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# **Le Sueur County, MN**

**Thursday, September 8, 2016**

**Regular session**

## **Item 6**

### **McCullough Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# **STAFF REPORT**

## **GENERAL INFORMATION**

**APPLICANT/ OWNER:** Robert & Janet Mc Cullough

**911 ADDRESS:** 3728 Sioux Lane, Madison Lake MN 56063

**PROJECT DESCRIPTION:** Grading, excavating and filling of approximately 112 cubic yards of material within the bluff, bluff impact and shore impact zone for placement of steps and additional landscaping of the site in a Recreational Residential "RR" District on a Recreational Development Lake, Lake Washington.

*Variance granted August 18, 2016 for impervious surface of over 25%.*

**ZONING ORDINANCE SECTIONS:** Sections 13.2 and 18

### **ZONING DISTRICT PURPOSE:**

The intent of the **Recreational Residential (RR) District** is to preserve areas which have natural characteristics suitable for both passive and active recreational usage. Also, it is the intent of this district to manage areas suitable for residential development of varying types, including permanent and seasonal housing. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

**ZONING ORDINANCE SECTIONS:** Sections 13.2 and 18

### **GOALS AND POLICIES:**

**Goal 2:** Le Sueur County should adopt and enforce land use goals and policies that conserve and restore its natural resources, bring protections to the ecological systems of the natural environment, and prevent the premature development of natural resource areas.

**Policy:** Utilize shorelands on Recreational Development Lakes (RD) for housing, but with a focus on development design that protects the resource.

