

Chisago County Government Center | 313 N. Main Street | Center City, MN 55012

Tour Date and Time: Wednesday, April 23, 2025 at 8:15 am

Departing from Chisago County Highway Department, 31325 Oasis Road, Center City, MN

- 1. Call to Order and Pledge of Allegiance**
- 2. Roll Call and Determination of a Quorum**
- 3. Approval of Agenda**
- 4. Approval of Minutes**
 - a. February 27, 2025
- 5. Receive all Materials and Submittals into Record**

Previously Distributed Materials:

 - a. Complete meeting packet including staff report(s) with attachments for agenda item(s) 6a.
- 6. Public Hearings – New Applications**
 - a. **Cashmere Properties, LLC** – Property owner Cashmere Properties, LLC is requesting a Variance in order to partially replace / improve an existing non-conforming septic system located within the Floodplain Management District. The 125.9± acre subject site is located at 37200 Wild Mountain Road / CSAH 16 in Amador Township, S27, T35, R19 (01.00127.00).
- 7. Public Hearings – Continued Hearings**

None
- 8. Old Business**
- 9. New Business**
- 10. Miscellaneous**
- 11. Adjourn Meeting**

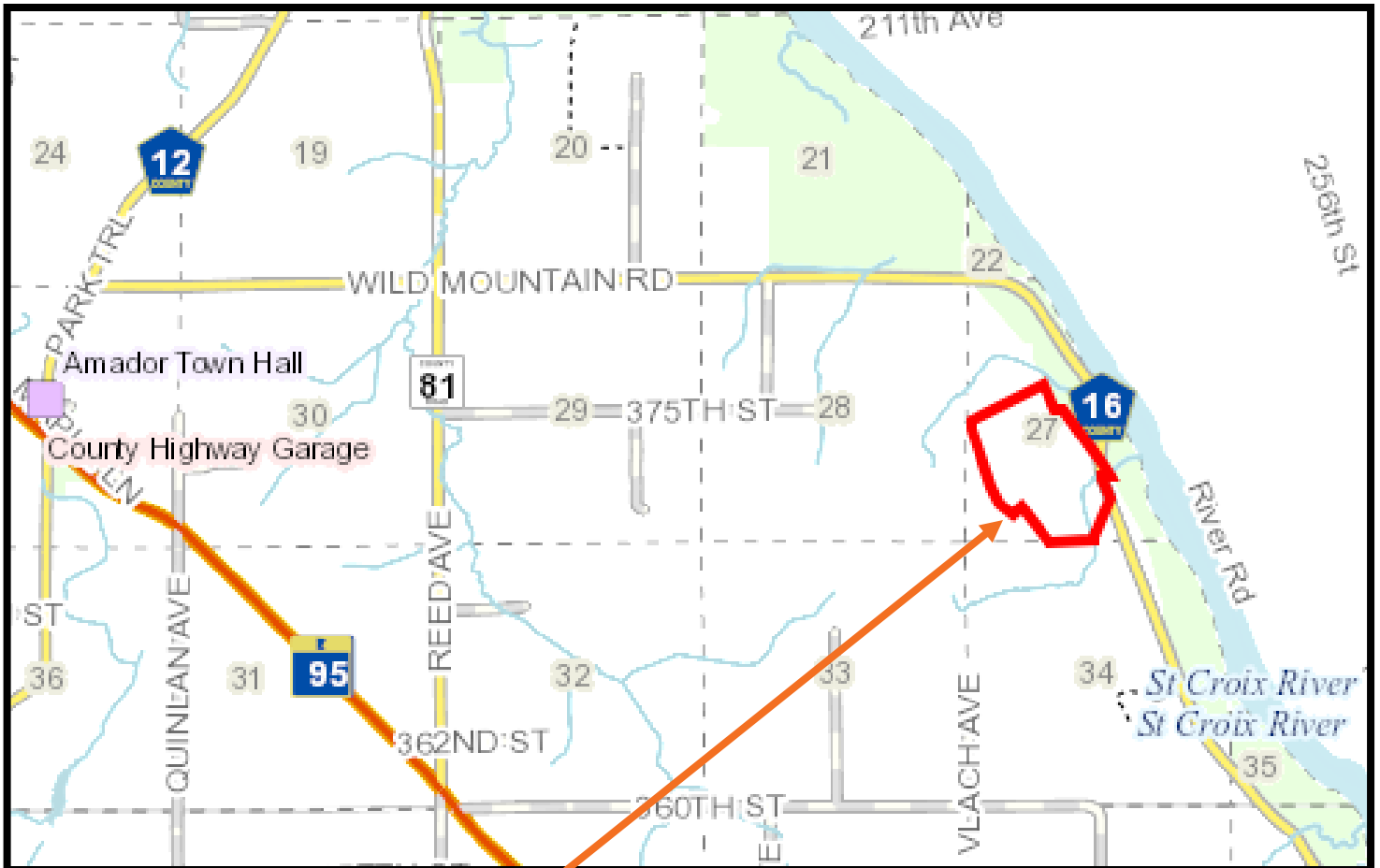
The next meeting is scheduled for Thursday, May 29, 2025 at 7:00 pm.

