

Le Sueur County, MN

Thursday, September 21, 2017 Regular Session

Item 3

Hovick Packet

Staff Contact: Kathy Brockway or Michelle Mettler

VARIANCE STAFF REPORT

GENERAL INFORMATION

APPLICANT/OWNER:

Robert Hovick

911 ADDRESS:

28212 Cedar Trail, Cleveland

VARIANCE REQUEST:

To allow the applicant to construct a cabin 32 feet from the road Right-Of-Way (ROW) 62 feet from the Ordinary High Water Level (OHWL), 20 feet from bluff, 30% total impervious surface.

VARIANCE NUMBER:

17286

PARCEL NUMBER:

13.650.0170

SITE INFORMATION

LOCATION:

Lot 36, Tomahawk Point, Section 4, Washington 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 makes reference to shoreland development and

bluff setbacks.

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 natural environment, and prevent the premature

development of natural resource areas.

Objective 2:

Utilize shorelands on Recreational Development Lakes (RD) for housing, but with a focus on development design

that protects the resource.

Action 1:

Continue utilizing the minimum state shoreland regulations to determine housing densities and development design.

Objective 1:

The County should continue its preservation of significant bluff areas nad river valleys through its use of a

Conservancy zone.

Action 3:

Amend the County's Zoning controls to require all structures to meet a 30' minimum setback from top of bluff.

GENERAL SITE

DESCRIPTION:

Shoreland, residential

ACCESS:

Existing off Cedar Trail

LAKE:

Lake Jefferson, Recreational Development 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.

RFPE:

Regulatory Flood Protection Elevation: <u>1022.86.</u> Lowest floor must be at or above RFPE.

ATTACHMENTS

Page 1 of 3

STAFF FINDINGS

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

| 1. | <u>Variano</u> | ce: | Request: | Required: | Ordinance: | Page: |
|----|----------------|--|----------------|----------------|--|----------------|
| | a. | Structure to road ROW: | 32 feet | *Exemption | Section 13.2. Sudiv. 5. B. 10. | 13-44 |
| | b. | See additional considerations le Structure to OHWL: | 62 feet | **Exemption | Section 13.2. Subdiv. 5. E. 3. | 13-45 |
| | c. d. | See additional considerations be Structure to Bluff: Impervious surface: | 20 feet 30% | 30 feet 25% | Section 13.2. Subdiv. 5. F. 1. c. Section 13.2. Subdiv. 5. J. 3. | 13-46 13-48 |

2. Refer to DNR Guidance Letters:

| a. | The Role of the Variances in Shoreland Management Ordinances | pg. 9 |
|----|--|--------|
| b. | Bluffs and Steep Slopes | pg. 11 |
| c. | Limiting Impervious Surface | pg. 15 |
| d. | Non-conforming Lots of Record in Shoreland Areas | pg. 19 |
| e. | Structure Setback Requirements | pg. 21 |

- 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. Structure setback to road ROW is 65 feet.
 - 1. *Exemption allows the new dwelling to be closer to the road ROW than 65 feet. The dwelling can be no closer to the road ROW than the existing dwellings on adjacent lots or at least ½ the setback (32.5'), whichever is greater.
 - The proposed structure is closer than the exemption allows, which would require a Variance to be 32 feet from the road ROW.
- b. Structure setback to OHWL is 100 feet.
 - 1. **Exemption allows the new dwelling to be closer to the OHWL than 100 feet. The dwelling can be no closer to the OHWL than the existing dwellings on adjacent lots or at least ½ the setback (50'), whichever is greater.

Page 2 of 3

2. The proposed structure is closer than the exemption allows, which would require a Variance to be 62 feet from the OHWL.

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 prior to the Variance expiration, 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: ROBERT HOVICK Variance # 17286

Variance Request: TO ALLOW THE APPLICANT TO CONSTRUCT A CABIN 32 FT. TO THE ROAD RIGHT OF WAY, 62 FT. TO THE OHWL, WITHIN THE BLUFF IMPACT ZONE AND CREATE 30% OF IMP. SURFACE.

+ 20 Feet from top of bluff mpm

- 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 | Ν | 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? Explain | JM JW JD CH FC |
| | 12727 | 100.01 | 12 | | and board board board board |
| | Υ | N | 4. | Will the issuance of the Variance maintain the essential character of the locality? | JM JW JD CH FC |
| | | | | Explain | |
| | Υ | Ν | 5. | Does the alleged practical difficulty involve more than economic considerations? | |
| | | | | Explain | JM JW JD CH FC |
| F. | Var | ianc | es s | shall only be permitted when they are in harmony with the general purposes and in | ntent of the official control |
| | Υ | N | 6. | Is the Variance consistent with and supported by the statement of purposes, policies, the Ordinance? | goal and objectives in |
| | | | | the Ordinance: | JM JW JD CH FC |
| | | | | Explain | |
| | Υ | N | 7. | Is the Variance consistent with the Comprehensive Plan? | III III ID OU 50 |
| | | | | Explain | JM JW JD CH FC |
| G. | IF | ALL | . Th | HE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCI | E HAVE BEEN MET. |
| | | | | | |
| | (_ |) | API | PROVED () DENIED | |
| | C | ONE | ITIC | ONS: | |
| | | | | | |
| | | Annli | icar | nt response to conditions: Agree () Disagree () | |
| | | | | | |
| | | Rea | son | S: | |
| | | | | | |
| | | Boar | d of | Adjustment Chairman Date | |