**Goal 3: Improve water quality in Le Sueur County.**

**Policy:** The County will undertake actions to help protect groundwater as well as surface water features.

## **SITE INFORMATION**

**LOCATION:** Lots 33-35, Schmitt's Plat, Section 18, Kasota Township.

**ZONING:** Recreational Residential

**GENERAL SITE DESCRIPTION:** Platted Subdivision

**ACCESS:** Existing

### **EXISTING LAND USE WITHIN ¼ MILE:**

North: Residential/Lake  
East: Lake

South: Residential/Lake  
West: Ag/Residential/Lake

## **TOWNSHIP BOARD NOTIFICATION**

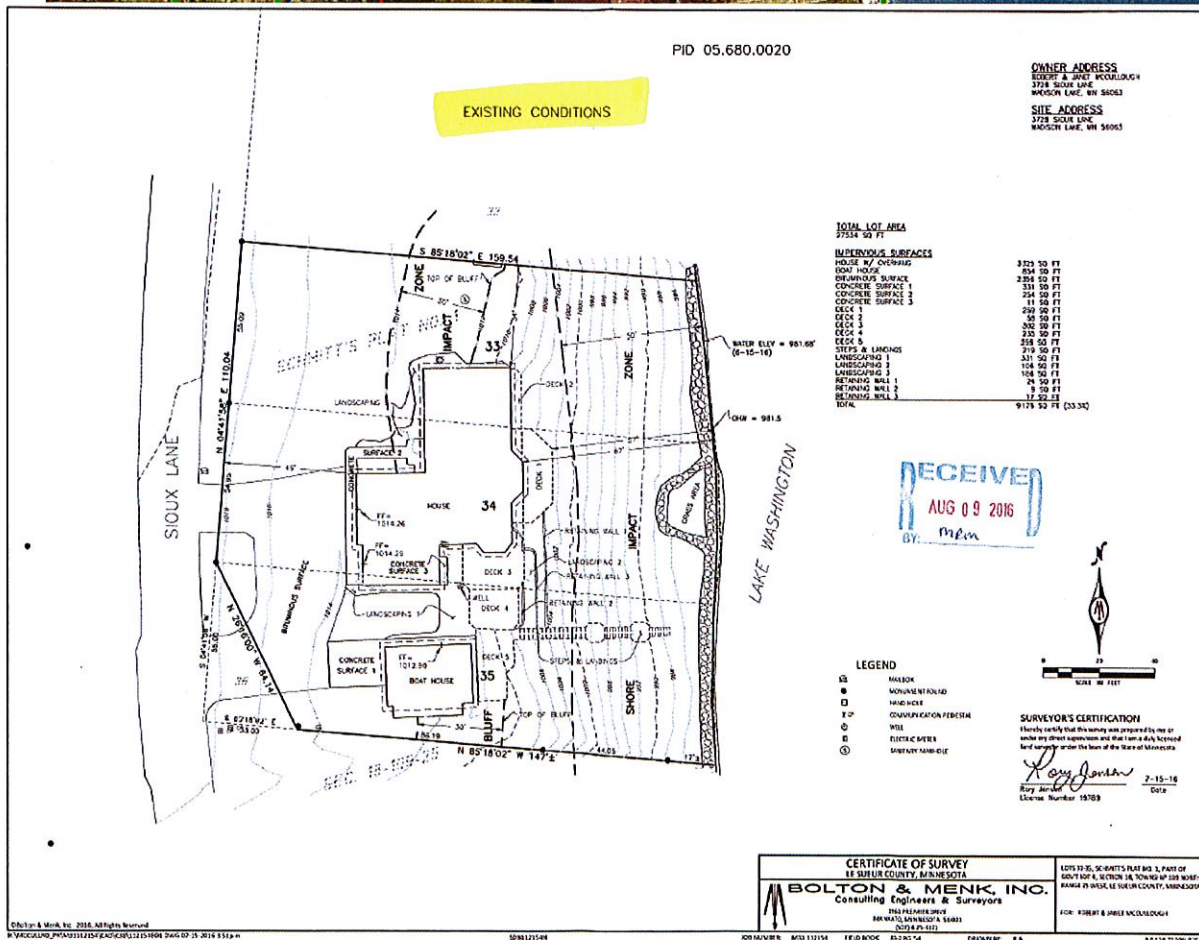
The applicants contacted Joe Kienlen, Kasota Township Board member on August 04, 2016.

## **NATURAL RESOURCES INFORMATION**

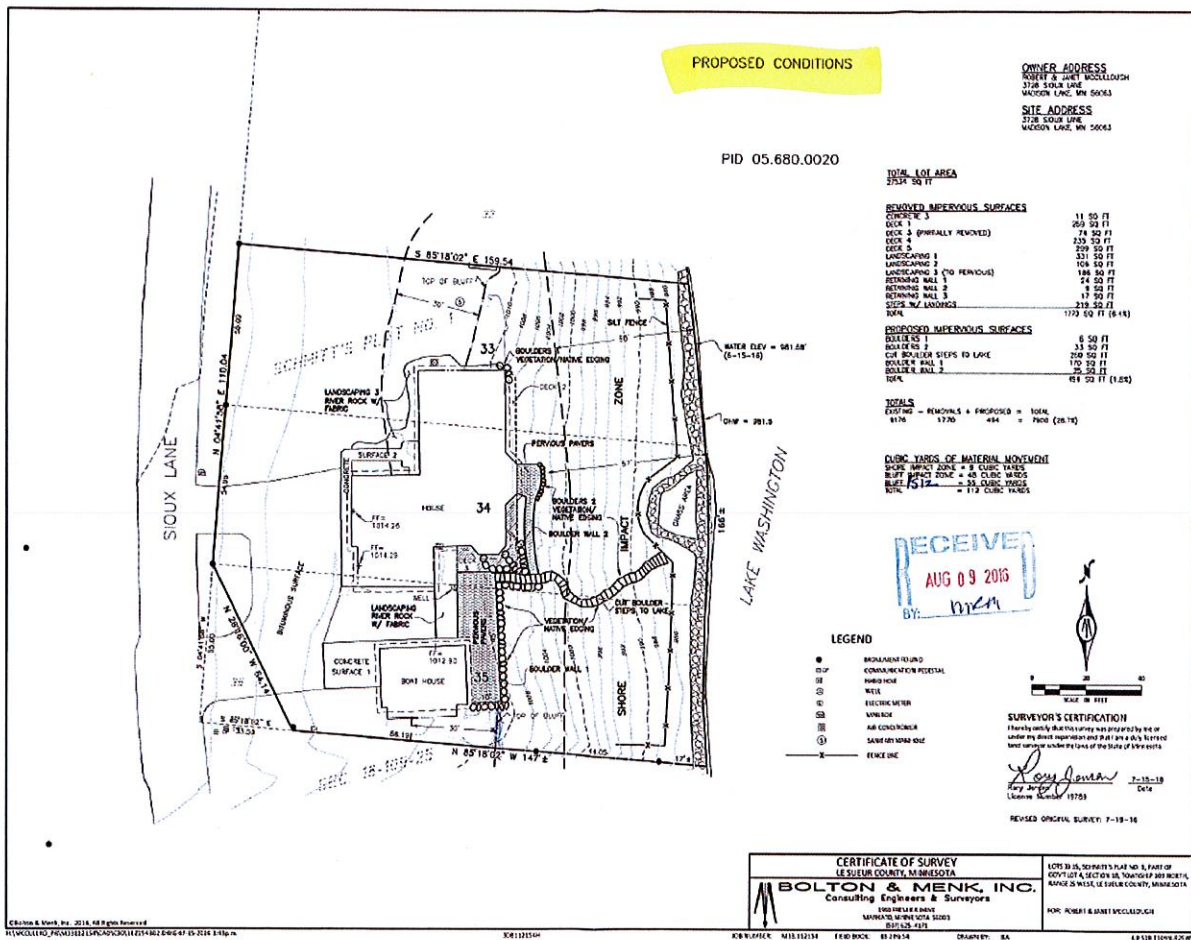
**SHORELAND:** The proposal is located within the Shoreland District.

