

# Le Sueur County, MN

Thursday, April 20, 2017 Regular Session

Item 1

**Good Packet** 

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

APPLICANT/OWNER:

Linda Good

911 ADDRESS:

46509 Cape Horn RD, Cleveland, MN

VARIANCE REQUEST:

To install a septic tank 0 feet from the deck and 68 feet from the Ordinary High Water Level (OHWL); install a pump tank 4 feet from the deck and 62 feet from the OHWL; construct the septic drainfield 1 foot from the dwelling, 2 feet from the property line, 50 feet from the

OHWL and 2 feet from the deck.

VARIANCE NUMBER:

17024

PARCEL NUMBER:

01.500.0150

### SITE INFORMATION

LOCATION:

Lot 17 & N 1/2 Lot 18, Cape Horn Subdivision, Section 1, Cleveland Township

**ZONING & PURPOSE:** 

Recreational Residential "RR"

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.

GOALS AND POLICIES:

The current Land Use Plan as adopted in 2007, Goal #3, Objective 1, Action 2, references septic

replacement program.

GENERAL SITE

DESCRIPTION:

Residential, shoreland

ACCESS:

1.

**Existing off Cape Horn Road** 

LAKE:

Lake Jefferson, Recreational Development "RD" Lake

Recreational Development Lake - Lakes that usually have between sixty (60) and two hundred twenty five (225) acres of water per mile of shoreline, between three (3) and twenty five (25) dwellings per mile of shoreline, and are more than fifteen (15) feet deep

#### **ATTACHMENTS**

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact,

## STAFF FINDINGS

Staff findings per Le Sueur County Ordinance, the following findings have been developed for this request:

Variance:	Request:	Required:	Ordinance:	Page:
a. Septic tank to deck:	0 feet	20 feet	Section 17; Subdiv. 4. D.1.b.	17-9
b. Pump tank to deck:	4 feet	20 feet	Section 17; Subdiv. 4. D.1.b.	17-9
c. Drainfield to deck:	2 feet	20 feet	Section 17; Subdiv. 4. D.1.a.	17-9
d. Drainfield to dwelling:	1 foot	20 feet	Section 17; Subdiv. 4. D.1.a.	17-9
e. Septic tank to OHWL:	68 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
f. Pump tank to OHWL:	62 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
g. Drainfield to OHWL:	50 feet	75 feet	Section 17; Subdiv. 4. D.5.b.2.	17-9
h. Drainfield to property line:	2 feet	10 feet	Section 17; Subdiv. 4. D.2.	17-9

Page 1 of 2

#### 2. Refer to DNR Guidance Letters:

a. The Role of the Variances in Shoreland Management Ordinances

pg. 9

b. Non-conforming Lots of Record in Shoreland Areas

- pg. 19
- 3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- 4. A Variance may be granted only where the strict enforcement of the official controls will result in a practical difficulty.
- 5. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- 6. A determination that a practical difficulty exists upon the consideration of the findings of fact.

## CONSIDERATIONS

- 1. The following shall be considered at the hearing:
  - a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
  - b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
  - c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

## 2. Additional Considerations:

a. Property is located within the German/Jefferson Sewer District. Installation deadline 12-31-17.

### CONDITIONS

- 1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
- 2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
- 3. If approved, construction must be completed <u>prior to the Variance expiration</u>, Section 22; Subdivision 7.
- 4. If approved, a zoning permit must be purchased prior to starting construction, Section 26.
- 5. Extension must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.

# VARIANCE FINDINGS OF FACT

Name of Applicant: LINDA GOOD Variance # 17024

Variance Request: INSTALL A SEPTIC TANK 0' FROM THE DECK, 68' FROM THE OHWL, PUMP TANK 4' DECK,62' OHWL, AND THE DRAINFIELD 1' FROM THE SFD, 2' FROM THE PROPERTY LINE, 50' FROM THE OHWL, AND 2' FROM THE DECK.