Board of Adjustment and Appeals

Tour Date and Time:

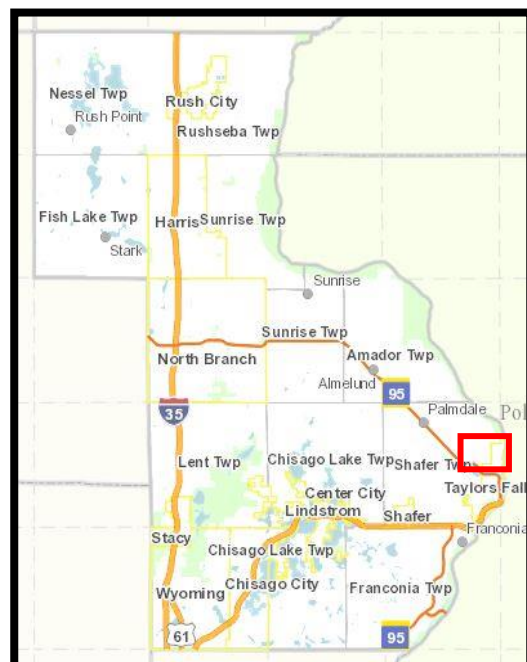
Wednesday, April 23, 2025 at 8:15 am

Departing from Chisago County Highway Department
31325 Oasis Road, Center City, MN 55012



Cashmere Properties, LLC

37200 Wild Mountain Road / CSAH 16
Amador Township
PID 01.00127.00



**CHISAGO COUNTY
BOARD OF ADJUSTMENT & APPEALS
OFFICIAL PROCEEDINGS
February 27, 2025**

The Chisago County Board of Adjustment & Appeals met in regular session at 7:00 p.m. on Thursday, February 27, 2025 in the County Board Room of the Chisago County Government Center.

Staff Present: Beth Gervais, Land Services Coordinator and Sarah Scheunemann, Office Support Specialist – Land Services

Acting Chair Greene called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Commission members was taken. Board members present: Doug Greene, Gregg Carlson, Chip Yeager, John Sutcliffe, and Jolene Wille. Absent: none. A quorum was established.

Election of Officers – Acting Chair Greene called for nominations for 2025 Chair. Carlson nominated Greene for Chair; second by Sutcliffe. Upon multiple calls, no other nominations were made. All present voted and the nomination was affirmed 5-0.

Chair Greene called for nominations for 2025 Vice Chair. Sutcliffe nominated Carlson for Vice Chair; second by Yeager. Upon multiple calls, no other nominations were made. All present voted and the nomination was affirmed 5-0.

APPROVAL OF AGENDA – **Motion** by Yeager to approve the agenda as presented; second by Wille. The **motion passed** and carried unanimously.

APPROVAL OF MINUTES – Carlson brought forth a typo on page two on the third line reading “seeking Variance approval for a 29.97’ Township Right-of-Way setback”, noting that it should have been reported as a 27.97’ Right-of-Way setback. The Board agreed to the change. **Motion** by Carlson to approve the December 23, 2024 meeting minutes as amended; second by Sutcliffe. The **motion passed** and carried unanimously.

RECEIVE ALL MATERIALS AND SUBMITTALS INTO THE RECORD – **Motion** by Sutcliffe to receive all applications, submittals, reports, and other materials into the record; second by Wille. The **motion passed** and carried unanimously. Meeting materials distributed in advance to the Board of Adjustment & Appeals for their review included the complete meeting packet with staff report and attachments. Copies of all meeting materials were made available at the entrance to the County Board Room and for electronic distribution.

PUBLIC HEARINGS – NEW APPLICATIONS

Byron & Judy Dahlheimer – Coordinator Gervais stated that property owners Byron & Judy Dahlheimer were requesting a Variance allowing for reduced setbacks from the Ordinary High Water Level of North Center Lake, the northerly side yard, and the Township Right-of-Way boundary for the purpose of redeveloping the property with a new dwelling. The .21± acre subject site was zoned Rural Residential (RR) District / Shoreland Management District and was located at 32730 N. Center Court in Chisago Lake Township, S22, T34, R20 (PID 02.01079.00). Gervais provided additional background information, sharing that property owners Byron & Judy Dahlheimer sought Variance approval to redevelop their lakeshore property by demolishing the existing dwelling with attached garage and constructing a new dwelling with attached garage.

The subject site was approximately .21± acres in size, platted as Lot 9, Chi-Gak-Wa Shores in 1955, and was generally located on the northeastern shore of North Center Lake. The site had been developed with a dwelling and attached garage with records indicating that the property was originally developed in 1956 and the

structure had expanded toward the Township Right-of-Way with Variance approval in 1984. Given the age of the original structure and that the garage addition was allowed by Variance, the existing OHWL and Township Right-of-Way setback encroachments both had a legal non-conforming status. Gervais shared that, based on lot area and lot width and the year that the property was created, the property itself was also considered legal non-conforming. Staff had estimated that the westerly 31' – 55' of the site were situated below the OHWL and, additionally, the westerly 56' – 70' (roughly the west half of the site) were located within the FEMA flood zone where no development was allowed per County ordinance. The existing dwelling appeared to be located entirely outside of the flood zone.

Gervais continued by sharing that the subject site was located within the RR District / Shoreland Management District, as were all surrounding properties to the north, south, and east, and bordered by North Center Lake to the west. The surrounding properties located along the westerly side of N. Center Court were similarly sized and developed with year-round dwellings/seasonal cabins and related accessory structures. The majority of the properties appeared to have structures that encroached on the required setbacks, presumably some having been constructed prior to the County's adoption of official land use controls and others permitted by Variance. The properties on the east side of N. Center Court were significantly larger and ranged in size from two acres to five acres. The subject site was served by a septic system and, being that the system had been installed in 2024, there was no need for a septic compliance inspection as part of the Variance process.

Gervais provided details of the proposed Variance request, sharing that the property owners wished to construct the proposed dwelling and attached garage in generally the same location as the existing dwelling and attached garage. In order to redevelop the site as desired, the property owners sought Variance approval for an approximate 43'6" OHWL setback where the required setback was 75', an 8'6" northerly side yard setback where the required setback was 10', and a 5' Township Right-of-Way setback where the required setback was 20'. The proposed amount of impervious surface coverage was reported to be 23.7%, which was below the maximum allowable amount of 25%.

