

Fairview Township Planning Commission
November 7th, 2011 – Quarterdeck Conditional Use Application

In attendance: Ken LaPorte, Tom Dechmann

Meeting called to order at 3:00 PM by Chairman Ken LaPorte.

Quarterdeck Properties LLC

Parcel: 14-363-0110 & 14-005-3102

9820 Birch Bay Drive SW

Lots 11-17 “Birch Bay on Big Gull”, Section 5-134-29 and Part of Gov Lots 4-6 & part of NW SW Section 5-134-29

Application to upgrade and reconfigure resort property to include removal of existing non-conforming resort unit with new at the required setback, shoreline vegetation restoration and storm water run-off management. Section 705 of the Land Use Ordinance establishes conditional use permit (CUP) review criteria and process. Section 1104 of the Land Use Ordinance establishes resort criteria. The property contains 27.03 acres riparian to Gull Lake (GD).

The Fairview Planning Commission had an opportunity to discuss the application and presented their findings at the Board of Supervisors Meeting on November 8, 2011. The Minutes of that meeting are as follows:

Ken LaPorte and Tom Dechmann attended the Cass County ESD field inspection at the Quarterdeck Resort on November 7th. The resort will become an interval ownership community, where the 23 separate units will be individually owned and put into the rental pool when the owners are in residence. The existing 11 unit villa will be held for standard rental. According to the representatives present at the inspection they plan to update the Villa and cabins that already exist, and then replace cabins with new ones as they are sold. All buildings will meet the required 75 foot shoreline setback. They will build a new, smaller restaurant and will convert the current “Boathouse” into a reception center with an add-on swimming pool. Plans also propose moving the location of the parking lot. The proposed development will be run by a management company. Ken LaPorte noted that there will be some shore land mitigation needed but that the Planning Commission recommended the Board of Supervisors recommend approval of the application.

Dechmann/ Richmond/ Unanimous: Motion to send a letter to the Cass County Board of Adjustment recommending approval of the CUP application.

Marla received a phone call from a resident who had questions about the hiking trail the runs from the Quarterdeck and across the property lines of several homes in the Birch Bay on Big Gull Development. He was concerned that the trail would be promoted and there would be snowmobiles and other motorized vehicles running across their property in the middle of the night. His predominant concern was for liability. It does not appear that this was ever a dedicated trail. It was suggested that the resident or residents put up “No Motorized Vehicle” or “No Trespassing” signs on their property.

The following letter was sent to the Cass County Planning Commission:

Paul Fairbanks

November 9, 2011

Re: Conditional Use Permit Application for the Quarterdeck Properties LLC

Parcel: 14-363-0110 & 14-005-3102
9818 Birch Bay Dr

Application submitted to upgrade and reconfigure resort property to include removal of existing non-conforming resort units with new units at the required setback, shoreline vegetation restoration and storm water run-off management. The property contains 27.03 acres riparian to Gull Lake (GD).

Members of the Fairview Township Planning Commission had an opportunity to review the Quarterdeck property on November 7th with the Cass County Board of Adjustment. Members of the Fairview Township Board of Supervisors also had an opportunity to review the plans with Cindy Hudde from Stonemark Land Surveying at the Open House held on November 4th.

The Planning Commission presented the application to the Board of Supervisors at their meeting on November 8th with the recommendation that the Fairview Board give their approval to the Conditional Use Permit application. While there is no specific date for a completion of this project, the application and plans indicate the ultimate goal will be to remove 10 of the currently non-conforming cabins and the Birchwood Villas (29 units), which encroach the 75 foot shoreline setback and/or 10 foot side yard setback. These existing units will be replaced with 20 new units, as they are sold. The 'Boathouse Eatery' will be reconfigured into a reception and recreation center for the use of the guests at the Quarterdeck. A new restaurant, which will be open to the public, will be constructed, with indoor seating for approximately 50 and outdoor patio seating.

An overview submitted with the application addresses plans for handling the Marina, reduced density, wastewater management, shoreland enhancement and stormwater management.

The Fairview Township Board of Supervisors unanimously recommended that the Cass County Planning Commission approve the Conditional Use Application as submitted.

The following are the findings of the Cass County Planning Commission/ Board of Adjustment at their regular meeting on November 14 in Backus:

PC members were at the site 11/07/11. More than 100 notices of the application were mailed. Four responses, including Fairview Township, none offering objection to approval were received. The application was discussed and reviewed with Mr. Stephens and Ms. Hidde including several questions from those in attendance in regard to deeded access and resort guests and neighboring private property.

MS/P Ballenthin/Fitch to table consideration of the application until the 12/10/11 meeting in order to review the preliminary plat along with the conditional use permit application.