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a practical difficulty exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

	Υ	N	1.	Does the property owner propose to use the property in reasonable manner?	
				Explain	JM JW JD CH FC
	Υ	N	2.	Is the alleged practical difficulty unique to the property?	
				Explain	JM JW JD CH FC
	Υ	N	3.	Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?	JM JW JD CH FC
				Explain	
	Υ	N	4.	Will the issuance of the Variance maintain the essential character of the locality?	JM JW JD CH FC
				Explain	
	Υ	N	5.	Does the alleged practical difficulty involve more than economic considerations?	JM JW JD CH FC
				Explain	
F.	Var	ianc	es s	shall only be permitted when they are in harmony with the general purposes and in	tent of the official controls
	Υ	N	6.	Is the Variance consistent with and supported by the statement of purposes, policies, gethe Ordinance?	joal and objectives in
				Explain	JM JW JD CH FC
	Υ	N	7.	Is the Variance consistent with the Comprehensive Plan?	JM JW JD CH FC
				Explain	JM JW JD CH FC
G.	IF	<u>ALL</u>	_TF	HE ANSWERS ARE " <u>YES",</u> THE CRITERIA FOR GRANTING THE VARIANCE	HAVE BEEN MET.
	(	)	APF	PROVED ( ) DENIED	
	С	OND	ITIC	ONS:	
	Applicant response to conditions: Agree ( ) Disagree ( )				
		Reas	sons	S:	*
	-	Poor	l of	Adjustment Chairman	
		Dogra	101/	Adjustment Chairman Date	



VU	<u>munce Application</u>
I.	Applicant: Name Linda Good
	Mailing Address 46509 Cave Horn Right
	City Clevel and State MN. Zip 56017
	City Clevel and State MN Zip 56017 Phone # 507 - 931 - 6471 Phone #
II.	Landowner:
	NameSame
	Property Address
	Phone # Zip
	Phone # Phone #
III.	Parcel Information:
	Parcel Number Parcel Acreage
	Subdivision Section Section
	Subdivision Cape Horn Lot 17-10 Block
	Parcel Information:  Parcel Number
	(Full legal description can be found on deed, not abbreviated legal description from tax statement).
IV.	Variance Request: List requested alternative to development standard(s).  Installation of septic tank of from deck, 68 from  OHUL Jump tank of deck OHUL 62 t  drainfield 8'11" from SED property the 2, OHUL 50 t 2  From dec
	anstallation of septic tank of tron deck, 68 tron
	drainfield 8 11 from SED and 1 21 Atlant to
	According to the state of the s
٧.	Description of Request:
	a. A <u>full written description</u> of the proposed variance request with detailed information must be attached.
VI.	Township Notification:
	Township must be notified prior to application. (County Commissioners are not the Township Board.)
(4)	Township notified on 3-2-17
	Township Name)  Township Name)  Township notified on 3-2-17  (Date)
	Poord Mombor Susan El
	Board Member Susan Ely regarding the proposed request.  (Name)
VII.	Site Plan - Shall be a Certificate of Survey to include, but not limited to:
	North point
	Setbacks     Rivers     Septic System     Easements      Proporty lines     Wetlands
	<ul> <li>Property lines</li> <li>Road Right-Of-Way</li> <li>Wetlands</li> <li>Proposed Structures</li> <li>Existing structures - Within and adjacent to project area.</li> </ul>
	<ul> <li>Lot Dimensions</li> <li>Ponds</li> <li>Location of trees to be removed - Shoreland Districts.</li> </ul>
	Impervious Surface
	- Required for Shoreland, Business, & Industrial Districts.
	<ul> <li>Itemized current &amp; proposed impervious surfaces to include total percentages.</li> </ul>
	<ul> <li>Examples include but are not limited to: rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.</li> </ul>
	*Site shall be physically staked, then surveyed

<sup>\*</sup>Site shall be physically staked, *then* surveyed.
\*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.
\*Stakes must remain in place until construction commences.

## VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

	Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.
	no other options available on the property to bring a non-compliant system up to date
_	Bring a non-compliant system up to date
2.	What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?
3.	Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.  Lot was platted print to ordinance requirements.  No other land available.
4.	How will the request maintain the essential character of the locality?  Improve lot by updating a non-compliant system doel not change the essential character
5. 	Does the alleged practical difficulty involve more than economic considerations?  Les, Updating to be compliant.
6.	Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?
7. —	Describe how the request is consistent with the Comprehensive Land Use Plan.
8.	Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.  No other options available to update a non-compliant system
9.	Explain why this request is the minimum variance amount to afford relief.