The property owners' written narrative partially addressed the State mandated practical difficulty standard by explaining that Variances were necessary because of an existing non-conforming lot size and the new home would more closely fit the current character of the neighborhood and many of the other houses in the area had required Variances. Staff suggested that the information in the written narrative addressed the State mandated practical difficulty standards of uniqueness and essential character and also offered that the request was viewed to be reasonable in that dwellings and attached garages were reasonable and customary uses of the residentially zoned lakeshore property.

The Technical Review Committee met with Byron & Judy Dahlheimer on February 12, 2025. The property owners shared that a new well and septic system were installed in 2024, with the septic system designed for a two-bedroom dwelling. In order for the new system to be installed, a non-conforming shed was removed. The property owners explained that they intended to construct a new driveway at the same elevation as the neighboring driveways. The Chisago Lake Town Board considered the request on February 18, 2025 and recommended approval with no conditions and a comment of "new well and septic already installed; no substantial increase in footprint". The State mandated review period was scheduled to expire on April 5, 2025.

Gervais concluded by offering a recommendation of approval with draft Findings of Fact and conditions, and reviewed options available to the Board.

Property owners Byron & Judy Dahlheimer were present and approached the Board. Byron Dahlheimer explained that a shed had been removed to accommodate the new septic system and that the new dwelling and attached garage would be in generally the same spot as the existing dwelling and garage. The property owners explained that they planned to raise the elevation of the garage and driveway to the same elevation as

the neighboring driveways, resulting in the driveway not being as steep as the existing driveway; however, the dwelling would be at the same elevation as the existing dwelling.

Carlson asked the property owners for clarification on elevations, and B. Dahlheimer further explained that the proposed garage floor elevation would be slightly higher than the existing garage floor elevation, but the proposed dwelling floor elevation would not change. Carlson noted that the submitted impervious surface calculation worksheet indicated that there would be a 10' x 12' deck and sought clarification from the property owners on the location of the deck. B. Dahlheimer responded that the deck would be constructed on the west side / lakeside of the dwelling. Carlson sought clarification from Gervais regarding whether the deck was included in the Variance request, as it appeared to be located closer to the OHWL than the proposed dwelling and requested OHWL setback Variance. Gervais responded that there were situations in which decks were exempted from the Variance process, so long as the proposed deck met specific criteria provided within the Chisago County Shoreland Management Ordinance; however, she was not certain if the proposed deck would meet all criteria. Carlson inquired if the Board could approve a Variance for the deck as part of the pending Variance request. Gervais responded that the proposed deck was new information and a decision should only be made based on what had been presented, as the Town Board and staff had not reviewed the request with the 10' x 12' deck included. Carlson clarified for the Dahlheimers that the Variance request that the Board was reviewing was solely for the house and attached garage, and they would either need to meet the requirements of the Shoreland Management Ordinance for a deck exemption or adjust their plans accordingly.

The discussion then shifted to the impervious surface calculation worksheet, with Carlson asking if decks needed to be included in the calculation. Gervais responded that it depended on the material beneath the deck, explaining that if water could flow through the deck boards and soak into bare ground underneath, the deck would be considered pervious. However, if there were any impervious materials underneath the deck, such as landscape rock, the deck would be considered impervious.

Carlson then asked the property owners where the proposed 3' x 30' sidewalk would be located. B. Dahlheimer responded that the sidewalk would run along the south side of the house to the front door. Carlson and Dahlheimer discussed the township drainage pipe running through the subject site down to the lake. Greene suggested that the applicants could contact the DNR or the lake association to explore the possibility of turning the lake end of the pipe into a rain garden, which could help keep the lake clean.

With no further questions from the Board, Chair Greene opened the public hearing.

Cindy Neuenfeldt of 32720 N. Center Court, Chisago Lake Township and **Mary Evanoff** of 32740 N. Center Court, Chisago Lake Township were present and shared that they owned property on either side of the subject site. Together, both individuals shared that they were happy for the Dahlheimers and that they looked forward to the proposed redevelopment.

With no additional members of the audience wishing to speak, **motion** by Yeager to close the public hearing; second by Sutcliffe. The **motion passed** and carried unanimously.

Motion by Carlson to adopt Resolution No. BOAA2025-0201, a resolution of the Board of Adjustment and Appeals of Chisago County, Minnesota, approving a Variance allowing reduced Ordinary High Water Level, northerly side yard, and Township Right-of-Way setbacks on property located at 32730 N. Center Court in Chisago Lake Township, as presented; second by Yeager. The **motion passed** and carried unanimously.

Conditions:

1. This approval grants the following Variances:

- a. A 31'6" Variance to the Ordinary High Water Level setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 43'6" to the Ordinary High Water Level of North Center Lake.
 - b. A 1'6" Variance to the northerly side yard setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 8'6" from the northerly property boundary.
 - c. A 15' Variance to the Township Right-of-Way setback requirement, allowing the proposed dwelling with attached garage to be located no closer than 5' from the N. Center Court Right-of-Way boundary.
2. Per the Chisago County Shoreland Management Ordinance, the structure shall not exceed 25' in height.
 3. Except as specifically conditioned herein, the dwelling with attached garage shall be constructed in general conformance with the application materials, including "new build" site plan, dated received January 28, 2025. Any significant deviation, as determined by Department of Environmental Services staff, shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.
 4. The permit holder shall obtain a building permit prior to construction and, further, the proposed dwelling with attached garage shall comply with all applicable codes and regulations except as conditioned herein.
 5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

PUBLIC HEARINGS – CONTINUED HEARINGS

None

OLD BUISNESS

None

NEW BUISNESS

Annual Review of Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure – Coordinator Gervais explained that the Board would be completing its annual review of the Policy and that the Planning Commission had already reviewed and provided some recommended amendments. The Commission's recommended amendments were to Section 5. Quorum, Section 11. Rules of Procedure for Meetings, and Section 12. Meeting Decorum. Once the Board had reviewed the Policy, all proposed amendments from both the Board and the Commission would be presented to the County Board for consideration.

