

## Le Sueur County, MN

Thursday, April 12, 2018 Regular session

Item 1

**Margenthaler-Fazio Packet** 

Staff Contact: Joshua Mankowski or Michelle R. Mettler

### STAFF REPORT

#### GENERAL INFORMATION

APPLICANT:/OWNER:

Matt Morganthaler & Dawn Fazio

911 ADDRESS:

22694 Lake Francis Lane, Elysian, MN

PROJECT DESCRIPTION:

To allow grading, excavating, and filling of approximately 20.4 cubic yards of material in the shore impact zone to include approximately 9.06 cubic yards in the bluff for removal of an After-The-Fact retaining wall and construction of stairs and riprap shoreland

restoration project.

PARCEL NUMBER:

04.670.0120

**CUP NUMBER:** 

18016

#### SITE INFORMATION

LOCATION:

Lot 12, Muellerleile Subdivision, Section 33, Elysian Township

ZONING DISTRICT:

Recreational Residential

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.

GENERAL SITE

DESCRIPTION:

Shoreland, residential

ACCESS:

Existing off Lake Francis Lane

#### EXISTING LAND USE WITHIN 1/4 MILE:

North: Lake Francis

South: Residences

East: Residences

West: Residences

#### **BACKGROUND INFORMATION**

The previous landowner replaced/repaired existing retaining wall without a Conditional Use Permit(CUP). The application is an afterthe-fact CUP to remove the retaining wall and construct stairs in the bluff, construct 99 lineal feet of rip rap in the shore impact zone and bluff. Majority of the rip rap project is below the Ordinary High Water Level (OHWL) and is within the DNR jurisdiction. Only the portion of the project that extends landward from the OHWL is part of the CUP.

#### TOWNSHIP BOARD NOTIFICATION

Public Notice sent to Township via mail. Linus Hebl from Elysian Township was contacted on January 9, 2018 by applicant, per application.

#### NATURAL RESOURCES INFORMATION

SHORELAND:

The proposal is located within the Shoreland District.

LAKE:

Lake Frances, 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.

WETLANDS:

According to the National Wetlands Inventory, Type 1 wetland is located in the quarter-quarter section where the project is proposed.

#### **ATTACHMENTS**

Application, description of request, site plan, aerial photo, Holly Kalbus letter, photographs

#### STAFF FINDINGS

ZONING ORDINANCE SECTIONS:

Section 13, Section 18, Section 19, & Section 21

STRUCTURE REQUIRMENTS:

Detached deck will need to either apply for a Variance to be 8 feet from the property line, reduce the size of the deck to meet setback (10') to property line, or remove deck.

**GOALS & POLICIES:** The current Land Use Plan as adopted in 2007 does reference to shoreland development design.

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 resources areas.

**Objective 1:** The County should continue its preservation of significant bluff areas and river valleys through its use of a Conservancy Zone.

Action 3: Amend the County's Zoning controls to require all structures to meet a minimum 30' setback from the top of a bluff.

**Objective 2:** Utilize shorelands on Recreational Development Lakes (RD) for housing but with focus on development design that protects the resource.

Action 1: Continue utilizing the minimum state shoreland regulations to determine housing densities and development design.

Action 2: Adopt the water quality protections and standards specified under goal #3, actions #1 and #2 to protect lake water quality.

GOAL #3: Improve water quality in Le Sueur County.

Objective 1: The County will undertake actions to help protect groundwater as well as surface water features.

**Action 1:** The County will adopt and implement the goals, objectives, and actions of the County's Local Water Management Plan.

#### DNR GUIDANCE LETTERS

1. Administration, Compliance, and Enforcement

pg. 1

2. Grading & Filling within Shoreland Areas

pg. 3

3. Natural Shorelines

pg. 5

4. Bluffs and Steep Slopes

pg. 11

5. Non-conforming Lots of Record in Shoreland Areas

pg. 19

#### **ENVIRONMENTAL PERFORMANCE STANDARDS-SECTION 18**

**WETLAND:** Type 1 wetland located to the south of the property.

**BLUFF:** Project is located within the bluff.

GRADING, EXCAVATING, OR FILLING: Grading, excavating, and filling greater than 10 cubic yards within the shore

impact zone and within the bluff.

