Planning Advisory Commission
September 25, 2025
CUP-25-008

POPE COUNTY MINNESOTA

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STAFF REPORT

Applicant Information

Applicant: Ted Holsten

Application: Conditional Use Permit (CUP-25-008)

Zoning: Shoreland-Recreational Development (S-RD) and Non Intensive Agriculture (A-1)

Location: Part of Government Lot 2, Section 16, Township 126 (Reno), Range 38, Pope County, Minnesota

AMENDED

Background

The applicant is proposing to create a ten (10) unit residential development on property described as 22 acres located in a Shoreland-Recreational Development (S-RD) zoning district. This land is located on the southwest shore of Lake Reno in Reno Township and includes 1258 feet of shoreline. In an effort to avoid impacts relating to wetland and floodplain areas on this particular parcel, the developer has clustered the developable sites. This is considered a Planned Unit Development and subject to Pope County Land Use Controls Ordinance section 10.17 which requires such development proposals to be approved by conditional use permit.

On July 24th, 2025 the Pope County Planning Advisory Commission did consider an application by Ted Holsten on behalf of Misthaven LLC., for the planned unit development identified as Fairhaven Beach. The Planning Advisory Commission did hold a public hearing in conjunction with their regularly scheduled meeting. Minutes of that meeting are provided as Supplemental Attachment 13 of this amended/updated staff report. After taking testimony from several local residents and considering the recommendation of the Land and Resource Management staff, the Planning Advisory Commission did take action to table their decision in order to provide the applicant an opportunity to provide missing information. The following information has been recently provided.

- Wetland Delineation Report (Supplemental Attachment 9)
- Updated Site Plan W/Site Specific Elevation Data (Supplemental Attachment 10)
- Preliminary Site Plan: Road Grade and Stormwater (Supplemental Attachment 11)
- Declaration Document (Supplemental Attachment 12)

A detailed/thorough review of this information has not been completed as of yet.

Applicable Statutes

Local Ordinance

- Pope County Land Use Controls Ordinance
  - Section 4.3 Shoreland-Recreational Development District (S-RD)
    - Section 4.3.2. Conditional Uses

      A. Planned Unit Developments
  - Section 10.17 Planned Unit Development (PUD):
    - This application is also subject to the criteria applicable to all standards listed in Section 10.17 of the Pope County Land Use Controls Ordinance including:

10.17.2 Processing of PUD's: *Planned unit developments must be processed as a conditional use.*

10.17.6 Criteria for Evaluation

- Section 11.5 Conditional & Interim Use Permits *(criteria and procedures)*

State Statute/Rule

- Minnesota Statute Chapter 394. Planning, Development, Zoning *(enabling legislation)*
- Minnesota Statute Chapter 515B. Minnesota Common Interest Ownership Act
- Minnesota Rules Chapter 4410.4300 *Environmental Assessment Worksheets (EAW)*
- Minnesota Rules Chapter 6120, Shoreland and Floodplain Management (DNR)
  - 6120.3800 *Planned Unit Developments* (see Attachment 4)
- Minnesota Rules Chapter 8420 Wetland Conservation Act (BWSR)
- Minnesota Rules Chapter 7080, Individual Subsurface Sewage Treatment Systems (MPCA Subsurface Sewage Treatment Systems Program)

Staff Comments

Based on the review of the application, Staff offers the following comments for consideration:

1. A planned unit development is a permissible land use in shoreland areas (per section 4.3.2.A) and on undeveloped land (per section 10.17.1).
2. The total number of units proposed for this residential development (10) does not meet the minimum threshold for a mandatory Environmental Assessment Worksheet (EAW).
3. Required information per section 10.17.3.B and C: a property owners association agreement as well as any deed restrictions, covenants, permanent easements or other instruments that:
   a) Properly address future vegetative and topographic alterations to ensure natural screening from adjacent properties, construction of additional buildings, beaching of watercraft, and
   b) Ensure the long-term preservation and maintenance of open space, the septic system, roadway and stormwater systems, etc.…
4. Based on the proposed project area, staff has performed a limited review for potential species and habitat impacts. This review includes Minnesota Department of Natural Resources, Conservation Planning Report (Attachment 6) and the U.S Fish and Wildlife's Information, Planning, and Conservation (IPaC) system (Attachment 7). The Conservation Planning Report did not result in the identification of sites of

Biodiversity Significance, Native Plant Communities, Calcareous Fens, DNR Old Growth Stands, MN Prairie Conservation Plan, and No Bat Habitat Conservation Plans. The IPaC report identifies that the project area may include three insect species (Monarch Butterfly, Suckley's Cuckoo Bumble Bee and the Western Regal Fritillary). However, the report does not specifically implicate the site as providing critical habitat for these species.

5. Portions of this property are burdened by an identified flood hazard area. Any development, disturbances, obstructions or grading and fill activities within the flood hazard zone must be by issued floodplain development permit.
6. The ground elevation for the identified structure locations, according to the contour data, is between 1388 and 1392 ft NAVD88. The regulated lowest floor elevation for development around Lake Reno is 1390.2 ft NAVD88. This may dictate that some fill will be required and that each of these units will be constructed as slab-on-grade. Crawlspaces and basements can only be allowed with a variance and/or in accordance with specified local (ordinance), state (Shoreland Rules) and federal (FEMA) standards.
7. The USDA-NRCS Web Soil Survey indicates that the soils in this area may have severe limitations relating to development activities including, housing foundations, and septic systems (see Attachment 8).
8. The developer has provided a preliminary septic system design report which includes two proposed locations for onsite septic systems. Based on the soils information provided it appears that a septic system design would be limited to a mound system. The certificate of survey/site plan shows location one as being in/on or very near the roadway.
9. The total number of permanent docking and mooring spaces is limited to the number of units located in Tier 1. In this development that equals 3. So, assuming that owners of properties in Tiers 2 and 3 do not have permanent docking spaces, where do they store their boat? Are their provisions for community storage of personal property such as boats, trailers, RVs, etc.?
10. The additional submittal does provide some preliminary information regarding the access road. Additional details will be necessary prior to the permitting of any construction activities. General Road Provisions are specified in section 10.25.5 of the Land Use Controls Ordinance. Which include that all (rural) public roads are to be designed in conformance with MN Rule 8020.9920 and that such design and construction be under the direction and oversight of a licensed professional engineer. A complete set of the construction plans and specifications is to be provided to the County Engineer and Township Board for review.

Staff Recommendation

Approve with Conditions

Staff does not object to the concept or layout of the Planned Unit Development as presented. However, staff needs time to perform a more detailed/complete review of the recent submittals and therefore requests that the Planning Advisory Commission tables this item until their October 23rd meeting. If the Planning Advisory Commission does recommend approval, then Staff recommends the Planned Unit Development application be conditioned upon:

1. The applicant/developer shall submit a more detailed/final onsite septic system design for the project prior to further development on the site.
2. This permit may be revoked by the County for violation of the permit or conditions thereof, or of County Ordinance; and that the County Planning Advisory Commission shall decide if justified cause exists for a revocation hearing.
3. The Pope County Land and Resource Management Director shall be notified upon completion of the various phases of the project that fall under County jurisdiction.
4. Issuance of this permit shall not preclude any other restrictions or requirements of other local, state or federal agencies.

Staff Findings

The Staff offers the following findings for consideration:

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:**

   Finding: As proposed, the locating of a Planned Unit Development on a shoreland designated parcel complies with the setback requirements and other provisions of the Pope County Land Use Controls Ordinance for such use.

2. **The use is not in conflict with the County Comprehensive Land Use Plan:**

   Finding: The current Comprehensive Plan includes goals that state a recognition of diverse and existing land uses throughout the county. It is noted that not all uses are compatible and that there should be consideration as to separation, siting, development requirements and operating standards. Based on the proposed land use including distance from sensitive environmental features, roadway and neighboring properties, the proposed use is not in conflict with the County Comprehensive 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:**

   Finding: The use of shoreland recreational property to locate a Planned Unit Development is permissible based on the Pope County Land Use Controls Ordinance. There are other examples of Planned Unit developments on Lake Reno as well as other lakes in Pope County. The use will not likely diminish or impair the use and enjoyment of neighboring properties or interfere with the surrounding community as a whole.

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:**

   Finding: This land use is not expected to have any negative impacts on public infrastructure.

5. **The structure and sites shall have an appearance that will not have an adverse effect on adjacent properties:**

   Finding: The developer/owner intends to improve the site and it is expected to remain neat and orderly in appearance.

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:**

   Finding: The residential development may result in a higher traffic count on County Highway 15. However, this slight increase in the traffic count will not exceed the design threshold for the highway. The access road to the development is to be constructed to County and Township standards unless a variance has been granted.

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:**

   Finding: There are no known nearby nonagricultural businesses. So, the existence of the residential development on the riparian parcel will not have any impact on nearby businesses.

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:**

   Finding: There are nearby and adjacent properties along the shoreline that are platted with intent for shoreland recreational development. There are also adjacent properties that are still in agricultural production. The residential development will not hinder the continued agricultural use. So, the proposed use to locate a residential development on the riparian parcel will not conflict with existing uses or impede orderly development of adjacent properties.

9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**

   Finding: Any necessary utilities, drainage, septic systems or other facilities will be addressed prior to and as a condition of issuance of any land use permit.

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:**

    Finding: 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.

REPORT APPENDIX

- **Routing Sheet** *(Comments, concerns and conditions)*
- **Public Notice**
- **Supplemental Information** **(see original Staff Report for Attachments 1-8)**
  - **Attachment 1:** *Conditional Use Permit Application (Ted Holsten, 26 June 2025)*
  - **Attachment 2:** *Fairhaven Beach, Preliminary Plat (Nyberg Surveying, 4/2/2025)*
  - **Attachment 3:** *Fairhaven Beach Plat Narrative (Ted Holsten, 30 June 2025)*
  - **Attachment 4:** *Site Visit Photos (L&RM Staff, 14 July 2025)*
  - **Attachment 5:** *Minnesota Administrative Rules, Chapter 6120, Part 6120.3800 Planned Unit Development*
  - **Attachment 6:** *Conservation Planning Report: Holsten Planned Unit Development (Department of Natural Resources, 18 July 2025)*
  - **Attachment 7:** *Information, Planning and Conservation (IPaC) system report (United States Department of the Interior, Fish and Wildlife Service, 18 July 2025)*
  - **Attachment 8:** *Web Soil Survey (USDA, Natural Resources Conservation Service, 18 July 2025)*
  - **Attachment 9:** *Wetland Delineation Report (Landteam Incorporated, September 2018)*
  - **Attachment 10:** *Updated Site Plan W/Site Specific Elevation Data (Nyberg Surveying, 30 June 2025)*
  - **Attachment 11:** *Preliminary Site/Stormwater Plan with Typical Roadway Section (Interstate Engineering, 22 September 2025)*
  - **Attachment 12:** Declaration Document *(19 September 2025)*
  - **Attachment 13:** *Planning Advisory Commission Minutes (24 July 2025)*

Routing Sheet

Comments, Concerns and Conditions

Agency	
MN DNR	No comment received.
County Department	
Assessor	*COMMENTS: Parcels will be classified as Residential bare land non-homestead until ownership change. Plat law will be in effect for 7 years or until lots are sold (change of ownership) or developed. Each parcel will have their own unique value and part of the common lot value which includes road, lake shore etc. classification will depend on ownership of each parcel.* *PROPOSED CONDITIONS: None*
Attorney	No comment received.
Emergency Mgmt	No comment received.
Feedlot Officer	No comment received.
Recorder	*COMMENTS: The recorder's office do not have any comments at this point in the process.*
WCA Officer	*COMMENTS: There is a high degree of development being proposed for a property that is mostly in floodplain, almost half in wetlands, and with any developable land still at relatively low elevations. The plan appears to avoid permanent impacts to wetlands that would be restricted by WCA, but it is quite possible that there will need to be temporary impacts during construction. Any such impacts would need to be considered by the WCA Technical Evaluation Panel.* *PROPOSED CONDITIONS:* *- A professionally developed Erosion Control & Stormwater Management Plan, as required by PUD standards, to also include restoration plans, with native vegetation requirements, for temporary impacts to wetlands & wetland fringe areas in floodplain from development & construction.* *- Preservation of wetland fringe and natural vegetation along shoreline, aside from minimal clearing necessary for dock access.*
Township	
Reno	No comment received.
Other Comments Received	
	No comment 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 a Public Hearing will take place in conjunction with the Planning Advisory Commission meeting to be held at 6:00 pm or shortly thereafter on Thursday, July 24th, 2025 in the Pope County Courthouse to consider the following conditional use request.

Description of Request: Conditional Use hearing for an application by Ted Holsten (CUP-25-008, Parcels#03-0068-003 & 03-0068-004) for a ten (10) lot, planned unit development on property described as 21.16 acres, in a Shoreland-Recreational Development (S-RD) zoning district per section 4.3.2.A. of the Pope County Land Use Controls Ordinance.

Legal Description/Site Location: Part of Government Lot 2, Section 16, Township 126 (Reno), Range 38, Pope County, Minnesota.

Public participation will include an opportunity to:

1) submit written concerns and comment prior to the scheduled meeting. All such communications will be shared with the Planning Advisory Commission prior to or during the meeting;
2) submit concerns and comments via Pope County's Public Comment web map (https://popecounty.maps.arcgis.com/apps/webappviewer/index.html?id=22a203912a864a77b4cdabe672e35e3f)
3) review the staff prepared report via Pope County website;
4) observe and/or participate in the proceedings of the Planning Advisory Commission meeting.

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.

Dated: July 3, 2025
By: Jessica Hill, Zoning Administrator, Land & Resource Management

Supplemental Information

Supplemental Information Attachment 9:

Wetland Delineation Report
(Landteam Inc, September 2018)

LANDTEAM
INCORPORATED
CONSULTING ENGINEERING AND PROFESSIONAL SERVICES

WETLAND DELINEATION REPORT

MISTHAVEN LLC PROPERTY
PARCEL NUMBERS:
03-0068-003
03-0068-004

SECTION 16
RENO TWP
POPE COUNTY, MN

Prepared for:

Mr. Ted Holsten

Landteam Project Number GE1846

September 2018

509 22nd Avenue East, Suite 102 Alexandria MN 56308 I tel: 320.763. 5784 fax: 320.763.5786 I www.landteaminc.com

WETLAND DELINEATION REPORT

MISTHAVEN LLC PROPERTY
PARCEL NUMBERS:
03-0068-003
03-0068-004

SECTION 16
RENO TOWNSHIP
POPE COUNTY, MN

Landteam Project Number GE1846

I hereby certify that the delineation fieldwork was done by me and the delineation report was prepared by me or under my direct supervision, and that I am a State of Minnesota Certified Wetland Delineator.

Darren J. Hungness, CPESC, CPSWQ
Environmental Specialist, Landteam

Certified Delineator No. 1099

Date: 10/15/18

Certification

WETLAND DELINEATION REPORT

Misthaven LLC Property
Lake Reno

Section 16, Reno TWP, Pope County, MN

INTRODUCTION

Landteam, Inc. was contracted by Mr. Ted Holsten to determine if wetlands exist on the subject property and if so, to delineate and flag wetland boundaries, and produce a wetland delineation report. The delineation was done in anticipation of future development of the property. The property is located in the northeast ¼ of Section 16 of T126N, R38W (Reno Township), of Pope County, MN. The subject property consists of two parcels (PID # 03-0068-003 and # 03-0068-004). The site visit/delineation fieldwork was performed on October 3, 2018. Weather conditions were overcast, but warm and seasonable; a light drizzle/rain occurred in the early morning. Darren Hungness, State of Minnesota Certified Wetland Delineator #1099, performed the delineation. Following the delineation, wetland boundary points were collected by the landowner's surveyor using total station survey equipment and/or Trimble® GPS survey-grade equipment.

METHODOLOGY

Prior to the site visit, a literature/mapping review was conducted to determine the probable presence and extent of wetlands on the site. This review consisted of National Wetland Inventory (NWI) maps, the Soil Survey of Pope County (via the NRCS Web Soil Survey), which included hydric soils information, national and regional lists of plants that occur in wetlands, USGS topographic maps, and precipitation data. The delineator utilized the Routine On-Site Determination method, as prescribed in the 1987 Army Corps of Engineers Wetlands Delineation Manual, (Environmental Laboratory, 1987), along with the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Version (Version 2.0), and as required by the Minnesota Wetland Conservation Act. This methodology utilizes a standard multi-parameter approach (hydrophytic vegetation, hydrology, and hydric soils) for wetland determination. In general, an area is considered wetland if positive indicators for all three parameters are present.

The following is a brief discussion of each parameter and the general methodology used in determining whether there was a positive indicator of the parameter in question.

Hydrophytic Vegetation:

Definition: The community of macrophytes that occurs in areas where the frequency and duration of inundation or soil saturation produce permanently or

periodically saturated soils of sufficient duration to exert a controlling influence on the plant species present.

Method: To determine if the plant community (vegetation) was hydrophytic, the dominant species were identified in each vegetative stratum (herbaceous, woody vine, sapling/shrub, and tree). In this instance, dominance refers to those plant species that exert a controlling influence on or define the plant community. If more than 50% of the dominant species were hydrophytic, this parameter is satisfied.

Hydrology:

Definition: Encompasses all hydrologic characteristics of areas that are periodically inundated or have soils saturated to the surface at some time during the growing season.