Carlson asked Board members who also served on the Planning Commission (Sutcliffe, Wille, and Yeager) about the intent of the Commission's proposed amendments. Sutcliffe, Wille, and Yeager provided background on the Commission's discussion. Yeager also noted that the Planning Commission had briefly discussed Section 12. Meeting Decorum (A), sharing that the requirement to remove hats and caps when addressing the Commission or Board had not historically been enforced and the Commission questioned whether the requirement should be eliminated. Yeager stated that the Commission ultimately agreed to leave the requirement in place and enforce it at the Chair's discretion. The Board briefly discussed Section 12. (A) and agreed that it should be enforced at the Chair's discretion rather than eliminated.

Motion by Carlson to accept the Planning Commission's recommended amendments to the *Planning Commission and Board of Adjustment and Appeals Policy on Commission / Board Structure, Meeting Order and General Procedure* and provide no other recommended amendments for the County Board's consideration; second by Sutcliffe. The **motion passed** and carried unanimously.

MISCELLANEOUS

None

ADJOURN MEETING – Motion by Yeager to adjourn; second by Wille. The **motion passed** and carried unanimously. The meeting was adjourned at 7:38 p.m.

Douglas Greene
Chair

ATTEST:

Beth Gervais
Land Services Coordinator

DRAFT



Staff Report

TO: Board of Adjustment and Appeals
 FROM: Beth Gervais, Land Services Coordinator
 SUBJECT: Variance Allowing for the Partial Replacement / Improvement of an Existing Non-Conforming Septic System Within the Floodplain Management District
 37200 Wild Mountain Road / CSAH 16, Amador Township
 DATE: April 24, 2025

ACTION TO CONSIDER

The Board of Adjustment and Appeals (Board) will conduct a public hearing to consider a Variance allowing for the partial replacement / improvement of an existing non-conforming septic system located within the Floodplain Management District where, generally, the Floodplain Management Ordinance prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development.

SITE & APPLICATION INFORMATION

Property Owner(s): Cashmere Properties, LLC
 Applicant(s): Sara & Brad Larsen, Dan Bogart, and Shane Steinbrecher
 Property Address: 37200 Wild Mountain Road / CSAH 16
 Amador Township
 General Location: Section 27, Township 35, Range 19
 PID: 01.00127.00
 Property Area: 125.9± Acres
 Current Zoning: Agricultural (AG) District
 Adjacent Zoning:
 North: Agricultural (AG) District
 South: Agricultural (AG) District
 East: Agricultural (AG) District and Rural Residential (RR) District / Upper St. Croix Overlay (UO) District
 West: Agricultural (AG) District
 Date Application Received: March 31, 2025
 Date Application Complete: April 3, 2025
 60-Day Review Period: June 2, 2025

BACKGROUND

Property owner Cashmere Properties, LLC, represented by applicants Sarah & Brad Larsen, Dan Bogart, and Shane Steinbrecher, wishes to partially replace / improve an existing non-conforming septic



system located within the Floodplain Management District. While the subject site is located within the AG District, it's also partially located within the Floodplain Management District. Land located within the Floodplain Management District is subject to the Chisago County Floodplain Management Ordinance. The Floodplain Management Ordinance is quite restrictive and generally prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development. However, the Ordinance also addresses nonconformities which were lawful prior to the adoption of the Ordinance and their right to continue.

Based on a staff report prepared for the Chisago County Planning Commission in consideration of a request for Conditional Use Permit (CUP) Amendment in 2023, the subject site was first developed in the 1960s as the Val Croix Ski Area and rebranded in 1972 as Wild Mountain. The facility started as a ski hill and began venturing into summertime activities in 1976 with the installation of the alpine slide. The operation expanded into the waterpark industry during the 1980s with four waterslides and a lazy river. It's believed by staff that the first formal zoning approval was granted by the County Board in October 2005 by way of a CUP. The County Board then granted a CUP Amendment in June 2023, allowing the permit holder to expand the facility through the installation of new amenities. Given that the site was originally developed in the 1960s, likely including the subject septic system, the system is considered legal non-conforming.

The 2023 Conditional Use Permit Amendment approval includes three conditions addressing septic system concerns, including the following condition nos. 5-7:

5. The property owner shall make application for septic compliance inspections for all existing septic systems on the subject site. Further, installation of any new septic system(s) shall be done so in accordance with all applicable septic codes and all required permits shall be obtained.
6. All existing and proposed septic systems must comply with Minnesota Pollution Control Agency (MPCA) Individual Sewage Treatment Systems Chapter 7080.
7. The property and uses thereon are subject to all applicable local and State codes, including Zoning, Building and Septic Codes.