**EROSION CONTROL:** In place prior to starting any part of the project.

#### PERFORMANCE STANDARDS-SECTION 13 & 18

LANDSCAPING & SCEEENING: Condition recommended in Environmental Resource Specialist, Holly Kalbus

letter for vegetative planting.

SPECIFIC LAND USE: Shoreland Alterations: Section 13, Subdivision 5. B. (page 13-16)

Bluff Standards: Section 18, Subdivision 2. (page 18-2)

Grading, Excavating, and filling: Section 18, Subdivision 3. (page 18-3)

#### PLANNING AND ZONING COMMISSION CONSIDERATIONS

The Planning Commission and staff shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce such adverse effects. Its judgment shall be based upon the following factors to include, but not limited to:

- 1. Relationship to County plans.
- 2. The geographical area involved.
- 3. Whether such use will negatively affect surrounding properties in the area in which it is proposed.
- 4. The character of the surrounding area.
- 5. The demonstrated need for such use.
- 6. Whether the proposed use would cause odors, dust, flies, vermin, smoke, gas, noise, or vibration or would impose hazards to life or property in the neighborhood.
- 7. Whether such use would inherently lead to or encourage disturbing influences in the neighborhood.
- 8. Whether stored equipment or materials would be screened and whether there would be continuous operation within the visible range of surrounding residences.
- 9. Abatement of Environmental Hazards as regulated in this Ordinance.
- 10. Other factors impacting the public health, safety and welfare.
- 11. Additional considerations:
  - a. The site is adequate for water supply and on-site sewage treatment.
  - b. Resolving unpermitted retaining wall violation.

#### PLANNING AND ZONING COMMISSION CONDITIONS

The Planning Commission shall recommend such conditions relating to the granting of said Conditional Use Permit, as they deem necessary to carry out the intent and purpose of this Ordinance or recommend that the request be denied. Such recommendation shall be in writing. The conditions may include, but are not limited to the following:

- 1. Increasing the required lot size or yard dimension.
- 2. Limiting the height, size, or location of the structures.
- 3. Controlling the location, size, and number of vehicle access points.
- 4. Increasing the street width.
- 5. Increasing the number of required off-street parking space.
- 6. Limiting the number, size, location, or lighting of signs.
- 7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- 8. Designating sites for open space.
- 9. See staff recommended condition (Holly Kalbus letter).

#### SHORELAND DISTRICT-EVLAUATION CRITERIA

- 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
- 2. The visibility of structures and other facilities as viewed from public waters is limited.

#### SHORELAND DISTRICT CONDITIONS

- 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 system, watercraft, launching and docking areas, and vehicle parking areas.

# LE SUEUR COUNTY CONDITIONAL USE PERMIT CRITERIA

Conditional Use Permit #: 18016

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	Don Rk	Pam	Doug	Jeanne	Shirley	Don Ry	Al	TOTAL	_
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### 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: 04/02/2018

To: Le Sueur County Planning and Zoning Commission

From: Holly Kalbus, Environmental Resources Specialist

#### **Applicant:**

Matt Margenthaler & Dawn Fazio

#### Property owner:

Matt Margenthaler & Dawn Fazio

#### Property:

04.676.0120

#### **Description:**

Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of approximately 20.4 cubic yards of material in the shore impact zone to include approximately 18 cubic yards in the bluff for removal of an After-The-Fact retaining wall and construction of a riprap shoreland restoration project in a Recreational Residential "RR" District, on a Recreational Development "RD" lake, Lake Francis.

#### **Recommendation:**

It would be my recommendation to approve with the following condition(s) listed below. The existing limestone retaining wall is failing, and does not fulfill the intent of preventing and reducing erosion due to poor construction and the use of erosive material. The riprap would be placed in the current location of the retaining wall, thus reducing the amount of material movement.

#### Condition(s):

1. Plant deep rooted Minnesota native vegetation within the riprap. The vegetation will provide more stability and reduce soil erosion within the shore impact zone and bluff.