Method: Wetland hydrology was determined by noting the presence of indicators as listed on the data sheet. If at least one primary indicator was present, or two secondary indicators were present, this parameter is satisfied.

Hydric Soil:

Definition: A soil that is saturated, flooded, or inundated long enough during the growing season to develop anaerobic conditions in the upper part.

Method: Soil pits/soil borings were dug at each sample location. The soils were characterized using the Munsell Soil Color Charts (Kollmorgen Instruments Corporation, 1994) to determine soil hue, value, and chroma, redoximorphic feature characteristics (color, abundance, contrast), and gley color to determine if reducing conditions indicative of hydric soils were present. If at least one of the hydric soil indicators listed on the data sheet was present, this parameter is satisfied.

RESULTS AND DISCUSSION

General Site Description

Note: completed field delineation data forms are found in the appendices. Aerial photos and mapping products are included in the appendices as well.

Site Description/Topography: The property is found on the west side of Lake Reno in Pope County, MN. Agriculture is the predominant land use in the area, with residential development common along the shores of the lake.

The eastern border of the property is formed by Lake Reno, while the western, northern, and southern borders are formed by common property lines between neighboring properties. For future development, it appears that, based on the parcel configuration, access to the site will be from County Road 15. Land within the site is either wetland, alfalfa field, or in a natural state. The site shows little relief overall, but does have an area of higher relief roughly in the middle. It appears that a historic ice ridge is present along the lake frontage.

Plant Communities: The site displays a mix of plant communities, depending on topographic position and other aspects. Tree species along the shoreline include green ash (*Fraxinus pennsylvanica*), box elder (*Acer negundo*), and eastern cottonwood (*Populus deltoides*). Sandbar willow (*Salix interior*) was common in the shrub layer. The herbaceous layer within the wetland areas was dominated by reed canary grass (*Phalaris arundinacea*) and cattail (*Typha* spp); many other grass and forb species were present. Herbaceous species in the upland areas included alfalfa (*Medicago sativa*), red clover (*Trifolium pratense*), smooth crabgrass (*Digitaria ischaemum),* and smooth brome (*Bromus inermis*).

Soils: Soils information is derived from the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Web Soil Survey (Version 3.3) of the National Cooperative Soil Survey, and on-site characterization via soil pit excavation. The soils map of the delineation area is found in the appendices. Basic onsite soil investigations performed as part of the delineation confirm the probable presence of the soil map unit as described only in the areas of wetland boundary delineation.

Soils in the area are:

SOIL MAP UNIT	TAXONOMY
Be-Bearden silt loam, 0-2% slopes	Aeric Calciaquoll
Om-Oldham silty clay loam, occ.ponded, 0-1% slopes	Vertic Endoaquoll
Pa-Parnell silty clay loam, occ. ponded, 0-1% slopes	Vertic Argiaquoll
Pf -Lakepark-Parnell, occ. ponded, 0-2% slopes	Cumulic Endoaquoll Vertic Argiaquoll

Below is a brief description of the soil series/soil map units located within the site per the USDA Official Soil Series Description database (Soil Survey Staff, Natural Resources Conservation Service), and the Web Soil Survey.

Bearden: The Bearden series consists of very deep, somewhat poorly drained soils that formed in silt loam and silty clay loam lacustrine sediments on glacial lake plains. Slopes range from 1-3 percent. A seasonal high-water table can be at 1.5 to 3.5 feet below the surface at some time during the period of April through June. Thirteen percent of this soil is considered hydric; hydric inclusions in this series include Colvin and Colvin, depressional soils.

Oldham: The Oldham series consists of very deep, very poorly drained soils that formed in silty and clayey deposits in upland basins and depressions. Slopes

range from 0-2 percent. Seasonal high saturation is within a foot of the surface from October through June in most years. One hundred percent of this soils is considered hydric.

Parnell: The Parnell series consists of very deep, poorly to very poorly drained soils that formed water sorted sediments in depressions, swales, and drainageways on glacial moraines. Slopes range from 0-3 percent. In most years, a seasonal high-water table is at a depth of 0.5 to 1.5 feet from November through June for the poorly drained phase and a foot above the surface to o.5 feet below the surface throughout the year for the very poorly drained phase. Ninety percent of this soil is hydric; non-hydric inclusion is the Hamerly soil.

Lakepark: The Lakepark series consists of very deep, poorly drained soils that formed in glacial till and glacial drift on till plains and moraines. Slopes range from 0-3 percent. The apparent seasonal high water table is at 0.5 feet to 1.5 feet below the surface from November to June in normal years. Ninety five percent of the Lakepark-Parnell complex is hydric, with the Hamerly soil composing the five percent that is non-hydric.

Existing wetland mapping: There are four wetland areas shown on National Wetland Inventory (NWI) maps (U.S. Fish and Wildlife Service, 2018). The wetland in the northeast corner is categorized as PEM1A (Palustrine, Emergent, Persistent, Temporarily Flooded). The two smaller wetlands in the center are both categorized as PEM1Ad (Palustrine, Emergent, Persistent, Temporarily Flooded, partially drained/ditched). The large southern wetland is categorized as PEM1Cd (Palustrine, Emergent, Persistent, Seasonally Flooded, partially drained/ditched). NWI mapping is included in the appendices.

Findings

Wetland A

Overview: Wetland A is in the northeast corner of the site and is generally in the area depicted on the NWI.

The upland/wetland boundary was determined by examining sample points to determine whether wetland indicators were present. Once these sample locations were assessed, the delineation boundary was placed where vegetation, hydrology, and/or soils transitioned from wetland to upland. This point coincided with a slight to well defined break in topography in most areas.

Classification: This area is shown as wetland on National Wetland Inventory mapping as PEM1A. Based on Eggers and Reed, the wetland would be classified as a fresh (wet) meadow, with an area of shallow marsh in the topographically low central portion. Note that this central portion was completely dry at the time of the delineation filed work. Under

Circular 39, the majority this wetland would be considered a Type 2, with Type 3 in the center.

Vegetation: Hydrophytic vegetation at the wetland sample location was dominated by reed canary grass (*Phalaris arundinacea*) and fox sedge (*Carex vulpinoidea*). Additional hydrophytic species, such as Softstem bulrush (*Schoenoplectus tabernaemontani*) were also present at the wetland sample location. Vegetation in the upland sample location was dominated by smooth crabgrass (*Digitaria ischaemum*), red clover (*Trifolium pratense*), and common dandelion (*Taraxacum officinale*).

Soils and Hydrology: Hydrology for the wetland appears to be maintained primarily through topographical position and groundwater interaction. The soils in the wet pit area were hydric based on Indicator A12—Thick Dark Surface.

Sample Area B

Overview: Sample area B is in a small depressional area which is shown as a PEM1Ad on NWI mapping. A soil pit was advanced in the topographic low area of this depression; soils were examined for evidence of hydric soil indicators, vegetation was assessed for evidence of a hydrophytic plant community, and the area was assessed for evidence of hydrology indicators. The soil was hydric based on Indicator A12, but no positive indicators of hydrophytic vegetation were present and only one secondary indicator of hydrology (geomorphic position) was present. A data sheet for this sample location is included in the appendices. The upland sample location was the same location as was used for the Wetland C upland sample location

Wetland C

Overview: Wetland C encompasses the southern portion of the site. The central area of this wetland is depicted on the NWI. Based on property lines and wetland extent, only the northern and eastern boundaries of this wetland were delineated and marked.

The upland/wetland boundary was determined by examining sample points to determine whether wetland indicators were present. Once these sample locations were assessed, the delineation boundary was placed where vegetation, hydrology, and/or soils transitioned from wetland to upland. This point coincided with a slight to well defined break in topography in most areas. Note that the eastern boundary of the wetland is separated from Lake Reno by what appears to be a historic ice ridge.

Classification: Much of the area of this wetland is shown on National Wetland Inventory mapping as PEM1Cd. Based on Eggers and Reed, the wetland would be classified as a shallow to deep marsh centrally, with a fringe of fresh (wet) meadow. Under Circular 39, the majority this wetland would be considered a Type 3/4.

Vegetation: Hydrophytic vegetation at the wetland sample location was dominated by reed canary grass (*Phalaris arundinacea*) and cattail (*Typha* spp). Additional hydrophytic

species, such as Softstem bulrush (*Schoenoplectus tabernaemontani*) were also present at the wetland sample location. *Fraxinus pennsylvanica*, *Acer negundo, Populus deltoides*, and *Salix interior*. Vegetation in the upland sample location was dominated by alfalfa (*Medicago sativa*), smooth crabgrass (*Digitaria ischaemum*), and red clover (*Trifolium pratense*).

Soils and Hydrology: Hydrology for the wetland appears to be maintained primarily through topographical position and groundwater interaction. The soils in the wet pit area were hydric based on Indicator A11—Depleted Below Dark Surface.

CONCLUSION

Two wetland areas were delineated on the site. The boundaries were marked with pink wire post flags or pink marking tape at intervals close enough to facilitate verification by LGU staff, and to accommodate surveying of the wetland boundaries.

Any work within the boundaries of the wetlands on the site may be subject to Wetland Conservation Act (WCA), or other governmental unit regulation, depending on jurisdictional determination.

This document outlines the methodology used by, and the professional observations and findings of, Landteam, Inc. in performing the delineation of wetlands on this site.

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WETLAND DETERMINATION DATA FORM - Midwest Region

Project/Site: Holsten Potential Development | City/County: Pope | Sampling Date: 10/3/18
Applicant/Owner: Ted Holsten | State: MN | Sampling Point: A-UP
Investigator(s): Darren Hungness | Section, Township, Range: 16,126,38
Landform (hillslope, terrace, etc.): backslope | Local relief (concave, convex, none): concave
Slope (%): 1 | Lat: 45.730208 | Long: -95.451905 | Datum: WGS84
Soil Map Unit Name: Pf--Lakepark-Parnell, occ. ponded, 0-1% slopes | NWI Classification: N/A
Are climatic/hydrologic conditions of the site typical for this time of the year? Y (If no, explain in remarks)
Are vegetation ____, soil ____, or hydrology ____ significantly disturbed? Are "normal circumstances"
Are vegetation ____, soil ____, or hydrology ____ naturally problematic? present? Yes

SUMMARY OF FINDINGS

(If needed, explain any answers in remarks.)

Hydrophytic vegetation present?	N		
Hydric soil present?	N	**Is the sampled area within a wetland?**	N
Indicators of wetland hydrology present?	N	If yes, optional wetland site ID:	

Remarks: (Explain alternative procedures here or in a separate report.)

VEGETATION -- Use scientific names of plants.

	Absolute % Cover	Dominant Species	Indicator Staus
Tree Stratum (Plot size: ____)			
1			
2			
3			
4			
5			
	0 = Total Cover		
Sapling/Shrub stratum (Plot size: ____)			
1			
2			
3			
4			
5			
	0 = Total Cover		
Herb stratum (Plot size: ____)			
1 *Digitaria ischaemum*	80	Y	FACU
2 *Trifolium pratense*	80	Y	FACU
3 *Taraxacum officinale*	50	Y	FACU
4 *Plantago major*	30	N	FAC
5			
6			
7			
8			
9			
10			
	240 = Total Cover		
Woody vine stratum (Plot size: ____)			
1			
2			
	0 = Total Cover		

Dominance Test Worksheet

Number of Dominant Species that are OBL, FACW, or FAC: 0 (A)
Total Number of Dominant Species Across all Strata: 3 (B)
Percent of Dominant Species that are OBL, FACW, or FAC: 0.00% (A/B)

Prevalence Index Worksheet

Total % Cover of:

OBL species	0	x 1 =	0	
FACW species	0	x 2 =	0	
FAC species	30	x 3 =	90	
FACU species	210	x 4 =	840	
UPL species	0	x 5 =	0	
Column totals	240	(A)	930	(B)

Prevalence Index = B/A = 3.88

Hydrophytic Vegetation Indicators:

- ____ Rapid test for hydrophytic vegetation
- ____ Dominance test is >50%
- ____ Prevalence index is ≤3.0*
- ____ Morphogical adaptations* (provide supporting data in Remarks or on a separate sheet)
- ____ Problematic hydrophytic vegetation* (explain)

*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic

Hydrophytic vegetation present? N

Remarks: (Include photo numbers here or on a separate sheet)

Vegetation in this area has been mowed, but does not appear to have been planted or tilled recently.

SOIL

Sampling Point: A-UP

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type*	Loc**	Texture	Remarks
0-3	10YR 2/1						loam	many roots
3-12	10YR 2/1						loam	
12-15	N 2.5/						clay loam	
15-20	10YR 2/2		2.5Y 5/2	5	D	M	sandy clay loam	
20-25	2.5Y 4/3		7.5YR 5/6	5	C	M	clay	

*Type: C = Concentration, D = Depletion, RM = Reduced Matrix, MS = Masked Sand Grains. **Location: PL = Pore Lining, M = Matrix

Hydric Soil Indicators:

- ___ Histisol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- ___ Coast Prairie Redox (A16) (**LRR K, L, R**)
- ___ Dark Surface (S7) (**LRR K, L)**
- ___ Iron-Manganese Masses (F12) (**LRR K, L, R**)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in remarks)

*Indicators of hydrophytic vegetation and weltand hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed):
Type: _____
Depth (inches): _____

Hydric soil present? N

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface water present?	Yes	___	No	X	Depth (inches): ___
Water table present?	Yes	___	No	X	Depth (inches): ___
Saturation present? (includes capillary fringe)	Yes	___	No	X	Depth (inches): ___

Indicators of wetland hydrology present? N

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

WETLAND DETERMINATION DATA FORM - Midwest Region

Project/Site: Holsten Potential Development | City/County: Pope | Sampling Date: 10/3/18
Applicant/Owner: Ted Holsten | State: MN | Sampling Point: A-WET
Investigator(s): Darren Hungness | Section, Township, Range: 16,126,38
Landform (hillslope, terrace, etc.): toeslope | Local relief (concave, convex, none): concave
Slope (%): 1 | Lat: 45.730208 | Long: -95.451905 | Datum: WGS84
Soil Map Unit Name: Pf--Lakepark-Parnell, occ. ponded, 0-1% slopes | NWI Classification: PEM1A
Are climatic/hydrologic conditions of the site typical for this time of the year? Y (If no, explain in remarks)
Are vegetation ____, soil ____, or hydrology ____ significantly disturbed? Are "normal circumstances" present? Yes
Are vegetation ____, soil ____, or hydrology ____ naturally problematic? (If needed, explain any answers in remarks.)

SUMMARY OF FINDINGS

Hydrophytic vegetation present?	Y
Hydric soil present?	Y
Indicators of wetland hydrology present?	Y
Is the sampled area within a wetland?	Y
If yes, optional wetland site ID:	

Remarks: (Explain alternative procedures here or in a separate report.)

VEGETATION -- Use scientific names of plants.

Tree Stratum (Plot size:)	Absolute % Cover	Dominant Species	Indicator Staus
1			
2			
3			
4			
5			
	0	= Total Cover	

Sapling/Shrub stratum (Plot size:)			
1			
2			
3			
4			
5			
	0	= Total Cover	

Herb stratum (Plot size:)			
1 *Phalaris arundinacea*	90	Y	FACW
2 *Carex vulpinoidea*	50	Y	FACW
3 *Poa pratensis*	30	N	FAC
4 *Schoenoplectus tabernaemontani*	20	N	OBL
5			
6			
7			
8			
9			
10			
	190	= Total Cover	

Woody vine stratum (Plot size:)			
1			
2			
	0	= Total Cover	

Dominance Test Worksheet

Number of Dominant Species that are OBL, FACW, or FAC: 2 (A)
Total Number of Dominant Species Across all Strata: 2 (B)
Percent of Dominant Species that are OBL, FACW, or FAC: 100.00% (A/B)

Prevalence Index Worksheet

Total % Cover of:

OBL species	20	x 1 =	20
FACW species	140	x 2 =	280
FAC species	30	x 3 =	90
FACU species	0	x 4 =	0
UPL species	0	x 5 =	0
Column totals	190 (A)		390 (B)

Prevalence Index = B/A = 2.05

Hydrophytic Vegetation Indicators:

- ____ Rapid test for hydrophytic vegetation
- X Dominance test is >50%
- X Prevalence index is ≤3.0*
- ____ Morphogical adaptations* (provide supporting data in Remarks or on a separate sheet)
- ____ Problematic hydrophytic vegetation* (explain)

*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic

Hydrophytic vegetation present? Y

Remarks: (Include photo numbers here or on a separate sheet)

SOIL **Sampling Point:** A-WET

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type*	Loc**	Texture	Remarks
0-10	10YR 2/1						clay loam	many roots, moss on surface
10-16	10YR 2/1		10YR 6/2	10	D	M	loam	large redox
16-20	N 4/						clay loam	

*Type: C = Concentration, D = Depletion, RM = Reduced Matrix, MS = Masked Sand Grains. **Location: PL = Pore Lining, M = Matrix

Hydric Soil Indicators:

- ___ Histisol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- X Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- ___ Coast Prairie Redox (A16) (**LRR K, L, R**)
- ___ Dark Surface (S7) (**LRR K, L**)
- ___ Iron-Manganese Masses (F12) (**LRR K, L, R**)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in remarks)

*Indicators of hydrophytic vegetation and weltand hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed):
Type: _____
Depth (inches): _____

Hydric soil present? Y

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- X Geomorphic Position (D2)
- X FAC-Neutral Test (D5)

Field Observations:

Surface water present?	Yes		No	X	Depth (inches):
Water table present?	Yes	X	No		Depth (inches): 12
Saturation present? (includes capillary fringe)	Yes	X	No		Depth (inches): 10

Indicators of wetland hydrology present? Y

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Fac-neutral test is 2:0

WETLAND DETERMINATION DATA FORM - Midwest Region

Project/Site: Holsten Potential Development | City/County: Pope | Sampling Date: 10/3/18
Applicant/Owner: Ted Holsten | State: MN | Sampling Point: B, C-UP
Investigator(s): Darren Hungness | Section, Township, Range: 16,126,38
Landform (hillslope, terrace, etc.): slight ridge | Local relief (concave, convex, none): convex
Slope (%): 1 | Lat: 45.728905 | Long: -95.453302 | Datum: WGS84
Soil Map Unit Name: Om-Oldham silty clay loam, occ. ponded, 0-1% slopes | NWI Classification: N/A
Are climatic/hydrologic conditions of the site typical for this time of the year? Y (If no, explain in remarks)
Are vegetation X, soil ____, or hydrology ____ significantly disturbed? Are "normal circumstances"
Are vegetation ____, soil ____, or hydrology ____ naturally problematic? present? No

SUMMARY OF FINDINGS

(If needed, explain any answers in remarks.)