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: 09/07/2017

To: Le Sueur County Planning and Zoning Board of Adjustment

From: Joshua Mankowski, Environmental Resources Specialist

Applicant:

Robert Hovick

Property owner:

Robert Hovick

Property:

13.650.0170

Description:

An application for a Variance to all the applicant to construct a cabin 32 ft. to the Road Right of Way, 62 ft. to the OHWL, within the Bluff Impact Zone and create 30% of Impervious Surface.

Recommendation:

It would be my recommendation to approve this application. The proposed project decreases the Impervious Surface on the lot form 48.2% down to 30.6%. This is a significant reduction. The setback from the OHWL for the proposed structure is less than the existing structure because of a proposed deck, which is replacing a large patio that is much closer to the OWHL and is entirely within the BIZ. The proposed deck should have less impact on the lake and bluff then the current patio.

Overall, it is my opinion that the proposed project will have a positive benefit on the lake by reducing impervious surface in the SIZ and overall for the lot.

Condition(s):

None

Sincerely,

Joshua Mankowski

Le Sueur County

Environmental Resources Specialist



| Va | riance Application |
|-----------|--|
| I. | Applicant: Name Robert Hovick Mailing Address 15332 Wilderness Ridge Rd NW City Proor Lake State MN Zip 55372 Phone # 457-261-6939 Phone # |
| II. | Name Robert Hovick Property Address 28212 Cedar Trail City Cleveland State MN Zip 56017 Phone # 452-261-6929 Phone # |
| III. | Parcel Information: Parcel Number 136 500 170 Township Washington 109 North, Section Subdivision Tomahawk Point Lot 36 Block Full Legal Description must be attached. (Full legal description can be found on deed, not abbreviated legal description from tax statement). |
| IV. V. | Variance Request: List requested alternative to development standard(s). To construct a cabible 32 from road right of way. Exercise 30% imp. Surface Description of Request: 20' from bluef -mpm |
| | 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.) Nasking 10 Township notified on B 11 17 0936 |
| VII. | Site Plan - Shall be a Certificate of Survey to include, but not limited to: North point Setbacks Property lines Road Right-Of-Way Lot Dimensions Output Description of Survey to include, but not limited to: Output Description of Survey to include, but not limited to: Output Description of Survey to include, but not limited to: Output Output Description of Survey to include, but not limited to: Output O |
| | Impervious Surface Required for Shoreland, Business, & Industrial Districts. Itemized current & proposed impervious surfaces to include total percentages. 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. |
| | *Site shall be physically staked then surveyed |

^{*}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. We are staying in line with existing homes cobins. In neighborhood. Set backs are same as neighboring homes cabins. |
|--------|---|
| 2. | What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty? Narrow 10+ - 50 + 10+5 |
| 3. | Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner. Original plat had 50 ft. 1015 |
| 4. | How will the request maintain the essential character of the locality? The new home cosin will blend in with other area homes (casins. |
| 5. | Does the alleged practical difficulty involve more than economic considerations? |
| 6. | Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance? Wes constructing cabin within a residential |
| 7. | Describe how the request is consistent with the Comprehensive Land Use Plan. This will be a seasonal home cabin with plans to become a full time resident of the community This will be crease interest in fiture development. |
| 9. | Describe the properties current, and any proposed, onsite sewage treatment and water capabilities. Current - I. have a Individual Septic System. Feture - I will be hooking up to the west Sefferson Lake Sanitary Sewer Collection System Pipe to Cleveland MN. Explain why this request is the minimum variance amount to afford relief. We are in compliant with setbacks in line with other cabins and would be building on current cabin site. |
| | , |

IX. Attachments shall include but not limited to:

| ☐ a. Site Plan-survey | e. Floor plans and/or blue prints (For structures) |
|---------------------------|--|
| b. Surveyor Certification | ☐ f. Septic System Compliance Inspection |
| ☑c. Access approval Ext, | g. Erosion control plan |
| d. Full legal description | |
| | |

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 <u>at the time of application</u>, or the application will not be accepted.
- d. 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.

- g. The Board of Adjustment may conduct an onsite visit to the affected property prior to the scheduled 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.
- i. 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.
- I. 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.
- n. A zoning permit is required prior to starting construction however zoning permits will not be available the day of the Board of Adjustment meeting. Zoning permit application must be approved prior to obtaining a zoning permit.