## Attachments shall include but not limited to: IX. Xa. Site Plan-survey e. Floor plans and/or blue prints (For structures) b. Surveyor Certification f. Septic System Compliance Inspection c. Access approval 🔀 g. Erosion control plan ⊠d. Full legal description h. Description of request The Department may request additional information regarding the application. X. **Quantities and Submittal Formats:** a. One (1) reproducible copy of the request and all other supporting documents. b. Ten (10) copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs. c. Electronic version of any supporting documents if available. d. Additional copies may be requested as deemed necessary by the Department. XI. Fees: Variance: 600 Filing Fee: 46 Variance for Clusters: \$ 600 + \$200 per household Filing Fee: 46 Additional Fees: Special Meeting: \$1,200 After-The-Fact meeting fee: Doubled + After-The-Fact Penalty. After-The-Fact Penalty: \$1,500 OR 10% of the improvement, whichever is greater. Fees must be paid at the time of application, cannot be accepted by mail, and are non-refundable. Cash or check. Credit cards will not be accepted. XII. Procedure: See Section 22 of the Zoning Ordinance for full details. a. Pre-application meeting is recommended prior to making application to ensure submittal completion. Appointment is necessary. b. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. Appointment is necessary. c. All required information must be correct and submitted at the time of application, or the application will not be accepted. Fees will not be accepted by mail and must be paid at the time of application.

- e. Notification will be sent to all landowners within 500 feet of the affected property, (minimum of 10 landowners) as well as the affected Town Board, any municipality within 2 miles, and other applicable agencies.
- f. Notice will be published in the newspaper of general circulation in the area concerned and the official newspaper of the County.

- meeting. Any conversation with the Board of Adjustment during the onsite visit is prohibited.
- h. The Board of Adjustment shall hold a public hearing on the proposed Variance at a scheduled Board of Adjustment meeting.
- The applicant or representative must appear before the Board of Adjustment in order to answer questions concerning the request, or the application will be tabled.
- j. The Board of Adjustment has the authority to request additional information or designate conditions.
- k. The Board of Adjustment has the authority to determine Variance approval or denial. No Variance may be granted that allow any use that is prohibited in the Zoning District in which the property is located.
- The Department shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.
- m. The Department will file a certified copy of any order or decision issued by the Board of Adjustment with the County Recorder.

	with the County Reco	order.		•	
	n. A zoning permit is rec the day of the Board obtaining a zoning pe	quired prior to starting cons of Adjustment meeting. Zo ermit.	truction howe oning permit a	ever zoning permits will no pplication must be approv	ot be available red prior to
XIII.	Signatures:				
	I hereby certify with my true and correct to the	v signature that all data co best of my knowledge.	ontained hei	rein as well as all suppo	orting data are
	- O inda	Dord		3-8-17	
	Applicant signature		Date		
	I hereby certify with my true and correct to the	v signature that all data co best of my knowledge.	ontained hei	rein as well as all suppo	orting data are
	Dinda	Dord		3-8-17	
	Landowner signature		Date		
		OFFICE USE	E ONLY		
Date re	eceived 3 8 17 F	Present Zoning Classification _	RR	Feedlot within 500' 100	0' (N
		ake Classification		Erosion Control Plan	N
60 Day	15517	.ake		Water courses Y	N
RFPE	F	EMA Panel # <u>2707900</u>	00760	Bluff Y	) Ň
Site	Plan -survey F	Flood Zone X cruts	ide	Other	
Sun	veyor Certificate	Full legal description		Septic	COC
□ Floo	or plans/blue prints	☐ Access approval	2		NONC/Waiver Design
Des	cription of Request	Blue Prints		Fee \$ 646 AT	F / SPEC MTG
App	lication complete	& Zoning Department Signature		3/8/17	17024
	, laming	a zoning Department digitature		Date	Permit #
01-15-1	6				

I am applying for a variance for my septic system because there are no other options for me to meet the requirements of the German/Jefferson Sewer District to come into compliance by December, 2017. I am a full-time resident on East Lake Jefferson whose home sets on a very small lot.