Hydrophytic vegetation present?	N		
Hydric soil present?	N	**Is the sampled area within a wetland?**	N
Indicators of wetland hydrology present?	N	If yes, optional wetland site ID:	

Remarks: (Explain alternative procedures here or in a separate report.)

VEGETATION -- Use scientific names of plants.

Tree Stratum (Plot size: ____)	Absolute % Cover	Dominant Species	Indicator Staus
1			
2			
3			
4			
5			
	0 = Total Cover		
Sapling/Shrub stratum (Plot size: ____)			
1			
2			
3			
4			
5			
	0 = Total Cover		
Herb stratum (Plot size: ____)			
1 *Medicago sativa*	100	Y	FACU
2 *Digitaria ischaemum*	40	Y	FACU
3 *Trifolium pratense*	20	N	FACU
4			
5			
6			
7			
8			
9			
10			
	160 = Total Cover		
Woody vine stratum (Plot size: ____)			
1			
2			
	0 = Total Cover		

Dominance Test Worksheet

Number of Dominant Species that are OBL, FACW, or FAC: 0 (A)
Total Number of Dominant Species Across all Strata: 2 (B)
Percent of Dominant Species that are OBL, FACW, or FAC: 0.00% (A/B)

Prevalence Index Worksheet

Total % Cover of:

OBL species	0	x 1 =	0	
FACW species	0	x 2 =	0	
FAC species	0	x 3 =	0	
FACU species	160	x 4 =	640	
UPL species	0	x 5 =	0	
Column totals	160	(A)	640	(B)

Prevalence Index = B/A = 4.00

Hydrophytic Vegetation Indicators:

- ____ Rapid test for hydrophytic vegetation
- ____ Dominance test is >50%
- ____ Prevalence index is ≤3.0*
- ____ Morphogical adaptations* (provide supporting data in Remarks or on a separate sheet)
- ____ Problematic hydrophytic vegetation* (explain)

*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic

Hydrophytic vegetation present? N

Remarks: (Include photo numbers here or on a separate sheet)

Sample point is located in an alfalfa field.

SOIL **Sampling Point:** B, C-UP

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type*	Loc**	Texture	Remarks
0-18	10YR 2/1						loam	many roots in top 6-8 inches
18-30	10YR 3.2		10YR 6/2	10	D	M	clay loam	large redox

*Type: C = Concentration, D = Depletion, RM = Reduced Matrix, MS = Masked Sand Grains. **Location: PL = Pore Lining, M = Matrix

Hydric Soil Indicators:

- ___ Histisol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- ___ Coast Prairie Redox (A16) (**LRR K, L, R**)
- ___ Dark Surface (S7) (**LRR K, L**)
- ___ Iron-Manganese Masses (F12) (**LRR K, L, R**)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in remarks)

*Indicators of hydrophytic vegetation and weltand hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed):
Type: _____
Depth (inches): _____

Hydric soil present? N

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- ___ Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface water present?	Yes	___	No	X	Depth (inches): ___
Water table present?	Yes	___	No	X	Depth (inches): ___
Saturation present? (includes capillary fringe)	Yes	___	No	X	Depth (inches): ___

Indicators of wetland hydrology present? N

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
FAC-neutral test is 0:2

WETLAND DETERMINATION DATA FORM - Midwest Region

Project/Site: Holsten Potential Development | City/County: Pope | Sampling Date: 10/3/18
Applicant/Owner: Ted Holsten | State: MN | Sampling Point: B-WET
Investigator(s): Darren Hungness | Section, Township, Range: 16,126,38
Landform (hillslope, terrace, etc.): depression bottom | Local relief (concave, convex, none): concave
Slope (%): 1 | Lat: 45.729606 | Long: -95.453397 | Datum: WGS84
Soil Map Unit Name: Om-Oldham silty clay loam, occ. ponded, 0-1% slopes | NWI Classification: PEM1Ad
Are climatic/hydrologic conditions of the site typical for this time of the year? Y (If no, explain in remarks)
Are vegetation X, soil ____, or hydrology ____ significantly disturbed? Are "normal circumstances"
Are vegetation ____, soil ____, or hydrology ____ naturally problematic? present? No

SUMMARY OF FINDINGS

(If needed, explain any answers in remarks.)

Hydrophytic vegetation present?	N
Hydric soil present?	Y
Indicators of wetland hydrology present?	N

Is the sampled area within a wetland? N
If yes, optional wetland site ID: ____

Remarks: (Explain alternative procedures here or in a separate report.)

VEGETATION -- Use scientific names of plants.

Tree Stratum (Plot size: ____)	Absolute % Cover	Dominant Species	Indicator Staus
1			
2			
3			
4			
5			
	0	= Total Cover	

Sapling/Shrub stratum (Plot size: ____)			
1			
2			
3			
4			
5			
	0	= Total Cover	

Herb stratum (Plot size: ____)			
1 *Digitaria ischaemum*	80	Y	FACU
2 *Taraxacum officinale*	50	Y	FACU
3 *Trifolium repens*	40	Y	FACU
4 *Medicago sativa*	25	N	FACU
5			
6			
7			
8			
9			
10			
	195	= Total Cover	

Woody vine stratum (Plot size: ____)			
1			
2			
	0	= Total Cover	

Dominance Test Worksheet

Number of Dominant Species that are OBL, FACW, or FAC: 0 (A)
Total Number of Dominant Species Across all Strata: 3 (B)
Percent of Dominant Species that are OBL, FACW, or FAC: 0.00% (A/B)

Prevalence Index Worksheet

Total % Cover of:

OBL species	0	x 1 =	0
FACW species	0	x 2 =	0
FAC species	0	x 3 =	0
FACU species	195	x 4 =	780
UPL species	0	x 5 =	0
Column totals	195 (A)		780 (B)

Prevalence Index = B/A = 4.00

Hydrophytic Vegetation Indicators:

- ____ Rapid test for hydrophytic vegetation
- ____ Dominance test is >50%
- ____ Prevalence index is ≤3.0*
- ____ Morphogical adaptations* (provide supporting data in Remarks or on a separate sheet)
- ____ Problematic hydrophytic vegetation* (explain)

*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic

Hydrophytic vegetation present? N

Remarks: (Include photo numbers here or on a separate sheet)
Sample point is located in an alfalfa field

SOIL **Sampling Point:** B-WET

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type*	Loc**	Texture	Remarks
0-10	10YR 2/1						clay loam	many roots, moss on surface
10-16	10YR 2/1		10YR 6/2	10	D	M	loam	large redox
16-23	N 4/						clay loam	

*Type: C = Concentration, D = Depletion, RM = Reduced Matrix, MS = Masked Sand Grains. **Location: PL = Pore Lining, M = Matrix

Hydric Soil Indicators:

- ___ Histisol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- ___ Depleted Below Dark Surface (A11)
- X Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- ___ Coast Prairie Redox (A16) (**LRR K, L, R**)
- ___ Dark Surface (S7) (**LRR K, L**)
- ___ Iron-Manganese Masses (F12) (**LRR K, L, R**)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in remarks)

*Indicators of hydrophytic vegetation and weltand hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed):
Type: _____
Depth (inches): _____

Hydric soil present? Y

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ True Aquatic Plants (B14)
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- X Geomorphic Position (D2)
- ___ FAC-Neutral Test (D5)

Field Observations:

Surface water present?	Yes	___	No	X	Depth (inches): ___
Water table present?	Yes	___	No	X	Depth (inches): ___
Saturation present? (includes capillary fringe)	Yes	___	No	X	Depth (inches): ___

Indicators of wetland hydrology present? N

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

Fac-neutral test is 2:0

WETLAND DETERMINATION DATA FORM - Midwest Region

Project/Site: Holsten Potential Development | City/County: Pope | Sampling Date: 10/3/18
Applicant/Owner: Ted Holsten | State: MN | Sampling Point: C-WET
Investigator(s): Darren Hungness | Section, Township, Range: 16,126,38
Landform (hillslope, terrace, etc.): toe slope | Local relief (concave, convex, none): concave
Slope (%): 1 | Lat: 45.728905 | Long: -95.453302 | Datum: WGS84
Soil Map Unit Name: Om-Oldham silty clay loam, occ. ponded, 0-1% slopes | NWI Classification: PEM1Cd
Are climatic/hydrologic conditions of the site typical for this time of the year? Y (If no, explain in remarks)
Are vegetation ____, soil ____, or hydrology ____ significantly disturbed? Are "normal circumstances"
Are vegetation ____, soil ____, or hydrology ____ naturally problematic? present? Yes

SUMMARY OF FINDINGS

(If needed, explain any answers in remarks.)

Hydrophytic vegetation present?	Y		
Hydric soil present?	Y	**Is the sampled area within a wetland?**	Y
Indicators of wetland hydrology present?	Y	If yes, optional wetland site ID:	

Remarks: (Explain alternative procedures here or in a separate report.)

VEGETATION -- Use scientific names of plants.

Tree Stratum (Plot size: ____)	Absolute % Cover	Dominant Species	Indicator Staus
1			
2			
3			
4			
5			
	0	= Total Cover	

Sapling/Shrub stratum (Plot size: ____)			
1			
2			
3			
4			
5			
	0	= Total Cover	

Herb stratum (Plot size: ____)			
1 *Phalaris arundinacea*	100	Y	FACW
2 *Typha X glauca*	50	Y	OBL
3			
4			
5			
6			
7			
8			
9			
10			
	150	= Total Cover	

Woody vine stratum (Plot size: ____)			
1			
2			
	0	= Total Cover	

Dominance Test Worksheet

Number of Dominant Species that are OBL, FACW, or FAC: 2 (A)
Total Number of Dominant Species Across all Strata: 2 (B)
Percent of Dominant Species that are OBL, FACW, or FAC: 100.00% (A/B)

Prevalence Index Worksheet

Total % Cover of:

OBL species	50	x 1 =	50
FACW species	100	x 2 =	200
FAC species	0	x 3 =	0
FACU species	0	x 4 =	0
UPL species	0	x 5 =	0
Column totals	150 (A)		250 (B)

Prevalence Index = B/A = 1.67

Hydrophytic Vegetation Indicators:

- ____ Rapid test for hydrophytic vegetation
- X Dominance test is >50%
- X Prevalence index is ≤3.0*
- ____ Morphogical adaptations* (provide supporting data in Remarks or on a separate sheet)
- ____ Problematic hydrophytic vegetation* (explain)

*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic

Hydrophytic vegetation present? Y

Remarks: (Include photo numbers here or on a separate sheet)

SOIL **Sampling Point:** C-WET

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (Inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type*	Loc**	Texture	Remarks
0-8	N 2.5/						clay loam	
8-16	5G 6/						clay	

*Type: C = Concentration, D = Depletion, RM = Reduced Matrix, MS = Masked Sand Grains. **Location: PL = Pore Lining, M = Matrix

Hydric Soil Indicators:

- ___ Histisol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ 2 cm Muck (A10)
- X Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Sandy Mucky Mineral (S1)
- ___ 5 cm Mucky Peat or Peat (S3)
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Loamy Mucky Mineral (F1)
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)

Indicators for Problematic Hydric Soils:

- ___ Coast Prairie Redox (A16) (**LRR K, L, R**)
- ___ Dark Surface (S7) (**LRR K, L**)
- ___ Iron-Manganese Masses (F12) (**LRR K, L, R**)
- ___ Very Shallow Dark Surface (TF12)
- ___ Other (explain in remarks)

*Indicators of hydrophytic vegetation and weltand hydrology must be present, unless disturbed or problematic

Restrictive Layer (if observed):
Type: _____
Depth (inches): _____

Hydric soil present? Y

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- X High Water Table (A2)
- X Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
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- ___ Gauge or Well Data (D9)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Drainage Patterns (B10)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Stunted or Stressed Plants (D1)
- X Geomorphic Position (D2)
- X FAC-Neutral Test (D5)

Field Observations:

Surface water present?	Yes		No	X	Depth (inches):
Water table present?	Yes	X	No		Depth (inches): 8
Saturation present? (includes capillary fringe)	Yes	X	No		Depth (inches): 8

Indicators of wetland hydrology present? Y

Describe recorded data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
FAC-neutral test is 2:0

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

AERIAL W CONTOURS

Pope County

Minnesota

1:5,634

Date: 9/25/2018

This map is not a substitute for accurate land surveys or for locating actual property lines and any adjacent features.

These data are provided on an "AS-IS" basis, without warranty of any type, expressed or implied, including but not limited to any warranty as to their performance, merchantability, or fitness for any particular purpose.

AERIAL W NWI

1:5,634

Date: 9/25/2018

Pope County

Minnesota

This map is not a substitute for accurate land surveys for locating actual property lines and any adjacent features.

U.S. Fish and Wildlife Service
National Wetlands Inventory

HOLSTEN

September 25, 2018

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper

Map Scale: 1:3,080 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 45 90 180 270

Feet: 0 100 200 400 600

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features
- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Pope County, Minnesota
Survey Area Data: Version 13, Oct 4, 2017

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 3, 2012—Nov 4, 2016

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

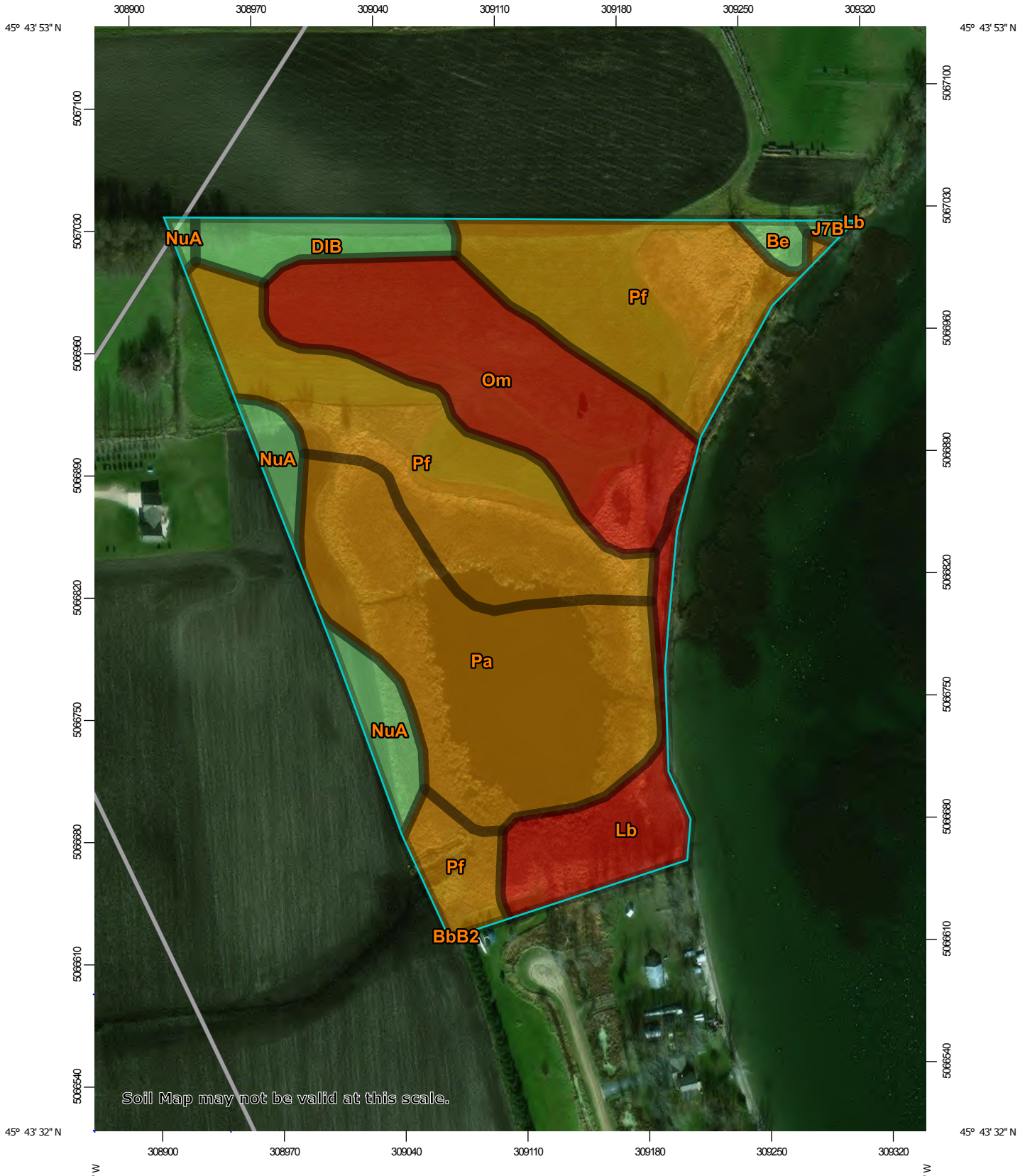
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
BbB2	Hokans-Buse complex, 2 to 6 percent slopes	0.0	0.0%
Be	Bearden silt loam, 0 to 2 percent slopes	0.2	0.9%
DlB	Byrne silt loam, 1 to 6 percent slopes	1.0	4.2%
J7B	Sverdrup sandy loam, 2 to 6 percent slopes	0.1	0.3%
Lb	Lake beaches, loamy	1.7	7.5%
NuA	Nutley silty clay loam, 0 to 2 percent slopes	1.2	5.2%
Om	Oldham silty clay loam, occasionally ponded, 0 to 1 percent slopes	4.4	19.5%
Pa	Parnell silty clay loam, occasionally ponded, 0 to 1 percent slopes	5.7	25.1%
Pf	Lakepark-Parnell, occasionally ponded, complex, 0 to 2 percent slopes	8.5	37.4%
Totals for Area of Interest		**22.8**	**100.0%**

Map Unit Descriptions

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different



Map Scale: 1:3,080 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 45 90 180 270

Feet: 0 100 200 400 600

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils

Soil Rating Polygons
- Hydric (100%)
- Hydric (66 to 99%)
- Hydric (33 to 65%)
- Hydric (1 to 32%)
- Not Hydric (0%)
- Not rated or not available

Soil Rating Lines
- Hydric (100%)
- Hydric (66 to 99%)
- Hydric (33 to 65%)
- Hydric (1 to 32%)
- Not Hydric (0%)
- Not rated or not available

Soil Rating Points
- Hydric (100%)
- Hydric (66 to 99%)
- Hydric (33 to 65%)
- Hydric (1 to 32%)
- Not Hydric (0%)
- Not rated or not available

Water Features
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

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The soil surveys that comprise your AOI were mapped at 1:20,000.