**WETLANDS:** According to the National Wetlands Inventory, No wetlands located in the quarter-quarter section where the project is proposed.

# SITE PLAN/AERIAL PHOTO







1. **Evaluation criteria.** A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
  - b. The visibility of structures and other facilities as viewed from public waters is limited.
  - c. The site is adequate for water supply and on-site sewage treatment.
  - d. 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 this watercraft.
2. **Conditions attached to Conditional Use Permits in Shoreland Districts.** The Board of County Commissioners, 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:
  - a. Increased setbacks from the ordinary high water level.
  - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
  - c. Special provisions for the location, design, and use of structures, sewage treatment system, watercraft, launching and docking areas, and vehicle parking areas.

#### **PLANNING AND ZONING COMMISSION FINDINGS**

Based on the information submitted by the applicant, contained in this report, and as required by the Le Sueur County Zoning Ordinance, the following findings have been developed for this request:

*(Please circle one for each item: Agree, Disagree, Not Applicable)*

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *Is the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan?*

*Recommend (circle one) approval / denial / table / of Conditional Use Permit.*

# Le Sueur County

## Conditional Use Application-Grading, Excavating & Filling

Activities that involve topographic alterations in all districts shall conform to the standards in Section 18 of the Le Sueur County Zoning Ordinance. Activities within a shoreland district shall conform to the standards in Section 13 of the Le Sueur County Zoning Ordinance.

In addition any activities in any type wetland shall be evaluated in accordance with the Wetland Conservation Act (WCA) regulations, as administered by the Le Sueur County Soil & Water Conservation District (SWCD).

### I. Applicant:

Name Robert and Janet McCullough  
Mailing Address 3728 Sioux Lane  
City Madison Lake State MN Zip 56063  
Phone # 507-243-4217 Phone # 507-380-5077 BY: \_\_\_\_\_



### II. Landowner:

Name Robert and Janet McCullough  
Mailing Address 3728 Sioux Lane  
City Madison Lake State MN Zip 56063  
Property Address 3728 Sioux Lane  
City Madison Lake State MN Zip 56063  
Phone # 507-243-4217 Phone # 507-380-5077

