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# Le Sueur County, MN

Thursday, August 13, 2015

Regular session

## Item 3

**Biehn**

Staff Contact: Kathy Brockway or Michelle Mettler

# STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Chris Biehn

**911 ADDRESS:** Off 470<sup>th</sup> St (County Road 105)

**PROJECT DESCRIPTION:** After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore impact zone in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson.

**ZONING DISTRICT PURPOSE:** 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.

**BLUFF** - A topographic feature such as a hill, cliff, or embankment in which the slope rises at least fifteen (15) feet from the toe of the bluff to the top of the bluff and the grade of the slope from the toe of the bluff to the top of the bluff averages 18 percent or greater. The percent of the slope is defined as the change in elevation (rise) over a distance (run).

**BLUFF IMPACT ZONE** - Land located within 30 feet from the top or toe of a bluff.

**BLUFF, TOE** - The toe of the bluff shall be determined to be the lower end of the lowest ten (10) foot segment that exceeds eighteen (18) percent slope.

**BLUFF, TOP** - The top of the bluff shall be determined to the upper end of the highest ten (10) foot segment that exceeds eighteen (18) percent.

**ZONING ORDINANCE SECTIONS:** Sections 13 (pages 13-13) (13-16-20), Section 13.2, Section 18, Subdivision 2 and 3 (pages 18-2-6)

### 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:** 12.88 acres in Government Lot 7, Section 4, Washington Township.

**ZONING:** Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson.

**GENERAL SITE DESCRIPTION:** Scattered seasonal cabins

**ACCESS:** Existing access off 470<sup>th</sup> St. (County Road 105)

### EXISTING LAND USE WITHIN ¼ MILE:

North: Lake Jefferson	South: Scattered Residential/Ag
East: Lake/Residential	West: Residential/Ag

# TOWNSHIP BOARD NOTIFICATION

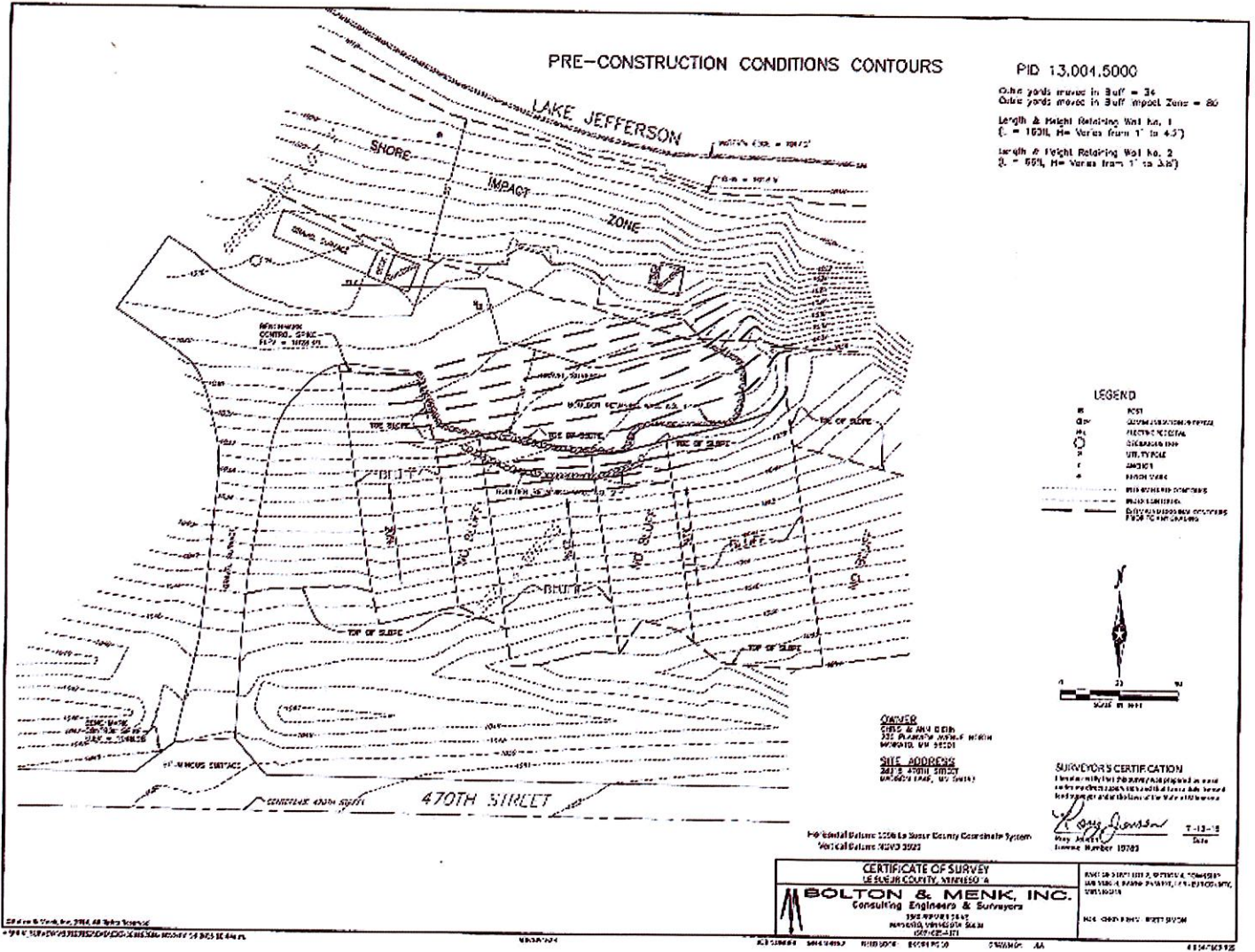
The applicant notified Steve Biehn, Washington Township Board member on July 7, 2015.

