEARCH

YOU EXPRESSLY AGREE AND ACKNOWLEDGE THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REPORT. YOU RECOGNIZE THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, YOU UNDERSTAND THAT THE COMPANY WAS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REQUESTED REPORT BUT FOR YOUR AGREEMENT THAT THE COMPANY'S LIABILITY IS STRICTLY LIMITED.

YOU AGREE THAT MATTERS AFFECTING TITLE BUT WHICH DO NOT APPEAR AS A LIEN OR ENCUMBRANCE AS DEFINED IN THE CUSTOMER AGREEMENT OR APPLICATION ARE OUTSIDE THE SCOPE OF THE REPORT.

YOU AGREE, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THIS REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY,ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, OR ANY OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE, OR ANY OTHER THEORY OF RECOVERY OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT, SO THAT **THE TOTAL AGGREGATE LIABILITY OF THE COMPANY, ITS EMPLOYEES, AGENTS AND SUBCONTRACTORS SHALL NOT EXCEED THE COMPANY'S TOTAL FEE FOR THIS REPORT.**

YOU AGREE THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE YOU ARE PAYING WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO YOU WITHOUT SAID TERM. YOU RECOGNIZE THAT THE COMPANY WOULD NOT ISSUE THIS REPORT, BUT FOR YOUR AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THIS REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THIS REPORT.

THIS REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. IN PROVIDING THIS REPORT, THE COMPANY IS NOT ACTING AS AN ABSTRACTOR OF TITLE. THIS REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THIS REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTIES AS TO THE REPORT, ASSUMES NO DUTIES TO YOU, DOES NOT INTEND FOR YOU TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THIS REPORT OR OTHERWISE.

IF YOU DO NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND YOU DESIRE THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, YOU MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. YOU EXPRESSLY AGREE AND ACKNOWLEDGE THAT YOU HAVE AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCTS OR SERVICES PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THIS REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

YOU AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, OR ANY OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSES WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

THESE LIMITATIONS WILL SURVIVE THE CONTRACT.

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St. Cloud, MN 56303
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Fax (320) 259-8811

May 29, 2026

Chris Pence – Environmental Services Manager
322 Laurel Street, Suite 15
Brainerd, MN 56401

RE: **RIVERWOOD SHORES ON WHITEFISH**

This memo is submitted to Crow Wing County to confirm that all monumentation as shown on the final plat of **RIVERWOOD SHORES ON WHITEFISH** was set on **July 14, 2025.**

Sincerely,

James Kramer, PLS
KRAMER LEAS DELEO, P.C.

Platted Subdivision - 72120550 - Chouanard - Saved

Application

Application Summary | Plat | Invoice | Timeline | Documents | Follow Up | Related

Primary Parcel number (PIN) * 72120550

Parcel number *	72120550
Owner name	ROUBAL, LUKE
Physical address	37622 COUNTY ROAD 15
Physical city	PEQUOT LAKES
Physical zip	56472
Township	JENKINS TOWNSHIP

Shoreland District	No
Shoreland Protection Zone	No
Riparian	No
Within 500ft of the Mississippi	No
Lake/River	
Deeded acres	3.47
Zoning	RR-2.5

Owner Information

Name *	HOLZER, MARK & CAROL	Mailing Street 1 +	2116 Robinwood Lane
Phone Number +	[redacted]	Mailing Street 2	---
Email +	[redacted]	Mailing City +	Riverwoods
		Mailing State +	Illinois
		Mailing Zip code +	60015

Application Type: Platted Subdivision

Applicant Information

Applicant *	Jordan Chouanard
Is Applicant the Property owner *	I am not the owner.
Authorized Agent Name	---
Public Hearing Agent Type	---
Contractor License Number	57077
Email	[redacted]
Phone	[redacted]
Assisted at Counter	No
Customer Service Rep	
Application Submit Date	4/10/2025

Preliminary or Final Plat

Is this a preliminary plat or final plat?	Final plat

Findings of Fact

Does the proposed plat conform to the County's Comprehensive Plan?	Yes
Is the proposal consistent with the existing County Subdivision Ordinance? Specify the applicable sections of the ordinance.	Yes, it meets the zoning ordinance
Are there any other standards, rules or requirements that this plat must meet? Specify other required standards.	not that we are aware of
Is the proposed plat compatible with the present land uses in the area of the proposal?	Yes, it meets the zoning ordinance
Does the plat conform to all applicable performance standards in Article 4.5 of the Subdivision Ordinance?	Yes, it meets the zoning ordinance
How are the potential environmental impacts being resolved? (Does the plat meet County standards?) Explanation should include: Stormwater, Erosion/Sediment Control, Wetlands, Floodplains, Shoreland, Septic Systems	There is an engineered plan with stormwater plans and road designs
Have the potential public health, safety or traffic generation impacts been addressed?	I believe so