I hereby certify with my signature that all data contained herein as well as all supporting data are

XIII. Signatures:

true and correct to the best of my knowledge.

| Applicant signature | Sobert Cloud | Date | 8/7/17 | |
|--|--|--------|---|-----------------------|
| I hereby certify with true and correct to the Landowner signature. | my signature that all data contain he best of my knowledge. Folget Ufur e | Date | rein as well as all supp | orting data are |
| | OFFICE USE ONL | Y | | |
| Date received 8 15 17 Meeting date 9 2 4 60 Day 10 2 4 RFPE Site Plan -survey | Present Zoning Classification Robert Zoning Classification Robert Lake Classification Robert State Robert R | 2 D | Feedlot within 500' 100 Erosion Control Plan Water courses Bluff Other | 00' N N) N |
| ☐ Surveyor Certificate | ☐ Full legal description | | ☐ Septic | coc |
| ☐ Floor plans/bue prints | Access approval | | Holdingteink | NONC/Waiver Design |
| □ Description of Request | ☐ Blue Prints | | □ Fee \$ 646,00 A | TF / SPEC MTG |
| ☐ Application complete Plant | ning & Zoning Department Signature | | Date | Permit# |

01-15-16



V. Description of Request:

I have a cabin that sits on a 50 foot lot. My cabin was built back in the 1950's with some improvements in the 1990's but the structure is deteriorating. I have a beautiful lot on the beautiful Lake Jefferson. I want to build a beautiful similar size cabin that matches my neighbors. I want a nice place for my family and future generations to create those lifetime memories. It will improve my lot while increasing the value of my neighbors in return helps the county with tax revenue.

Robert Hovick

Woelfel Building Construction, Inc.

390 West Derrynane Street Le Center, MN 56057



8/16/2017

Le Sueur County Environmental Services ATTN: Board of Adjustment 515 S. Maple Ave. Le Center, MN 56057

RE: Bob Hovick Variance

Dear Sir/Madam:

This letter is regarding the Bob Hovick Variance we are applying for.

The scope of work includes the demolition of the existing 1950's cabin and the construction of a new cabin in its place. The existing structure and landscaping covered 42% of the impervious surface which we reduced down to 30%. That increased our green space. We have worked very hard to be environmentally conscious. We believe the new structure will improve the neighborhood by increasing property values.

Please review and as we look forward to moving forward with the project.

Sincerely,

Denny Woelfel, CEO

Woelfel Building Construction, Inc.