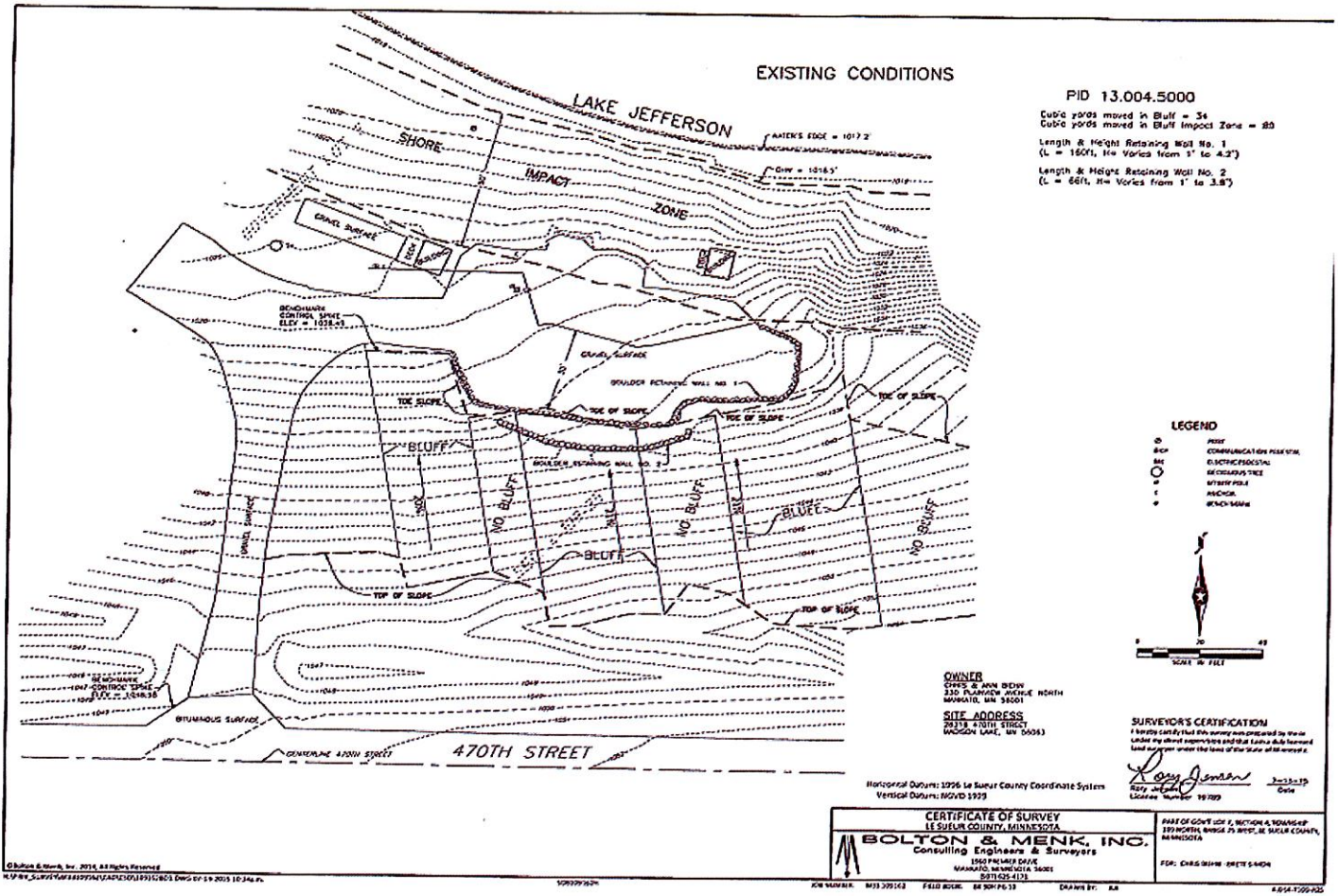
## NATURAL RESOURCES INFORMATION

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

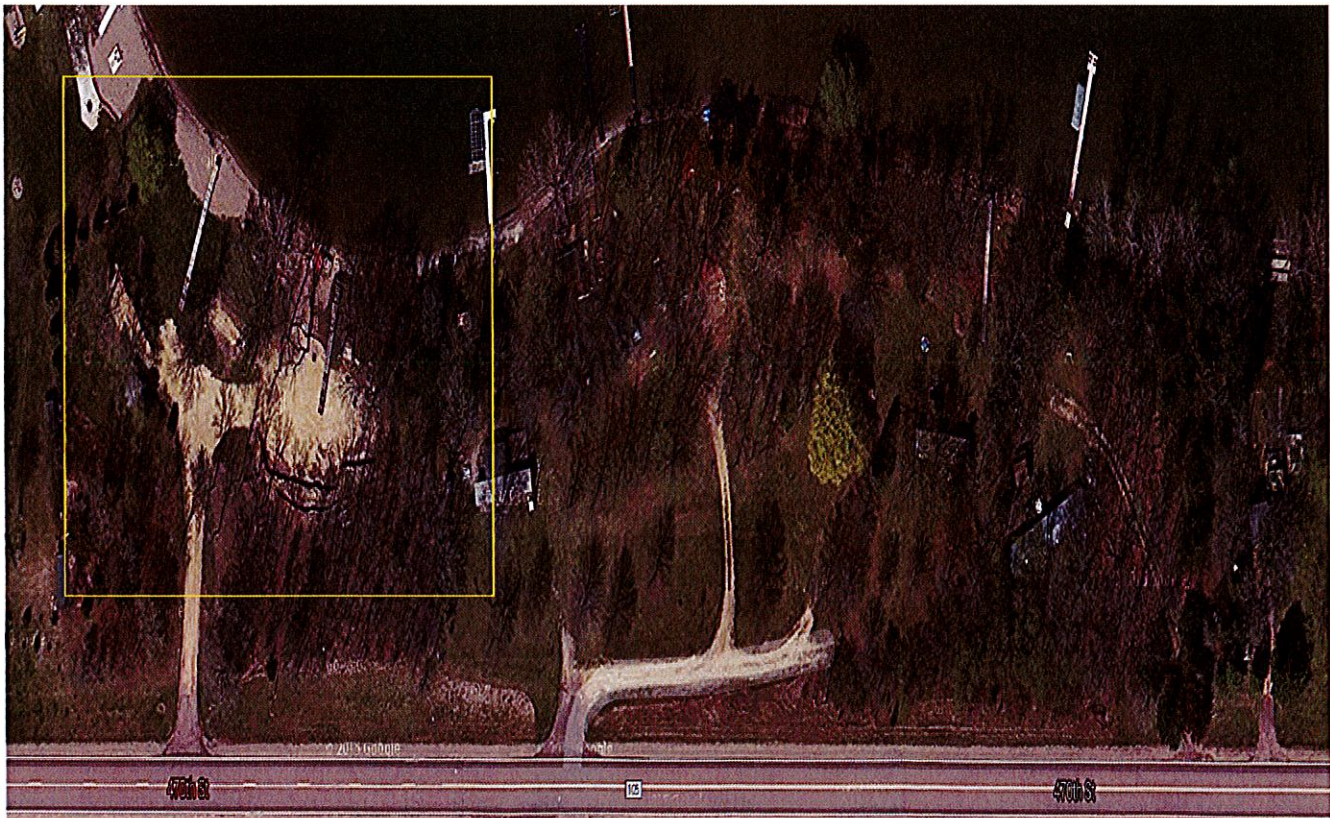
**WETLANDS:** According to the National Wetlands Inventory, No wetlands located in the quarter-quarter section where the project is proposed.

## SITE PLAN





**AERIAL PHOTO**



**ATTACHMENTS**

Narrative, Surveys, Photo's, Letter from LSC Resource Specialist.

**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.

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

Phone (507) 357-8540 (direct line)

Fax (507) 357-8541

Date: 7/29/2015

To: Le Sueur County Planning and Zoning Commission

From: Joshua Mankowski, Environmental Resources Specialist

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**Applicant:** Chris Biehn

**Property owner:** Chris Biehn

**Property:** 13.004.5000

**Description:** Application for an After The Fact permit for Grading, Filling and Excavating of 114 cubic yards of material within the Bluff and Bluff Impact Zone and the construction of a retaining wall at a height greater the three feet.

**Recommendation:** This project entailed Grading, Filling and Excavation in a Bluff and the Bluff Impact Zone as well as the construction of two boulder retaining walls. A large gravel surface (pad) was also installed on site. I recommend that the retaining walls be allowed to remain as constructed. The removal of the walls could destabilize the bluff and cause a larger erosion issue that would negatively impact Lake Jefferson. The large gravel pad should be removed and the entire area seeded with native grasses (including the tops of the retaining walls). Being this is not a camp site, there is no reason for a gravel pad. By planting native grasses, the area will be covered with deep rooted vegetation that will increase the stability of the soils on site and reduce colonization by noxious vegetation.