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Sheriff
ORIGINATING DEPARTMENT

Emergency Management Director Clayton Barg
PRESENTER

AGENDA ITEM: Outdoor Warning Siren Annual Maintenance Program

PREVIOUS ACTION:
On April 28, 2026, the County Board approved the Sheriff's Office request to solicit proposals for a new, qualified vendor to provide annual maintenance to the outdoor sirens within Crow Wing County.

COMMENTS:
After collecting bids for the Outdoor Warning Siren Annual Maintenance Program Request for Proposal, Emergency Communication Systems was selected. The rate will be billed per siren based on the number of sirens serviced. 1-24 sirens will be $700 per site, 25-44 sirens will be $600 per site and 45 or more sirens will be $575 per site.

RECOMMENDED BOARD ACTION:
To accept the proposal from Emergency Communication Systems for the annual maintenance of Crow Wing County's outdoor warning sirens, from July 1, 2026, through June 30, 2028.

Approximate length of presentation: 5 minutes

Emergency Communication Systems

Safety First

1750 Hamilton Ct.
Little Chute, WI 54140
www.emergencycommunicationsystems-ecs.com
920-423-3311
Jennifer@siren-service.com

May 11th, 2026

Clayton Barg
Crow Wing County Sheriff's Office
Emergency Management Division
301 Laurel St.
Brainerd, MN 56401

Re: Request for Annual Outdoor Warning Siren Maintenance Services

Dear Mr. Barg

We are excited to have the opportunity to work with you to deliver state-of-the-art maintenance services. Our team prides itself on building trust and relationships with our communities to achieve long-term success with their siren systems. Here at Emergency Communication Systems, our technicians are Federal Signal certified and our company is one of the few Midwest Federal Signal salespersons. Our proposal demonstrates our knowledge and understanding of Crow Wing County's specifications and requirements laid out in your request.

We appreciate your time and look forward to showcasing our top tier services.

Sincerely,

Bill Van Dyn Hoven

Bill Van Dyn Hoven, President

Emergency Communication Systems

Safety First

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Little Chute, WI 54140
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Jennifer@siren-service.com

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Emergency Communication Systems

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Jennifer@siren-service.com

Description of Annual Maintenance

Annual Siren Maintenance for Tornado Sirens include but not limited to.

Details of Service:

The goal of this service is to minimize the possibility of siren failure and to capture the maximum performance and reliability of the warning system through scheduled annual service visits.

1. Inspect all electrical and mechanical connections. Make sure that all fasteners are properly tightened.
2. Visual inspection of the grounding system, utility pole, conduits and connections and cabinets.
3. Inspect both the rotator motor and siren motor (if equipped)
4. Grease and inspect siren head (up to 70ft head height)
5. Realign and reset rotation tensioner (if equipped)
6. Check sensor adjustment (if equipped)
7. Check rotation current sensor (if equipped)
8. Check AC power sensor (if equipped)
9. Check intrusion sensor (if equipped)
10. Check battery voltage/ cold cranking amps (if equipped)
11. Check controller auto-reporting (if equipped)
12. Check battery charger voltage (if equipped)
13. Check transformer/rectifier (if equipped)
14. Test manual siren activation (if equipped)

Please Note: if any parts or material are needed there will be an additional fee.

Scope of Responsibility

Emergency Communication Systems Scope of Responsibility

- Schedule technicians to perform services
- Ensure inspection is per manufacturer's specifications
- Complete the one-time comprehensive site inventory and report by May 15, 2027
- Complete the annual maintenance before May 15th each year
- Identify, document and communicate any open issues
- Provide a service point of contact to the customer
- Deliver all required reports to the customer

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Jennifer@siren-service.com

Customer Scope of Responsibility

• Provide an authorized point of contact for scheduling and onsite coordination
• Notify Emergency Communication Systems of any special instruction or other security issues affecting their visit to the site