The Following are the findings from the December 10, 2011 CCPC/BOA meeting:

PC members were at the site 11/07/11. More than 100 notices of the application were mailed for the 11/14/11 and 12/12/11 meetings. Four responses to the 11/14/11 mailing, including Fairview Township, none offering objection to approval were received. One response received from the 12/12/11 meeting mailing of objection to the approval of the proposed re-development was received. The CUP and PP was discussed and reviewed with Mr. Stephens and Ms. Hidde.

MS/P Ballenthin/Gardner to table consideration of the CUP and Preliminary Plat until the 01/09/12 meeting in order for the applicant to consider and better define owner occupancy requirements.

Proposed Findings/Approve: DISCUSSED NOT ADOPTED

1. As best can be determined the property has been operated as a resort from the early 1900's which predates any land use regulation.
2. There is no record of a conditional use permit (CUP) for the resort since the adoption of land use regulation in the early 1970's.
3. There is no evidence to conclude that over the years of operation that Quarterdeck has adversely affected adjoining property.
4. Quarterdeck clientele is temporary and transient which has no impact to schools
5. Quarterdeck utilizes existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
6. No wetland or critical habitat will be disturbed by the redevelopment.
7. No scenic or historic features will be affected by the redevelopment.
8. No threat to public health, safety and welfare can be expected from the redevelopment.
9. Waste water treatment complies with applicable county and state standards with no public infrastructure required.
10. The project does not reach the mandatory EAW threshold.
11. The redevelopment configuration complies with applicable density standards.
12. There is no evidence or reason to expect that the resort redevelopment will adversely affect adjoining property.
13. The redevelopment proposal which includes structure compliance with lake setback standards, storm water management and shore impact zone vegetation will result in overall property improvement as compared to existing conditions on the property.
14. The property is classified Water Oriented Commercial (WOC) and the proposed and continuing resort use is a Conditional Use in the WOC district. All future alterations and expansion of the resort shall require a permit or Conditional Use Permit (CUP) as provided by Cass County Ordinances and so long as resort operations continue and new resort dwelling units that may eventually be constructed in the resort on Blocks 1, 2, and 3 shall have such riparian lake access and mooring rights as may be permitted by CUP or amended CUP approved by the Cass County Planning Commission.

Proposed Conditions/Approve: DISCUSSED NOT ADOPTED

1. Except as otherwise provided for in these Conditions, the resort shall be constructed, implemented, maintained, managed and operated in compliance with the written overview dated 10/20/11 and the site plan for the development dated 11/28/11 (received ESD 11/29/11) and 12/05/11 (received ESD 12/05/11), the Preliminary Plat approved concurrently herewith, and the Declaration and the property Management Agreement received ESD 11/29/11, the Submittal Documents. Without limiting the foregoing, the

Declaration and the Property Management Agreement, to the extent inconsistent with these Conditions, and any other document or agreement containing terms contrary to these Conditions, shall be amended to comply with these Conditions (note Condition # 16.), none of such documents and agreements thereafter shall be amended contrary to these Conditions without prior consent of the Cass County Planning Commission or any successor and any amendment without such consent shall be void and of no effect.

2. Except for roof repairs such as shingles, improvements to the existing Tier 1 units shall not be more than cosmetic such as siding or replacement glass.

3. No permanent structural improvements or expansion shall be permitted to any Tier 1 unit.

4. The existing Tier 1 units shall be replaced as the resort unit lots are sold and shall not be utilized as a resort unit after 12/31 of the year sold.

5. If not sooner removed, all existing Tier 1 units shall be removed not later than December 21, 2020.

6. Any materials resulting from the removal of the existing Tier 1 units not reused or recycled must be disposed of in a permitted facility.

7 The resort is approved for 34 dwelling units. The current 10 lakeside units and the 9 Birchwood Villa Units shall be replaced with not more than 9 resort units in Tier 1, 11 resort units in Tier 2. The existing Lodge Villa 14 units may be retained, the existing restaurant may be relocated and expanded and other existing accessory buildings and uses may be retained and used all as described in the Submittal Documents.

8. No garages or storage structures for use by unit owners are approved.

9. The 20 new units in Tiers 1 and 2, if not owned and operated as rental units by Quarterdeck are approved for use as described in the Submittal Documents subject to these Conditions (note Condition # 16).

10. The swimming area and mooring systems shall be located and configured as described in the Submittal Document. No other shore area or Shore Impact Zone 1 area shall be used for swimming, docking, beaching of watercraft or other recreation activity.

11. Except as may be altered by the Landscape/Vegetation plan or otherwise required or approved by ESD, the storm water management plan, as described with the Submittal Documents is adopted and shall be implemented as construction/development is initiated.