**Alternative:** If you approve the application without the removal of the gravel pad, a condition should be placed on the Permit that the gravel pad be reduced in size to allow it to only act as access to the site. The area should be planted with native grasses to stabilize the soils and reduce colonization by noxious vegetation.

Sincerely,



Joshua Mankowski  
Le Sueur County  
Environmental Resources Specialist

LE SUEUR COUNTY  
 CONDITIONAL USE PERMIT CRITERIA  
 PERMIT # 15150

Applicant: CHRIS BIEHN Date: August 13, 2015

**Conditional Use Permit Request:** Requests that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating and filling of 114 cubic yards of material within the bluff, bluff impact zone and the construction of a retaining wall outside the shore impact zone in a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located in Government Lot 7, Section 4, Washington Township.

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 Chris C. Biehn  
Mailing Address 230 W. Plainview Ave  
City Mankato State MN. Zip 56001  
Phone # \_\_\_\_\_ Phone # \_\_\_\_\_

II. **Landowner:**

Name (Same as Above)  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Property Address 28318 470<sup>th</sup> St. Sect-04 Twp-109 Range-025  
City Madison Lake State MN. Zip 56003  
Phone # 507-327-9737 Phone # # 507-388-2892

III. **Parcel Information:**

Parcel Number R 13.004.5700 Parcel Acreage 12.88  
Attach Full Legal Description (**NOT** abbreviated description from tax statement)  
Township Twp-109 Range-025 Section 04  
Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

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

Washington Township notified on July 7 - 2015  
(Township Name) (Date)  
Board Member Steve Biehn 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.**

**Non-Shoreland** Cubic yards of material movement: \_\_\_\_\_  
 Within Bluff Impact Zone Cubic yards of material movement: \_\_\_\_\_  
 Within Bluff Cubic yards of material movement: \_\_\_\_\_  
**TOTAL cubic yards of material movement:** \_\_\_\_\_

**Shoreland- Outside Shore Impact Zone** Cubic yards of material movement: 8  
 Within Shore Impact Zone Cubic yards of material movement: 80  
 Within Bluff Impact Zone Cubic yards of material movement: 34  
 Within Bluff Cubic yards of material movement: 114  
**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: None
2. ADVERSE IMPACT ON SURROUNDING AREAS: None
3. STORMWATER RUNOFF: None
4. DOES ANY PART OF THE PROJECT EXTEND BELOW OHWL: No
5. WETLAND IMPACT: No
6. SLOPE STABILITY: Very stable now -
7. CERTIFICATE OF INSURANCE: Yes
8. MEET ALL APPLICABLE COUNTY STATE & FEDERAL REGULATIONS:  
 (For example additional licensing and/or permitting) \_\_\_\_\_

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

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

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

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

Request: **GRADING, EXCAVATING & FILLING**

- Non-Shoreland
  - Within Bluff Impact Zone
  - Within Bluff

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

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

- Shoreland - Outside Shore Impact Zone
  - Within Shore Impact Zone
  - Within Bluff Impact Zone
  - Within Bluff

Cubic yards of material movement: \_\_\_\_\_  
 Cubic yards of material movement: 8 LAP  
 Cubic yards of material movement: 80  
 Cubic yards of material movement: 34

**TOTAL cubic yards of material movement:** 114

Pre-App Date 7/10  
 Meeting Date 8/13  
 60 Day \_\_\_\_\_  
 Zoning District OC 9/10

Lake Classification RD  
 Lake Jefferson  
 FEMA Panel # 27079C0265D D  
 Flood Zone X Outside

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

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Request Description | <input type="checkbox"/> Access Approval                 | <input type="checkbox"/> Septic <u>Comp Insp / Design</u> |
| <input checked="" type="checkbox"/> Site Plan           | <input checked="" type="checkbox"/> Erosion Control Plan | <input type="checkbox"/> Meeting <u>Reg / ATF / Spec</u>  |
| <input checked="" type="checkbox"/> Full Legal          | <input type="checkbox"/>                                 | <input checked="" type="checkbox"/> Fee \$ _____          |
| <input type="checkbox"/> Ordinance                      | <input type="checkbox"/> Other _____                     | <input checked="" type="checkbox"/> Penalty \$ _____      |