Since I was notified about my non-compliance, I have been searching for solutions. I met with Kathy Brockway at LeSueur County Environmental Services shortly after I learned about my non-compliant drain field. She advised me to consider a cluster system or a sewer system or to convert my present tanks to holding tanks. Since I am a full-time resident, I did not want to have the burden of frequent pumping of my septic tanks since I am on a fixed income as a retired person and this seemed like a temporary solution to me. I wanted to pursue a cluster system. Because of the sewer system controversy, action on my part was delayed. After the sewer pipeline was defeated, I pursued a cluster system. I asked my adjoining neighbors if I might join them in a small cluster, but they declined because they were told that their mounds would be greatly increased in size to accommodate me which would affect their property for resale value. I joined with others in the Cape Horn area to form a cluster with John Bruender as the contractor, but land was not readily available at a reasonable price for the number of people who wanted to join the cluster so that option disappeared in late summer, 2016. I continued to seek out options by contacting various septic contractors. In fall, 2016, JRBruender Construction encouraged me to apply for a variance for the system that they would design for my property. I have obtained permission from my adjoining neighbor, Doris Borchardt, to allow access for a system to be installed.

Thank you for your consideration of this request.

Linda Good 46509 Cape Horn Road Cleveland, Mn. 56017 Linda.good@mnsu.edu 507-931-6471

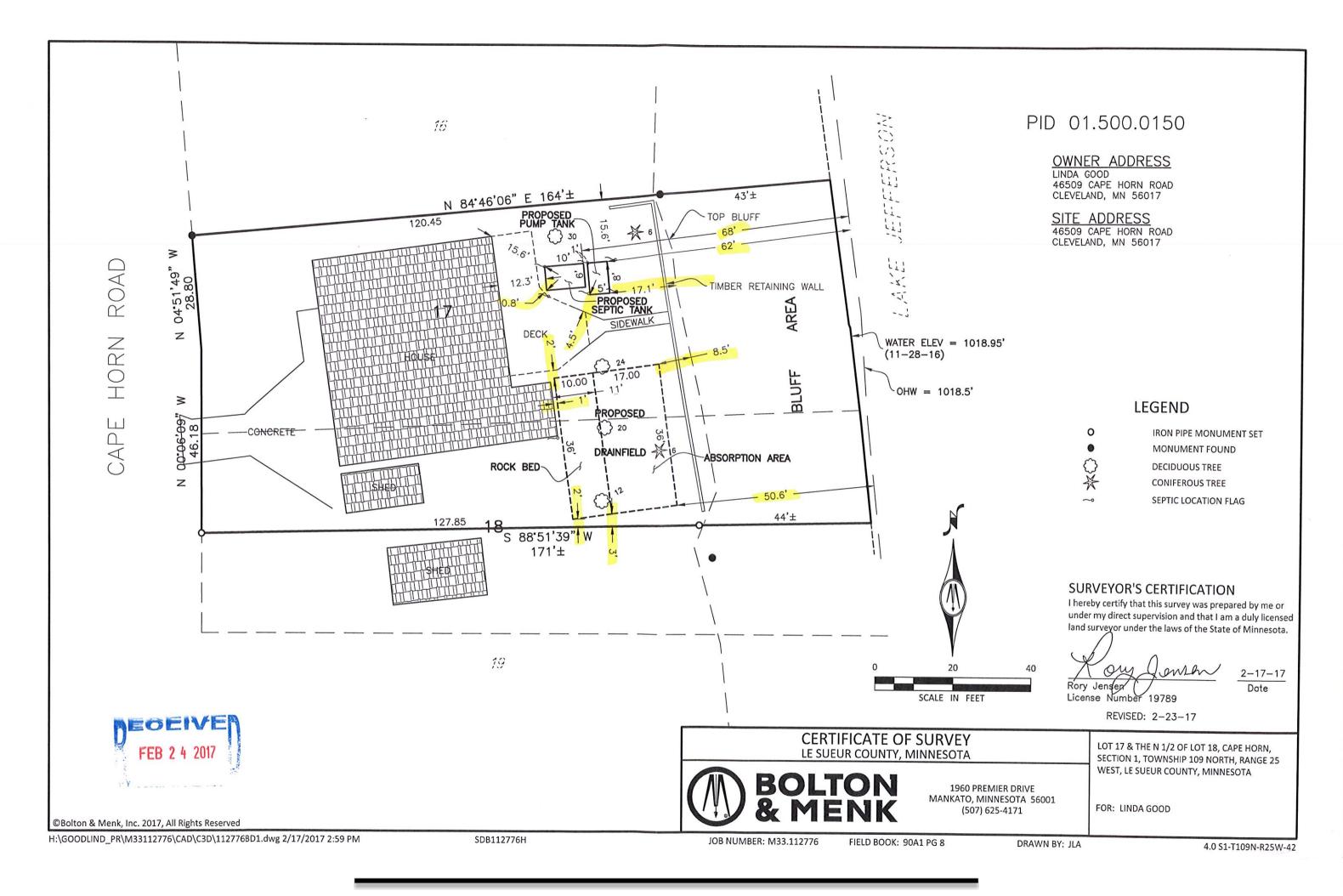
# Steve Bruender < steve@jrbruender.com>