12. The Grading Plan that includes construction phase erosion control measures as submitted, approved by ESD, and, except as otherwise approved by ESD, shall be implemented with respect to each resort unit during construction.

13. Prior to the commencement of construction a Landscape Plan shall be approved by ESD and implemented on a schedule approved by ESD and shall be continuously maintained. As provided in Section 705.2 and Section 705.3 of the Land Use Ordinance, the landscape plan shall specifically address measures to limit visibility of structures and other facilities as viewed for the lake, limitations on the natural vegetation to be removed and requirement that additional vegetation be planted pursuant to the shoreline buffer standards prescribed in Section 1123 of the Land Use Ordinance. Prior to the issuance of a permit, the applicant shall submit to ESD financial assurance in the amount of \$3/square

foot for square feet of area included in the Landscape Plan. Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the plan as determined by ESD. Portions of the plan for vegetation not completed in accordance with the implementation schedule shall be installed at the direction of ESD and charged against the financial assurance.

14. Prior to commencement of any construction, and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.

15. ESD shall be provided with verification of MN DOH Resort License; and, for so long as the resort shall be operated a valid and effective Resort License shall be continuously maintained.

16. TO BE DETERMINED BY APPLICANT SUBMITTAL FOR PC REVIEW Resort unit owners shall not occupy their unit for more than xx days from xxx - xxx and resort unit owners shall not occupy their unit for more than xx days from xxx - xxx. At all other times each resort unit shall be included in the resort rental pool and shall be kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public on a daily, weekly, monthly or seasonal basis. Unit owners, their guests and permittees who desire to occupy their units for more than the number of days specified above shall only do so after the unit has been made available to the public for rental on the most favorable reservation/time basis that Quarterdeck makes other rental units available to the public, and then only on a rental basis and on the same terms and conditions of rental as the unit would be available to the public for rent. No resort may constitute a Homestead of any person or may be occupied as the primary residence of any person.

17. All Shore Impact Zone 1 and 2 areas that are not used for or otherwise approved by ESD shall be re-vegetated landward from the OHWL. Landscaping and vegetative planting shall be approved by ESD with such areas annually maintained. Access to Gull Lake is not permitted through or across re-vegetated areas except as contained in a written plan approved by ESD.

18. Fuel storage shall comply with MPCA standards.

19. All roof structures of new units and other new construction shall be designed to direct run-off away from the lake.

20. All rain gardens and other water retention structures shall be serviced annually to maintain their function and performance and to remove trash, leaves, and sediment.

21. No fire pits shall be located in the vegetated buffer/no mow areas. Community fire pits are permitted only in the Shoreland Impact Zone II access areas to Gull Lake and portions of the property located more than 75 feet from the OHWL of Gull Lake.

22. Parking of vehicles, trailers, etc. is only permitted in designated sites as described in the submittal documents.

23. The resort at all times shall be owned, operated and maintained in compliance with this Conditional Use Permit and these Conditions and applicable Cass County Ordinances.

Without limiting the foregoing, the resort and any conveyance of an interest in the resort or any unit is subject to the provisions of the Land Use Ordinance for Cass County,

Minnesota, Sections 1104.9.F and G, Ordinance #2009-07 effective 01/10/10, and as the same may be recodified, restated, or amended, provided that any such recodification, restatement or amendments which is more restrictive than the Ordinance in effect on the date of this CUP shall be effective to govern the resort only as provided by law.

24. All applicable township, county, and state permits/licenses shall be maintained.

25. All applicable county inspections and compliance verification shall be obtained and maintained.

26. A vegetative buffer as approved by ESD must be established along the boundary of Lot 11 and the south boundary of the property.

27. Signage must be located at the south boundary along the township roadway as to the termination of Quarterdeck Resort property.

28. The resort owners shall mutually agree with the Pillager Area Fire and Rescue as to the placement of a hydrant/holding tank system.

29. The resort owners in conjunction with the Gull Lake Association and the MN DNR shall cooperate in informational and mechanical efforts to restrict invasive species introduction to Gull Lake.

Preliminary Plat of "Quarterdeck Resort", Quarterdeck Properties LLC, Fairview Township, on property described Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & part of Gov Lots 4 - 6 & Part NW SW, Section 5-134-29, PID # 14-005-3102. The surveyor is Cindy Hiddde, Stonemark Land Survey. The preliminary plat contains 22 resort unit lots, two lots for expansion of the current lodge and villas structure and two lots for future development located on 26.2 acres riparian to Gull Lake (GD) classified Water Oriented Commercial (WOC). The resort unit lots will be in the rental pool and may be in second party ownership. Article 4 of the Subdivision and Platting Ordinance (03/09/09) establishes preliminary plat criteria.