Sincerely,

Holly Kalbus Le Sueur County

Environmental Resources Specialist

### 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 MAII MARGENTHAME, DAWN FAZIO  Mailing Address 47 New (ASHE COUNT  City N MANLATO State MN Zip 5603  Phone # 507/311-2548 Phone # 507/3806206
II.	
	Name MATT MARGENTLAND DAWN FAZZO
	Mailing Address 22694 1/1 Francis Lav
	Name MATI Magger Mylo Dawn Gazo  Mailing Address 22694 1/1 Francis Cov  City Slysiam State My Zip
	Property Address 22694 Lake Vancis Zace Gly Siar Mills City State Mn Zip S6025 Phone # Phone #
	City State Zip S6028
	Phone # Phone #
111.	Parcel Information: Parcel Number 04670 0120 Parcel Acreage
	Attach Full Legal Description (NOT abbreviated description from tax statement)
	Township <u>Elysian</u> Section 33 Subdivision <u>Mellegleile</u> Lot 12 Block
	Subdivision Tivener Pite 201 To Blook
IV.	Township Notification: Township must be notified of proposed use prior to application.
	Township notified on // 9/18 (Date)
	/ // /
	Board Member Linus Hebel regarding the proposed use.
	(ічапів)
٧.	Quantities and Submittal Formats:

- a. 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.
- c. Electronic version of any supporting documents if available.
- Additional copies may be requested as deemed necessary by the Department.
- d. 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 <b>doubled</b> .  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.					
	□ Non-Shoreland □ Within Bluff Impact Zone □ Within Bluff □ Within Bluff □ TOTAL cubic yards of material movement: □ TOTAL 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 □ Within Bluff □ TOTAL cubic yards of material movement: □ TOTAL cubic yards of material movement: □ TOTAL cubic yards of material movement:					
	☐ 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: SEE Attached					
	2. ADVERSE IMPACT ON SURROUNDING AREAS: Se ATTACHED					
	3. STORMWATER RUNOFF: Ke Atached					
	4. DOES ANY PART OF THE PROJECT EXTEND BELOW OHWL:					
	5. WETLAND IMPACT: See Attached					
	6. SLOPE STABILITY: <u>Gee arthorous</u>					
	7. CERTIFICATE OF INSURANCE: See Alphal					
	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:					
	<ul> <li>Parcels &lt; 5 AC = 2-foot contours depicting existing and proposed topography.</li> <li>Parcels 5-20 AC = 5-foot contours depicting existing and proposed topography.</li> <li>Parcels &gt;20 AC = 10-foot contours depicting existing and proposed topography.</li> <li>Location of grading, excavating, and/or filling sites.</li> <li>Location of areas for obtaining fill or disposing of excavated materials.</li> <li>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).</li> <li>North point  Lake  Existing Structures  Septic system  Existing Structures  Well  Property Lines  Wetland  Lot Dimensions  Access (size &amp; location)  Easements  Drainage</li> </ul>					

• 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.

heli id teriffi

- 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 lin	mited t	O:
--------------------------------------------	---------	----