Woelfel

390 W. Derrynane St.

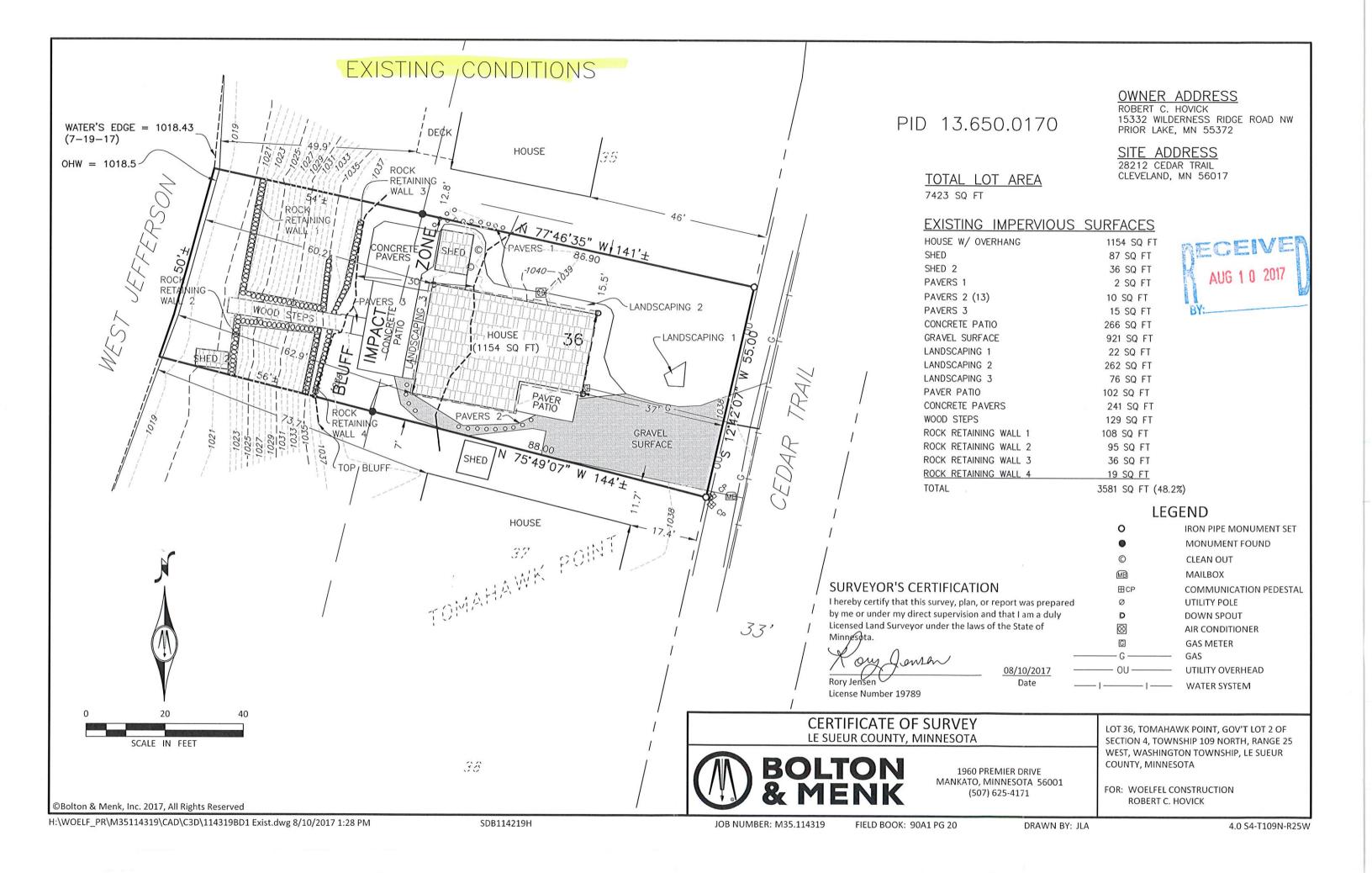
Le Center, MN 56057

507-357-6207

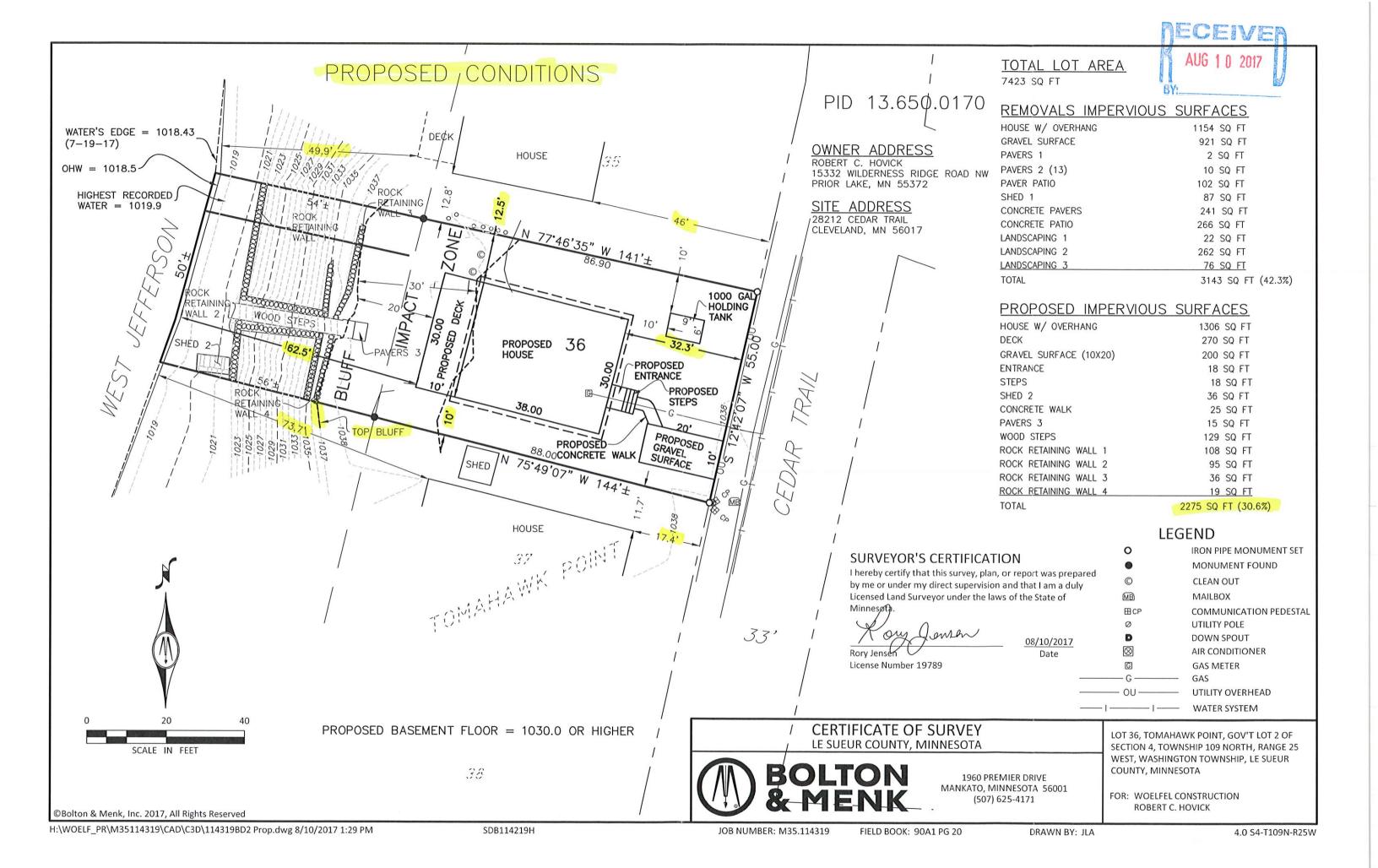


| | Applicant: Name Woelfel Construction | | | | |
|------------|---|--|--|--|--|
| | Name ROBERT HOVEK Property Address _ Z8Z/Z CEDAR TRAIL | | | | |
| | Property Address Z8Z/Z CEDAR TRAIL | | | | |
| | City C LEUELAND State MN Zip 56017 | | | | |
| | Parcel Information: Parcel Number | | | | |
| ' . | Site Plan - Shall be a Certificate of Survey to include, but not limited to: North point Setbacks Rivers Property lines Road Right-Of-Way Lot Dimensions Certificate of Survey to include, but not limited to: Well Setbacks Septic System Proposed Structures Proposed Structures Existing structures - Within and adjacent to project area. Location of trees to be removed - Shoreland Districts | | | | |
| | Impervious Surface Required for Shoreland, Business, & Industrial Districts. Itemized current & proposed impervious surfaces to include total percentages. 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. | | | | |
| | *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. | | | | |
| | 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 <u>larger than 11 x 17</u> , documents in <u>color</u> , <u>aerials or photographs</u> . | | | | |
| | c. Electronic version of any supporting documents if available. | | | | |
| | Pre-application meeting is recommended prior to making application to ensure submittal completion. <u>Appointment is necessary</u>. | | | | |
| | e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. | | | | |
| | f. All required information must be correct and submitted <u>at the time of application</u> , or the application will not be accepted. | | | | |
| | Signatures: The proposed improvements have been physically staked onsite then surveyed on July 20, 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. | | | | |
| | Surveyor/Signature 8/15/17 19789 Lic# | | | | |
| | OFFICE USE ONLY | | | | |
| | | | | | |
| | Date Received Planning & Zoning Department Signature | | | | |