Proposed Findings/Approve:

1. The development complies with the resort GD density standards and shall remain so provided resort licensing and Water Oriented Commercial (WOC) are maintained.
2. The County Surveyor and ESD has reviewed and approved the preliminary plat for compliance with Article 4 of the Subdivision & Platting Ordinance (03/09/09).
3. The plat does not reach the mandatory EAW/EIS review standards.

The following are the Minutes from the January 9, 2012 meeting:

PC members were at the site 11/07/11. More than 100 notices of the application were mailed for the 11/14/11 and 12/12/11 meetings. Four responses to the 11/14/11 mailing, including Fairview Township, none offering objection to approval were received. One response received from the 12/12/11 meeting mailing of objection to the approval of the proposed re-development was received. The CUP and PP was discussed and reviewed with Mr. Stephens and Ms. Hidde.

MS/Failed Ballenthin/Kostial to approve the application for a CUP for PID #s 14-363-0110 & 14-005-3102 upon review of Sections 705 and 1104 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. As best can be determined the property has been operated as a resort from the early 1900's which predates any land use regulation.
2. There is no record of a conditional use permit (CUP) for the resort since the adoption of land use regulation in the early 1970's.
3. There is no evidence to conclude that over the years of operation that Quarterdeck has adversely affected adjoining property.
4. Quarterdeck clientele is temporary and transient which most likely will have no or limited impact to public facilities such as schools and parks.
5. Quarterdeck utilizes existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
6. No wetland or critical habitat will be disturbed by the redevelopment.
7. No scenic or historic features will be affected by the redevelopment.
8. Subject to the Conditions, no threat to public health, safety and welfare can be expected from the redevelopment.
9. Waste water treatment complies with applicable county and state standards with no public infrastructure required.
10. The project does not reach the mandatory EAW threshold.
11. The redevelopment configuration complies with applicable density standards.
12. Subject to the Conditions, there is no evidence or reason to expect that the resort redevelopment will adversely affect adjoining property.
13. The redevelopment proposal which includes structure compliance with lake setback standards, storm water management and shore impact zone vegetation will result in overall property improvement as compared to existing conditions on the property.
14. The property is classified Water Oriented Commercial (WOC) and the proposed and continuing resort use is a Conditional Use in the WOC district. All future alterations and expansion of the resort shall require a permit or Conditional Use Permit (CUP) as provided by Cass County Ordinances and so long as resort operations continue and new resort dwelling units that may eventually be constructed in the resort on Blocks 1, 2, and 3 shall have such riparian lake access and mooring rights as may be permitted by CUP or amended CUP approved by the Cass County Planning Commission.

Conditions:

1. Except as otherwise provided for in these Conditions, the resort shall be constructed, implemented, maintained, managed and operated in compliance with the written overview dated 10/20/11 and the site plan for the development dated 11/28/11 (received ESD 11/29/11) and 12/05/11 (received ESD 12/05/11), the Preliminary Plat approved concurrently herewith, and the Declaration and the property Management Agreement received ESD 11/29/11, the Submittal Documents. Without limiting the foregoing, the

Declaration and the Property Management Agreement, to the extent inconsistent with these Conditions, and any other document or agreement containing terms contrary to these Conditions, shall be amended to comply with these Conditions (note Condition # 16.), none of such documents and agreements thereafter shall be amended contrary to these Conditions without prior consent of the Cass County Planning Commission or any successor and any amendment without such consent shall be void and of no effect.

2. Except for roof repairs such as shingles, improvements to the existing Tier 1 units shall not be more than cosmetic such as siding or replacement glass.

3. No permanent structural improvements or expansion shall be permitted to any Tier 1 unit.

4. The existing Tier 1 units shall be replaced as the resort unit lots are sold and shall not be utilized as a resort unit after 12/31 of the year sold.

5. If not sooner removed, all existing Tier 1 units shall be removed not later than 12/31/2020.

6. Any materials resulting from the removal of the existing Tier 1 units not reused or recycled must be disposed of in a permitted facility.

7 The resort is approved for 34 dwelling units. The current 10 lakeside units and the 9 Birchwood Villa Units shall be replaced with not more than 9 resort units in Tier 1, 11 resort units in Tier 2. The existing Lodge Villa 14 units may be retained, the existing restaurant may be relocated and expanded and other existing accessory buildings and uses may be retained and used all as described in the Submittal Documents.

8. No garages or storage structures for use by resort unit owners are approved.

9. The 20 new units in Tiers 1 and 2, if not owned and operated as rental units by Quarterdeck Resort are approved for use as described in the Submittal Documents subject to these Conditions (Conditions 16-25).