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 he correct to the best of my knowledge.	rein as well as all supporting data are true and
Man Majusta / Maintonio Applicant signature	3/14/18 Date
I hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certify with my signature that all data contained hereby certifications are contained all data contained hereby certifications.	rein as well as all supporting data are true and    Sample   Indian
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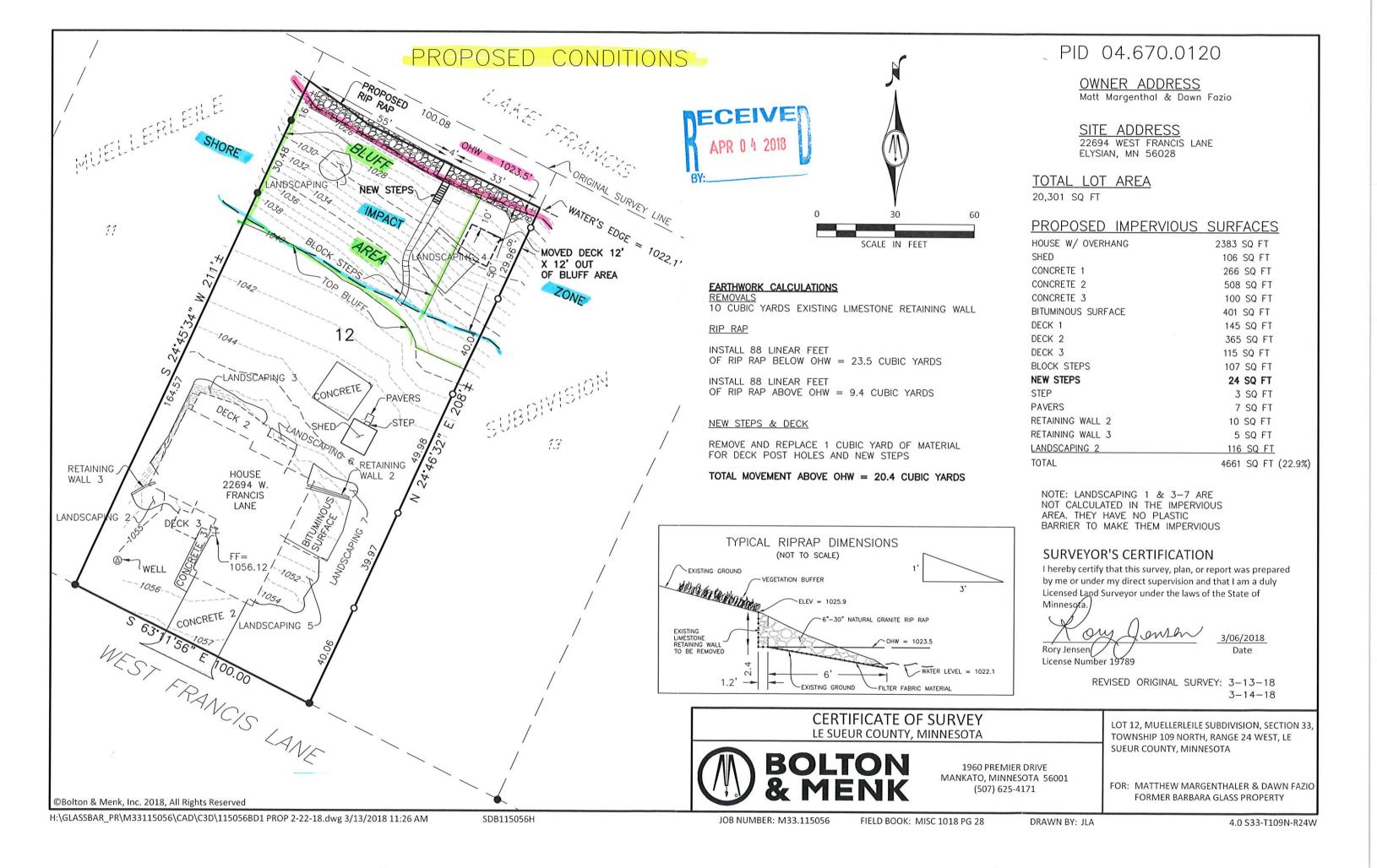
•	OFF	ICE USE ONLY		
Request: GRADING,	EXCAVATING &	FILLING		
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	TOTAL	L cubic yards of n	naterial movemer	nt:
☐ Shoreland - Outs ☐ Within Shore I ☐ Within Bluff In ☐ Within Bluff	mpact Zone	Cubic yards of Cubic yards of	material movement material movement material movement material movement	nt:
	TOTAL	. cubic yards of m	aterial movemen	t: 20,4
Pre-App Date Meeting Date 60 Day 5 - 1 3 - 18 Zoning District	Lake Classification Lake FEMA Panel # 270 Flood Zone	079C0 475	Feedlot Wetland Ty D Water cours	
Request Description	► □ Access A	Approval	\☐ Septic	Comp Insp / Design CO
Site Plan	Erosion (	Control Plan	Meeting	Reg / ATE / Spec
Full Legal			Fee	\$3,046-
t☑ Ordinance	☐ Other		Penalty	\$ 15.00,00
Application Complete	Michelle R Planning & Zoning Dep	MATA partment Signature	3-14-18	18016 Permit#

