



---

# Le Sueur County, MN

Thursday, August 13, 2015

Regular session

## Item 2

**Walsh**

Staff Contact: Kathy Brockway or Michelle Mettler

# STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Tim & Anne Walsh

**911 ADDRESS:** 22146 Warner Lane, Elysian MN 56028

**PROJECT DESCRIPTION:** to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential "RR" District, on a Recreational Development Lake, Lake Frances.

**ZONING DISTRICT PURPOSE:** Recreational Residential "RR" District, a district adjacent to Recreational Development (RD) and Natural Environment (NE) lakes, 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 may be allowed.

### DEFINITIONS:

**SHORELAND** - The land located within the following distances from public waters:

1. One thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage.

**SHORE IMPACT ZONE** - Land located between the ordinary high water level of public waters and a line parallel to it at a setback of fifty (50) percent of the structure setback.

**ZONING ORDINANCE SECTIONS:** Section 13.2, Section 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: The County should continue its preservation of significant bluff areas and river valleys through its use of a Conservancy Zone.

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

## SITE INFORMATION

**LOCATION:** Property is located at Lot 11, Warner's Subdivision, Section 33, Elysian Township.

**ZONING:** Recreational Residential "RR" District, on a Recreational Development Lake, Lake Frances

**GENERAL SITE DESCRIPTION:** Platted Subdivision

**ACCESS:** Existing access off Warner Lane

### EXISTING LAND USE WITHIN ¼ MILE:

North: Residential/Lake	South: Residential/Lake/Ag
East: Lake Francis	West: Ag

## TOWNSHIP BOARD NOTIFICATION

The applicants contacted Linus Hebl, Elysian Township Board member on February 11, 2015

## 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.

AERIAL PHOTO



PHOTO







**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. A D NA
  
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. A D NA
  
3. The adequate utilities, access roads, drainage and other facilities have been or are being provided. A D NA
  
4. The 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. A D NA

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

**LE SUEUR COUNTY  
CONDITIONAL USE PERMIT CRITERIA  
PERMIT # 15141**

**Applicant: Tim & Anne Walsh**

**Date: August 13, 2015**

**Conditional Use Permit Request:** to allow grading, excavating and filling of approximately 6 cubic yards of material outside the shore impact zone, 69 cubic yards within the shore impact zone for a project total of 75 cubic yards and for the construction of 2 retaining walls in a Recreational Residential "RR" District, on a Recreational Development Lake, Lake Frances. Property is located at Lot 11, Warner's Subdivision, Section 33, Elysian Township.

**ROLL CALL VOTE**

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 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
1.											
2.											
3.											
4.											

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 main the goals of safety, health and the general welfare of the public.

DATE: \_\_\_\_\_

APPROVED: \_\_\_\_\_

DENIED \_\_\_\_\_

PZ CHAIRPERSON \_\_\_\_\_

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



# 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 Tim and Anne Walsh  
Mailing Address 13221 Cedarwood Avenue  
City Clive State IA Zip 50325  
Phone # 515 710 5711 Phone # 515 226-0200

### II. Landowner:

Name Tim and Anne Walsh  
Mailing Address 13221 Cedarwood Avenue  
City Clive State IA Zip 50325  
Property Address 22146 Warner Lane  
City Elysian State IA Zip \_\_\_\_\_  
Phone # 515 710 5711 Phone # 515 226-0200

### III. Parcel Information:

Parcel Number 04.800.0110 Parcel Acreage 0.00  
Attach Full Legal Description (**NOT** abbreviated description from tax statement)  
Township Elysian Section 33  
Subdivision Warners Sub div Lot 11 Block -

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

Elysian Township notified on 7-11-2015  
(Township Name) (Date)  
Board Member Linus Hebl 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.**

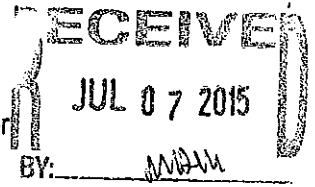


**VI. Fees: Must be paid at the time of application.**

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"/> Non-Shoreland	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 checked="" type="checkbox"/> Shoreland- Outside Shore Impact Zone	Cubic yards of material movement: <u>6</u>
<input type="checkbox"/> Within Shore Impact Zone	Cubic yards of material movement: <u>69</u>
<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: <u>75</u></b>