### III. Parcel Information:

Parcel Number 05.680.0020 Parcel Acreage \_\_\_\_\_  
Attach Full Legal Description (**NOT** abbreviated description from tax statement)  
Township Kasota Section \_\_\_\_\_  
Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

### IV. Township Notification: Township must be notified of proposed use prior to application.

Kasota - Joe Kielan Township notified on 8-4-16  
(Township Name) (Date)  
Board Member Joe Kielan regarding the proposed use.  
(Name)

### V. Quantities and Submittal Formats:

- One (1) reproducible 8.5" x 11" copy of the request and all other supporting documents.
- Twenty Three (23) copies must be submitted, if any documents are in color, an aerial, or larger than 8.5" x 11" in size.
- Electronic version of any supporting documents *if available*.
- Additional copies may be requested as deemed necessary by the Department.
- Application must be made in person** by the applicant and/or landowner no later than 12 P.M. on the date of application deadline.
- Appointment is necessary.**
- Applications will not be accepted by mail.**



**VI. Fees: Must be paid at the time of application.**

Conditional Use Permit                      \$ 750 After-The-Fact fee is doubled.  
Filing Fee                                      \$ 46

**Additional Fees:**

Special Meeting                              \$ 2,000  
After-The-Fact Penalty \$ 1,500 OR 10% of improvement, whichever is greater

**VII. Type of Request: Grading, Excavating or Filling.**

<input type="checkbox"/> <b>Non-Shoreland</b>	Cubic yards of material movement: _____
<input type="checkbox"/> Within Bluff Impact Zone	Cubic yards of material movement: _____
<input type="checkbox"/> Within Bluff	Cubic yards of material movement: _____
<b>TOTAL cubic yards of material movement:</b> _____	
<input type="checkbox"/> <b>Shoreland- Outside Shore Impact Zone</b>	Cubic yards of material movement: _____
<input type="checkbox"/> Within Shore Impact Zone	Cubic yards of material movement: _____
<input type="checkbox"/> Within Bluff Impact Zone	Cubic yards of material movement: _____
<input type="checkbox"/> Within Bluff	Cubic yards of material movement: _____
<b>TOTAL cubic yards of material movement:</b> _____	

☐ Assurance security shall be required for projects that are >1500 cubic yards.

**VIII. Description of Request:**

a. A full description of request with detailed information including what operations are to occur and what general types of equipment may be used in the operation must be attached.

b. Complete the following in relationship to the proposed Conditional Use Permit.

1. ENVIRONMENTAL IMPACT: \_\_\_\_\_
2. ADVERSE IMPACT ON SURROUNDING AREAS: \_\_\_\_\_
3. STORMWATER RUNOFF: \_\_\_\_\_
4. DOES ANY PART OF THE PROJECT EXTEND BELOW OHWL: \_\_\_\_\_
5. WETLAND IMPACT: \_\_\_\_\_
6. SLOPE STABILITY: \_\_\_\_\_
7. CERTIFICATE OF INSURANCE: \_\_\_\_\_
8. MEET ALL APPLICABLE COUNTY STATE & FEDERAL REGULATIONS:  
(For example additional licensing and/or permitting) \_\_\_\_\_

**IX. Site Plan: Shall include but not limited to the following:**

- **Parcels < 5 AC =** 2-foot contours depicting existing and proposed topography.
- **Parcels 5-20 AC =** 5-foot contours depicting existing and proposed topography.
- **Parcels >20 AC =** 10-foot contours depicting existing and proposed topography.
- Location of grading, excavating, and/or filling sites.
- Location of areas for obtaining fill or disposing of excavated materials.
- Tree inventory of all trees, indicating trees to be cut or removed.  
(Caliper of 6 inches or greater measured 4.5 feet from ground level).