Initial Comprehensive Inventory

Initial inspection report will include

• Make, model, and serial number of each siren head
• Age of the siren (if known or determinable by serial number)
• Inspection of the utility pole for damage or serviceability, including pole height
• Confirmation whether the electronics cabinet and battery box are steel or aluminum
• Identification of whether the cabinet contains an FCM Plus or FCX Communications Board
• Conduct and document firmware update at each tower site (if applicable)
• Documentation of whether the siren has battery backup
• Age of batteries and anticipated replacement date (if applicable)
    o Note: A 5-year rotation is recommended
• Confirmation of whether the cabinet contains a 48-volt single charger
• Confirmation of whether the cabinet has a drip loop installed
    o (Drip loop helps divert water/condensation away from entering the cabinet)
• Reading and documentation of all siren programming at each location
• Make and model of any solar infrastructure present (if applicable)

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Service Schedule and Availability

As requested by Crow Wing Co, annual maintenance will be completed by May 15th each year. ECS will complete the maintenance between the months of February and May. We will coordinate schedules with a Crow Wing Co point of contact before arrival. ECS prioritizes completing annual maintenance as one large project, all to be completed at the same time once the maintenance has started, rather than splitting services over the course of several weeks.

Cost Proposal

The following pricing includes only the annual maintenance and specific services as stated in the description above.

Number of Sirens	Cost Per Site
1-24	$700
25-44	$600
45 or more	$575

Additional material or labor is an added fee. ECS will contact CWC for approval before installing any additional material or charging for labor for said added parts.

These prices are valid for the contract term between July 1st, 2026 and June 30th, 2028.

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Jennifer@siren-service.com

References and Certifications

All lead technicians at ECS are certified through Federal Signal. Certifications can be provided upon County request.

Dane County WI

- Currently maintaining the county wide system. Project contains 143 outdoor warning sirens.
- ECS had also previously completed a county wide system and equipment upgrade and has had a long standing working relationship with the county.
- Contact: Renee Scovill – Dane County Emergency Management - (608) 284-6891 – scovill.renee@danecounty.gov

Rock County WI

- Currently maintaining the county wide system which contains 41 outdoor warning sirens.
- ECS has also installed multiple new sirens throughout the county.
- Contact: Tammy Kettleson – Rock County Emergency Management – (608) 758-8440 – tammy.kettleson@co.rock.wi.us

Brown County WI

- Currently maintain the county wide system that contains over 60 sirens.
- We have also installed several new sirens throughout the county while working with individual municipalities.
- Contact: Daniel Kane – Brown County Emergency Management Director – (920) 391-7401 – Daniel.kane@browncountywi.gov

If you would like more references, additional can be supplied when requested.

REQUEST FOR BOARD ACTION

Meeting Date

Tuesday, June 9, 2026

Administration	Amber Berent
ORIGINATING DEPARTMENT	PRESENTER

AGENDA ITEM: 06/09/2026 Correspondence

PREVIOUS ACTION:

COMMENTS:

RECOMMENDED BOARD ACTION:

Approximate length of presentation:

SUMMARY OF COUNTY BOARD
CORRESPONDENCE FOR MEETING OF
June 09, 2026

1. Letter of thanks from Mission Township to the County Administrator and team for the response to the Flanders Wildfire.

Mission Township, MN
'A QUIET PLACE TO BE'

Town Board	
Jon Auge	Chair
Bob Steele	Vice Chair
Erik Lee	Supervisor
Kari Alcock	Treasurer
Naomi Scott	Clerk

May 28, 2026

Crow Wing County
Deborah Erickson, Administrator
326 Laurel Street, Suite 13
Brainerd, MN 56401

Subject: Flanders Fire in Mission Township, Crow Wing County

Dear Deborah and Team,

On behalf of our Town Board and the citizens of Mission Township, I write to express our sincere gratitude for Crow Wing County's presence in our community during the recent Flanders Fire incident.

As you know well, such an event quickly overwhelms the local community. Very quickly the resources of Crow Wing County were marshalled to attack what was a growing and dangerous wildfire. From the County Board's emergency declaration, the Sheriff's Office's many resources, Community Services supporting shelter operations, the Highway Department for traffic control and Land Services for timber management; all were valued by our community. And your work continues with the aftermath outreach to impacted residents. As it is, we had no loss of life, no injuries to residents or responders, and no major damage to primary structures for which we are very grateful.

In the aftermath of the fire, as our board members have spoken with impacted residents, their overwhelming thoughts are of gratitude for all who responded and saved their lives and their property. While we tried to personally thank as many county team members as we could on our resident's behalf, I know we did not reach everyone so would appreciate your sharing this message with all who served our community in this incident. Also please know I have sent a separate letter to Sheriff Klang and Clayton Barg for the outstanding work of Sheriff's Office personnel.

With gratitude beyond words on behalf of Mission Township,

Jon Auge

Jon Auge, Town Board Chair

CROW WING COUNTY
JUN 01 2026
ADMIN OFFICE