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Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

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Date(s) aerial images were photographed: Jul 3, 2012—Nov 4, 2016

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Table—Hydric Rating by Map Unit

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
BbB2	Hokans-Buse complex, 2 to 6 percent slopes	10	0.0	0.0%
Be	Bearden silt loam, 0 to 2 percent slopes	13	0.2	0.9%
DlB	Byrne silt loam, 1 to 6 percent slopes	5	1.0	4.2%
J7B	Sverdrup sandy loam, 2 to 6 percent slopes	2	0.1	0.3%
Lb	Lake beaches, loamy	100	1.7	7.5%
NuA	Nutley silty clay loam, 0 to 2 percent slopes	10	1.2	5.2%
Om	Oldham silty clay loam, occasionally ponded, 0 to 1 percent slopes	100	4.4	19.5%
Pa	Parnell silty clay loam, occasionally ponded, 0 to 1 percent slopes	90	5.7	25.1%
Pf	Lakepark-Parnell, occasionally ponded, complex, 0 to 2 percent slopes	95	8.5	37.4%
Totals for Area of Interest			**22.8**	**100.0%**

Rating Options—Hydric Rating by Map Unit

Aggregation Method: Percent Present

Component Percent Cutoff: None Specified

Tie-break Rule: Lower

Minnesota State Climatology Office

Precipitation Worksheet Using Gridded Database

Precipitation data for target wetland location:

county: **Pope** township number: **126N**
township name: **Reno** range number: **38W**
nearest community: **Lowry** section number: **16**

Aerial photograph or site visit date:
Tuesday, September 25, 2018

Score using 1981-2010 normal period

values are in inches A 'R' following a monthly total indicates a provisional value derived from radar-based estimates.	first prior month: **August 2018**	second prior month: **July 2018**	third prior month: **June 2018**
estimated precipitation total for this location:	**2.96R**	**4.38R**	**6.27R**
there is a 30% chance this location will have less than:	2.21	2.31	3.11
there is a 30% chance this location will have more than:	3.91	4.26	4.60
type of month: dry normal wet	**normal**	**wet**	**wet**
monthly score	**3 * 2 = 6**	**2 * 3 = 6**	**1 * 3 = 3**
multi-month score: 6 to 9 (dry) 10 to 14 (normal) 15 to 18 (wet)	**15 (Wet)**		

Other Resources:

- retrieve daily precipitation data
- view radar-based precipitation estimates
- view weekly precipitation maps
- *Evaluating Antecedent Precipitation Conditions* (BWSR)

CERTIFICATE OF SURVEY

SEC. 9 T 126 N R 38 W

SEC. 16 T 126 N R 38 W

SW 1/4

GOV.

N 1/4 COR SEC. 16 1/2" PIPE (NW COR GOV. LOT 2)

W. LINE GOV. LOT 2

N. LINE SEC. 16

N89°54'10"W 2222± 2136.02

1/2" PIPE

50.00

66.00

45.92

896.76

946.68 S89°54'10"E

591.24 S89°54'10"E

S00°05'50"W 905.58

S00°06'40"W 363.97

S31°04'47"W 248.91

N62°57'46"E 96.16

PARCEL 10.00 Acs±

C.S.A.H. NO. 15

EXISTING ACCESS EASEMENT

211.29 N89°53'03"E

464.62 N89°54'10"W

3.36 Ac.±

S11°44'47"W 146.50

N62°57'13"E 96.15

49.26

556.72

50.00

252.45

401.70

605.97 S90°00'00"W

704.15 N90°00'00"E

S00°00'00"W 210.46

APPROX. WETLAND (OUTSIDE OF DELIN. AREA)

WETLAND "A" 1.01 ACRES

UP PIT

WET PIT

DELINEATED WETLAND

WETLAND "B" 8.34 ACRES

21.16 Ac.±

LOT 2

LOT 1

BLOCK ONE WESTSIDE ESTATES

LAKE RENO

S15°02'18"E 148.27

N69°49'14"E 154.61

S68°13'43"W 274.82

N. LINE LOT 10, BLOCK ONE SUGAR SAND SHORES

NW COR LOT 10 BLOCK ONE SUGAR SAND SHORES

SUGAR SAND SHORES

BLOCK ONE

CENTER SEC. 16 1/2" PIPE

SW 1/4 NE 1/4

GOV. LOT 1

N

1=100

0 100 200

SCALE IN FEET

- INPLACE IRON MONUMENT
- 1/2" IRON REBAR WITH PLASTIC CAP STAMPED "RLS 42620" & "RLS 45335"
- ( ) RECORD DATA
- WETLAND
- SAMPLE POINT
- DELINEATED WETLAND
- APPROX. WETLAND (OUTSIDE OF INVESTIGATION AREA)

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Brad M. Nyberg

Date October 10th, 2018 License No. 42620

SEC. 16 T 126 N R 38 W

10/2018 • DRAWN BY: JSM • CHECKED: BMN • JOB NO. 9896

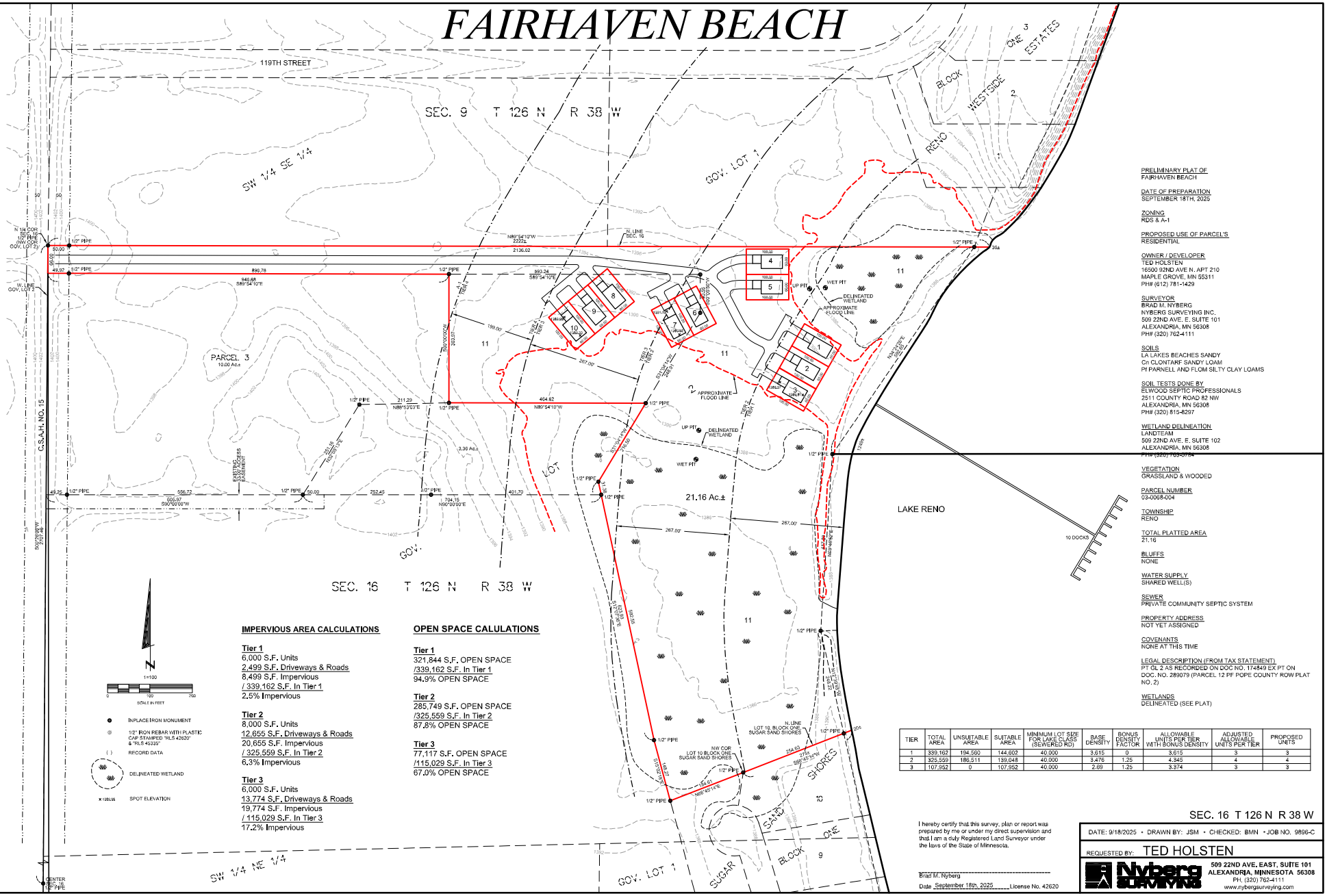
ED BY: TED HOLSTEN

Nyberg SURVEYING
509 22ND AVE. EAST, SUITE 101
ALEXANDRIA, MINNESOTA 56308
PH. (320) 762-4111 * FAX (320) 762-4112
www.nybergsurveying.com

Supplemental Information Attachment 10:

Updated Site Plan W/Site Specific Elevation Data
(Nyberg Surveying, 18 September 2025)

FAIRHAVEN BEACH



IMPERVIOUS AREA CALCULATIONS

Tier 1
6,000 S.F. Units
2,499 S.F. Driveways & Roads
8,499 S.F. Impervious
/ 339,162 S.F. In Tier 1
2.5% Impervious

Tier 2
8,000 S.F. Units
12,655 S.F. Driveways & Roads
20,655 S.F. Impervious
/ 325,559 S.F. In Tier 2
6.3% Impervious

Tier 3
6,000 S.F. Units
13,774 S.F. Driveways & Roads
19,774 S.F. Impervious
/ 115,029 S.F. In Tier 3
17.2% Impervious

OPEN SPACE CALULATIONS

Tier 1
321,844 S.F. OPEN SPACE
/339,162 S.F. In Tier 1
94.9% OPEN SPACE

Tier 2
285,749 S.F. OPEN SPACE
/325,559 S.F. In Tier 2
87.8% OPEN SPACE

Tier 3
77,117 S.F. OPEN SPACE
/115,029 S.F. In Tier 3
67.0% OPEN SPACE

PRELIMINARY PLAT OF
FAIRHAVEN BEACH

DATE OF PREPARATION
SEPTEMBER 18TH, 2025

ZONING
RDS & A-1

PROPOSED USE OF PARCEL'S
RESIDENTIAL

OWNER / DEVELOPER
TED HOLSTEN
16500 92ND AVE N, APT 210
MAPLE GROVE, MN 55311
PH# (612) 781-1429

SURVEYOR
BRAD M. NYBERG
NYBERG SURVEYING INC.
509 22ND AVE. E. SUITE 101
ALEXANDRIA, MN 56308
PH# (320) 762-4111

SOILS
LA LAKES BEACHES SANDY
Cn CLONTARF SANDY LOAM
Pf PARNELL AND FLOM SILTY CLAY LOAMS

SOIL TESTS DONE BY
ELWOOD SEPTIC PROFESSIONALS
2511 COUNTY ROAD 82 NW
ALEXANDRIA, MN 56308
PH# (320) 815-8297

WETLAND DELINEATION
LANDTEAM
509 22ND AVE. E, SUITE 102
ALEXANDRIA, MN 56308
PH# (320) 763-5784

VEGETATION
GRASSLAND & WOODED

PARCEL NUMBER
03-0068-004

TOWNSHIP
RENO

TOTAL PLATTED AREA
21.16

BLUFFS
NONE

WATER SUPPLY
SHARED WELL(S)

SEWER
PRIVATE COMMUNITY SEPTIC SYSTEM

PROPERTY ADDRESS
NOT YET ASSIGNED

COVENANTS
NONE AT THIS TIME

LEGAL DESCRIPTION (FROM TAX STATEMENT)
PT GL 2 AS RECORDED ON DOC NO. 174849 EX PT ON DOC. NO. 289079 (PARCEL 12 PF POPE COUNTY ROW PLAT NO. 2)

WETLANDS
DELINEATED (SEE PLAT)

TIER	TOTAL AREA	UNSUITABLE AREA	SUITABLE AREA	MINIMUM LOT SIZE FOR LAKE CLASS (SEWERED RD)	BASE DENSITY	BONUS DENSITY FACTOR	ALLOWABLE UNITS PER TIER WITH BONUS DENSITY	ADJUSTED ALLOWABLE UNITS PER TIER	PROPOSED UNITS
1	339,162	194,560	144,602	40,000	3.615	0	3.615	3	3
2	325,559	186,511	139,048	40,000	3.476	1.25	4.345	4	4
3	107,952	0	107,952	40,000	2.69	1.25	3.374	3	3

SEC. 16 T 126 N R 38 W

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

Brad M. Nyberg
Date September 18th, 2025 License No. 42620

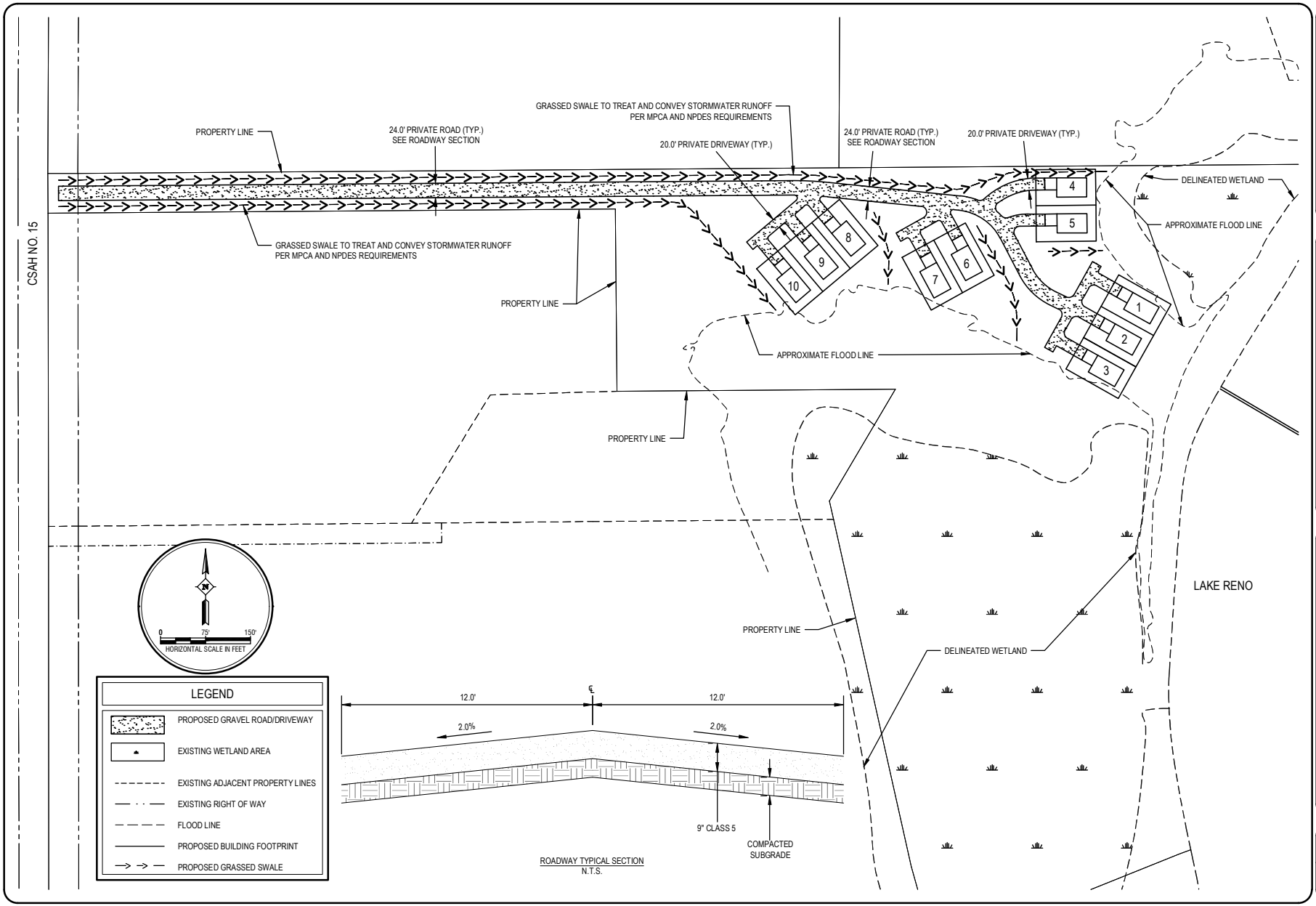
DATE: 9/18/2025 • DRAWN BY: JSM • CHECKED: BMN • JOB NO. 9896-C

REQUESTED BY: TED HOLSTEN

Nyberg SURVEYING
509 22ND AVE. EAST, SUITE 101
ALEXANDRIA, MINNESOTA 56308
PH. (320) 762-4111
www.nybergsurveying.com

Supplemental Information Attachment 11:

Preliminary Site/Stormwater Plan with Typical Roadway Section (Interstate Engineering, 22 September 2025)



REV NO	DATE	BY	DESCRIPTION

FAIRHAVEN BEACH
TED HOLSTEN
LAKE RENO - POPE COUNTY

PRELIMINARY SITE/ STORMWATER PLAN

DRAWN BY: ME | SURVEYED BY: BN | PROJECT NO.: ER2504199
CHECKED BY: MB | DESIGNED BY: ME | DATE: 09/22/2025

Interstate Engineering
509 22nd Avenue East, Suite 102
Alexandria, MN 56308
(320) 763.5784
www.interstateeng.com

INTERSTATE ENGINEERING
Professionals You Need, People You Trust.