- |                                      |           |                       |                            |
|--------------------------------------|-----------|-----------------------|----------------------------|
| • North point                        | • Lake    | • Existing Structures | • Septic system            |
| • Setbacks                           | • River   | • Proposed Structures | • Well                     |
| • Property Lines                     | • Wetland | • Lot Dimensions      | • Access (size & location) |
| • Road Right-Of-Way                  | • Stream  | • Ponds               | • Easements                |
| • Landscape, screening and buffering |           |                       | • Drainage                 |

**• Site plan & As-Built must be completed by a surveyor or professional engineer.**

**X. Restoration Plan:** Shall include but not limited to the following:

- Areas of restoration shall include the application of a minimum of 4 inches of topsoil or similar material that will support plant growth. *(Must be included in cubic yards calculation of material.)*
- Reseeded areas indicated with type of vegetation. *(Shall meet minimum standards by the SWCD)*
- Tree replacement plan. *(Areas located within the Bluff Impact Zone, Bluff, Shoreland & Conservancy Distircts)*
  - Root zone of existing trees shall be preserved and protected during development.
  - Replace one tree for every tree that is removed.
  - Replacement trees shall have a minimum caliper of 2 inches at 4.5 feet from ground level.

**XI. Attachments:** Shall include but not limited to:

- ☐ a. **Description of Request**-See Part VIII for full details and requirements.
- ☐ b. **Site Plan**-See Part IX for full details and requirements.
- ☐ c. **Full Legal Description**-Not abbreviated description from tax statement.
- ☒ d. **Access approval**-Attach approval in writing from proper road authority.
- ☐ e. **Township Notification**-See Part IV for details and requirements.
- ☐ f. **Septic System Compliance Inspection**
- ☐ g. **Erosion Control Plan**-Attach completed and signed plan including map.
- ☐ h. **Restoration Plan**-See Part X for full details and requirements.
- ☐ i. **Approved Stormwater Pollution Prevention Plan**  
*-Must meet NPDES requirements and prepared by a licensed professional engineer.*

**XII. Procedure:**

The Planning & Zoning Commission shall hold a public hearing on the proposed Conditional Use Permit at a scheduled Planning and Zoning Commission meeting.

The Planning and Zoning Commission is an advisory board to the County Board of Commissioners and will make a recommendation to the County Board.

The Department shall report the finings and recommendations of the Planning Commission to the County Board for final decision.

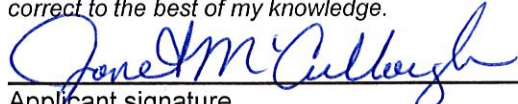
Action by the County Board shall be a majority vote of its members.

The Department shall notify the applicant and/or landowner in writing of the County Board decision.

A certified copy of the Conditional Use Permit shall be filed with the Le Sueur County Recorder by the Department.

**XIII. Signatures:**

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

  
Applicant signature

8-10-16  
Date

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

  
Property Owner signature

8-10-16  
Date



Request: **GRADING, EXCAVATING & FILLING**☐ **Non-Shoreland**

- ☐ Within Bluff Impact Zone  
☐ Within Bluff

Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: \_\_\_\_\_

TOTAL cubic yards of material movement: \_\_\_\_\_

☐ **Shoreland - Outside Shore Impact Zone**

- ☐ Within Shore Impact Zone  
☐ Within Bluff Impact Zone  
☐ Within Bluff

Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: \_\_\_\_\_

TOTAL cubic yards of material movement: 112

Pre-App Date 9/8/16  
 Meeting Date 9/8/16  
 60 Day \_\_\_\_\_  
 Zoning District RR

Lake Classification LD  
 Lake Washington  
 FEMA Panel # 27079C01380  
 Flood Zone X outside

Feedlot 500' 1000' (N)  
 Wetland Type 1-2 3-8 (N)  
 Water courses (Y) (N)  
 Bluff (Y) (N)

☒ Request Description☐ Access Approval☐ Septic Comp Insp / Design☐ Site Plan☐ Erosion Control Plan☐ Meeting (Reg) / ATF / Spec☒ Full Legal☐☐ Fee \$ 796.☐ Ordinance☐ Other \_\_\_\_\_☐ Penalty \$ \_\_\_\_\_☐ Application Complete