Application Complete

Kathy Brockway  
 Planning & Zoning Department Signature

7/13/15  
 Date

15750  
 Permit #

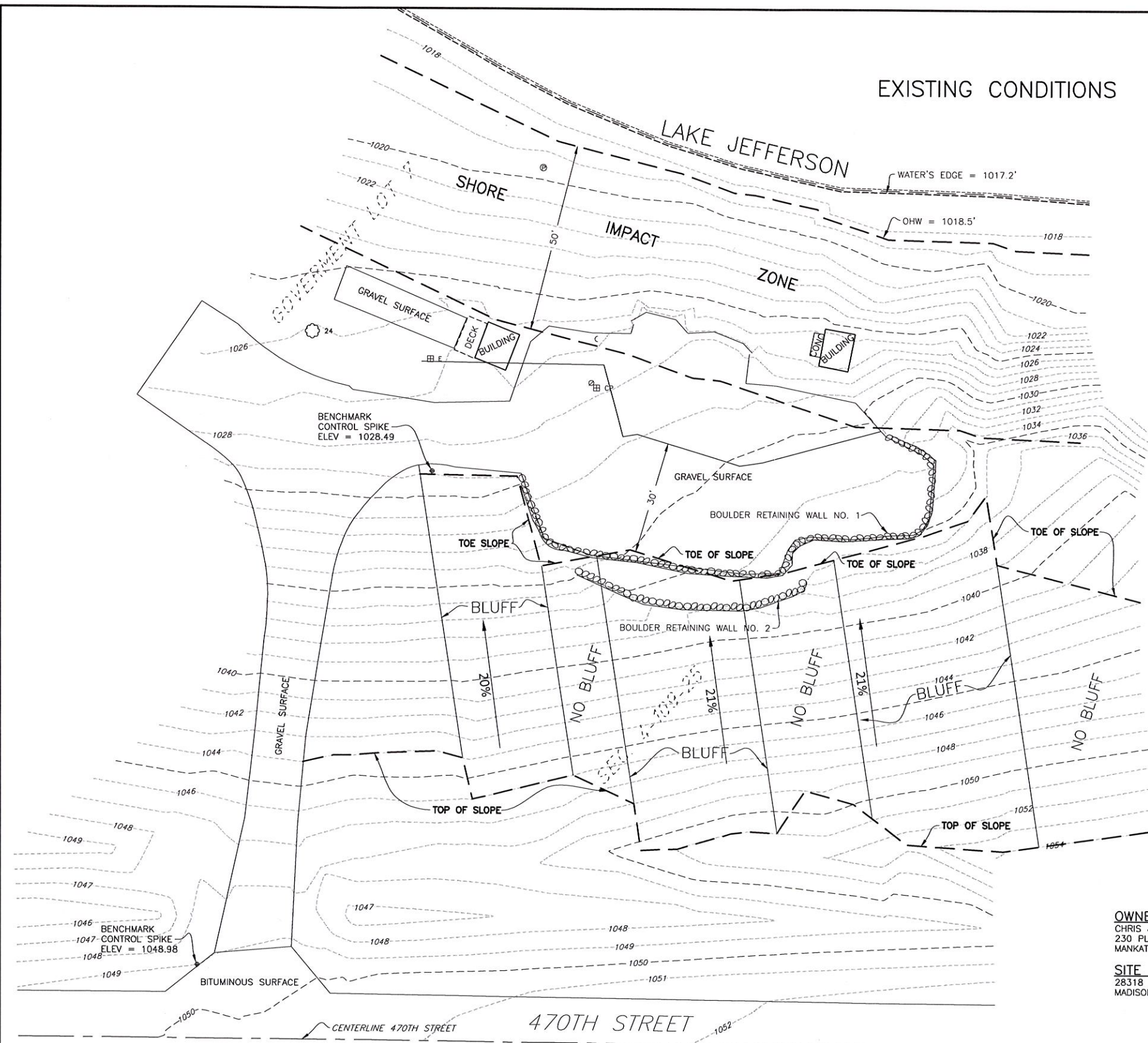
EXISTING CONDITIONS

PID 13.004.5000

Cubic yards moved in Bluff = 34  
Cubic yards moved in Bluff Impact Zone = 80

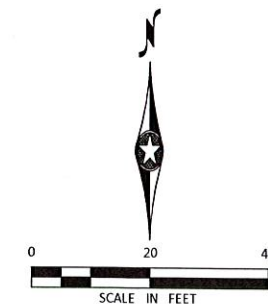
Length & Height Retaining Wall No. 1  
(L = 160ft, H= Varies from 1' to 4.2')

Length & Height Retaining Wall No. 2  
(L = 66ft, H= Varies from 1' to 3.8')



LEGEND

- ⊙ POST
- ⊕ CP COMMUNICATION PEDESTAL
- ⊕ E ELECTRIC PEDESTAL
- ⊙ DECIDUOUS TREE
- ⊙ UTILITY POLE
- ⊕ ANCHOR
- ⊙ BENCHMARK



**OWNER**  
CHRIS & ANN BIEHN  
230 PLAINVIEW AVENUE NORTH  
MANKATO, MN 56001

**SITE ADDRESS**  
28318 470TH STREET  
MADISON LAKE, MN 56063

**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*  
Rory Jensen  
License Number 19789  
7-13-15  
Date

Horizontal Datum: 1996 Le Sueur County Coordinate System  
Vertical Datum: NGVD 1929

<p>CERTIFICATE OF SURVEY LE SUEUR COUNTY, MINNESOTA</p> <p><b>BOLTON &amp; MENK, INC.</b> Consulting Engineers &amp; Surveyors</p> <p>1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171</p>		<p>PART OF GOV'T LOT 7, SECTION 4, TOWNSHIP 109 NORTH, RANGE 25 WEST, LE SUEUR COUNTY, MINNESOTA</p> <p>FOR: CHRIS BIEHN - BRETT SIMON</p>
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H:\PRIV\_SURVEY\M33109162\CAD\C3D\109162BD1.DWG 07-13-2015 10:34a.m.