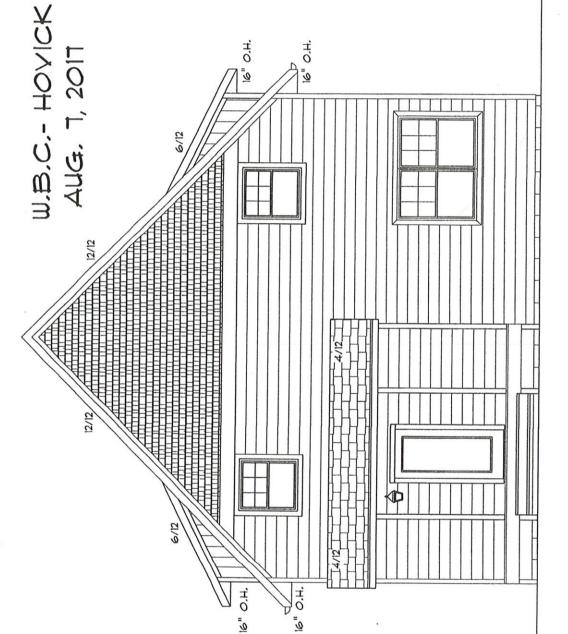
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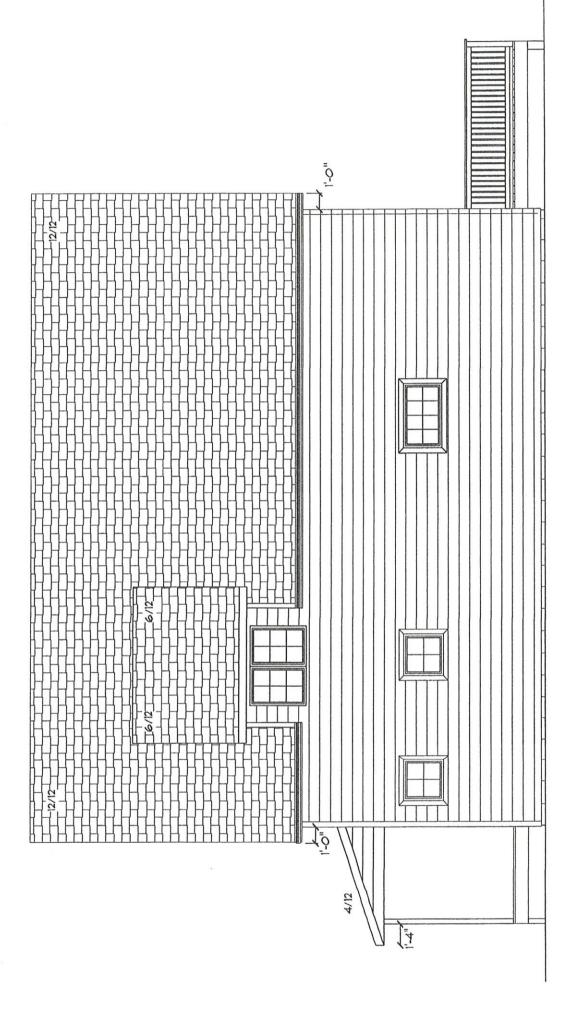
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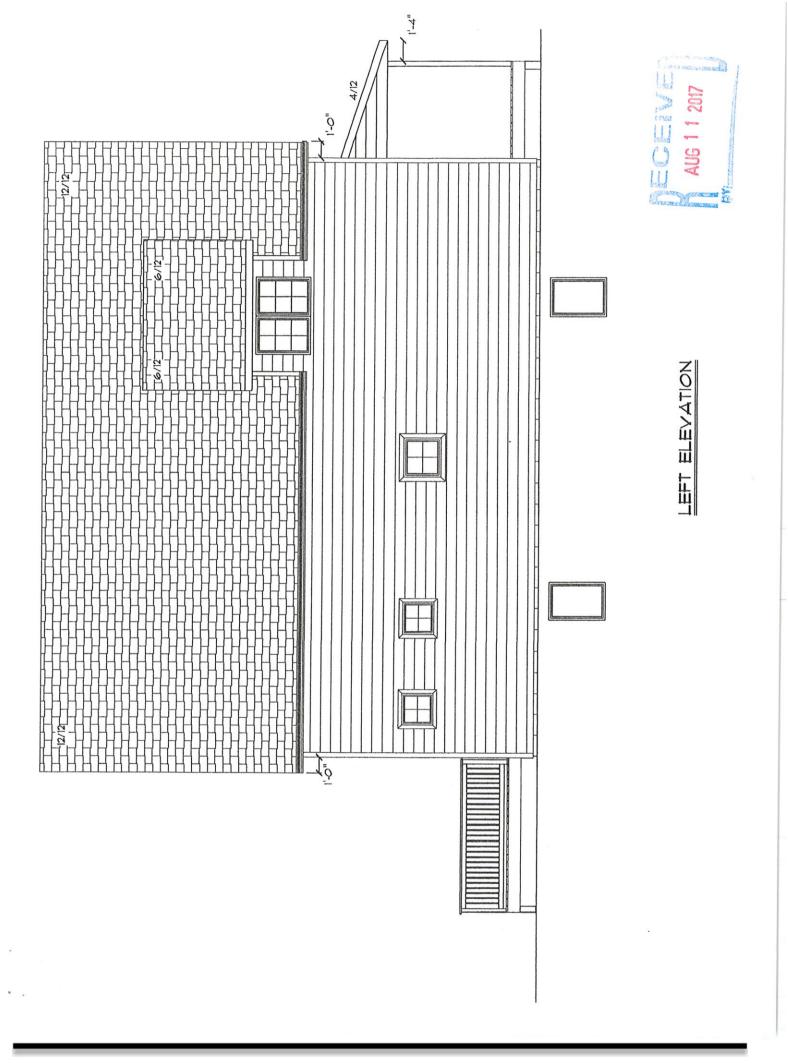