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

**VIII. Description of Request:**

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

- ENVIRONMENTAL IMPACT: Correct erosion problem caused by runoff.
- ADVERSE IMPACT ON SURROUNDING AREAS: Correct erosion problem caused by runoff.
- STORMWATER RUNOFF: erosion control with riprap and other project repair plan.
- DOES ANY PART OF THE PROJECT EXTEND BELOW OHWL: yes, see drawing.
- WETLAND IMPACT: No, there is no wetland
- SLOPE STABILITY: no, slope will be stabilized, as necessary.
- CERTIFICATE OF INSURANCE: not applicable
- MEET ALL APPLICABLE COUNTY STATE & FEDERAL REGULATIONS:  
 (For example additional licensing and/or permitting) no, not required by DNR

**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:

*10 yards of topsoil added with various grasses and plantings, as needed. \* this is included in total of 75.*

- 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 SWGD)*
- 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.

*not applicable \**

**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. *n/a*
- e. **Township Notification**-See Part IV for details and requirements.
- f. **Septic System Compliance Inspection** *n/a*
- 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** *n/a*  
-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 findings 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.*

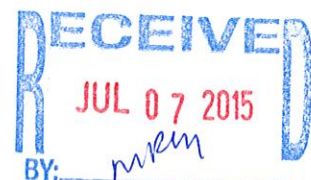
Anne Habib  
Applicant signature

7-7-2015  
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.*

Anne Habib  
Property Owner signature

7-7-2015  
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: 7/30/2015

To: Le Sueur County Planning and Zoning Commission

From: Joshua Mankowski, Environmental Resources Specialist

---

**Applicant:** Tim & Anne Walsh

**Property owner:** Tim & Anne Walsh

**Property:** 04.800.0110

**Description:** Application for a Conditional Use Permit to allow Grading, Excavating and Filling of 6 cubic yards of material outside the Shore Impact Zone, 69 cubic yards within the Shore Impact Zone for a total of 75 cubic yards for the construction of 2 retaining walls, shoreland restoration project and Rip Rap.

**Recommendation:** I recommend approval of permit with conditions. This project will reduce the size of the current patio and replace the existing impervious surface with pervious pavers. If installed correctly, pervious pavers allow for some water retention and will reduce the amount of runoff from the area. As a condition of my recommendation for approval, the areas designated as vegetation buffers should be planted with native plant species. The native plants will slow runoff to the lake and their deep roots will add stability to the soils.

Sincerely,



Joshua Mankowski  
Le Sueur County  
Environmental Resources Specialist

**Mettler, Michelle**

---

**From:** TimAnne Walsh [twalsh5@msn.com]  
**Sent:** Tuesday, July 07, 2015 12:40 PM  
**To:** Mettler, Michelle

Michelle

Please accept this full description of request for the CUP application.

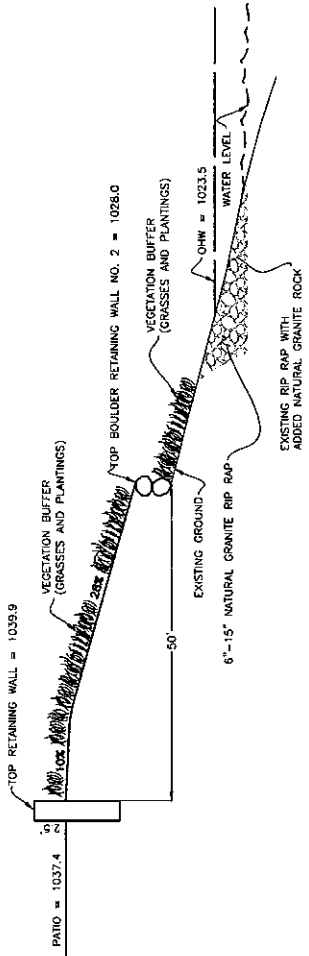
The project is necessary to correct an erosion problem caused by runoff from the land across from the property. The culvert structure was determined inadequately maintained and therefore unable to handle to volume of water. The culvert has since been repaired.