SITE ANALYSIS

The 125.9± acre subject site is generally located approximately 4.3 miles easterly of the intersection of Park Trail / CSAH 12 and Wild Mountain Road / CSAH 16 and approximately 3 miles northerly of 347th Street / CR 71 on the west side of Wild Mountain Road / CSAH 16. The site is located within the AG District as are all surrounding properties to the north, west and south. Properties directly east are located in either the AG District (Wild River State Park) or the RR District / UO District. Additionally, the eastern boundary of the subject site and other properties located between the subject site and the St. Croix River are located within the Floodplain Management District. The adjacent image illustrates the Floodplain Management

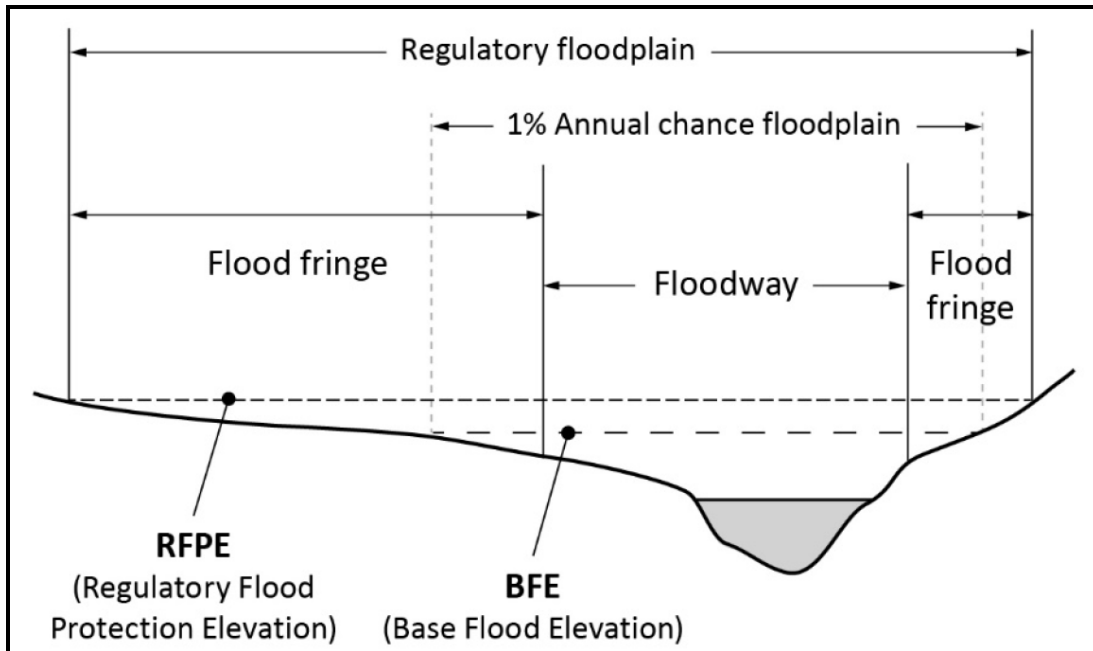
District (shown as a solid turquoise line and dot hatch pattern) in relation to the subject site's property boundaries.

Immediately below is an excerpt of the FEMA Flood Map, as available on the FEMA website, showing the Special Flood Hazard Area (SFHA) in relation to the developed portion of the subject site. The map shows that the subject site is located within Zone A,



and the location of the proposed system is identified as flood fringe. The illustration on the following page, also included for reference, is provided by the Department of Natural Resources (DNR) and identifies various components of the floodplain.





PROPOSAL ANALYSIS

The attached application materials indicate that the subject site is served by multiple septic systems, generally designed as Individual Subsurface Sewage Treatment Systems (ISTS), which are spread over the property. The property owner / facility was served a Notice of Violation by the Minnesota Pollution Control Agency (MPCA), requiring that the facility be permitted as a State Dispersal System (SDS). The attached written narrative explains that SDS permits typically require a greater magnitude of pre-treatment prior to final disposal of wastewater and, as such, require more infrastructure to achieve a higher level of treatment. Due to placement of existing infrastructure, the applicants are proposing that a portion of the new system, including pre-treatment tanks and a 16' x 16' control building, be located within the floodplain. Attached Exhibit 1 illustrates the location of the proposed tanks and control building in relation to the floodplain.

Attached Exhibit 2 illustrates existing and proposed features, including the proposed pre-treatment area (tanks and control building). The written narrative explains that the wastewater from the main chalet and shower house currently converges within the floodplain and percolates within an existing drainfield, also located within the floodplain. The proposal involves the removal of the existing drainfield and location of pre-treatment infrastructure within the same vicinity. Treated wastewater will then be pumped to a dosing tank that will dose a proposed trench drainfield outside and above the floodplain.

The written narrative explains that, when designing the proposed system, the applicants considered other options. When considering moving all pre-treatment components to the south, outside of the Floodplain Management District, it was determined that the system would still require a transfer tank within the floodplain to pump untreated wastewater for an exceptionally long distance, and turbid, untreated wastewater has a higher likelihood of

clogging or freezing within the line. Additionally, the narrative explains that moving the pre-treatment to a more remote area of the facility would make operator accessibility and maintenance more difficult to conduct. Ultimately, the applicants feel that the treatment tanks must remain in the proposed location for reasons related to maintenance accessibility and preventative measures. Further, the applicants feel that the control building must remain in the proposed location because moving it outside of the floodplain is infeasible due to loss of amperage from the power source to motors, a limit of 100' for low voltage signals from pump floats and transducers, and excessive head loss to be overcome by a low head chemical pump which is housed within the control building.

The proposed project will involve the importation and grading of fill material within the vicinity of the pre-treatment area to provide minimum coverage over the tanks and also to raise the lowest floor elevation of the control building to be 1' above the Base Flood Elevation (BFE).

The written narrative notes that two existing tanks were permitted and installed in 2024 and, therefore, near the beginning of their service life. The narrative explains that existing infrastructure is typically reused in proposed septic designs in order to reduce costs and practice optimal resource management. Staff notes that these tanks were in fact permitted by the Department of Environmental Services in 2024, despite their location within the Floodplain Management District, given that the system posed an imminent health threat which required immediate action.