SECTION
C

1
SHEET NO.

© 2025, INTERSTATE ENGINEERING, INC.

X:\2025\ER\04\ER25-04-199 Fairhaven Beach\20_CADD_ER2504199\080_Sheets\C1_PRELIMINARY_SITE_&_STORMWATER_PLAN-(ProjectAcronymOrNumber).dwg 9/22/2025

Supplemental Information Attachment 12:

Declaration Document
(19 September 2025)

DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
FAIRHAVEN BEACH

THIS DECLARATION is made in the County of _____, State of Minnesota on _____, 2025 by **MISTHAVEN, LLC**, a Minnesota limited liability company ("Declarant"), for the purpose of creating Fairhaven Beach, a planned community.

WHEREAS, Declarant is the owner of that real property located in Pope County, Minnesota legally described on attached **Exhibit A** (the "Property"); and

WHEREAS, Declarant desires to establish on the Property a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, the structural quality and the original architectural and aesthetic character of the Property; and

WHEREAS, FAIRHAVEN BEACH is not subject to the Common Interest Ownership Act ("MCIOA"), Chapter 515B of the Minnesota Statutes. Fairhaven Beach is exempt from MCIOA pursuant to Minn. Stat. §515B.1-102(e)(2) because the units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings, and the Association has no obligation to maintain any building containing a dwelling or any agricultural building and the Declarant has not elected to subject the Property to the MCIOA; and

WHEREAS, the Property is not subject to an ordinance referred to in §515B.1-106 of MCIOA governing conversions of common interest ownership; and

WHEREAS, the Property is not subject to a Master Association as defined in MCIOA; and

NOW, THEREFORE, Declarant hereby declares that this Declaration shall constitute covenants to run with the Property described herein and that the Property shall be owned, used, occupied, and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, which are for the purpose of protecting the value and desirability of and shall run with the Property, and shall be binding upon all persons owning or acquiring any right, title or interest in the Property, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

SECTION 1
DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

1.1 [Blank intentionally]

1.2 **"Assessment"** shall mean and refer to any assessment for Common Expenses, determined by the Board, and levied by the Association, pursuant to the Governing Documents.

1.3 **"Association"** shall mean Fairhaven Beach Homeowners Association, a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota.

1.4 **"Board"** shall mean the Board of Directors of the Association as provided for in the By-Laws.

1.5 **"By-Laws"** shall mean the By-Laws governing the operation of the Association, as amended from time to time.

1.6 **"County"** shall mean the Pope County, a Minnesota municipal corporation.

1.7 **"Common Elements"** The Common Elements consists of property owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are further described in Section 3.1 and Exhibit B, below.

1.8 **"Common Expense"** shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation allocations to reserves and those items specifically identified as Common Expenses in the Declaration or By-Laws.

1.9 **"Declarant Control Period"** shall mean the period commencing upon the filing of this Declaration and continuing until the earlier of: 1) the date Declarant no longer owns any Unit or the right to add Units; or 2) the date Declarant voluntarily turns over control of the Association to the Owners.

1.10 **"Dwelling"** shall mean a stick-built building designed and intended for occupancy as a single-family residence and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise within the boundaries of the Unit in which the Dwelling is located. No pre-fabricated or mobile dwellings shall be erected or maintained anywhere upon the Property.

1.11 **"Eligible Mortgagee"** shall mean any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.

1.12 **"Governing Documents"** shall mean this Declaration, and the Articles of Incorporation and By-Laws and any duly adopted Rules and Regulations, as amended from time to time, all of which shall govern the use and operation of the Property.

1.13 **"Homebuilder"** shall mean and refer to a residential building contractor engaged in the initial construction of a Dwelling and associated improvements upon a Unit.

1.14 **"Improvement"** shall mean and refer to all structures or improvements of any kind located on the Property, including without limitation any building, wall, deck, sign, shed, screen enclosure or screening, utilities system, communications system, security system, driveway, roadway decorative structure, planting, landscape, , well, septic system, deck, driveway, grading or any other type of structure or physical improvement whether the purpose is decorative or otherwise and any additions or changes thereto.

1.15 **"Limited Assessment"** shall mean and refer to an assessment levied by the Association against fewer than all of the Units in the Association pursuant to Section 6.1, below.

1.16 **"Limited Common Elements"** shall include: 1) portions of the common elements that are designated for the exclusive use of the Unit owners of the Unit or Units to which the limited common elements are allocated, and 2) fixtures or improvements located wholly or partially outside a Unit's boundaries, which serve one or more but fewer than all of the Units and shall be allocated solely to the Unit or Units served. Limited Common Elements are subject to the rights granted to the Association herein or in a separate recorded easement, including the Association's right to improve, inspect, use, repair, replace, maintain and regulate. At the time of initial filing of this Declaration, it is intended that the Limited Common Elements on the Property will consist of (i) the mailboxes, (ii) any blanket irrigation easement and irrigation system located upon individual Units pursuant to and consistent with Section 2.9, below, and any boat slips individually assigned to Owner's for their exclusive use.

1.17 **"Member"** shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.

1.18 **"Occupant"** shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.

1.19 **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit except that if a Unit is being sold by contract for deed and the contract vendee is, as permitted by the contract for deed, lawfully in possession of the Unit, then the contract vendee and not the contract vendor shall be deemed the "Owner".

1.20 **"Person"** shall mean a natural individual, corporation, limited liability company, partnership, trustee, other or legal entity capable of holding title to real property.

1.21 **"Plat"** shall mean the plat of Fairhaven Beach, recorded in the offices of the County Recorder or Registrar of Titles, Pope County, Minnesota, and any amendments, supplements and additions thereto, and replats thereof.

1.22 **"Property"** shall mean all of the real property submitted to this Declaration, including the Dwellings and all other structures and improvements located thereon now or in the future. The Property as of the date of this Declaration is legally described on Exhibit A, attached hereto.

1.23 **"Rules and Regulations"** shall mean any Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.

1.24 **"Special Assessment"** shall mean and refer to an assessment levied against the Units in accordance with Section 6.3 of this Declaration.

1.25 **"Special Declarant Rights"** means rights reserved in the Declaration for the benefit of a Declarant to: (i) complete improvements indicated on the Plat; (ii) add additional real estate to this planned community (iii) subdivide Units or convert Units into Common Elements, Limited Common Elements and/or Units; (iv) maintain sales offices, management offices, signs advertising the Property, and model homes; (v) use easements through the Common Elements for the purpose of making improvements within the Property or any additional real estate; (vi) merge or consolidate a planned community with another planned community of the same form of ownership; (vii) appoint and remove the members of the Architectural Control Committee and (viii) appoint or remove any officer or director of the Association where applicable, during any period of Declarant control.

1.26 **"Unit"** shall mean any platted lot subject to this Declaration upon which a Dwelling is located or is intended to be located, as shown on the Plat, including all improvements thereon, but excluding the Common Elements.

SECTION 2
DESCRIPTION OF UNITS AND APPURTENANCES

2.1 **Units.** There are currently ten (10) Units which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units, except as allowed in Section 15.2, below. The Unit identifiers and locations of the Units are as shown on the Plat, which is incorporated herein by reference, and a list of the Units is set forth on Exhibit A. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name. Pursuant to Section 15.1, below, Declarant has reserved the right to add additional property, and additional Units to the Property.

2.2 **Unit Boundaries.** The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries.

2.3 **Use and Enjoyment Easements.** Each Unit shall be the beneficiary of appurtenant easements for use and enjoyment and for access on and across the Common Elements, and for use and enjoyment of any Limited Common Elements allocated to the Unit, subject to any restrictions authorized by the Declaration.

2.4 **Utility and Maintenance Easements.** Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Units and the Common Elements, and for maintenance, repair and replacement as described in Section 12.

2.5 **Recorded Easements.** The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.

2.6. **Easements are Appurtenant.** All easements and similar rights burdening or benefitting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the terms of the easement. Any recorded easement benefitting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.7 **Impairment Prohibited.** No person shall materially restrict or impair any easement benefitting or burdening the Property; subject to the Declaration and the right of the Association to impose reasonable Rules and Regulations governing the use of the Property.

2.8 **Benefit of Easements**. All easements benefitting a Unit shall benefit the Owners and Occupants of the Unit, and their families and guests. However, an Owner who has delegated the right to occupy the Unit to an Occupant or Occupants, whether by a lease or otherwise, does not have the use and other easement rights in the

Property during such delegated occupancy, except as a guest of an Owner or Occupant or in connection with the inspection of the Unit or recovery of possession of the Unit from the Occupant pursuant to law.

2.9 **Irrigation System Easement.** Each Unit shall be subject to an easement lying over, under and across said Unit, in favor of the Association ("Irrigation System Easement"), for the purpose of construction, reconstruction, use, inspection, maintenance, repair and replacement of an irrigation system servicing the Units.

SECTION 3
COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

3.1 **Common Elements.** The Common Elements and their characteristics are as follows:

a. The Common Elements shall be owned by the Association for the common benefit of the Owners and Occupants. The Common Elements include, without limitation, (i) the real property legally described in attached Exhibit B; (ii) any subdivision monuments and related landscaping, lighting and other improvements now or hereafter situated upon any real estate legally described in Exhibit B to this Declaration, (iii) the Irrigation System Easement and irrigation system located within said easement and the real property described in Exhibit B, (iv) the private communal septic system and private communal well(s) serving the Units and located upon the real property described in Exhibit B, (v) the private electrical and cable services located upon the real property described in Exhibit B, and (iv) the communal dock and mooring slips extending from the real property described in Exhibit B in and on Lake Reno. Any portions of such system s located upon and servicing a single Unit shall be considered a Limited Common Element allocated to the Unit it serves. The Common Elements shall also include all personal property the Association owns.

b. The Common Elements shall be subject to appurtenant easements for services, public and private utilities and storm sewer, access, use and enjoyment in favor of each Unit and its Owners and Occupants; subject to (i) the right of Owners and Occupants in Limited Common Elements appurtenant to their Units and (ii) the right of the Association to establish reasonable Rules and Regulations governing the use of the Property.

c. Subject to Sections 5, 6 and 9, all maintenance, repair, replacement, management and operation of the Common Elements shall be the responsibility of the Association.

d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed and collected from the Owners in accordance with Section 6.

3.2 **Limited Common Elements.** Limited common elements include: 1) portions of the Common Elements that are designated for the exclusive use of the unit owners of the Unit or Units to which the Limited Common Elements are allocated, and 2) fixtures or improvements located wholly or partially outside a Unit's boundaries, which serve one or more but fewer than all of the Units, and which are allocated solely to the Unit or Units served. Limited Common Elements are subject to the rights granted to the Association herein, including the Association's right to construct, reconstruct, inspect, use, improve, repair, replace, maintain and regulate. At the time of initial filing of this Declaration, it is intended that the Limited Common Elements on the Property will include the mailboxes and portions of the irrigation system and shall include any dock slips once they are designated for the exclusive use of an Owner.

SECTION 4
ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS

Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1 **Membership.** Each Owner shall be a member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.

4.2 **Voting and Common Expenses.** Voting rights and Common Expense obligations are allocated equally among the Units; except that special allocations of Common Expenses shall be permitted as provided in Section 6.1.

4.3 **Appurtenant Rights and Obligations.** The ownership of a Unit shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents.

4.4 **Authority to Vote.** The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple

Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in Section 3 of the By-Laws.

4.5 **Declarant Control**. Notwithstanding the vote of any Unit Owner to the contrary, the Declarant hereby reserves a period of Declarant control of the Association during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and directors of the Association. Said reservation of Declarant control is subject to the following:

a. The period of Declarant control shall extend from the date of filing of this Declaration until the earlier of 1) the date Declarant no longer has ownership of any Unit or the right to add a Unit; or 2) the date Declarant voluntarily turns over control of the Association to the Owners.

b. Not later than the termination of Declarant control, the Unit Owners shall elect a Board of Directors of at least three members. Thereafter, a majority of the directors shall be Unit Owners other than Declarant or an affiliate of Declarant. The remaining directors need not be Unit Owners unless required by the Articles of Incorporation or Bylaws. All Unit Owners, including the Declarant and its affiliates, may cast the votes allocated to any Unit owned by them. The Board shall elect the officers. The directors and officers shall take office upon election.

c. Except as otherwise provided in this subsection, meetings of the Board of Directors must be open to all Unit Owners. To the extent practicable, the Board shall give reasonable notice to the Unit Owners of the date, time and place of a Board meeting. If the date, time and place of meetings are provided for in this Declaration, the Articles of Incorporation or Bylaws of the Association, were announced at a previous meeting of the Board, posted in a location accessible to the Unit Owners and designated by the Board from time to time, or if an emergency requires immediate consideration of a matter by the Board, notice is not required. "Notice" has the meaning given in Minnesota Statutes Section 317A.011, subdivision 14. Meetings may be closed to discuss the following:

(1) personnel matters;

(2) pending or potential litigation, arbitration or other potentially adversarial proceedings, between Unit Owners, between the Board or Association and Unit Owners, or other matters in which any Unit Owner may have an adversarial interest, if the Board determines that closing the meeting is necessary to discuss strategy or to otherwise protect the position of the Board of Association or the privacy of a Unit Owner or occupant of a Unit; or

(3) criminal activity arising within the Property if the Board determines that closing the meeting is necessary to protect the privacy of the victim or that opening the meeting would jeopardize the investigation of the activity.

Nothing in this subsection imposes a duty upon the Board to provide special facilities for meetings. The failure to give notice as required by this subsection shall not invalidate the Board meeting or any action taken at the meeting.

SECTION 5
ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

5.1 **General.** The operation and administration of the Association and the Property shall be governed by the Governing Documents. The Association shall, subject to the rights of the Owners set forth in the Governing Documents, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents, and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board unless action or approval by the individual Owners is specifically required by the Governing Documents. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2 **Operational Purposes.** The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents (ii) maintaining, repairing and replacing those portions of the Property for which it is responsible and (iii) preserving the value and architectural uniformity and character of the Property.

5.3 **Binding Effect of Actions.** All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties.

5.4 **By-Laws.** The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

5.5 **Management.** The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents; provided, however, that such delegation shall not relieve

the officers and directors of the ultimate responsibility for the performance of their duties as described by the Governing Documents and by law.

5.6 **Rules and Regulations.** The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the other Governing Documents. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

5.7 **Association Assets; Surplus Funds.** All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments, added to reserves, or retained in a working capital fund, as determined by the Board.

SECTION 6
ASSESSMENTS FOR COMMON EXPENSES

6.1 **General.** Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion; subject to the limitations set forth in Sections 6.2 and 6.3, and the requirements of the By-Laws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among the Units according to the Common Expense allocations set forth in Section 4.2, subject to the following qualifications:

a. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element undertaken by the Association may be assessed exclusively against the Unit or Units to which that Limited Common Element is assigned, on the basis of (i) equality, or (ii) the actual cost incurred with respect to each Unit.

b. Any Common Expense or portion thereof benefitting fewer than all of the Units may be assessed exclusively against the Units benefited, on the basis of (i) equality, or (ii) the actual cost incurred with respect to each Unit.

c. The costs of insurance obtained by the Association, if any, may be assessed in proportion to value, risk or coverage, and the costs of utilities may be assessed in proportion to usage.

d. Reasonable attorneys' fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.

e. Fees, charges, late charges, fines and interest may be assessed for failure to pay assessments when due, as determined by the Board of Directors.

f. If any damage to the Common Elements or another Unit is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent not covered by insurance.

g. If any installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days written notice to the Owner, declare the entire amount of the assessment immediately due and payable in full.

h. If Common Expense liabilities are reallocated for any purpose, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

i. Assessments under Subsections 6.1 a.-g. shall not be considered special assessments as described in Section 6.3.