10. The swimming area and mooring systems shall be located and configured as described in the Submittal Document. No other shore area or Shore Impact Zone 1 area shall be used for swimming, docking, beaching of watercraft or other recreation activity.

11. Except as may be altered by the Landscape/Vegetation Plan or otherwise required or approved by ESD, the Storm Water Management Plan, as described with the Submittal Documents is adopted and shall be implemented as construction/development is initiated.

12. The Grading Plan that includes construction phase erosion control measures as submitted, approved by ESD, and, except as otherwise approved by ESD, shall be implemented with respect to each resort unit during construction.

13. Prior to the commencement of construction a Landscape Plan shall be approved by ESD and implemented on a schedule approved by ESD and shall be continuously maintained. As provided in Section 705.2 and Section 705.3 of the Land Use Ordinance, the landscape plan shall specifically address measures to limit visibility of structures and other facilities as viewed for the lake, limitations on the natural vegetation to be removed and requirement that additional vegetation be planted pursuant to the shoreline buffer standards prescribed in Section 1123 of the Land Use Ordinance. Prior to the issuance of a permit, the applicant shall submit to ESD financial assurance in the amount of \$3/square

foot for square feet of area included in the Landscape Plan. Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the plan as determined by ESD. Portions of the plan for vegetation not completed in accordance with the implementation schedule shall be installed at the direction of ESD and charged against the financial assurance.

14. Prior to commencement of any construction, and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.

15. ESD shall be provided with verification of MN DOH Resort License; and, for so long as the resort shall be operated a valid and effective Resort License shall be continuously maintained.

The CIC Declaration shall contain these provisions (16 - 25):

16. The existing resort units shall not be sold.

17. All resort units shall be rented daily, weekly or seasonally.

18. No existing resort unit or resort unit to be constructed shall be designated Homestead.

19. No existing resort unit or resort unit to be constructed shall be occupied as a primary residence.

20. All resort units to be constructed and sold to other owners must be offered for rent through the Resort Managing Agent pursuant to a rental management agreement.

21. Cass County staff shall have the right to inspect and if necessary audit records to verify compliance with Cass County rental requirements with the owners responsible for all costs of inspection and verification.

22. Resorts units may be required to be removed or relocated in compliance with Cass County residential standards should the property cease to be a licensed resort.

23. Rental of resort units shall be subject to regulations by the Association and Managing Agent consistent with Cass County Ordinances.

24. The provisions of the declarations shall not be altered or amended without the review and consent of the Cass County Planning Commission.

25. No later than 03/31 of each year, commencing 03/31/2013, the holder of the CUP shall submit to ESD for the prior calendar year ending 12/31 a written report showing for each resort unit: 1) the number of days that the resort unit was occupied by the owner, 2) the number of days that the resort unit was rented, 3) the number of days the resort unit was unoccupied and 4) an exception not to be included in the gross data that within 7 days of an unoccupied period if not rented the owners may occupy for a period not to exceed 7 days. The report shall confirm or not that over a 3 year period that each resort unit is occupied for fewer days by the owner than rented not to include exception days. For each day of delay of submittal beyond 03/31 the holder of the CUP shall submit with the report \$150.00

26. All Shore Impact Zone 1 and 2 areas that are not used for or otherwise approved by ESD shall be re-vegetated landward from the OHWL. Landscaping and vegetative planting shall be approved by ESD with such areas annually maintained. Access to Gull Lake is not permitted through or across re-vegetated areas except as contained in a written plan

approved by ESD.

27. Fuel storage shall comply with MPCA standards.

28. All roof structures of new units and other new construction shall be designed to direct run-off away from the lake.

29. All rain gardens and other water retention structures shall be serviced annually to maintain their function and performance and to remove trash, leaves, and sediment. An annual summary of maintenance procedures conducted for the prior year ending 12/31 must be submitted to ESD no later than 03/31 commencing 03/31/2013.

30. No fire pits shall be located in the vegetated buffer/no mow areas. Community fire pits are permitted only in the Shoreland Impact Zone II access areas to Gull Lake and portions of the property located more than 75 feet from the OHWL of Gull Lake.

31. Parking of vehicles, trailers, etc. is only permitted in designated sites as indicated in the submittal documents.

32. The resort at all times shall be owned, operated and maintained in compliance with this Conditional Use Permit and these Conditions and applicable Cass County Ordinances.

Without limiting the foregoing, the resort and any conveyance of an interest in the resort or any unit is subject to the provisions of the Land Use Ordinance for Cass County, Minnesota, Sections 1104.9.F and G, Ordinance #2009-07 effective 01/10/10, and as the same may be re-codified, restated, or amended, provided that any such re-codification, restatement or amendments which is more restrictive than the Ordinance in effect on the date of this CUP shall be effective to govern the resort only as provided by law.