The narrative indicates that, prior to submitting the Variance request, the proposed septic design was submitted to the MPCA for review. The MPCA provided the applicants with one comment in relation to the floodplain, stating that "The proposed location for the EQ tank, SBR tank, and transfer tank appears to be located in a 100-year floodplain. The ground elevation in this area must be raised and tank access hatches located above the 100-year floodplain elevation. Tanks must be installed using buoyancy control methods." In response to the MPCA's comment, the applicants suggest that they'll be revising the final design to comply with all MN Revisor 7080.2270 rules for septic systems within floodplain areas.

While the submitted Exhibits 1 and 2 provide the general location of the proposed system, the applicants also provided an exhibit to show the location of the proposed system in relation to Wild Mountain Road / CSAH 16. The exhibit indicates that the system will be as close as 85' to the centerline of the road, with the proposed structure (16' x 16' control building) situated 135' from centerline. Staff has no concerns with the proposed roadway setbacks.

REVIEW PROCESS

The Technical Review Committee met with applicants Brad Larsen, Shane Steinbrecher, and Dan Bogart on April 9, 2025. The group reviewed details of the proposed system, with the applicants explaining that there were no other viable options which wouldn't require a Variance and that the proposed system will be sized to accommodate all planned facility expansions. The County Engineer reviewed the location of the proposed system in relation to Wild Mountain Road / CSAH 16, and commented that he had no concerns.

In accordance with the Chisago County Floodplain Management Ordinance, the Department of Natural Resources (DNR) received notice of the application and public hearing. No comments were received upon completion of the staff report; however, any comments that may be received after completion of the staff report and prior to the Board's April 24, 2025 meeting will be presented to the Board for consideration.

The Amador Town Board considered the request on April 15, 2025 and recommended approval with no comments or recommended conditions.

The State mandated 60-day review period will expire on June 2, 2025.

WRITTEN TESTIMONY

No written testimony was received upon completion of the staff report.

VARIANCE ANALYSIS

A Variance to the provisions of the applicable Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the Ordinance imposes practical difficulties to the property owner in the use of this land. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. Per the Chisago County Zoning Ordinance, a Variance may be granted only in the event that the following circumstances exist (nos. 1 – 8). Additionally, per the Chisago County Floodplain Management Ordinance, additional Variance criteria of the Federal Emergency Management Agency must also be satisfied (nos. 9 – 11). Staff has provided notes (shown in *italics*) for each of the circumstances for the Board's consideration.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same district, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of the relevant Ordinance have had no control;

The subject site was originally developed in the 1960s, prior to the County's adoption of official land use controls. This circumstance is often referred to as pre-existing development, and no current or past property owner had control over this circumstance. Further, this same circumstance does not generally apply to other properties in this same general area of the Floodplain Management District being that they're largely undeveloped.

2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

The Chisago County Floodplain Management Ordinance is quite restrictive and generally prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development; however, the Ordinance also allows for Variances and addresses nonconformities which were lawful

prior to the adoption of the Ordinance and their right to continue. If the requested Variance is not granted, it would have a significant negative impact on the subject site / facility, and may result in the facility no longer having the ability to operate. The applicants have explored all possible options for locating the proposed system outside of the floodplain and, in staff's opinion, have adequately demonstrated for the Board that there simply are no viable options that would eliminate the need for Variance. Therefore, staff finds that denying the Variance would deprive the applicants of rights commonly enjoyed by other properties.

3. That the special conditions or circumstances do not result from the actions of the owner(s) or under previous owner(s) under the current law;

The subject site was originally developed in the 1960s prior to the County's adoption of official land use controls, which means that neither the current nor the previous property owner(s) created the special and unique circumstance of pre-existing development.

4. That granting the Variance requested will not result in allowing a use otherwise not permitted in the same district;

The subject site is used as a Commercial Recreation Area, known as Wild Mountain, in accordance with the Chisago County Zoning Ordinance. The site and facility, not being served by municipal sewer, is required to have septic systems to support the use of the land. Given that the site was originally developed in the 1960s prior to the County's adoption of official land use controls, likely including the subject septic system, the system is considered legal non-conforming. While the Chisago County Floodplain Management Ordinance is quite restrictive and generally prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development, the Ordinance also allows for Variances and addresses nonconformities which were lawful prior to the adoption of the Ordinance and their right to continue.

5. The Variance requested is the minimum Variance which would alleviate the practical difficulty;

Through review of the application materials and conversations with the applicants, staff is of the opinion that the applicants have requested the minimum Variance necessary to achieve their needs. The applicants have explored all possible options for locating the proposed system outside of the floodplain and have adequately demonstrated for the Board that there simply are no viable options that would eliminate the need for Variance.

6. The Variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone;

The Zoning Ordinance allows for Variances when the requested action proves to be reasonable, when there is a unique circumstance related to the property, and when it will not alter the essential character of the surrounding area. Staff believes that the proposed action is reasonable in that the subject site / facility is required by the Minnesota Pollution Control Agency (MPCA) to be permitted as a State Dispersal System (SDS) and

the applicants have adequately demonstrated that there are no other viable options for placement of the system; that the subject site is unique in that it was developed, partially within the floodplain, prior to the County's adoption of official land use controls; and, that the proposed action will not alter the essential character of the area being that all properties in this general area are required to have septic systems being that they don't have the benefit of municipal sewer.

7. Economic conditions or circumstances alone shall not be considered in the granting of a Variance request if a reasonable use of the property exists under the terms of this Ordinance; and

While the application materials do indicate a cost savings through the ability to reuse certain existing infrastructure, it's staff's opinion that the applicants have adequately demonstrated that the request for Variance is based on there being no other viable option for placement of the system rather than it being based entirely on economic circumstances.