6.2 **Annual Assessments.** Annual assessments shall be established and levied by the Board. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. Annual assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements. The entire Annual Assessment shall be due and payable in full at the time it is levied, but, at the discretion of the Board, may be paid in monthly, quarterly, or semi-annual installments, or as otherwise determined by the Board. There shall be no limitation on the right of the Board to subsequently increase the amount of the annual assessment.

a. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the Association.

b. After a Common Expense assessment is levied, the assessment may be increased by the Board annually.

6.3 **Special Assessments.** In addition to annual assessments, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any unforeseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement,

and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures or other property related thereto.

6.4 **Liability of Owners for Assessments.** The obligation of an Owner to pay assessments shall commence at the later of (i) the time at which the Owner acquires title to the Unit, or (ii) the due date of the first Assessment levied by the Board; provided, that neither Declarant nor a Homebuilder, nor any Unit owned by such party, shall be liable for any Assessment, nor subject to any Assessment lien, for any period, as long as there is no one residing in the Dwelling located on the Unit. Subject to the foregoing exemption, the Owner at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents. The Association may invoke the charges, sanctions and remedies set forth in Section 13, in addition to any remedies provided elsewhere in the Governing Documents or by law, for the purpose of enforcing its rights hereunder.

6.5 **Assessment Lien.** The Association has a lien on a Unit for any assessment levied against that Unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association are also liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.

6.6 **Foreclosure of Liens; Remedies.** A lien for Common Expenses may be foreclosed against a Unit under the laws of the State of Minnesota (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.7 **Lien Priority; Foreclosure.** A lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before the Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding

the foregoing, if a first mortgage on a Unit is foreclosed, and the first mortgage was recorded on or after the date hereof, and no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage of the first mortgage or any person who acquires the title to the Unit by redemption as a junior creditor shall take title to the Unit subject to a lien in favor of the Association for the unpaid assessments for Common Expenses levied and which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

6.8 **Voluntary Conveyance; Statement of Assessments.** In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer upon the payment to the Association of a $150.00 administration fee, which fee shall be used to pay or defray the expenses of the Association in connection with any Unit transfer, any other operating expense of the Association, or as a contribution to the Association's reserves.

6.9 **Working Capital Fund.** There shall be established a working capital fund to meet unforeseen expenditures, to purchase additional equipment or services of the Association, and/or to cover the administrative costs associated with the transfer of ownership of a Unit. At the time of every initial sale of a Unit to an Owner, the purchasing Owner shall pay a working capital fund contribution to the Association in the amount of $1,000.00. The foregoing requirement to contribute to the working capital fund shall not apply to any sale to a Homebuilder, unless the Homebuilder is purchasing the Unit for personal, rental and/or residential use, and not for construction and resale. If anyone resides in the Dwelling on a Unit during a period of Homebuilder ownership, it will be presumed that the Homebuilder's intent was for residential use, and the Homebuilder shall be required to contribute to the working capital fund, as provided herein. The working capital fund contribution required to be paid hereunder is in addition to all other Association Assessments or other fees and is not intended nor shall be construed to constitute any advance payment of installments of Association Assessments, all of which shall be payable in addition to the working capital fund contribution herein required. Amounts paid into the working capital fund are not refundable upon resale of the unit, or in any other circumstance. The funds shall be deposited into the Association's account and may be used to pay or defray the expenses of the Association in connection with any Unit transfer, any other operating expense of the Association, or as a contribution to the Association's reserves.

SECTION 7
RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions.

7.1 **General.** The property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and Rules and Regulations, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents and Rules and Regulations are in furtherance of a plan for the Property and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2 **Compliance with Law.** No use shall be made of the Property which would violate any then-existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.3 **Subdivision Prohibited.** Unless otherwise provided herein, no Unit or any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all secured parties holding first mortgages on the Units.

7.4 **Residential Use.** The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient hotel, commercial, business or other non-residential purposes, except as specifically permitted. Any lease of a Unit (except for occupancy by guests with the consent of the Owner) for a period of less than two (2) months, or any occupancy which includes services customarily furnished to hotel guests, shall be presumed to be for transient purposes.

7.5 **Quiet Enjoyment; Interference Prohibited.** All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests.

7.6 **Business Use Restricted.** No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements; except (i) an Owner or Occupant residing in a Unit may keep and maintain his or her business or professional records

in such Unit and handle matters relating to such business by correspondence, telephone, facsimile, computer or other electronic means therefrom, provided that such uses are incidental to the residential use, do not involve physical alteration of the Unit and do not involve any observable business activity such as signs, advertising displays, bulk mailings, deliveries, or visitation or use of the Unit by customers or employees and (ii) the Association may maintain offices on the Property for management and related purposes.

7.7 **Animals.** No animal may be bred or kept or maintained for business or commercial purposes anywhere on the Property. The Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property for personal use. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans.

7.8 **Alterations to a Unit**. An Owner may not make changes to the exterior of a Dwelling or yard without prior written authorization of the ACC as provided in Section 8, below.

7.9 **Parking and Outside Storage.** Garages, driveways and other parking areas on the Property shall be used only for parking of operable and fully licensed vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Board. The Board shall have the authority to regulate, by Rules and Regulations, the use of driveways and other parking areas on the Property, and the types of vehicles, the number of vehicles and personal property permitted thereon, including, without limitation, the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property from the Property, including the Units, outside of the Dwellings. Exceptions to such regulations based on special circumstances may be requested, in advance, from the Board, which shall have the sole authority to approve any such request.

7.10 **Signs**. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than nine (9) square feet advertising a Lot or Unit for sale or rent (signs used by a builder to advertise the availability of Lots or dwellings upon the Property during the construction and sales period are exempt). This restriction shall not apply to any model Unit or any sign or logo for any model Unit.

7.11 **Garbage, Recycling and Refuse**. Trash, garbage, and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept in a clean and sanitary condition and screened from public view. The Board shall have the right to select a single garbage hauler to serve the entire Property.

7.12 **Antennae**. Exterior television, radio, satellite, or microwave antenna of any sort shall only be permitted if attached to the Dwelling in such a manner as to minimize the view from adjacent Dwellings, in the sole discretion of the Board or ACC.

7.13 **Mailbox**. It is anticipated that a single group mailbox will be installed on the Property. The mailbox and shall be maintained in good condition and in an attractive, first-class manner by the Association.

7.14 **Leasing.** Leasing of the Units shall be allowed, subject to reasonable regulation by the Board, and subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes, (ii) that no Unit may be subleased without written consent of the Association, (iii) that all leases shall be in writing and executed copies thereof shall be provided to the Board, (iv) documentation showing that any such Unit has any required residential dwelling license from County, and (v) that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents and the Rules and Regulations, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.

7.15 **Time Shares Prohibited.** The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

7.16 **Structures Outside of the Dwelling**: Due to the difficulty and increased cost that structures located outside of a Dwelling would cause for the Association in providing snow removal and lawn maintenance, no temporary or permanent structure may be installed or maintained on a Unit, other than inside the Dwelling, unless expressly provided herein. Notwithstanding the above, the following shall be permitted, at the discretion of the Board:

Fences: "Invisible fencing" is permitted in front and rear yards of a Unit. In addition, subject to a requirement of prior ACC review and approval in conformity with **Section 8**, a Unit Owner may erect a fence enclosure immediately to the rear of the Dwelling, solely for the confinement of permitted pets and provided that any Unit Owner erecting and maintaining such fence shall be subject to assessment pursuant to the provisions of Section 6.1 b for any and all additional expenses the Association shall incur because the Association's lawn maintenance contractor must mow and trim around any such confining fence or in the event the erection of such a fence reasonably requires alterations in the Association's irrigation lines and equipment. Any such fence shall comply with all municipal rules and ordinances and any fenced area shall have a maximum width equal to the width of the Dwelling less six inches (6") on either side and shall extend back of the Dwelling a minimum of six feet (6'), and a maximum of fifteen feet (15'), from the rear corner of the Dwelling which is nearest to the front of the Dwelling. No portion of any fence may be placed or maintained upon any Common Elements, and no fence shall be approved or permitted if the distance from the rear elevation of the Dwelling and the rear of the Unit is

less than six feet (6'). The composition of any fence shall exclusively be a white, vinyl, privacy material, and shall either be a solid six-foot (6') high fence or five-feet (5') in height topped with a one-foot lattice. All fences shall be professionally installed by contractors who are licensed and insured and who affirm in writing to the Association that they have reviewed this **Section 7.16 a** prior to the commencement of the fence installation and agree to conform their work with the provisions set forth herein. Any Owner thus permitted by the Board to erect such a conforming confining fence shall, further, be solely responsible for all mowing, trimming, and landscape maintenance of the fenced area within the enclosure, and the standards for such maintenance shall in all respects be consistent with the standards required of or observed by the Association's lawn maintenance contractor. Because the sole and exclusive purpose of allowing the erection of fences is the confinement of permitted pets, an Owner erecting such a fence does not thereby secure or enjoy any additional right to construct or install any structure or improvement within the enclosed area nor alter any installed landscaping. In the event an Owner, without prior ACC approval, (i) alters or installs landscaping, (ii) constructs or installs any structure or improvement, or (iii) fails to maintain the enclosed area consistent with the standards observed by the Association/s lawn maintenance contractor, the Association shall be entitled to either (1) enter the enclosed area and conduct such restoration, maintenance, replacements, and/or removals as is deemed necessary to render the enclosed area and the confinement fencing compliant with the provisions of this Section **7.16,** or (2) enter upon the Unit for the purpose of removal of the fence and restoration of the Unit in conformity with the standards applicable to all other Units which are not improved with fencing, and in such event the Association shall assess the Unit Owner for all costs and expenses thus incurred pursuant to **Section 6.1.b.**

a. **Swimming Pools; Hot Tubs:** All exterior in-ground or above-ground swimming pools are prohibited anywhere on the Property. Swim spas and hot tubs are permitted in rear yard areas subject to local and state regulations and provided they are approved by the Board and do not increase the cost of lawn maintenance incurred by the Association. Temporary and portable children's pools which are less than ten feet (10') in diameter and less than two feet (2') in depth shall be permitted on a Unit, provided that (i) any such pool is located on the portion of the Unit to the rear of the Dwelling, (ii) the use of any such pool shall not violate the provisions of any other covenant or restriction contained in this instrument or in the Rules and Regulations; and (iii) the use of such pool shall be subject to restrictions set forth in the Rules and Regulations, which Rules, among other restrictions, may require removal on days that the Association is providing lawn maintenance.

b. **Flags.** The American flag may be proudly displayed on the front elevation of any Dwelling utilizing a mounting bracket affixed to the Dwelling and a removable flag and flagstaff.

c. **Landscaping:** The Board or the ACC shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the installation of new landscaping on a Unit and may define the materials used, the square footage requirements and location of plantings.

d. **Basketball Hoop.** One basketball hoop and backboard (permanently affixed in-ground pole mounting only) may be permitted by the Board or the ACC, on a case-by-case basis, in the front driveway area, provided that the use thereof does not involve any interference with adjacent Units and Owners.

e. **Decks**. Subject to prior approval by the ACC and the provisions of **Section 8**, below, and any applicable Rules and Regulations, decks are permitted to be attached to elevation of a Dwelling facing the lake. No portion of any deck, or any supporting structures for any deck, may be placed on or over any Common Elements

7.17 **Rights of Declarant.** Until the last Unit is sold and conveyed to an Owner other than the Declarant, the following action by said persons, and their agents and assigns or a Homebuilder actively engaged in dwelling construction, will not be deemed violations of the foregoing restrictions:

a. Use of a Dwelling for model and sales office purposes;

b. Storage of equipment, materials or earth during the construction of new Dwellings on Units owned by the person doing such storage or construction; and

c. Display of signs advertising Units in the Property as allowed by the County.

SECTION 8
ARCHITECTURAL CONTROL

8.1 **Original Construction of Dwellings**. The Association shall not adopt any Rules or Regulations establishing any architectural standards whatsoever regarding the original construction of a residential dwelling upon any Lot. Notwithstanding, for as long as Declarant owns any Lot, the commencement, construction, and completion of the original residential dwelling on any Lot shall be conducted in strict conformity with the architectural standards and specifications set forth in any purchase agreement pursuant to which the any said Lot was originally sold and conveyed to an Owner regardless of whether title to the said Lot was subsequently sold and conveyed to a successor Owner, and shall comply with all county building codes and ordinances.

8.2 **Restrictions on Alterations.** The following restrictions and requirements shall apply to alterations on the Property:

a. Except as expressly provided in this Section 8, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior Improvements to or alteration thereof, or alteration of any Dwelling or any other part of a Unit which is visible from the exterior of the Unit (collectively referred to as "alterations"), shall be commenced, erected or maintained in a Unit, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the alterations shall have been approved in writing by the Architectural Control Committee, described below.

b. The Architectural Control Committee (the "ACC") shall consist of three (3) members. The Declarant shall have the exclusive authority to appoint and remove the members of the ACC for a period of time extending until Declarant voluntarily surrenders such control. Specifically, Declarant's right to control the ACC may extend beyond Declarant's Control Period over the Association, as described in Section 4.5, above. After the Declarant has surrendered control over the ACC, the committee members shall be appointed and removed by the Board of Directors. At any time, if no ACC is in existence, the Board of Directors shall serve as the ACC. All references in the Declaration to the ACC shall apply to the Board of Directors if no ACC is in existence. In addition, Declarant's written consent shall be required for alterations until such time as there are no Units owned by Declarant or a Homebuilder, Declarant no longer has the right to add Units, and Declarant has voluntarily turned over control of the Association.

c. No alterations are permitted to any portion of the Common Elements which surround a Unit.

d. The ACC shall have authority to establish reasonable criteria and requirements for alterations and shall be the sole judge of whether the criteria are satisfied. The criteria for approval shall include and require, at a minimum, (i) substantial uniformity of color, size, location, type and design in relation to existing improvements and topography, (ii) comparable or better quality of materials as used in existing improvements, (iii) ease of maintenance and repair, (iv) adequate protection of the Property, the Association, Owners and Occupants from liability and liens arising out of the proposed alterations, and (v) compliance with governmental laws, codes and regulations.

e. Approval of alterations which encroach upon another Unit or the Common Elements shall create an appurtenant easement for such encroachment in

favor of the Unit with respect to which the alterations are approved; provided, that any easement for a deck or patio other than as originally constructed shall be approved by resolution of the ACC and a file of such resolutions shall be maintained permanently as a part of the Association's records.

8.3 **Review Procedures.** The following procedures shall govern requests for alterations under this Section:

a. Detailed plans, specifications and related information regarding any proposed alteration, in form and content acceptable to the ACC, shall be submitted to the ACC at least forty-five (45) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.

b. The ACC shall give the Owner written notice of approval or disapproval. If the ACC fails to approve or disapprove within forty-five (45) days after receipt of said plans and specifications and all other information requested by the ACC, then approval will not be required, and this Section shall be deemed to have been fully complied with so long as the alterations are done in accordance with the plans, specifications and related information which were submitted.

c. If no request for approval is submitted, approval is denied, unless (i) the alterations are reasonably visible and (ii) no written notice of the violation has been given to the Owner in whose Unit the alterations are made, by the Association or another Owner, within six months following the date of completion of the alterations. Notice may be direct written notice or the commencement of legal action by the Association or an Owner. The Owner of the Unit in which the alterations are made shall have the burden of proof, by clear and convincing evidence, that the alterations were completed and reasonably visible for at least six months following completion and that the notice was not given.

8.4 **Remedies for Violations.** The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the owner causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Unit and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Unit and to restore any part of the Dwelling or Unit to its prior condition if any alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Unit.

8.5 **Protection from Liability**. Neither Declarant, the Association, its directors or officers, the members of the ACC, nor any person acting on behalf of any of them,

shall be liable for any costs or damages incurred by any person due to any alleged mistakes in judgment, negligence or any action of the ACC in connection with the approval or disapproval of plans and specifications. The Association shall indemnify, defend and hold harmless the ACC and each of its members from all costs, expenses and liabilities, including attorneys' fees, of all nature resulting by virtue of the acts of the ACC or its members. Neither Declarant, the directors or officers of the Association, the members of the ACC, nor any person acting on behalf of any of them, shall be responsible for any defects in any plans or specifications, nor for any defects in any Improvements constructed pursuant thereto. Each person submitting an application for approval shall be solely responsible for the sufficiency of all plans and specifications submitted and for the quality of construction of the Improvements constructed, and shall hold harmless, indemnify and defend the Association, and their respective officers, directors, committee personnel and agents, from and against all claims, damages and liabilities arising out of the approval or construction of the Improvements to which their application relates.