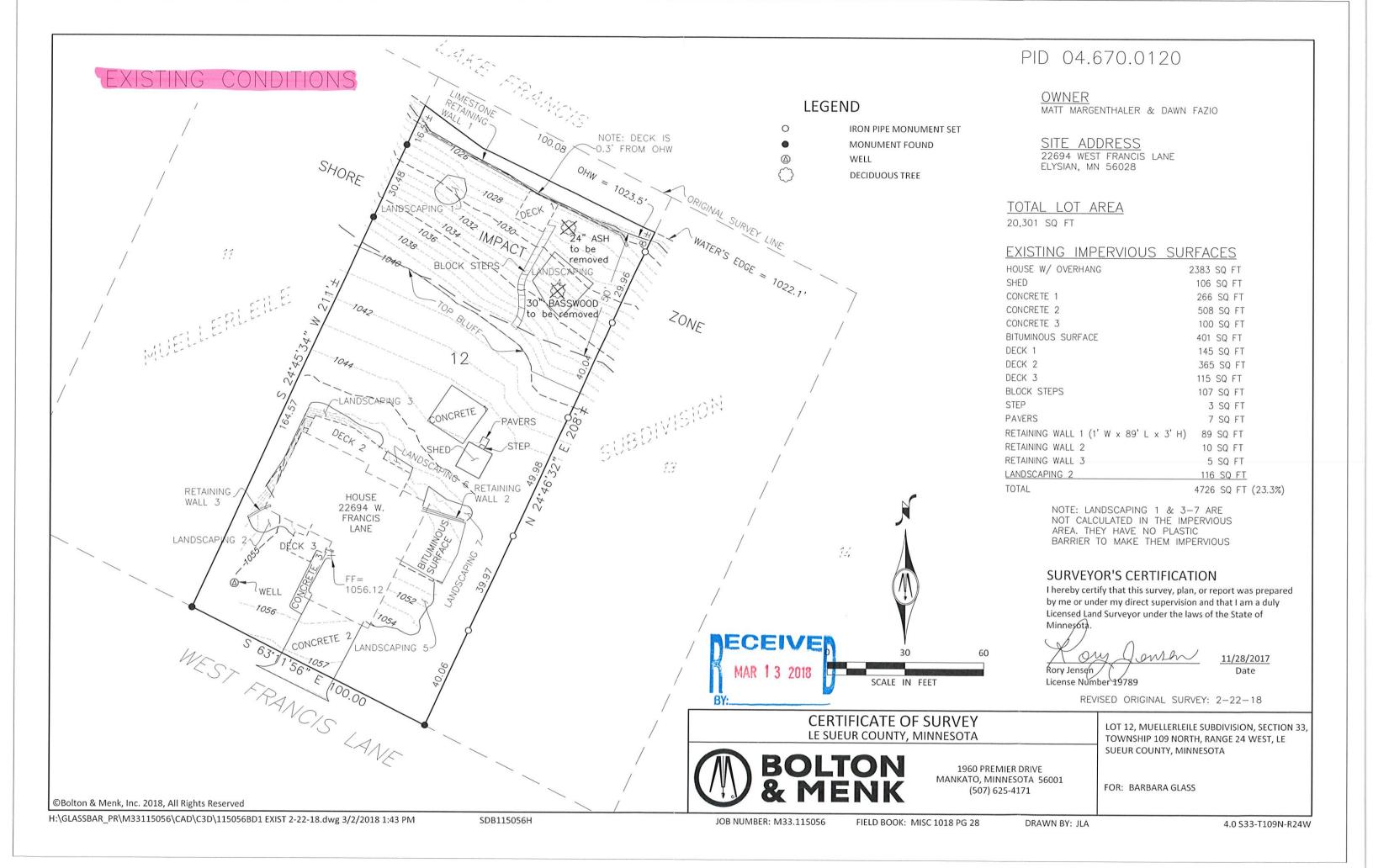


### Mettler, Michelle

From: Sent: To: Subject:	Bryan Suemnick <bryansuemnick@yahoo.com> Monday, March 19, 2018 2:19 PM Mettler, Michelle matt margenthaler</bryansuemnick@yahoo.com>
Suemnick's Final Cut Tree Service	e L.L.C
105 1st street south p.o box 182 E	Elysian,Mn 56028
507-317-4323	
1. property issue:	
I have been contacted by matt ma owner on the property he purchase	rgenthaler to address some violations on his shoreline that were done by the previous ed in late 2017
the violations include the patio woo shore line.	oden deck by the water front and a limestone retaining wall that was constructed on the
we are requesting a permit be grain as shown on the site plan drawn u	nted to the property owner to remove and place the wooden deck in the approved spot p by bolten and menk
	retaining wall that's been built on the shoreline and is also a violation. to fix the issue to will be removing the 88ft long is equal to 10 cubic yards the area back to as close to
equiptment used will be skidloader yards will be removed .	r mini excavator dump truck for hauling out debris from limestone retaining wall 10 cubic
we will replace the area were the value placing fabric down than the rip-ra	wall is at with ( rip rap) field stone rock 6"-18" in size with no more than a 3 to 1 slope p rock over the top 88ft in total length. 20.4 cubic yards total
2.total material movement in zone	s will be as follows:
a.shore impact zone will be 20.4 to	otal cubic yards of movement.