8. In the Flood Plain District, no Variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by State law.

The proposed system will be located within the Floodplain Management District; however, as proposed, it will be designed and constructed in compliance with MN Revisor 7080.2270 rules for septic systems within floodplain areas.

9. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

The proposed system will be located within the flood fringe and not within the floodway.

10. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the Variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a Variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Through review of the application materials and conversations with the applicants, staff is of the opinion that the applicants have demonstrated a showing of sufficient cause, compliance with the State mandated practical difficulty standard, and the ability and intent to design the proposed system in compliance with all MN Revisor 7080.2270 rules for septic systems within the floodplain. In other words, staff believes that the requested Variance satisfies all conditions of this criterion.

11. Variances shall only be issued upon a determination that the Variance is the minimum necessary, considering the flood hazard, to afford relief.

Through review of the application materials and conversations with the applicants, staff is of the opinion that the applicants have requested the minimum Variance necessary to achieve their needs. The applicants have explored all possible options for locating the

proposed system outside of the floodplain and have adequately demonstrated for the Board that there simply are no viable options that would eliminate the need for Variance.

The Board is tasked with determining whether or not a “practical difficulty” exists prohibiting the property owner from using the land in a manner consistent with the Zoning Ordinance. Minnesota Statute 394.27 offers the following guidance:

*The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a **reasonable** manner not permitted by an official control; the plight of the landowner is due to circumstances **unique** to the property not created by the landowner; and the variance, if granted, will not alter the **essential character** of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the official controls. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.*

As indicated above, “practical difficulties” is a legal standard that the County must apply when considering applications for Variances. It’s a three-factor test, including: reasonableness, uniqueness, and essential character. In order to constitute practical difficulties, all three factors of the test must be satisfied. Descriptions of the three factors are offered below for the Board’s consideration:

1. Reasonableness

The first factor is that the property owner proposes to use the property in a reasonable manner. This factor means that the landowner would like to use the property in a particular reasonable way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the Variance. For example, if the Variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

2. Uniqueness

The second factor is that the landowner’s problem is due to circumstances unique to the property not caused by the landowner. The uniqueness generally relates to the physical

characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the Variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

3. Essential Character

The third factor is that the Variance, if granted, will not alter the essential character of the locality. Under this factor, consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the Variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

FINDINGS OF FACT

Zoning Ordinance Section 8.07 Variances, D. states that in considering all requests for Variances, the Board of Adjustment and Appeals shall make certain Findings of Fact. Staff has provided draft findings, shown in *italics* below, for the Board's consideration.

Criteria #1 The proposed action will not impair an adequate supply of light and air to adjacent property;

Finding #1 *The proposed action will result in a State Dispersal System (SDS) with much of the necessary infrastructure located below grade and a control building located above grade between the chalet (main principal structure located on the subject site) and the adjacent roadway to the east (Wild Mountain Road / CSAH 16). Because the proposed system will be located no closer to adjacent properties to the north, south, or west than the existing system or existing structures, and because it appears that only one adjacent property is developed with structures and those structures are approximately 3,000' or more south of the proposed system, the County finds that the proposed action will not have any impact on the supply of light and air to adjacent properties.*

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

Finding #2 *The County finds that the proposed action, involving the construction of a State Dispersal System (SDS) to support the use of the subject site as a Commercial Recreation Area known as Wild Mountain, will not change the primary use of the subject site or directly cause an increase in traffic to and from the subject site. Further, the Chisago County Highway Department, serving as Road Authority, did not express any concerns related to the location of the proposed system in relation to Wild Mountain Road / CSAH 16 or potential impacts to the public Right-of-Way.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

- Finding #3 Given the nature of the proposed action, with much of the infrastructure being located below grade, and being that the permit holder will be required to obtain a building permit prior to construction of the proposed control building and it will, therefore, be constructed in compliance with all applicable building and fire codes, the County finds that the proposed action will not increase the danger of fire or endanger the public's safety.*
- Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;*
- Finding #4 The subject site is currently used as a Commercial Recreation Area, known as Wild Mountain, and the proposed action will not change how the property is being used or create negative impacts to surrounding properties. The County finds that the proposed State Dispersal System (SDS) will be located in the same vicinity as portions of the existing septic system and will be located no closer to surrounding properties than the existing system. The County further finds that the proposed action will in fact create a positive impact to surrounding properties and the community by allowing for a system that will provide a higher magnitude of pre-treatment prior to final disposal of wastewater.*
- Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;*
- Finding #5 The subject site is currently used as a Commercial Recreation Area, known as Wild Mountain, and the proposed action will not change how the property is used or impact existing facilities and services. The site is and will continue to be served by well(s) and septic systems, and accessed by a well-established and well-maintained County State Aid Highway (Wild Mountain Road / CSAH 16). Therefore, the County finds that the proposed action will not create any strain or increased impact upon existing facilities and services.*
- Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and*
- Finding #6 The County finds no evidence to suggest that the proposed action, involving the partial replacement / improvement of a septic system, will have any fiscal impact on the County or school district.*
- Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.*
- Finding #7 The subject site is zoned Agricultural (AG) District / Floodplain Management District. The subject site was developed in the 1960s as a recreational ski area, prior to the County's adoption of official land use controls, and has since obtained a Conditional Use Permit allowing the pre-existing use as a Commercial Recreation Area in accordance with the Chisago County Zoning*

Ordinance. While the Chisago County Floodplain Management Ordinance is quite restrictive and generally prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development, the Ordinance also allows for Variances and addresses nonconformities which were lawful prior to the adoption of the Ordinance and their right to continue.