8.6 **No Representation of Compliance.** No approval of plans and specifications and no publication of standards by the ACC shall be construed as representing or implying that such plans, specifications; or standards will, if followed, result in properly designed Improvements. Such approvals and standards shall not be construed as representing or guaranteeing that any Dwelling or other Improvement built in accordance therewith was built in a good and workmanlike manner. Neither Declarant, the Association, nor the ACC shall be responsible or liable for any defects in any plans or specifications submitted or approved; any loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations; nor any defects in construction undertaken pursuant to such plans and specifications.

8.7 **Additional Standards**. The ACC is authorized to promulgate from time-to-time additional written architectural standards, guidelines and other regulations governing the construction, location, landscaping, and design of alternations and Improvements located or to be located on the Property.

SECTION 9
MAINTENANCE

9.1 **Maintenance by Association.** The Association shall provide for all maintenance, repair and replacement (collectively referred to as "Maintenance") of the Common Elements and the Limited Common Elements.

9.2 **Association Maintenance of Units.** In addition to the Maintenance described in this Section, the Association shall provide the following Maintenance to the Units:

a. Maintenance of lawns, shrubs and trees, including, without limitation, mowing and watering; and

b. Snow removal from driveways, parking areas and walkways.

9.3 **Maintenance by Owner.** Except for the Maintenance required to be provided by the Association under Section 9.1 and 9.2, all Maintenance of the Dwellings and Units, and of all lawn and landscape areas permissibly enclosed within a fence as described in Section 7.16 a, shall be the sole responsibility and expense of the Owners thereof. The Association or the ACC may require that any exterior Maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior Maintenance which the responsible Owner fails to or improperly performs and assess the Unit and the Owner for the cost thereof.

9.4 **Damage Caused by Owner.** Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for Maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter upon any Unit to do so), and the cost thereof may be assessed against the Unit of the Owner responsible for the damage.

9.5 **Easements for Maintenance.** The Association shall have easements as described in Section 12 to perform its obligations under this Section 9.

9.6 **Garbage Service**. The Association shall have the right, but not the obligation, to hire one garbage hauler to serve the entire Property and to charge a reasonable fee for this service to be included in the Assessments. In the event the Association elects to not provide garbage service to the Units, the Association retains the right to limit and/or designate the garbage haulers that may be used by the Owners.

SECTION 10
INSURANCE

10.1 **Required Insurance.** The Association shall obtain and maintain, at a minimum, a policy of insurance in accordance with the requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:

a. The Association shall maintain property insurance covering the risk of physical loss to the Common Elements. The policy or policies may cover personal property owned by the Association. The type and amount of any such coverage shall be determined by the Board.

b. Comprehensive public liability insurance covering the use, operation and Maintenance of the Common Elements, with minimum limits of $1,000,000 per occurrence, against claims or death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, managers, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.

d. Worker's Compensation insurance as required by law.

e. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

10.2 **Property Insurance for Units**. Each Owner shall obtain and maintain the Owner's own property and liability insurance coverage relating to the ownership of the Owner's Unit and any structures constructed thereon. However, the Owners, including the Declarant, if applicable, may elect at any time to have the Association provide the property and/or liability insurance on all of the Units by approval of 67% of the votes in the Association. Election may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. In such event, the Association's insurance policy shall declare a maximum deductible of $50,000.00 per claim. Furthermore, each Owner shall retain the right to obtain additional personal insurance coverage at his or her own expense covering fire and

other casualty to the Unit, personal property or personal liability. In the event the Association maintains an insurance policy covering all of the Units, then any insurance policy maintained by an Owner must provide that it is without contribution as against the insurance purchased by the Association. An Owner's personal insurance coverage ("HO 6 Policy") must contain an endorsement providing that the difference between an Owner's personal insurance coverage ("HO 6 Policy") deductible and the deductible on the insurance policy provided by the Association shall be paid by the HO 6 Policy.

10.3 **Premiums; Improvements; Deductibles.** All premiums for insurance coverage maintained by the Association shall be assessed and paid as a Common Expense. The Association may, in the case of a claim for damage resulting from the acts or omissions of a Unit Owner or Occupant or their guest, licensee or invitee, (i) pay the deductible amount as a Common Expense; (ii) pay the deductible and assess the deductible amount against such Unit and Owner in any reasonable manner; or (iii) require the Owner of the Unit responsible for the damage to pay the deductible amount directly. The Association's decision as to who shall be charged with paying the deductible amount may, but need not, be based upon fault.

10.4 **Loss Payee; Insurance Trustee.** All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it). The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

10.5 **Waivers of Subrogation.** All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

10.6 **Cancellation; Notice of Loss.** All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least thirty (30) days prior written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

10.7 **Restoration in Lieu of Cash Settlement.** All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

10.8 **No Contributions.** All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner

covering the same property and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

10.9 **Effect of Acts Not Within Association's Control.** All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

SECTION 11
RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

11.1 **Reconstruction.** Any repair or reconstruction of any Dwelling or other improvement shall be substantially in accordance with the plans and specifications of the Property as initially constructed and subsequently improved, unless otherwise determined by the ACC, in its sole discretion. Notice of substantial damage or destruction shall be given pursuant to Section 17.

11.2 **Condemnation and Eminent Domain.** In the event of a taking of any part of the Property by condemnation or eminent domain, notice shall be given pursuant to Section 17. Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Governing Documents, as their interests may appear.

11.3 **Notice.** All Eligible Mortgagees shall be entitled to receive notice of any condemnation proceedings or substantial destruction of the Property, and the Association shall give written notice thereof to an Eligible Mortgagee pursuant to Section 17.

SECTION 12
EASEMENTS

12.1 **Easements for Maintenance, Snowplowing and Removal, Repair, Replacement and Reconstruction.** Each Unit, and the rights of the Owner and Occupants thereof, shall be subject to the rights of the Association to a non-exclusive, appurtenant easement on and over the Units for the purposes of maintenance (including landscape and lawn maintenance within any approved pet confinement fencing area, if the Owner fails to discharge the Owner's duty of such maintenance as set forth in Section 7.16 a), repair, replacement and reconstruction of the Units, the Common Elements, and utilities serving the Units, to the extent necessary to fulfill the Association's obligations under the Governing Documents.

12.2 **Utilities Easements.** The Property shall be subject to non-exclusive appurtenant easements for all utilities, storm sewer, water and sewer, and similar services, which exist from time to time, as constructed or referred to in the Plat, or as

otherwise described in this Declaration or any other duly recorded instrument. Each Unit, and the rights of the Owners and Occupants thereof, shall be subject to a non-exclusive easement in favor of the other Units for all such services, including without limitations any sewer or water lines servicing other Units. Each Unit shall also be subject to an exclusive easement in favor of the Association and all utilities companies providing service to the Units for the installation and maintenance of utilities metering devices.

12.3 **Irrigation System Easement**. The Association shall be the beneficiary of the Irrigation System Easement over, under and across the Units for purposes of construction, reconstruction, inspection, regulation, repair, replacement and maintenance of an irrigation system serving the Property.

12.4 **Ingress/Egress Easements Over Common Elements**. The all Unit Owners shall be the beneficiaries of easements over and upon the Common Element lots which abut the Owner(s)' Units for ingress and egress, including a driveway easement over and upon the Common Element areas between the front elevation of a Dwelling and the adjacent public street.

12.4 **Declarant's Easements**. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 14.

12.5 **Continuation and Scope of Easements.** Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Unit or the right to utility services thereto. The easements set forth in this Section shall supplement and not limit any easements described elsewhere in this Declaration or recorded and shall include reasonable access to the easement areas through the Units and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

SECTION 13
COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Governing Documents, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents.

13.1 **Entitlement to Relief.** The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or other Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, or the decisions of the Association. However, no Owner may withhold

any assessments payable to the Association or take (or omit) other action in violation of the Governing Documents or the Rules and Regulations, as a measure to enforce such Owner's position, or for any other reason.

13.2 **Sanctions and Remedies.** In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants and/or their guests, who violate the provisions of the Governing Documents:

a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.

b. Impose late charges of up to 15% of each late payment of an assessment or installment thereof, and to charge interest on delinquent amounts due at a rate determined by the Board and set forth in the Rules and Regulations, but not to exceed the maximum rate permitted by applicable law.

c. In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.

d. Impose reasonable fines, penalties or charges for each violation of the Governing Documents of the Association.

e. Suspend the rights of any Owner or Occupant and their guests to use any Common Element amenities; provided, that this limitation shall not apply to Limited Common Elements appurtenant to the Unit, and those portions of the Common Elements providing utilities service and access to the Unit. Such suspensions shall be limited to periods of default by such Owners and Occupants in their obligations under the Governing Documents, and for up to 30 days thereafter, for each violation.

f. Restore any portions of the Common Elements or Limited Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Units.

g. Enter any Unit or Limited Common Element in which, or as to which, a violation or breach of the Governing Documents exists which materially

affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling or other party of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Unit or Limited Common Elements which is causing the violation; provided, that any improvements which are a part of a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.

h. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state where the property is located.

13.3 **Rights to Hearing.** In the case of imposition of any of the remedies authorized by Section 13.2.d., e., or f. of this Section, the Board shall upon written request of the offender, grant to the offender a fair and equitable hearing. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt of the hearing request by the Board, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing.

13.4 **Lien for Charges, Penalties, Etc.** Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall attach as of the date of imposition of the remedy but shall not be final as to violations for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

13.5 **Costs of Proceeding and Attorneys' Fees.** With respect to any collection measures, or any measures or action, legal administration, or otherwise, which the Association takes to enforce the provisions of the Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

13.6 **Liability for Owners' and Occupants' Acts.** An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

13.7 **Enforcement by Owners.** The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, as provided therein.

SECTION 14
SPECIAL DECLARANT RIGHTS

Declarant, its agents and assigns, hereby reserves exclusive and unconditional authority to exercise the following special declarant rights for as long as it owns a Unit, or has the right to add Additional Property, or for such shorter period as may be specifically indicated:

14.1 **Complete Improvements**. To complete all improvements described herein or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Units and Common Elements to accommodate its sales facilities.

14.2 **Sales Facilities**. To construct, operate and maintain a sales office, management office, model Units and other development, sales and rental facilities within the Common Elements and any Units owned by Declarant from time to time, located anywhere on the Property.

14.3 **Signs**. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on the Common Elements, and to erect a permanent marker or markers at the entrance to the development.

14.4 **Easements**. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its special declarant rights.

14.5 **Control of Association**. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board until the earlier of: (i) the date Declarant no longer owns a Unit; or (i) voluntary surrender of control by Declarant.

14.6 **Consent to Amendments**. As long as Declarant or a Homebuilder owns any unsold Unit, or Declarant has the right to add Additional Property, Declarant's written consent shall be required for all amendments to the Governing Documents.

14.7 **Use in Advertising**. To photograph the exterior of the Units and use said photographs or reproductions for advertising purposes.

14.8 **Special Assignment of Declarant Rights**. Declarant's Rights contained in the Declaration are separately assignable by Declarant and may be transferred by Declarant executing and recording one or more Special Assignment of Declarant Rights or Limited Assignment of Special Declarant Rights with the County Recorder or Registrar of Titles, setting forth a description of the right or rights being assigned, and the identity of the assignee.

SECTION 15
AMENDMENTS

This Declaration may otherwise be amended by the consent of (i) Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association; and (ii) the consent of Declarant, as long as Declarant has the right to add additional property. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consent of the Declarant shall be in writing. The Amendment shall be effective when recorded. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

SECTION 16
RIGHTS OF ELIGIBLE MORTGAGEES

17.1 **Priority of Lien**. Any holder of a first mortgage on a Unit or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Unit by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Unit free of any claims for unpaid assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by said first mortgage holder or purchaser except for (i) a lien in favor of the association for unpaid assessments for common expenses levied and which became due, without acceleration, during the six months immediately preceding the first day following the end of the owner's period of redemption; and (ii) except that any unreimbursed assessments or charges may be reallocated among all Units in accordance with their interests in the Common Elements.

17.2 **Priority of Taxes and Other Charges**. All taxes, assessments and charges which may become liens prior to the first mortgage under state law shall relate only to the individual Units and not to the Property as a whole.

17.3 **Priority for Condemnation Awards**. No provision of the Governing Documents shall give an Owner, or any other part, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or the Common Elements. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

17.4 **Access to Books and Records/Audit**. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Unit, for an audit of the Association's financial statements for the preceding year, the Association shall cause an audit to be made and deliver a copy to the requesting party.

17.5 **Notice Requirements**. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Unit, and the Unit number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

a. a condemnation loss or any casualty loss which affects a material portion on the Property or the Unit securing the mortgage;

b. a 60-day delinquency in the payment of assessments or charges owned by the Owner of a Unit on which it holds a mortgage;

c. a lapse, cancellation or material modification of any insurance policy maintained by the Association; and

a. a proposed action which requires the consent of a specific percentage of Eligible Mortgagees.

17.6 **Consent Deemed Granted.** Consent of a secured party, including an Eligible Mortgagee, required hereunder is deemed to be granted if the secured party's written refusal to consent is not received by the Association within sixty (60) days after the secured party receives from the Association notice and a copy of the amendment, by certified U.S. Mail, postage prepaid, and return receipt requested.

SECTION 17
MISCELLANEOUS

17.1 **Severability**. If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

17.2 **Construction**. Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. Any reference herein to MCIOA shall not be interpreted so as to subject the Association or the Declarant to any provision of MCIOA, unless otherwise specifically set forth herein.

17.3 **Notices**. Unless specifically provided otherwise in the Governing Documents, all notices required to be given by or to the Association, the Board of Directors, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or upon mailing if properly addressed with postage prepaid and deposited in the United States mail, or upon receipt if delivered by email or other electronic means; except that registrations pursuant to Section 2.2 of the By-Laws shall be effective upon receipt by the Association.

17.4 **Conflicts Among Documents**. In the event of any conflict among the provisions of the Articles, Declaration, By-Laws and Rules or Regulations, the Articles shall control. In the event of any conflict among the provisions of the Declaration, By-Laws and Rules and Regulations, the Declaration shall control, and as between the By-Laws and the Rules and Regulations, the By-Laws shall control. Notwithstanding the above, where two or more provisions of any documents to which the Property is subject address the same matter, the more restrictive provision shall control.

[signature on following page]

IN WITNESS WHEREOF, the undersigned has executed this instrument the day and year first above set forth.

DECLARANT:

MISTHAVEN LLC

_____
Theodore Holsten
President

STATE OF MINNESOTA)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2025 by Theodore Holsten. President of Misthaven LLC.

_____
Notary Public

THIS INSTRUMENT DRAFTED BY:
S. Todd Rapp, P.A.
13316 Caffrey Avenue
Rosemount, MN 55068

FAIRHAVEN BEACH

EXHIBIT A TO DECLARATION

LEGAL DESCRIPTION OF PROPERTY

Lots 1 – 11, Block 1,
FAIRHAVEN BEACH, Pope County, Minnesota

FAIRHAVEN BEACH

EXHIBIT B TO DECLARATION

COMMON ELEMENTS

Lot 11, Block 1,
FAIRHAVEN BEACH, Pope County, Minnesota

Supplemental Information Attachment 13:

Planning Advisory Commission Minutes (24 July 2025)

MEETING MINUTES
POPE COUNTY PLANNING ADVISORY COMMISSION
Thursday, July 24th, 2025

The Planning Advisory Commission convened in regular session on Thursday, July 24th, 2025 at the Pope County Courthouse, 3rd floor Meeting Room.

Members Present: Roger Isdahl, John Messenger, Kathy Christiansen, Ted Kannegiesser, and Russell Barkeim and Paul Wildman (County Commissioner).

Other Officials Present: David Green (Land & Resource Management, Director), and Galen Gruber (Land Use Specialist II)

Call to Order

The meeting was called to order by Chairman Messenger at 7:10 p.m.

Additions and Corrections to the Agenda

There were no additions or corrections to the agenda. A motion to accept the agenda as prepared was made by Commission member Wildman and seconded by Commission member Barkeim. Motion carried unanimously.

Review minutes of June 26, 2025 Regular Meeting of the PAC

The minutes of the Planning Advisory Committee meeting that was held on June 26th, 2025 were submitted for approval. Motion to accept the minutes as written was made by Member Isdahl and seconded by Member. Wildman. Motion carried unanimously.

Old Business

None.

New Business

Conditional Use #CUP-25-006, **Matt Altendorf of Altendorf Landscape Co. on behalf of Jon and Laurel Worms,** PID #09-0828-000

The applicant, landscaping contractor Altendorf, seeks permission to undertake shoreland alterations including the reconstruction of a patio structure and the access stairway, the construction of retaining walls and rip rap repairs.

Land Use Specialist Galen Gruber presented the applicant's request and staff report, noting that the applicant was not present. However, landowners Jon and Laurel Worms were able to speak to the request. Gruber details the permitting history of development on this parcel and mentions that there are defined steep slopes present on the property. Gruber completes his presentation stating that staff supports a recommendation of tabling of the application and that the applicant provides an amended project design minimizing the alteration to twenty-five feet in width,

eliminating the wall closest to the lake, and maintaining the integrity of the slope north of the existing stair location as it currently exists. Following the staff report presentation, Chair Messenger offers to the owners and opportunity to comment on the staff report and their project proposal. Worms state that the stairway is in desperate need of replacement and that their proposal including rip rap which will help stabilize the shoreline and the retaining walls that should help with stormwater runoff. Commissioner Wildman asks about the retaining wall height. While, Planning Commissioner Isdahl asks about the type of materials that are proposed for the retaining wall. Worms respond that they believe that it will be landscape boulders.

