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Background

The property owner/applicant proposes to topographically alter the natural landscape of shoreland zoned parcel in an effort to create a recreational/beach area adjacent to the shoreline of Westport Lake. Due to the number of cubic yards of material to be excavated (>50) in the shore impact zone, the project can only be permitted if the applicant secures a conditional use permit.

Applicable Statutes

- This application is subject to the criteria and procedures as prescribed in section 11.5 Conditional Use Permit of the Pope County Land Use Controls Ordinance.
- The proposed project must be authorized by a conditional use permit as per Pope County Land Use Controls Ordinance Section 4.6.10.

Staff Comments

Based on the review of the application and supporting information, staff offers the following comment: The 3.3-acre (144,321 sq. ft.) parcel is located on the east shore of Westport Lake. The minimum area for a parcel located in the Shoreland Natural Development (S-ND) zoning district is 80,000 sq. feet. Therefore, the area of the lot exceeds the minimum dimensional standards of the Pope County Shoreland Ordinance. The parcel is currently developed with a residential structure as well as an accessory structure (garage). A professionally developed grading and erosion plan has been submitted in support of the application. A review of the report indicates that approximately 920 cubic yards of grading is to take place.

Staff Recommendation

Approve with Conditions

Based on the findings of fact presented in this report the Staff recommends approving the application conditioned upon:

1. The sand beach area is not to exceed fifty feet wide so as to be consistent with the MN DNR Guidelines on Beach Blankets
2. Prior to any construction activities, all necessary permits are secured from Township, County and State agencies.
3. Implementation of primary stormwater control BMPs (fiber logs, rock or compost bags, erosion control blankets, etc.) on the steep topography that slopes toward the lake with silt fencing being the secondary form of erosion control.



4. Stormwater BMPs are to stay in place until soils are stabilized/vegetated.

Staff Findings

The Staff offers the following findings:

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:** The proposed shoreland alteration as designed is expected to meet all requirements of this ordinance including the use of stormwater BMPs during construction activities.
2. **The use is not in conflict with the County Comprehensive Land Use Plan:** The proposed project does not appear to conflict with the County Comprehensive Land Use Plan or the Pope County Local Water Management Plan.
3. **That the use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish or impair neighborhood property values in the area and will not interfere with the best interest of the surrounding area or the community as a whole:** The proposed shoreland alteration as designed will not be injurious or pose a negative impact to the use and enjoyment of neighboring properties.
4. **The use will not create an excessive burden on parks, schools, streets, water supply, public drainage systems and other public facilities and utilities which serve or are proposed to serve in the area:** This topographic alteration is not expected to have a significant negative impact on public infrastructure.
5. **The structure and sites shall have an appearance that will not have an adverse effect on adjacent properties:** It is not likely that the proposed landscape alterations will have negative aesthetic impact to adjacent properties.
6. **The road on which the project is proposed is adequate to handle increased traffic during operation, and that the use will not cause traffic hazards or congestion:** The alteration being proposed at this location is not expected to significantly increase traffic to create a hazard beyond that which already exists.
7. **Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare, odor, or general unsightliness:** This project is not expected to cause noise, glare, odor or general unsightliness.
8. **That the establishment of the use will not impede the normal and orderly development and improvement of surrounding vacant property uses predominant to the area:** The land use is not changing and thus should not impede the normal and orderly development of surrounding properties.



9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**
This is a shoreland alteration/grading project so there are no constructed utilities necessary or applicable.

10. **That adequate measures have been or will be taken to prevent or control rodents, insects, offensive odors, fumes, dust, noise, and vibration in order that none of these will constitute a nuisance, and that adequate measures have been or will be taken to prevent negative impacts on surface water, groundwater, and air quality, and that measures have been taken to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result:** The site is expected to remain neat and orderly in appearance. As such, the site should not have a negative impact on neighboring properties with noise, dust, appearance, and other nuisances or impacts. Erosion and sediment control measures are to be put in place during construction.

REPORT APPENDIX

- **Routing Sheet** (*Comments, concerns and conditions*)
- **Public Notice**
- **Supplemental Information**
 - **Attachment 1:** *Conditional Use Permit Application (Todd Malecha, 16 July 2020)*
 - **Attachment 2:** *Lake Shore Alteration, Grading Plan (Anez Consulting, 15 July 2020)*
 - **Attachment 3:** *Shoreline Alterations: Beach Blanket (MN DNR, October 2012)*



Routing Sheet

Comments, Concerns and Conditions

Agency

- MN DNR
- SWCD-Pope

County Department

- Attorney
- Recorder *Please see MN Statute 507.093 Standards for document to be recorded or filed for recording. Our records show that the current property owner for the above parcel is Stephanie & Paul Fielder per recorded document #232644; in which can be found in our Loreda land records program.*

Township

- Westport

Other Comments Received



Public Notice

**POPE COUNTY LAND & RESOURCE MANAGEMENT
POPE COUNTY COURTHOUSE
130 E. MINNESOTA AVENUE, SUITE 113
GLENWOOD, MINNESOTA 56334
(320) 634-7791**

**POPE COUNTY PLANNING ADVISORY COMMISSION
NOTICE OF PUBLIC HEARING FOR
CONDITIONAL USE REQUEST**

Notice is hereby given that access and participation relating to the Planning Advisory Commission meeting and Public Hearing (see below) to be held at 6:00 pm or shortly thereafter on Thursday, August 27th, 2020 in the County Courthouse Community Room to consider the following agenda items.

As of the drafting of this public notice, a declared Peacetime Emergency in response to the spread of COVID-19 (coronavirus) in MN is still in effect. In an effort to comply with MDH recommendations issued with the declared Peacetime Emergency and established social distancing guidelines, the Planning Advisory Commission will conduct this meeting by use of telephone and video conferencing technology. Citizens will be able to participate via **telephone** or **video technology as posted on the Pope County Land & Resource Management website calendar**. In addition, a limited number of citizens including the individual applicants, will be afforded in person access via the Community Room located in the Pope County Courthouse, provided that social distancing guidelines and etiquette can be maintained.

Public participation will include:

- 1) an opportunity to submit written concerns and comment prior to the scheduled meeting. All such communications were shared with the Planning Advisory Commission prior to or during the meeting;
- 2) an opportunity to observe and/or participate in the proceedings of the Planning Advisory Commission meeting;
- 3) an opportunity to review the staff prepared report via Pope County website.

Interested parties and citizens may contact the Land and Resource Management office for further information as to how to participate in the meeting. Thank you for your patience and consideration in this matter.

Description of Request: Conditional Use hearing on the application by Todd Malecha, if granted would allow applicant to grade and fill more than 50 cubic yards in the shore impact zone in a Shoreland-Natural Environment (S-NE) zoning district per section 4.6.10.A. of the Pope County Land Use Controls Ordinance and consistent with Pope County Resolution 201947.

Legal Description/Site Location: Lot 1, Block 1, Blue Waters Estates, Section 22, Township 126 (Westport), Range 36, Pope County, Minnesota.

Dated: August 7, 2020

By: David Green, Director, Land & Resource Management



Supplemental Information

Supplemental Information Attachment 1:
Conditional Use Permit Application (Todd Malecha, 16 July 2020)



Supplemental Information Attachment 2:

Lake Shore Alteration, Grading Plan (Anez Consulting, 15 July 2020)



Supplemental Information Attachment 3:

Shoreline Alterations: Beach Blanket (MN DNR, October 2012)