SDB109162H

JOB NUMBER: M33.109162 FIELD BOOK: BK 90H PG 10 DRAWN BY: JLA

4.0 54-T109-R25

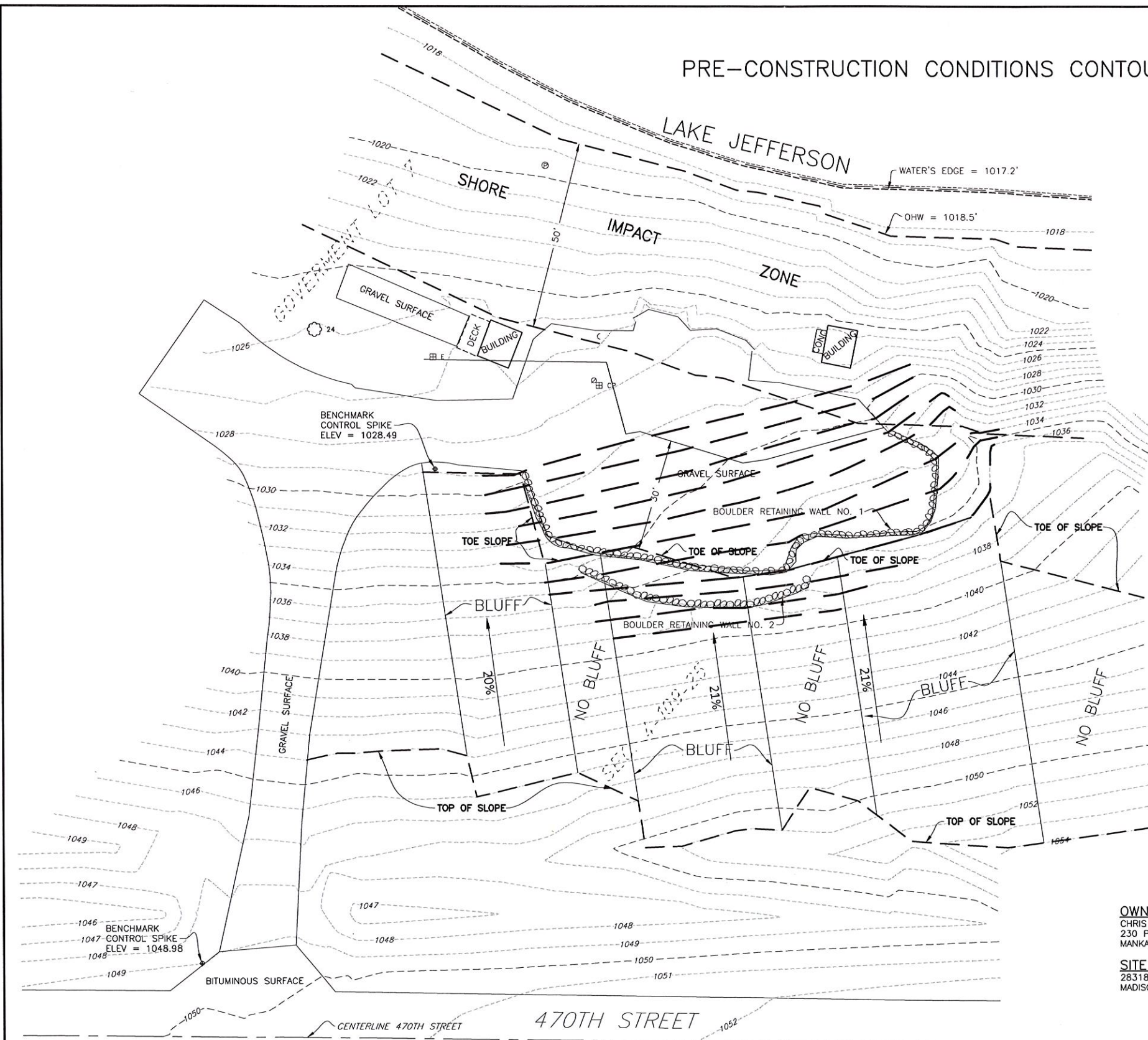
PRE-CONSTRUCTION CONDITIONS CONTOURS

PID 13.004.5000

Cubic yards moved in Bluff = 34  
Cubic yards moved in Bluff Impact Zone = 80

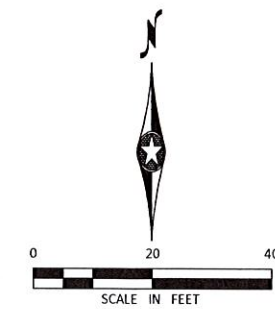
Length & Height Retaining Wall No. 1  
(L = 160ft, H= Varies from 1' to 4.2')