	.6 cubic yards moved. I found this number by taking 1.5ft wide multiplied by 20ft long d by 27 gives you cubic yards of 2.6
	1

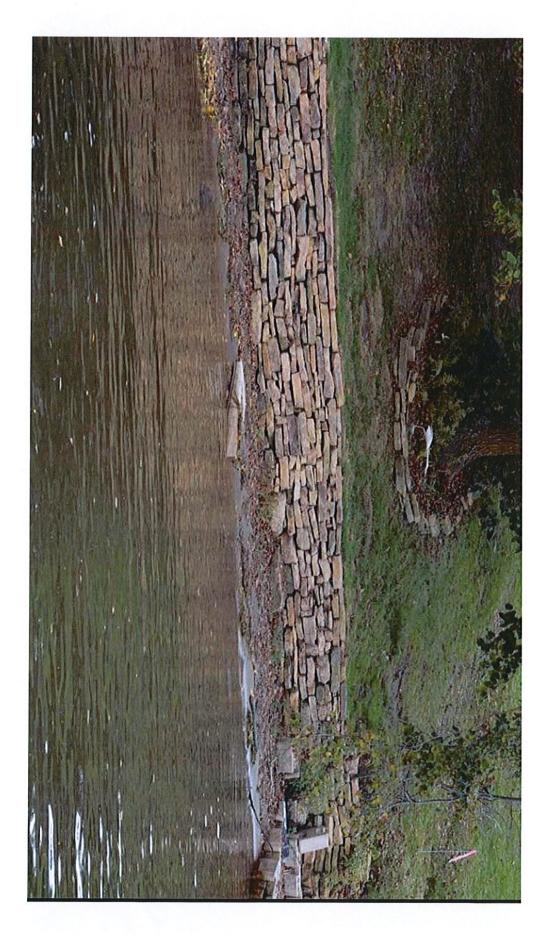
- c. bluff zone there will be 9.067 cubic yards moved. I found this number by taking 1.5ft wide multiplied by 68 long multiplied by 2.4 ft thick =244.8 divided by 27 gives you your cubic yards of 9.067
- d. bluff zone there will be 6 yards of limestone retaining wall removed
- e. outside the bluff zone there will be 2.733 cubic yards of lime stone retaining wall removed
- f. 2.6+9.067+6.2.733=20.4 cubic yards of movement











### 19 8 20 17 32 27 £ 16 38RDO84 8 35 N 13 36 12 KIGKENI 8 တ Photo dated April/May 2013 ELYSIAN Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet Map Disclaimer \*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" \*The maps are date specific and are intended for use only at the published scale accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps development methodology, interpretation of source data, and other circumstances and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy 25 50 100 150 Created By: MRM 200 Feet

NAME: PID: DATE:

1argenthaler/Fazio

LE SUEUR COUNTY ENVIRONMENTAL SERVICES

F-Zone: FIRM #

079C0**325D** 

Recreational

RFPE: District

-outside



Parcel

Township

Water Sub Line 400 Section Line Road ROW Vac Road ROW Road Centerline Railroad ROW Railroad Centerline Pol Twp Line Parcel Line Misc Line

Sections

ENVIRONMENTAL SERVICES 507-357-8538 LE SUEUR COUNTY

AlphaTag

Gov Lot

Easement Line

County Line Corp Line

Geo Twp Line

Cadastral\_Line

<all other values>