Kathy Brackley  
 Planning & Zoning Department Signature

8/10/16  
 Date

160240  
 Permit #

# LE SUEUR COUNTY CONDITIONAL USE PERMIT CRITERIA

Permit # 16260

Name of Applicant: ROBERT AND JANET MC CULLOUGH Conditional Use Permit #: 16260

Name of Property Owner: ROBERT & JANET MC CULLOUGH

Conditional Use Permit Request: TO ALLOW THE APPLICANTS GRADING, EXCAVATING AND FILLING OF APPROXIMATELY 112 CUBIC YARDS OF MATERIAL WITHIN THE BLUFF, BLUFF IMPACT ZONE AND SHORE IMPACT ZONE

1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.

CR AG PT DR BB JD SO SK DK DRY TOTAL

1. 

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Explain \_\_\_\_\_

2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

CR AG PT DR BB JD SO SK DK DRY TOTAL

2. 

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Explain \_\_\_\_\_

3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.

CR AG PT DR BB JD SO SK DK DRY TOTAL

3. 

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Explain \_\_\_\_\_

4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to service the proposed use.

CR AG PT DR BB JD SO SK DK DRY TOTAL

4. 

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Explain \_\_\_\_\_

5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

CR AG PT DR BB JD SO SK DK DRY TOTAL

5. 

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Explain \_\_\_\_\_

6. The conditional use is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.

CR AG PT DR BB JD SO SK DK DRY TOTAL

6. 

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Explain \_\_\_\_\_

7. The conditional use is consistent with the Comprehensive Land Use Plan.

CR AG PT DR BB JD SO SK DK DRY TOTAL

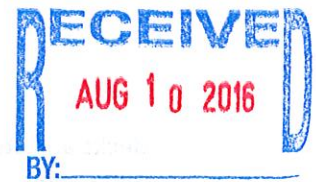
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Explain \_\_\_\_\_

If all answers are "YES" by a majority of the Planning Commission, the criteria for granting of the Conditional Use Permit request have been met. The Conditional Use Permit will maintain the goals of safety, health and the general welfare of the public.

Date: \_\_\_\_\_ APPROVED \_\_\_\_\_ DENIED \_\_\_\_\_ PZ Chairperson \_\_\_\_\_

COUNTY BOARD MEETING DATE \_\_\_\_\_



## Conditional Use Application

### III. Parcel Information: Full legal description is:

Lots number thirty-three (33), thirty-four (34) and thirty-five (35) of Schmitts Plat No. 1, of part of government Lot Numbered Four, of Section 18-109-25, LeSueur County, Minnesota

### VIII. Description of Request

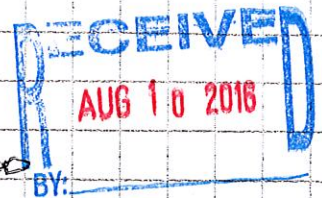
- a. We are requesting a conditional use permit to replace 20 year old wood decks and wood steps to the lake that have deteriorated and are no longer safe. We also want to replace existing plastic landscaping around the home with fabric. We have applied for a variance for impervious surfaces and set back which will be presented at the August 18, 2016 meeting.

Although we did not know our residence was located in a designated bluff as for over 21 years we have had existing grass to the shoreline which is mowed on a regular basis, we are very conscious of the importance of protecting slopes and bluffs so that stability is maintained and the natural habitat is not negatively impacted. We believe our request will have minimal if any impact to the bluff, will improve runoff as impervious surfaces are being reduced and will improve the natural look of the property. We have a significant investment in our property and it is important to us to maintain this investment and at the same time be able to enjoy and safely use the property as we enter our retirement years. We are presenting a plan that will decrease the existing impervious surfaces and will have a minimal impact to the bluff/slope to the lake.