33. All applicable township, county, and state permits/licenses shall be maintained.

34. All applicable county inspections and compliance verification shall be obtained and maintained.

35. A vegetative buffer as approved by ESD must be established along the boundary of Lot 11 and the south boundary of the property.

36. Signage must be located at the south boundary along the township roadway as to the termination of Quarterdeck Resort property.

37. The resort owners shall mutually agree with the Pillager Area Fire and Rescue as to the placement of a hydrant/holding tank system.

38. The resort owners in conjunction with the Gull Lake Association and the MN DNR shall cooperate in informational, management and mechanical efforts to restrict invasive species introduction to Gull Lake.

MS/Passed Moore/Bliss to approve the application for a CUP for PID #s 14-363-0110 & 14-005-3102 upon review of Sections 705 and 1104 of the Land Use Ordinance (01/10/10) with the following findings and conditions.

Findings:

1. As best can be determined the property has been operated as a resort from the early 1900's which predates any land use regulation.

2. There is no record of a conditional use permit (CUP) for the resort since the adoption of land use regulation in the early 1970's.

3. There is no evidence to conclude that over the years of operation that Quarterdeck has adversely affected adjoining property.
4. Quarterdeck clientele is temporary and transient which most likely will have no or limited impact to public facilities such as schools and parks.
5. Quarterdeck utilizes existing township and state roadways that will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
6. No wetland or critical habitat will be disturbed by the redevelopment.
7. No scenic or historic features will be affected by the redevelopment.
8. Subject to the Conditions, no threat to public health, safety and welfare can be expected from the redevelopment.
9. Waste water treatment complies with applicable county and state standards with no public infrastructure required.
10. The project does not reach the mandatory EAW threshold.
11. The redevelopment configuration complies with applicable density standards.
12. Subject to the Conditions, there is no evidence or reason to expect that the resort redevelopment will adversely affect adjoining property.
13. The redevelopment proposal which includes structure compliance with lake setback standards, storm water management and shore impact zone vegetation will result in overall property improvement as compared to existing conditions on the property.
14. The property is classified Water Oriented Commercial (WOC) and the proposed and continuing resort use is a Conditional Use in the WOC district. All future alterations and expansion of the resort shall require a permit or Conditional Use Permit (CUP) as provided by Cass County Ordinances and so long as resort operations continue and new resort dwelling units that may eventually be constructed in the resort on Blocks 1, 2, and 3 shall have such riparian lake access and mooring rights as may be permitted by CUP or amended CUP approved by the Cass County Planning Commission.

Conditions:

1. Except as otherwise provided for in these Conditions, the resort shall be constructed, implemented, maintained, managed and operated in compliance with the written overview dated 10/20/11 and the site plan for the development dated 11/28/11 (received ESD 11/29/11) and 12/05/11 (received ESD 12/05/11), the Preliminary Plat approved concurrently herewith, and the Declaration and the property Management Agreement received ESD 11/29/11, the Submittal Documents. Without limiting the foregoing, the Declaration and the Property Management Agreement, to the extent inconsistent with these Conditions, and any other document or agreement containing terms contrary to these Conditions, shall be amended to comply with these Conditions (note Condition # 16.), none of such documents and agreements thereafter shall be amended contrary to these Conditions without prior consent of the Cass County Planning Commission or any successor and any amendment without such consent shall be void and of no effect.
2. Except for roof repairs such as shingles, improvements to the existing Tier 1 units shall not be more than cosmetic such as siding or replacement glass.