Length & Height Retaining Wall No. 2  
(L = 66ft, H= Varies from 1' to 3.8')



LEGEND

- ⊙ POST
- ⊕ CP COMMUNICATION PEDESTAL
- ⊕ E ELECTRIC PEDESTAL
- ⊙ DECIDUOUS TREE
- ⊙ UTILITY POLE
- ⊙ ANCHOR
- ⊕ BENCH MARK
- INTERMEDIATE CONTOURS
- - - INDEX CONTOURS
- - - ESTIMATED ORIGINAL CONTOURS PRIOR TO ANY GRADING.



**OWNER**  
CHRIS & ANN BIEHN  
230 PLAINVIEW AVENUE NORTH  
MANKATO, MN 56001

**SITE ADDRESS**  
28318 470TH STREET  
MADISON LAKE, MN 56063

**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 Jansen*  
Rory Jansen  
License Number 19789  
7-13-15  
Date

Horizontal Datum: 1996 Le Sueur County Coordinate System  
Vertical Datum: NGVD 1929

<p>CERTIFICATE OF SURVEY LE SUEUR COUNTY, MINNESOTA</p> <p><b>BOLTON &amp; MENK, INC.</b> Consulting Engineers &amp; Surveyors</p> <p>1960 PREMIER DRIVE MANKATO, MINNESOTA 56001 (507) 625-4171</p>		<p>PART OF GOVT LOT 7, SECTION 4, TOWNSHIP 109 NORTH, RANGE 25 WEST, LE SUEUR COUNTY, MINNESOTA</p> <p>FOR: CHRIS BIEHN - BRETT SIMON</p>
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Equipment used on the Retaining wall by Brett Simon  
2014

1. Mini excavator with an oscillating grapple
2. Bobcat
3. Dump truck

Thank you  
Chris C. Biehn

Equipment used on the Retaining wall by Brett Simon  
2014

1. Mini excavator with an oscillating grapple
2. Bobcat
3. Dump truck

Thank you  
Chris C. Biehn

Biehn Narrative  
Land ID Parcel Number-R.13.004.5000  
12.88 AC  
G. L. 7  
Sect-04 TWP 109 Range 025  
28318 470<sup>th</sup> St.  
Madison Lake, Minnesota 56063  
June 24-2015

The property in question that we inherited in 1996 had three trailers on this spot. The gravel that is there now is some of the original gravel. There have been minimal improvements there, only in terms of adding gravel to the existing access road to help prevent washouts. Over the years of ownership, mobile trailers have been replaced by seasonal mobile campers. As the new renters moved in, the property improved, with people doing a marvelous job of cleaning up waste material and removing dead and decaying brush and other trash. In fact, since our ownership of this property, our land is some of the most beautiful property on this lake and in the county. It has become so clean and environmentally friendly compared to other spots on the lake. Our renters have been great stewards of the land.

In response to the violation letter received from the county Environmental Services office, we have started the process of addressing the issue of the placement of a retaining wall that was done without prior approval and permit from the county. The wall was put in to stop erosion on our property and prevent it from running up against the camper that was sitting on this leased spot. One only needs to visit the site to see the drastic improvement to the property. We cannot plead ignorance in this situation, as both the owner and the lessee are at fault for not paying attention to detail, in terms of me not knowing what exactly was going on there, and the lessee knowing that a permit was required to alter the landscape of this ground. To be honest, I did give permission to make changes; However, I didn't realize at the time what the scope of these changes would be. At the time of these improvements, I was residing in Mankato and was not on site to monitor. Had I been living out there, I most certainly would have questioned all of the material being brought in. The landscaping was done to try and improve the property. It certainly does not present any problems to the lake itself, and it is far enough away from the water to cause any pollution problems. In fact, I believe it has helped stop runoff into the lake. I am

not a professional when it comes to erosion and the prevention of it, but I know from years of experience teaching Science that to remove what has been done would only cause more damage than what was originally done.

We have taken all the steps necessary to move forward on this issue including having the area professionally surveyed. Both parties want to resolve this issue as soon as possible. We know that there will be fines that have to be addressed here.

Lets please work together on this and move forward.

Thank you for taking the time to read this.

Chris C. Biehn



Date: June 29, 2015  
To: Whom It May Concern  
Re: West Jefferson Property

Please accept our apologies for any inconveniences and hardships that our actions have caused everyone involved. Our intentions were to improve the West Jefferson lake lot by creating a clean natural environment for our family to enjoy, while maintaining the integrity of the lakeshore.