The project entails the following: Grading excavating and filling- approximately 6 cubic yards outside the shore impact zone and 69 cubic yards within shore impact zone, for a total of 75 cubic yards. We will be removing a section of the patio and retaining wall and replacing the retaining wall. The new retaining wall will be 19' in length and 1- 2 1/2 feet in height. A new boulder retaining wall will be added 10 length and 2 width. *ngt (mkm)*  
Approximately 40 feet of Rip Rap be added to the existing rock rip rap with additional natural granite rock, vegetation of grasses and various planting materials, as needed. The project will have erosion control measures at the shoreline and at the material stock pile on driveway. The restoration plan includes proposed removal of patio pavers to pervious pavers, new retaining wall, erosion control- with the end goal of completing the project in accordance of the Conditional Use Application.

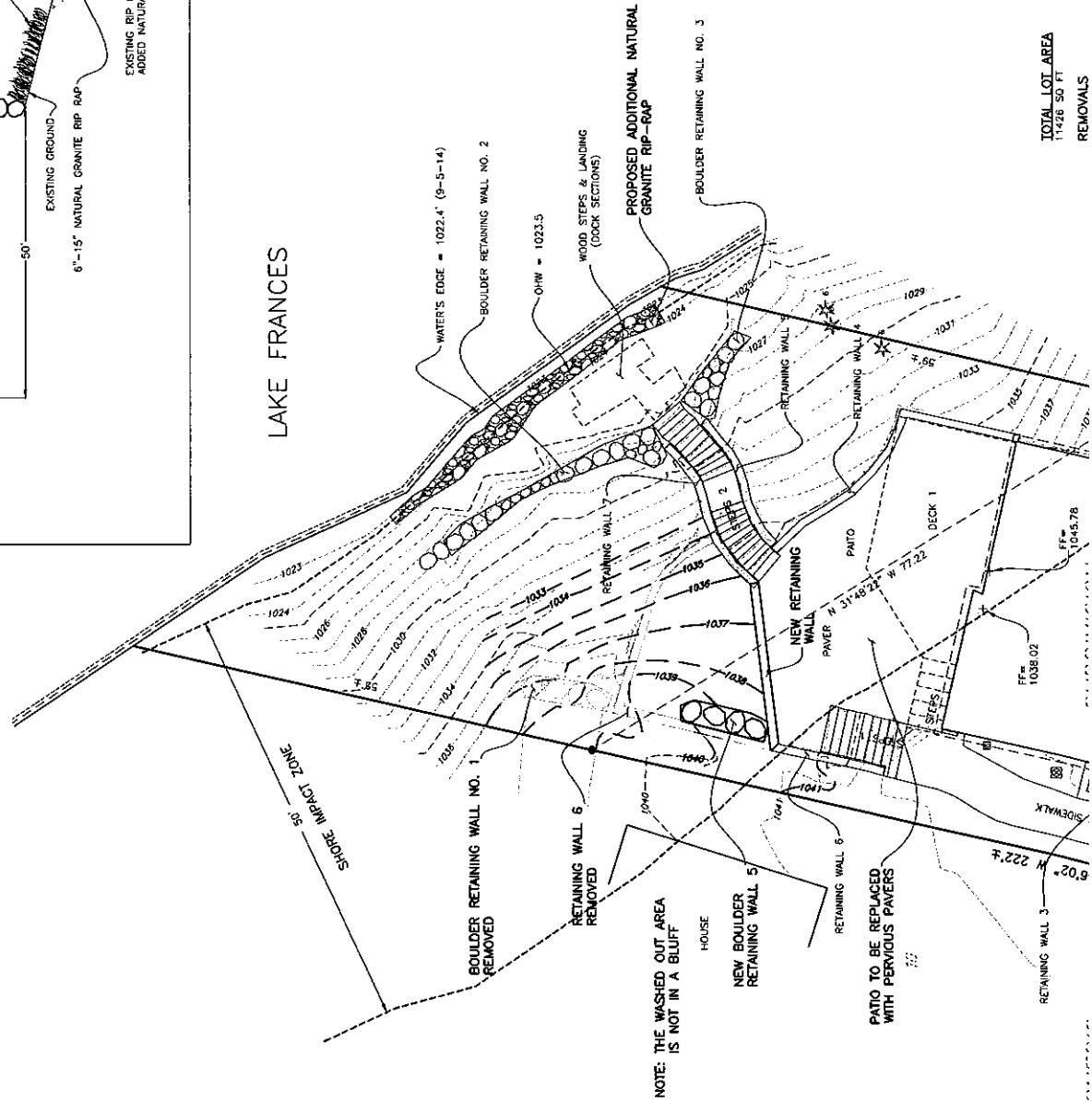
RECEIVED  
JUL 07 2015  
BY: *mkm*



CROSS SECTION  
(NOT TO SCALE)