3. No permanent structural improvements or expansion shall be permitted to any Tier 1 unit.
4. The existing Tier 1 units shall be replaced as the resort unit lots are sold and shall not be utilized as a resort unit after 12/31 of the year sold.
5. If not sooner removed, all existing Tier 1 units shall be removed not later than 12/31/2020.
6. Any materials resulting from the removal of the existing Tier 1 units not reused or recycled must be disposed of in a permitted facility.
7. The resort is approved for 34 dwelling units. The current 10 lakeside units and the 9 Birchwood Villa Units shall be replaced with not more than 9 resort units in Tier 1, 11 resort units in Tier 2. The existing Lodge Villa 14 units may be retained, the existing restaurant may be relocated and expanded and other existing accessory buildings and uses may be retained and used all as described in the Submittal Documents.
8. No garages or storage structures for use by resort unit owners are approved.
9. The 20 new units in Tiers 1 and 2, if not owned and operated as rental units by Quarterdeck Resort are approved for use as described in the Submittal Documents subject to these Conditions (Conditions 16-25).
10. The swimming area and mooring systems shall be located and configured as described in the Submittal Document. No other shore area or Shore Impact Zone 1 area shall be used for swimming, docking, beaching of watercraft or other recreation activity.
11. Except as may be altered by the Landscape/Vegetation Plan or otherwise required or approved by ESD, the Storm Water Management Plan, as described with the Submittal Documents is adopted and shall be implemented as construction/development is initiated.
12. The Grading Plan that includes construction phase erosion control measures as submitted, approved by ESD, and, except as otherwise approved by ESD, shall be implemented with respect to each resort unit during construction.
13. Prior to the commencement of construction a Landscape Plan shall be approved by ESD and implemented on a schedule approved by ESD and shall be continuously maintained. As provided in Section 705.2 and Section 705.3 of the Land Use Ordinance, the landscape plan shall specifically address measures to limit visibility of structures and other facilities as viewed for the lake, limitations on the natural vegetation to be removed and requirement that additional vegetation be planted pursuant to the shoreline buffer standards prescribed in Section 1123 of the Land Use Ordinance. Prior to the issuance of a permit, the applicant shall submit to ESD financial assurance in the amount of \$3/square foot for square feet of area included in the Landscape Plan. Financial assurance shall be returned to the applicant upon a schedule approved by ESD and in all events upon substantial implementation of the plan as determined by ESD. Portions of the plan for vegetation not completed in accordance with the implementation schedule shall be installed at the direction of ESD and charged against the financial assurance.
14. Prior to commencement of any construction, and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.

15. ESD shall be provided with verification of MN DOH Resort License; and, for so long as the resort shall be operated a valid and effective Resort License shall be continuously maintained.

The CIC Declaration shall contain these provisions (16 - 25):

16. The existing resort units shall not be sold.

17. All resort units shall be rented daily, weekly or seasonally.

18. No existing resort unit or resort unit to be constructed shall be designated Homestead.

19. No existing resort unit or resort unit to be constructed shall be occupied as a primary residence.

20. All resort units to be constructed and sold to other owners must be offered for rent through the Resort Managing Agent pursuant to a rental management agreement.

21. Cass County staff shall have the right to inspect and if necessary audit records to verify compliance with Cass County rental requirements with the owners responsible for all costs of inspection and verification.

22. Resorts units may be required to be removed or relocated in compliance with Cass County residential standards should the property cease to be a licensed resort.

23. Rental of resort units shall be subject to regulations by the Association and Managing Agent documents consistent with Cass County Ordinances.

24. The provisions of the declarations shall not be altered or amended without the review and consent of the Cass County Planning Commission.

25. No later than 03/31 of each year, commencing 03/31/2013, the holder of the CUP shall submit to ESD for the prior calendar year ending 12/31 a written report showing for each resort unit: 1) the number of days that the resort unit was occupied by the owner, 2) the number of days that the resort unit was rented, 3) the number of days the resort unit was unoccupied and 4) an exception not to be included in the gross data that within 7 days of an unoccupied period if not rented the owners may occupy for a period not to exceed 7 days. The report shall confirm or not that over a 3 year period that each resort unit is occupied for fewer days by the owner than rented or available for rent not to include exception days. For each day of delay of submittal beyond 03/31 the holder of the CUP shall submit with the report \$150.00

26. All Shore Impact Zone 1 and 2 areas that are not used for or otherwise approved by ESD shall be re-vegetated landward from the OHWL. Landscaping and vegetative planting shall be approved by ESD with such areas annually maintained. Access to Gull Lake is not permitted through or across re-vegetated areas except as contained in a written plan approved by ESD.

27. Fuel storage shall comply with MPCA standards.

28. All roof structures of new units and other new construction shall be designed to direct run-off away from the lake.

29. All rain gardens and other water retention structures shall be serviced annually to maintain their function and performance and to remove trash, leaves, and sediment. An

annual summary of maintenance procedures conducted for the prior year ending 12/31 must be submitted to ESD no later than 03/31 commencing 03/31/2013.

30. No fire pits shall be located in the vegetated buffer/no mow areas. Community fire pits are permitted only in the Shoreland Impact Zone II access areas to Gull Lake and portions of the property located more than 75 feet from the OHWL of Gull Lake.

31. Parking of vehicles, trailers, etc. is only permitted in designated sites as indicated in the submittal documents.

32. The resort at all times shall be owned, operated and maintained in compliance with this Conditional Use Permit and these Conditions and applicable Cass County Ordinances.

Without limiting the foregoing, the resort and any conveyance of an interest in the resort or any unit is subject to the provisions of the Land Use Ordinance for Cass County, Minnesota, Sections 1104.9.F and G, Ordinance #2009-07 effective 01/10/10, and as the same may be recodified, restated, or amended, provided that any such recodification, restatement or amendments which is more restrictive than the Ordinance in effect on the date of this CUP shall be effective to govern the resort only as provided by law.