At 7:22 pm, Chair Messenger opened the hearing for public comments. As there were no comments offered either for or against the proposed landscape alterations, Chair Messenger closed the public hearing.

Chair Messenger asked for comments from the site team which consisted of Messenger and Barkiem. Barkiem commented that the retaining walls should help with stormwater runoff. Messenger stated that preserving as much vegetation as possible would help with stormwater control.

Motion: Commission Chair Messenger seeks a motion. Commission member Barkiem made the following motion: Based on the information as presented in the staff report and facts as gathered this evening, I move to offer a recommendation of approval of the Conditional Use Permit provided that the conditions as identified in the staff report are complied with. This motion was seconded by Board member Isdahl. With no further discussion, motion carried unanimously. Conditions and Findings as follows:

Conditions

1. *Compliance with Section 4.6.10 A, 1-10 of the Pope County Land Use Control Ordinance.*
2. *Retaining walls shall be screened from view utilizing vegetation as seen from the water during leaf on conditions.*
3. *That land within the shore impact zone and steep slopes lakeward and outside of the described area in Section 4.6.10 D.3, and the designated shoreline access/viewing corridor; be established with native shoreland vegetation.*
4. *The applicant's shoreland alteration permit application must include erosion and sediment control plans conforming to the MPCA Construction Stormwater Permit to protect adjacent waterbodies, neighboring properties, ditches, and wetlands from negative impacts due to erosion.*
5. *Prior to any construction activities, all required permits must be secured from Township, County and State agencies including a NPDES permit if necessary.*

Findings

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:**

   Findings: *Yes, with the condition of ensuring the establishment of native shoreline*

vegetation, this shoreline alteration project will conform to the provisions of the Ordinance.

2. **The use is not in conflict with the County Comprehensive Land Use Plan:**

   Findings: *The use, along with conditions to mitigate negative impacts does conform with the County Comprehensive Land Use Plan. Within the Goals and Policies and specifically under Shoreland Management, objective 2, it states the desire to "develop criteria by which to evaluate the suitability of undeveloped and developed shoreland areas for appropriate uses. Under Environmental objectives, a desire to "recognize the importance of the County's natural resources, including its lake, rivers, wetlands, soils and wildlife habitat, and work to preserve or improve their long-term health."*

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:**

   Findings: *The proposed use, in conformance with performance standards and conditions as outlined, does not appear to substantially impact properties in the immediate vicinity nor within the neighborhood.*

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:**

   Findings: *This shoreland alteration is not expected to have a negative impact on public infrastructure.*

5. **The structure and sites shall have an appearance that will not have an adverse effect on adjacent properties:**

   Findings: *Retaining walls can be a very visible feature from as seen from the public utilizing the lake. Ensuring the minimum walls necessary to establish the use and providing visual screening of the wall should substantially mitigate adverse impacts.*

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:**

   Findings: *Yes, the proposed project will not have an impact on the road or traffic.*

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:**

   Findings: *This shoreland alteration/landscaping 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:**

   Findings: *The proposed project will not impede orderly development of adjacent properties.*

9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**

   Findings: *Not applicable to this project.*

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:**

    Findings: *Proper erosion and sediment controls are expected to be implemented to reduce impacts to surface water. Construction equipment will be the only source of noise, fumes, vibrations, etc., and will be limited in duration. The project, after completion, is not expected to cause a nuisance to neighboring properties.*

Conditional Use #CUP-25-007 **Matt Haats** PID #19-0175-000

The applicant is requesting a Conditional Use Permit to establish a non-farm residence within the A-1 Zoning District.

Director Green presented the staff report and noted that there was a review completed by the County Feedlot Officer regarding impacts to neighboring feedlots and future feedlots. Director Green added that there is a need for residences within Pope County and that staff does not object to the issuance of a non-farm residence in this area.

Commission member Halls asked about minimum parcel size in the A-1 zoning district. Director Green noted that 3 acres is the minimum buildable lot.

Commission member Halls asked about the "right-to-farm". Director Green noted that this was a recommended condition listed by staff.

Applicant Haats was present for the hearing. Haats noted that the proposed residence is intended for his son.

Commission member Barkiem asked about the applicant's intent to subdivide the property. Haats said yes, he did intend to subdivide a portion of the property for this use and that a future survey would be completed.

Chair Messenger asked about the size of proposed lot. Haats said at least 3 acres but likely larger.

Commission member Barkiem asked about accessing the future lot. Haats noted that they would access off of the township road.

Chair Messenger opened the hearing for public comments at 7:30 pm. There were no public comments for or against, and the public hearing was closed.

Chair Messenger asked for comments from the site team. Chair Messenger commented that the site is a good building site. Commission member Barkeim agreed and noted that no agricultural land will be taken out of production for the proposed location.

Motion: Commission Chair Messenger sought a motion. Commission member Wildman made a motion to approve the request in accordance with the conditions as presented in the staff report. Conditions as follows:

1. *That the Agriculture Zone (Right-to-Farm) Acknowledgement form be signed and returned to the Land & Resource Management office prior to the issuance of a Land Use permit for the construction of the non-farm residence.*
2. *That the property owner applies for an E911 rural address*
3. *That the property owner is responsible for reaching out to the Township to assure compliance with any Township standards.*
4. *That prior to any construction activities, all necessary permits are secured from County and State agencies.*

This motion was seconded by Commission member Isdahl. With no further discussion, motion carried unanimously. Findings as follows:

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:**

   Findings: *Any proposed structure and/or use will necessarily be in compliance with the provisions of the Pope County Land Use Controls Ordinance as a condition of the permitting unless a variance has been granted.*

2. **The use is not in conflict with the County Comprehensive Land Use Plan:**

   Findings: *The current Comprehensive Plan includes goals that state a recognition of diverse and existing land uses throughout the county. It is noted that not all uses are compatible and that there should be consideration as to separation, siting, development requirements and operating standards. Based on the proposed land use including distance from sensitive environmental features, roadway and neighboring properties, the proposed use is not in conflict with the County Comprehensive 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:**

   Findings: *The proposed land use is located in a sparsely populated rural setting in White Bear Lake Township. The dominant land uses in this area are agricultural production, open space and extractive use. This non-farm residential use should not create interference with future development on adjacent properties, nor is it expected to diminish or impair neighboring property values.*

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:**

Findings: *This land use 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:**

   Findings: *The site is expected to remain neat and orderly in appearance.*

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:**

   Findings: *300th Street is adequate to handle traffic associated with a non-farm residence.*

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:**

   Findings: *There should not be any negative impacts related to the intrusion of noise, glare, odor or general unsightliness upon nearby existing businesses.*

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:**

   Findings: *The predominant neighboring land use is agricultural and extractive use in nature. The residential use will not conflict with existing uses.*

9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**

   Findings: *Any necessary utilities, drainage, septic systems or other facilities will be addressed prior to and as a condition of issuance of any land use permit.*

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:**

    Findings: *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.*

Conditional Use #CUP-25-005 **William O'Leary** PID# 14-0058-001

The applicant is requesting a Conditional Use Permit to establish a non-farm residence within the A-2 zoning District.

Director Green presented the applicant's request and staff report. The Director noted that staff does not object to recommending approval given the existing use in the area and noted that staff did include a condition addressing the "right-to-farm".

Applicant was present for the hearing. Applicant noted that there is minimal land available for agricultural use given the topography and soil type. Applicant believes the proposed is the best use for this property.

Commission member Wildman noted that he was contacted by a member of the public who asked about future residential uses as far as rental uses etc. Applicant noted that they are intending to build one residential house. Applicant noted that given his age he cannot guarantee what the future use of the site would be. He noted that he would like to also build a large storage building for personal use but only intends for a single-family residence otherwise.

Chair Messenger opened the hearing for public comment at 7:38 pm. There were no comments for or against, and the public hearing was closed.

Chair Messenger requested comments from the site team. Chair Messenger said that it looks like a good place to build a house up on a hill. Commission member Barkiem agreed noting the difficult topography that would challenge agricultural uses.

Motion: Commission Chair Messenger asked for a motion. Commission member Barkiem made a motion to approve the request in accordance with the conditions as presented in the staff report. Conditions as follows:

1. *That the Agriculture Zone (Right-to-Farm) Acknowledgement form be signed and returned to the Land & Resource Management office prior to the issuance of a Land Use permit for the construction of the non-farm residence.*
2. *That the property owner applies for an E911 rural address.*
3. *That the property owner is responsible for reaching out to the Township to assure compliance with any Township standards.*
4. *That prior to any construction activities, all necessary permits are secured from County and State agencies.*

This motion was seconded by Member Kannegiesser. With no further discussion, motion carried with Member Halls opposed. Findings as follows:

1. **The project is in compliance with the setback and other provisions of this ordinance unless a variance has been granted:**

   Findings: *Any proposed structure and/or use will necessarily be in compliance with the provisions of the Pope County Land Use Controls Ordinance as a condition of the permitting unless a variance has been granted.*

2. **The use is not in conflict with the County Comprehensive Land Use Plan:**

   Findings: *The current Comprehensive Plan includes goals that state a recognition of diverse and existing land uses throughout the county. It is noted that not all uses are compatible and that there should be consideration as to separation, siting, development requirements and operating standards. Based on the proposed land use including distance from sensitive environmental features, roadway and neighboring properties, the proposed use is not in conflict with the County Comprehensive 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:**

   Findings: *The proposed land use is located in a sparsely populated rural setting in Blue Mounds Township. The dominant land uses in this area are agricultural production, open space and extractive use. This non-farm residential use should not create interference with future development on adjacent properties, nor is it expected to diminish or impair neighboring property values.*

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:**

   Findings: *This land use 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:**

   Findings: *The site is expected to remain neat and orderly in appearance.*

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:**

   Findings: *State Highway 29 is adequate to handle traffic associated with a non-farm residence.*

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:**

   Findings: *There should not be any negative impacts related to the intrusion of noise, glare, odor or general unsightliness upon nearby existing businesses.*

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:**

   Findings: *The predominant neighboring land use is agricultural and natural open space. The residential use will not conflict with existing uses.*

9. **That adequate utilities, drainage and other necessary facilities have been or are being provided:**

   Findings: *Any necessary utilities, drainage, septic systems or other facilities will be addressed prior to and as a condition of issuance of any land use permit.*

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:**

    Findings: *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.*

Conditional Use #CUP-25-008 **Ted Holsten** PID# 03-0068-003 & 03-0068-004

The applicant is requesting a Conditional Use Permit (CUP) for the establishment of a Planned Unit Development (PUD).

Director Green presented the applicants request and staff report. Director Green noted that there are two zoning districts within the proposed use and that the land exists within an area of approximately 2,000 ft between the existing road and the lake. Director Green noted that there exists a 66 ft wide portion of the property which connects the major portion of the property to County Road 15 and that this area was likely created by the landowner for this future development. Director Green noted that the applicant has been working on this project for some-time and noted that this is a planned unit development which requires both a CUP and a plat. Director Green noted that there are some limiting factors on the property including an existing wetland. Director Green outlined the standards for calculating the buildable area. Director Green noted that he believes this is a difficult area to develop given the floodplain and wetlands present. Director Green noted that, given the proposed lots' proximity to floodplain, there may be some red flags from loan agencies. Director Green noted that there are some information missing such as road construction details. Director Green discussed the proposed mooring space noting that the plan indicates 10 mooring sites. Director Green said that he understands that this would not be allowed and the number of mooring spaces would be limited based on the number of units within the 1st tier of the PUD. Director Green noted that this raises the question of where the boats etc. would be stored for the other proposed lots. Director Green noted that there is some question as to whether there are adequately sewer-able sites noting that the USGS Soil Survey information indicates that the soils are not great for sewers and buildings. Director Green noted that staff recommendation is that the proposal should be tabled for additional information.

Commission member Halls noted that some lots appear to be right up against the property line. Director Green noted that there still would be a structural setback enforced to any structures on those lots adjacent to the property line which does limit the buildable area within that lot.

Commission member Barkeim asked about impervious surface. Director Green said that they would review the impervious surface as it relates to PUD/Common Interest Communities (CIC) standards not per lot as would applied to standard lots.

Commission member Halls asked about impacts to neighboring feedlots. Director Green noted that there are already residences within this area and so no additional impacts would be realized.

Commission member Isdahl asked about the property outside of the 10 proposed lots in regards to who would own that area. Director Green noted that, for CIC's, open space is intended to be owned by those in the CIC. Director Green noted that given the restriction on mooring space, there would likely need to be some storage space within this common use area which impacts the "green space" and the applicant has not provided evidence of compliance with PUD/CIC standards.

Commission member Wildman asked about whether people will own the property or if there will be rental units. Director Green noted that the developer is intending to allow the purchaser discretion. Wildman noted that there could be issues with someone wanting to place a recreational vehicle next to a more traditionally constructed residence. Director noted that convenances would need to address this. Wildman asked if the applicant had provided convenances. Director Green said that they had not.

Commission member Halls asked about septic and wells. Director Green noted that his office has only received a preliminary design that indicated and available are for a drainfield but has not received any septic design information. In addition, there would need to be some more information on who's responsible for maintaining any proposed sewage treatment systems. Director Green said that wells would be handled by the Department of Health.

Commission member Barkeim asked if the developer had contacted the MN Department of Natural Resources (DNR) regarding the proposed mooring spaces. Director Green noted that yes, the owner has had contact with the DNR specific to the locating of the dock through shallow waters and cattails. Green stated that the developer will need to work with DNR and his office in determining the allowed number of mooring spaces.

Chair Messenger opened the hearing for public comment at 7:59 pm.

Calvin Kalina stated that he agrees with the staff report as presented by Green and further stated that he believes it would be a "fiasco" to build on such small lots. He said that part of the property is a wetland. Mr. Kalina said that he thinks that they should be able to develop it but place only two homes on it.

Tony Tauber 22430 150th St Glenwood. Mr. Tauber addressed the Commission stating that he rents the farm property at 12333 Co. Rd. 15. Mr. Tauber said that he has done weed control and kept up the land [on the subject property] for 13 years and 10 or 12 years before that. He said that there are two of the proposed sites that he wouldn't drive a tractor through because of saturation. Mr. Tauber said that he would sink his tractor in that area. Mr. Tauber said that he believes there are only two developable sites otherwise the rest is too marginal [because of how wet they are]. Mr. Tauber said that they have tried to dig it up but it turns into a 2 or 3 year process of trying to get into the wet ground and plant it back. Mr. Tauber said that he disagrees that the proposed property has as much shoreline as stated because a portion of the shoreline is actually only a sand berm that is pushed up into the wetland, about a 10ft wide ridge, with wetland or lake on either side.

Stuart Olson addressed the Commission and said that he believes it's odd that no additional information was provided and that he's concerned about the use turning into a trailer park and

that there would be no storage space. Doesn't believe that the proposed fits the structures in the area with the proposed lots being too small. Mr. Olson said that the mooring spaces will be 1,000ft out from the shoreline and that there is a shallow stand of cattails. Mr. Olson said that he's concerned about navigability of the shoreline and the mooring spaces blocking peoples access to their docks and properties.

Hearing no other comments, the public hearing was closed.

Chair Messenger requested comments from the site team. Chair Messenger noted that they couldn't get all the way into the site. Chair Messenger said that he was skeptical whether this proposal would work. Commission member Barkeim said that this was challenging site and that he had concerns about establishing sewer onsite given how low the land is. Barkiem said that he is concerned with the mooring dock noting that there is limited access to the shoreline.

Motion: Chair Messenger asked for a motion. Member Isdahl made a motion to table the Conditional Use Permit request and request the applicant provided additional information. This motion seconded by Commission member Halls.

Preliminary Plat Review #SUB-25-027 Fairhaven Beach by Ted Holsten PID#03-0068-003 & 03-0068-004

The applicant is requesting approval of the preliminary plat of the proposed Fairhaven Beach subdivision.

Director Green presented the applicant's request and staff report. Director Green noted that there is a standard for Common Interest Community plat preparation and this request is subject to those standards as well as the normal subdivision ordinances and noted that the staff report outlines the items staff feels are missing from the proposed including a stormwater plan, road plan, septic system info, floodplain reviews, responsible parties for maintenance, etc. Director noted that staff feels there is more information that is needed prior to approving a preliminary plat and recommends tabling the request with a recommendation for a time limit for the applicant to provide additional information.

Applicant Ted Holsten not present for the hearing.

Chair Messenger opened the hearing for public comment at 7:13 pm.

Tony Tauber addressed the Commission stating that that his family owns the tree line along the future road accessing the parcel from Co. Rd. 12 and that they have no intention to give up the treen line.

Reno Township, Board member Tony Tauber, addressed the Commission stating that the township has no interest in maintenance requests given the proposed plan as there is not enough area to maintain the road.

Hearing no other comments, the public hearing was closed.

Director Green noted that he understands that Reno Township has not given up their right to land use controls and so the proposed plat does need approval from the township.

Motion: Chair Messenger asked for a motion. Commission member Barkeim made motion to table the request for additional information with the applicant needing to do so by the regularly scheduled September, 2025 Planning Advisory Commission meeting.

This motion was seconded by Commission member Wildman. With no further discussion, motion carried unanimously.

No other business

Adjournment

Motion by Commission member Wildman to adjourn the Planning Advisory Commission meeting with a second by Commission member Kannegiesser. Motion carried unanimously. Meeting adjourned at 8:20 p.m.

Respectfully submitted,

Galen Gruber/Land Use Specialist II
Pope County Land & Resource Management

David Green/Director
Pope County Land & Resource Management