LAKE FRANCES



PID 04.800.0110

TOTAL LOT AREA  
14,428 SQ FT  
REMOVALS









LE SUEUR COUNTY ENVIRONMENTAL SERVICES  
88 SOUTH PARK AVE.  
LE CENTER, MINNESOTA 56057-1620  
(507) 357-2251  
FAX (507) 357-8541

Erosion and Sediment Control Plan

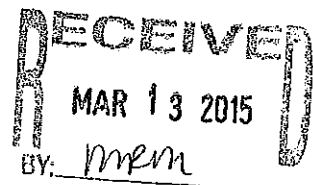
Goal: To control erosion and prevent sediment and other pollutants from entering the lakes, streams, wetlands, and storm drain systems during construction.

Property Owner: Timothy & Anne Walsh Trust PID: 04.800.0110  
Mailing Address: 13221 Cedarwood Ave, Clive, IA 50325  
Property Address: 2246 Warner Lane, Ellysian, MN 56028  
Phone: (515) 2260200 Mobile/Cell: (515) 7105111

Responsible party for Implementation/Inspection: Carey Atherton / Anne Walsh  
Address: 13221 Cedarwood Ave, Clive, IA 50325  
Phone: (515) 2260200 Mobile/Cell: (515) 7105111

Erosion & Sediment Control Measures

1. Maintain existing vegetation whenever possible and minimize the area of disturbance. Retain and protect trees to enhance future landscaping efforts and to reduce raindrop impact. (Vegetation is the best and most cost-effective erosion control practice).
2. Install all erosion and sediment control practices prior to any soil disturbing activities, when applicable.
3. Phase construction activities to minimize the areas disturbed at one time. This will also allow completed areas to be stabilized and re-vegetated before disturbing adjacent sites.
4. Maintain and protect all natural waterways. Retain at least a 20-foot wide strip of natural vegetation along all waterways to filter out sediment and other pollutants.
5. Minimize the use of impermeable surfaces such as roofs, driveways, parking lots and roads. The Environmental Resources staff must approve all storm water runoff plans.
6. Use rock rip-rap at both the outlet and inlet ends of culverts to prevent scour erosion.
7. Limit construction equipment to designated areas to control soil compaction.
8. Install silt fence on the down-slope perimeter of all disturbed areas according to the attached installation instructions. Sensitive areas such as wetlands, drainage swales and shoreland areas should also be protected with silt fence.
9. Install straw bale checks or rock check dams in areas of concentrated flow .
10. Cover any stockpiled topsoil with plastic or other impervious covering. Use stockpiled topsoil as earthen berms to serve as temporary sediment basins.



11. Mulch all disturbed areas at the rate of one 50-pound bale of straw per 500 square feet. On slopes 4:1 or steeper use the following erosion control blankets that have been pinned to the slope according to the manufacturer's instructions:

2:1 slopes or steeper	Straw/Coconut Blanket or High Velocity Wood Blanket
3:1 slopes or steeper	Wood or Straw Blanket with net on both sides
4:1 slopes or steeper	Wood or Straw Mulch blanket with net on one side
Flat areas	Straw Mulch w/disc anchoring

12. Seed all disturbed areas within seven days of final grading and temporary seed/mulch all areas that will be left inactive for more than seven days. Do not seed later than September 1<sup>st</sup>. Areas that need to be seeded after this date should be dormant seeded in late October or early November. See the attached instruction sheet for recommended mixtures and rates. The use of native plant materials, including trees and shrubs, is encouraged. Native species will provide good vegetative cover that is adapted to our soils and climate.