33. All applicable township, county, and state permits/licenses shall be maintained.

34. All applicable county inspections and compliance verification shall be obtained and maintained.

35. A vegetative buffer as approved by ESD must be established along the boundary of Lot 11 and the south boundary of the property.

36. Signage must be located at the south boundary along the township roadway as to the termination of Quarterdeck Resort property.

37. The resort owners shall mutually agree with the Pillager Area Fire and Rescue as to the placement of a hydrant/holding tank system.

38. The resort owners in conjunction with the Gull Lake Association and the MN DNR shall cooperate in informational, management and mechanical efforts to restrict invasive species introduction to Gull Lake.

Preliminary Plat of "Quarterdeck Resort", Quarterdeck Properties LLC, Fairview Township, on property described Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & Part of Gov Lots 4 - 6 & Part NW SW, Section 5-134-29, PID # 14-005-3102. The surveyor is Cindy Hiddde, Stonemark Land Survey. The preliminary plat contains 22 resort unit lots, two lots for expansion of the current lodge and villas structure and two lots for future development located on 26.2 acres riparian to Gull Lake (GD) classified Water Oriented Commercial (WOC).

The resort unit lots will be in the rental pool and may be in second party ownership. Article 4 of the Subdivision and Platting Ordinance (03/09/09) establishes preliminary plat criteria.

MS/P Moore/Fitch to approve the Preliminary Plat of "Quarterdeck Resort" upon review of Article 4 of the Subdivision & Platting Ordinance (03/09/09) with the following findings and condition.

Findings:

1. The development complies with the resort GD density standards and shall remain so provided resort licensing and Water Oriented Commercial (WOC) are maintained.
2. The County Surveyor and ESD has reviewed and approved the preliminary plat for compliance with Article 4 of the Subdivision & Platting Ordinance (03/09/09).
3. The plat does not reach the mandatory EAW/EIS review standards.

Condition:

1. Organizational and operating documents for the resort fully complying with the terms of the CUP approving the resort shall be submitted for review and consideration of the PC/BOA and shall be a condition of approval of the Final Plat.

MS/P Moore/Ballenthin that all revised and updated submittal documents must be submitted to ESD by the 01/20/12 final plat submittal deadline in order to be considered during the 02/13/12 meeting.

The following are the Minutes from the February 13 meeting:

Final Plat

"Quarterdeck Resort", Quarterdeck Properties LLC, Fairview Township, on property described Lots 11 - 17, "Birch Bay on Big Gull", Section 5-134-29, PID # 14-363-0110 & part of Gov Lots 4 - 6 & Part NW SW, Section 5-134-29, PID # 14-005-3102. The surveyor is Cindy Hidde, Stonemark Land Survey. The plat contains 22 resort unit lots, two lots for expansion of the current lodge and villas structure and two lots for future development located on 26.2 acres riparian to Gull Lake (GD) classified Water Oriented Commercial (WOC). Article 5 of the Subdivision and Platting Ordinance (03/01/09) establishes final plat criteria. The preliminary plat was approved 01/09/12.

PC members were at the site 11/07/11. More than 100 notices of the application were mailed for the 11/14/11, 12/12/11, 01/09 and 02/06/12 meetings. Four responses to the 11/14/11 mailing, including Fairview Township, none offering objection to approval were received. One response received from the 12/12/11 meeting mailing of objection to the approval of the proposed re-development was received. The CUP condition, the declarations, the management agreement and the final plat were discussed and reviewed with Mr. Steffens and Ms. Hidde.

MS/P Moore/Fitch to approve the Quarterdeck CUP portion of the 01/09/12 minutes upon staff review and revision to Condition # 25.

MS/Moore/Fitch to approve the final plat of "Quarterdeck Resort", PID #s 14-363-0110 & 14-005-3102, upon review of Article 7 of the Subdivision & Platting Ordinance (03/09/09) with the following findings and condition.

Findings:

1. The development complies with the resort GD density standards and shall remain so provided resort licensing and Water Oriented Commercial (WOC) are maintained.
2. The County Surveyor and ESD has reviewed and approved the final plat for compliance with Article 7 of the Subdivision & Platting Ordinance (03/09/09).

Condition:

1. The corrections o the declarations and management agreement as offered by Ballenthin shall be submitted to ESD in order to record.

Other Business

Review PC/BOA Rules of Business. Rules were discussed with consensus that no major revision required.

MS/P Moore/Gardner to adopt the Rules of Business as revised.

Review Proposed Vacation Rental Legislation. The proposed legislation was discussed with no formal action taken.