In June 2010, we were granted permission to camp by West Jefferson lake; at that time, the lot was in a unusable condition. Overgrown with thistle, weeds, thorny shrubs and dead trees it was not possible to safely camp. Resembling a mini-landfill the debris strewn about included: a large pile of brick and mortar that looked as if it was a chimney or fireplace at one time, metal pipes, rusted out tire rims, a dilapidated deck and out building, glass bottles, aluminum cans, cinder block, and lots of other trash. That is what was visible on shore it did not include the debris that was in the lake: tire rims, fence post, and glass bottles. There was a lot of work to be done before we could truly enjoy ourselves without worrying that our children would be hurt while playing. We immediately started cleanup; hauling out loads of debris and dead trees. Each year, we have continued improving the property by cleaning up debris and correcting the erosion problem.

After the first summer, we realized there was a discouraging challenge. The sloped nature of the property was causing the hill to erode, not only into our camper, but into the lake. After each rainstorm, we needed to bring a skid loader in to fix the gullies and cleanup debris that continually washed down the hill. We knew that a retaining wall was needed to slow the erosion. The first few years, we just cleaned up the mess because a boulder retaining wall is a large investment. After five years, of cleanup and disappointment, we decided it was time to fix the problem. We looked at the landscaping around other properties on West Jefferson, we noticed there were many different ways people approached shoreline landscaping. Many looked very beautiful but they did not look natural. We decided that whatever we do, we want it to look like it has been there forever. Using boulders that came from the local area and design a rain garden using native plants, that would establish a deep root system to slow the water running off the roadway, would achieve a natural look.

Last summer, we met with Chris and Ann to discuss: building a boulder retaining wall, removing the dead vegetation, and replacing it with native grasses and flowers creating a rain garden above the boulder wall. The boulders that would be used would be boulders from the local area, to ensure that the wall looked as natural as possible. They agreed that it would maintain the integrity of the lakeshore and slow the erosion. We also, discussed removing the dead trees and shrubs to allow sunlight to pass through for successful growth of the rain garden. Also, giving the existing spindly trees a chance to establish a stronger root system, to ensure their success.

Last fall, we completed the retaining wall but the project was placed on hold at the county's request. We were told that a complaint was filed with the DNR stating that the retaining wall had impacted the fishing on the lake. The retaining wall is over 100' from the lakeshore, so the complaint seems to be out-of-spite rather than having a factual basis. As with any construction, a landscape project always looks most drastic and draws a lot of attention when it is new; once it has time to grow and mature it will blend into its surroundings, if completed properly. Later, we found out that the county considers a portion of the area to be a bluff. We did not know that this area was considered a bluff and feel that the county's rules are stringent as to what is considered a bluff. From the information that we were

given, the whole lot is not a bluff, two portions are and one of them is the driveway. The only alterations that we have made to the driveway were completed to fix the gullies, we have not changed the dimensions or location. We also, did not consider the driveway to be a bluff because you can drive a car up it, please keep in mind the driveway is the steepest part of the lot. According to the MN DNR's fact sheet on bluff management, "Allowing water to flow over bluffs or steep slopes will cause erosion problems. Designing the site so infiltration is promoted and runoff is directed away from the steep areas is crucial to protecting our lakeshores." Even though we did not know that a portion of the lot is considered a bluff, by creating a rain garden at the top of the boulder wall, we were try to do exactly what the DNR recommends. The rain garden allows the water to infiltrate the ground before reaching the lake. We do not believe that the retaining wall has impacted the fishing on the lake and due to the fact that the whole property is not a bluff our requests should be carefully considered.

In our opinion, if the property is left as-is, the rainwater will continue creating gullies allowing sediment and chemicals to run into the lake. Native plants, not weeds, are needed to establish a stable ground cover that would absorb the water rather than shed it into the lake. The extensive roots of native plants improve the ability of the water to penetrate soil and to resist erosion. Most often, native plants have more root mass below the surface than plant matter above. The deep roots absorb and filter runoff more effectively than the short roots of many other plants, including weeds and grass. If the retaining wall is removed the site will continually erode into the lake contaminating it with pollutants from the roadway. The natural limestone rock is a great alternative to a non-permeable surface, it allows the rain water to filter through without runoff to the lake. In some situations the limestone is not recommended, with heavy traffic it can become compacted and shed water, but due to the extremely low level of traffic this area receives the natural limestone is a better option than grass because grass does not have a good root mass. We are requesting that you consider leaving the retaining wall and limestone as-is and allow us to continue improving the quality of the lakeshore and lake by planting a native rain garden which would limit the contaminants that have been running into the lake for years.

With Respect, Brett and Tammy Simon

Date: July 13, 2015  
To: Whom It May Concern  
Re: West Jefferson Property

Material brought into West Jefferson Lake Property:

12 Yards limestone  
58 Yards boulders

Material exported:

10 Yards dirt

Total material moved:

80 Yards

With Respect, Brett and Tammy Simon