- Remove three existing deteriorated wood decks, reduce the size of these decks and replace with pervious pavers and boulders. Plant vegetation/native edging by boulders. One of these decks services the patio door to home that was built 21 years ago; other two smaller decks services the patio door that was existing on the boat storage garage when we purchased the property 23 years ago.
- Remove an existing deteriorated wood deck (services patio door to house that was built 21 years ago) and replace with smaller composite deck.
- Remove an existing deteriorated wood balcony deck (services master bedroom balcony that was built 21 years ago) and replace with same sized composite deck as supports are cavaliered into the existing home structure.
- Remove existing deteriorated straight line wood steps to lakeshore that were built 21 years ago and replace with meandering stone steps and plant vegetation/native edging.
- Remove plastic under existing river rock landscaping and replace with fabric using same river rock.
- Add small boulders on northeast corner of existing home to match boulders used in decks. Plant vegetation/native edging by boulders.

These changes will reduce the impervious surfaces on the property from 33.3% to 28.7% which demonstrates our commitment to work towards the 25% goal and which will have a positive impact to the bluff. These changes will also have a minimal if any impact to the slope/bluff area and will create a more natural habitat for the lakeshore by using boulders (verses brick) and vegetation/native edging. It will also insure a safe environment by the removal of deteriorated





- WITHIN "SHORE IMPACT ZONE"

- REMOVE 4 YARDS OF DIRT/SOD
- INSTALL 2 YARDS OF GRAVEL
- INSTALL 3 TONS (2 YDS) OF CUT FIELDSTONE STEPS
- REINSTALL 1 YARD OF DIRT

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- WITHIN "BLUFF" AREA

- REMOVE 8 YARDS OF DIRT/SOD
- INSTALL 2 YARDS OF GRAVEL
- INSTALL 7 YARDS OF DRAINAGE ROCK
- INSTALL 3 TONS (2 YDS) OF CUT FIELDSTONE STEPS
- INSTALL 4 TONS (3 YDS) OF PAVES.
- ~~RE~~INSTALL 40 TONS (31 YDS) OF FIELDSTONE Boulders
- REINSTALL 2 YDS OF DIRT

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- WITHIN "BLUFF IMPACT ZONE"

- REMOVE 2 YARDS OF DIRT/SOD
- REINSTALL 2 YARDS OF DIRT
- INSTALL ~~25~~ 5 YARDS OF DRAINAGE ROCK BACKFILL
- INSTALL 7 TONS (5 YARDS) OF PAVES
- INSTALL 8 TONS (6 YDS) OF FIELDSTONE Boulders

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- ALSO REMOVING 4 YARDS MATERIAL OUT AROUND HOME, FASILL, THEN RE-INSTALL 4 YDS OF MATERIAL

**LE SUEUR COUNTY ENVIRONMENTAL SERVICES  
88 SOUTH PARK AVE.  
LE CENTER, MINNESOTA 56057-1600**

Phone (507) 357-8540 (direct line)

Fax (507) 357-8541

Date: 08/29/2016

To: Le Sueur County Planning and Zoning Commission

From: Joshua Mankowski, Environmental Resources Specialist

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**Applicant:**

Robert and Janet McCullough

**Property owner:**

Robert and Janet McCullough

**Property:**

05.680.0020

**Description:**

An application for a Conditional Use Permit to allow the applicants grading, excavation and filling of approximately 112 cubic yards of material within the Bluff, Bluff Impact Zone and Shore Impact Zone.

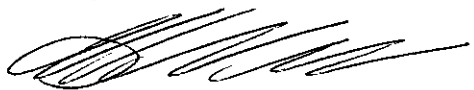
**Recommendation:**

It would be my recommendation to approve the application for the material movement needed to construct the retaining walls and pervious paver patios. These areas will allow for some retention and treatment of rainwater before it reaches the lake. The construction will also reduce the total impervious for the lot from 33.3% down to 28.7%. It is also my opinion that the proposed work with the steps will not cause destabilization of the bluff.

**Condition(s):**

Proper erosion control measures are implemented throughout construction and all exposed soils are vegetated immediately once work is completed.

Sincerely,



Joshua Mankowski  
Le Sueur County  
Environmental Resources Specialist

SD8112154H