13. Apply fertilizer according to soil test recommendations.

14. Install water bars on access roads to prevent concentrated water from flowing down the road and eroding gravel.

15. Attach a site map showing the location of all erosion control practices, property lines, roads, lakes, watercourses, wetlands, on-site systems and building locations.

Note: To reduce mud transported onto paved roads, a rock construction entrance may be required. This will require a six-inch layer of 1-2 inch diameter washed rock a minimum of 50 feet in length.

#### Inspection and Maintenance

16. Inspect the construction site every 7 days and within 24 hours after every rain event to ensure the practices are working properly (i.e. silt fences, water bars).

17. Clean out the silt fences when they are 1/3 full of sediment or replace with functional silt fences within 24 hours.

18. Clean out sediment basins on a regular basis to maintain capacity.

I agree to install, inspect and maintain the above practices to accomplish the goal of preventing erosion.

Anne Walsh  
(Property Owner)

3-9-2015  
(Date)

Anne Walsh  
(Person Responsible for Implementation)

3-9-2015  
(Date)

If you have any questions, please contact Environmental Services, at 507-357-8538.

RECEIVED  
MAR 13 2015  
BY: MW

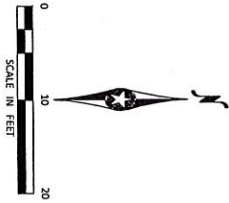
PATIO PAVERS 239 SQ FT  
 PATIO PAVERS TO PERVIOUS PAVERS 372 SQ FT  
 TOTAL 698 SQ FT (6.1%)  
 PROPOSED  
 BOULDER RETAINING WALL NO. 5 28 SQ FT  
 NEW RETAINING WALL 19 SQ FT  
 TOTAL 47 SQ FT  
 PROPOSED IMPERVIOUS SURFACES 43%

**RECEIVED**  
 JUL 07 2015  
 BY: *MEM*

**EARTHWORK CALCULATIONS**  
 RIP RAP  
 INSTALL 40 LINEAR FEET OF RIP RAP BELOW OHW = 5 CUBIC YARDS  
 INSTALL 40 LINEAR FEET OF RIP RAP ABOVE OHW = 5 CUBIC YARDS  
 TOTAL MOVEMENT OUTSIDE IMPACT ZONE = 6 CUBIC YARDS  
 TOTAL MOVEMENT IN SHORE IMPACT ZONE = 69 CUBIC YARDS  
 TOTAL MOVEMENT ABOVE OHW = 75 CUBIC YARDS

**OWNER**  
 TIMOTHY & ANNE WALSH  
 13221 CEDARWOOD AVENUE  
 CLIVE, IA 50325  
**SITE ADDRESS**  
 22146 WARNER LANE  
 ELYSIAN, MN 56028

- LEGEND**
- MONUMENT FOUND
  - DECIDUOUS TREE
  - ★ CONIFEROUS TREE
  - ⊙ SANITARY MANHOLE
  - ⊙ ANCHOR
  - ⊙ COMMUNICATION PEDESTAL
  - ⊙ BUSH
  - ⊙ AIR CONDITIONER
  - ⊙ GAS METER
  - ⊙ ELECTRIC METER
  - ⊙ UTILITY POLE
  - OU — UTILITY OVERHEAD
  - INTERMEDIATE CONTOURS
  - INDEX CONTOURS
  - PROPOSED CONTOURS



**SURVEYOR'S CERTIFICATION**  
 I hereby certify that this survey was prepared by me or under my direct supervision and that I am a duly licensed land surveyor under the laws of the State of Minnesota.  
*Rory Jensen*  
 License Number 19789 Date 7-7-15

**CERTIFICATE OF SURVEY**  
 LE SUEUR COUNTY, MINNESOTA  
**BOLTON & MENK, INC.**  
 Consulting Engineers & Surveyors  
 1960 PREMIER DRIVE  
 MANKATO, MINNESOTA 56001  
 (507) 252-4131  
 LOT 11 OF WARNER'S SUBDIVISION, SECTION 33,  
 TOWNSHIP 109 NORTH, RANGE 24 WEST,  
 ELYSIAN TOWNSHIP, LE SUEUR COUNTY,  
 MINNESOTA  
 FOR: TIM & ANN WALSH  
 DRAWN BY: JJA