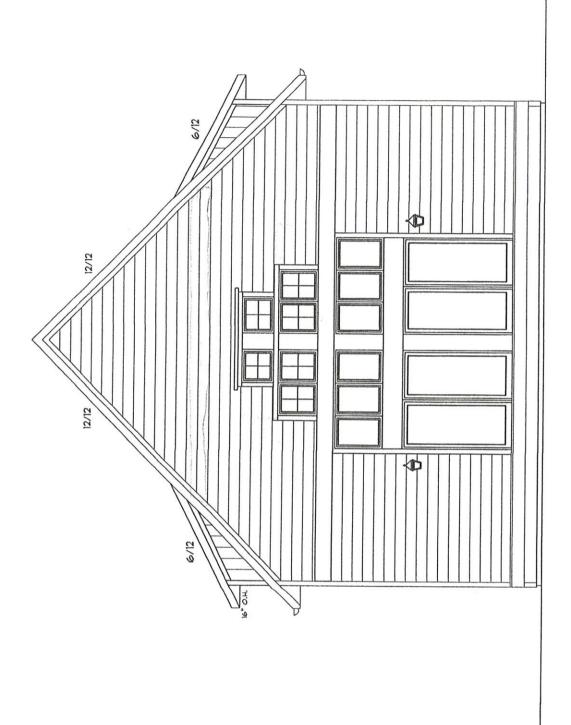
Regular Session - 9/21/2017



FRONT ELEVATION

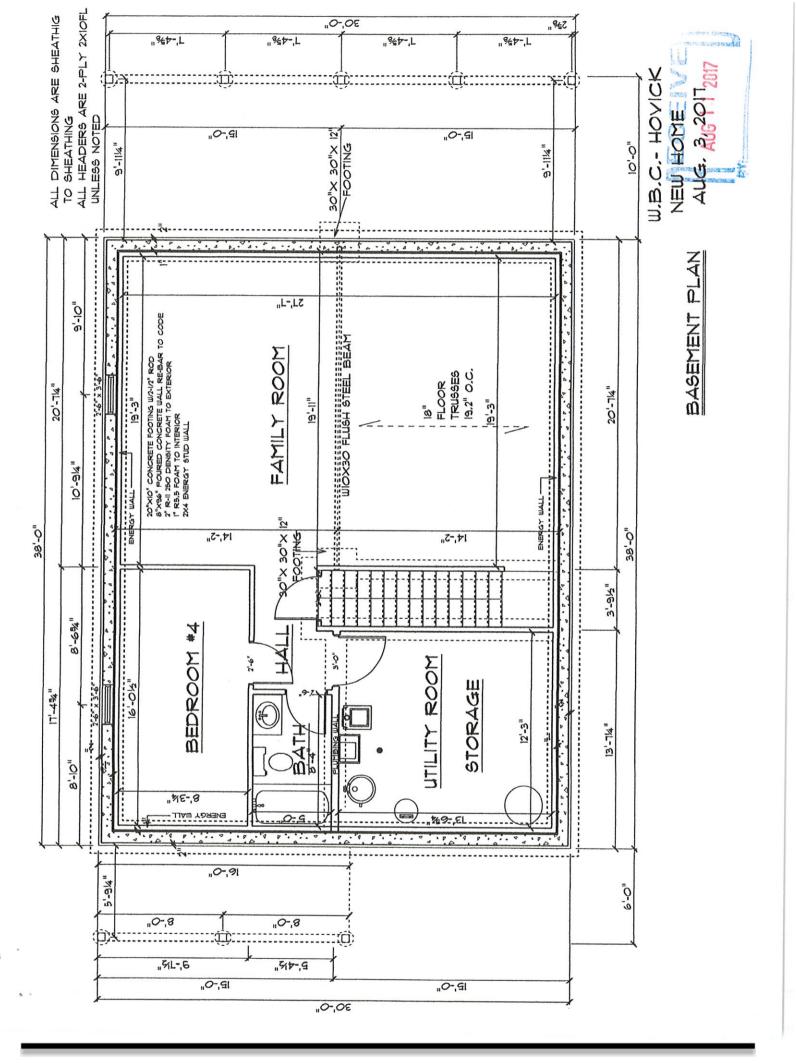


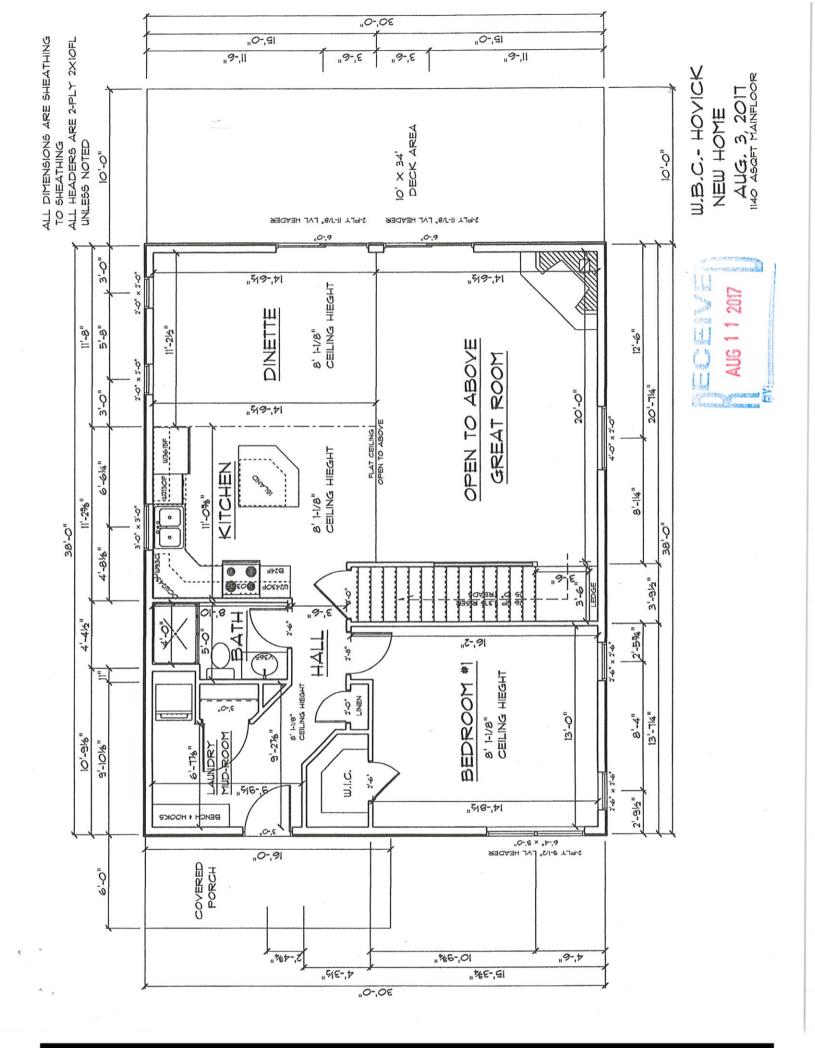


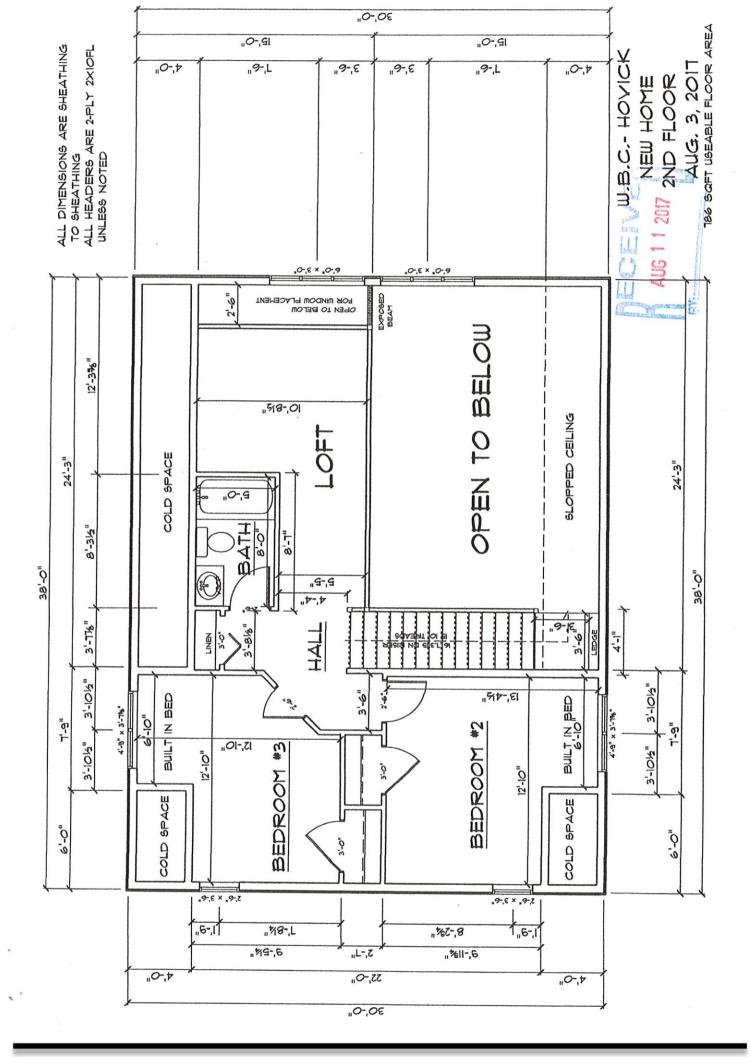




REAR ELEVATION LAKE SIDE



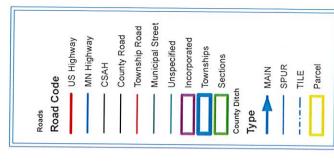


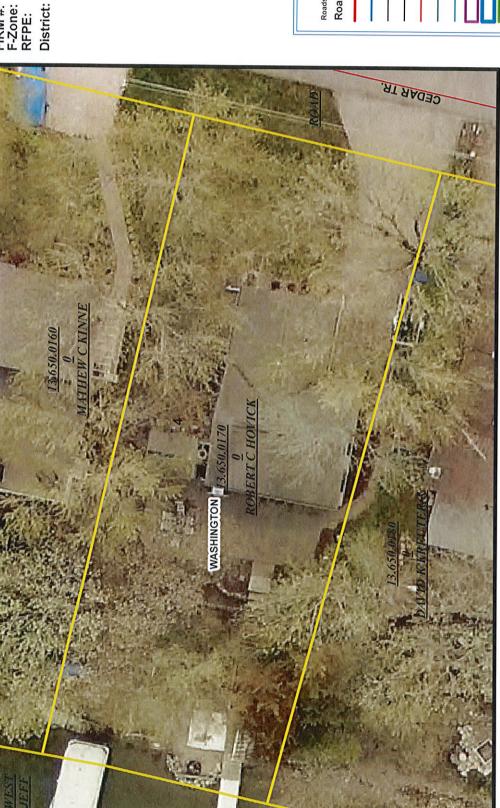


-outside NAME: PID: DATE: FIRM #: F-Zone: RFPE:

Recreational

Residential







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 development methodology, interpretation of source data, and other circumstances. "The maps are date specific and are intended for use only at the published scale.

26

30

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

These maps should not be used for navigational, engineering, legal, or any other site-specific use.

Photo dated April/May 2013

21 20

8 0

Created By: MRM

LE SUEUR COUNTY ENVIRONMENTAL SERVICES 507-357-8538

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Le Sueur County