## Reply all

Yesterday, 11:39 AM (March 2, 2017)

## Good, Linda A

Yes, Please state that erosion control logs will be staked at the top of wall on the lawn area. (at the edge of mound & tanks) Seeding to be done by owner.





l.	Applicant: Name				
II.	Landowner: Name LINDA GOOD				
	Property Address 46 509 CAPE HORN RID				
	City CLEUBLAND State MN Zip 56017				
Ш.	Parcel Information:				
	Parcel Number 01.500.0/50				
IV.	Sita Plan Shall be a Contificate of Summer to include but not limited to				
IV.	Site Plan - Shall be a Certificate of Survey to include, but not limited to:  • North point • Lakes • Well • Access				
	Setbacks     Rivers     Septic System     Easements				
	Property lines     Wetlands     Proposed Structures				
	<ul> <li>Road Right-Of-Way</li> <li>Lot Dimensions</li> <li>Streams</li> <li>Existing structures - Within and adjacent to project area.</li> <li>Location of trees to be removed - Shoreland Districts</li> </ul>				
	<ul> <li>Impervious Surface         <ul> <li>Required for Shoreland, Business, &amp; Industrial Districts.</li> <li>Itemized current &amp; proposed impervious surfaces to include total percentages.</li> <li>Examples include but are not limited to: rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.</li> </ul> </li> </ul>				
	*Site shall be physically staked, <i>then</i> surveyed.  *Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.  *Stakes must remain in place until construction commences.				
V.	Quantities and Submittal Formats:				
٧.	a. One (1) reproducible copy of the request and all other supporting documents.				
	<ul> <li>Ten (10) copies must be submitted for documents <u>larger than 11 x 17</u>, documents in <u>color</u>, <u>aerials or photographs</u>.</li> </ul>				
	c. Electronic version of any supporting documents if available.				
	<ul> <li>Pre-application meeting is recommended prior to making application to ensure submittal completion.</li> <li>Appointment is necessary.</li> </ul>				
	<ul> <li>e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. <u>Appointment is necessary</u>.</li> </ul>				
	<ol> <li>All required information must be correct and submitted <u>at the time of application</u>, or the application will not be accepted.</li> </ol>				
VI.	Signatures:				
V 1.	The proposed improvements have been physically staked onsite <i>then</i> surveyed on 2/19/2017				
	to reflect an accurate account of current and proposed conditions of the property identified above.				
	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.				
	Kory Jama 2/17/17 1909				
	Surveyor Signature Date Lic#				
_	OFFICE USE ONLY				
A	ECEIVED Mem				
2	Date Received Planning & Zoning Department Signature				
01-15	16				
BY	: Yn km				

K-outside

inda Good

NAME: PID:

Recreational Residential DATE: FIRM #: F-Zone: RFPE:

**District**:

Incorporated Townships Sections streams

LE SUEUR COUNTY

accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps. and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps These maps should not be used for navigational, engineering, legal, or any other site-specific use. development methodology, interpretation of source data, and other circumstances. 'The maps are date specific and are intended for use only at the published scale.

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Map Disclaimer

CLEVELAND

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Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

MRM

ENVIRONMENTAL SERVICES 507-357-8538

Created By:

Photo dated April/May 2013

Le Sueur County