In review of the State mandated practical difficulty standard, the County finds that the proposed action is reasonable in that the subject site / facility is required by the Minnesota Pollution Control Agency (MPCA) to be permitted as a State Dispersal System (SDS) and the applicants have adequately demonstrated that there are no other viable options for placement of the system; that the subject site is unique in that it was developed, partially within the floodplain, prior to the County's adoption of official land use controls; and, that the proposed action will not alter the essential character of the area being that all properties in this general area are required to have septic systems being that they don't have the benefit of municipal sewer.

STAFF RECOMMENDATION

Barring any new or unknown evidence of compliance discovered after the completion of this report or during the course of the public hearing, **staff recommends approval** of the requested Variance with draft Findings of Fact (see above) and recommended conditions (see below) and has prepared a resolution for the Board's consideration.

Recommended conditions:

1. This approval allows for the partial replacement / improvement of an existing non-conforming septic system within the Floodplain Management District in conformance with application materials submitted on March 31, 2025 and kept on file with the Department of Environmental Services. This approval will allow for, among other things, the abandonment of an existing drainfield and location / construction of pre-treatment infrastructure within the same vicinity, and the importation and grading of fill material within the vicinity of the pre-treatment area to provide minimum coverage over the tanks and to raise the lowest floor elevation of the control building to be 1' above the Base Flood Elevation (BFE). Any significant deviation, as determined by the Department of Environmental Services, shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.
2. This Variance is contingent on the project obtaining technical approval of the design from the Minnesota Pollution Control Agency (MPCA) and compliance with all MN Revisor 7080.2270 rules for septic systems within the floodplain.
3. The permit holder shall obtain a building permit from the Department of Environmental Services prior to construction of the control building, and the lowest floor elevation of the structure shall be placed at least 1' above the Base Flood Elevation (BFE).

4. In accordance with the Chisago County Floodplain Management Ordinance, the permit holder is hereby notified that 1) the issuance of a Variance to construct a structure below the 100-year flood elevation will result in increased insurance premium rates for flood insurance, and 2) such construction below the 100-year flood elevation increases risk to life and property.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

OPTIONS

1. **Approve** the Variance based on the Findings of Fact and conditions as presented or amended.
2. **Deny** the Variance based on amended Findings of Fact or other contributing factors deemed appropriate.
3. **Table** action to allow for further review and consideration. The current review period expires on June 2, 2025, allowing the Board to table action until its May 29, 2025 meeting.

ACTION REQUESTED

Motion to adopt Resolution No. BOAA2025-0401, a resolution approving a Variance allowing for the partial replacement / improvement of an existing non-conforming septic system within the Floodplain Management District on property located at 37200 Wild Mountain Road / CSAH 16 in Amador Township, as presented or amended.

ATTACHMENTS

1. Application materials:
 - a. Application
 - b. Written narrative
 - c. Exhibit 1 – DNR 100-year flood plan
 - d. Exhibit 2 – existing and proposed features
 - e. Exhibit – Right-of-Way Location (setbacks)
 - f. Impervious surface calculation worksheet
2. Aerial photo (1) – subject site
3. Aerial photo (2) – vicinity map
4. Aerial photo (3) – Floodplain Management District
5. Draft Resolution No. BOAA2025-0401



Chisago County Department of Environmental Services

Planning & Zoning Application

Permit # 25-0365

Township Amador S/T/R 27/35/19 PID# 01.00127.00

Project Address 37200 Wild Mountain Road, Taylors Falls, MN 55084

Property Owner(s) CASHMERE PROPERTIES LLC

Mailing Address (If Different from Project Address) _____

Phone# _____

Email _____

Applicant(s) Sara Larsen, Brad Larsen, Dan Bogart, SHANE STEINBRECHER

Mailing Address (If Different from Project Address) _____

Phone# _____

Email _____

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

☒ Variance

☐ Administrative Appeal

Planning Commission

☐ Conditional Use Permit (CUP)

☐ Interim Use Permit (IUP)

☐ Amendment to CUP or IUP

☐ Preliminary Plat

☐ Rezoning

☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) We are requesting a variance to build a septic

(pre-treatment) system within the 100-year floodplain on an existing site that was developed in the

floodplain prior to the county adoption of the floodplain ordinance. Drain field is outside floodplain. See
narrative and site plan.

Required Attachments (Additional Attachments May Be Required Based On The Specific Request)

☒ Full Legal Description

☒ Detailed Site Plan

☒ Detailed Written Narrative

☒ Plat Drawings

Sara Larsen
Applicant Signature

3-31-25
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Fees

Base Fee \$ 750

Recording Fee \$ 46

Plat Fee – No Road(s) / With Road(s) \$ _____

Septic Compliance Fee \$ _____

Wetland Fee \$ _____

TOTAL FEE \$ 796

Dates

Application Received 3-31-25

Application Complete 4-3-25

60 / 120 Day Review Period 6-2-25

Extended Review Period _____



Chisago County Department of Environmental Services
Planning & Zoning Application

Township Presentation Form

Township Amador s/T/R 27/35/19 PID# 01.00127.00

Project Address 37200 Wild Mountain Road, Taylors Falls, MN 55084

Property Owner(s) CASHMERE PROPERTIES LLC

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Applicant(s) Sara Larsen, Brad Larsen, Dan Bogart, SHANE STEINBRECHER

Mailing Address (If Different from Project Address) _____

Phone# [REDACTED] Email [REDACTED]

Type of Request (Check All That Apply)

Board of Adjustment & Appeals

- ☒ Variance
☐ Administrative Appeal

Planning Commission

- ☐ Conditional Use Permit (CUP)
☐ Interim Use Permit (IUP)
☐ Amendment to CUP or IUP
- ☐ Preliminary Plat
☐ Rezoning
☐ Ordinance Amendment

Description of Request (Attach Separate Sheet if Necessary) We are requesting a variance to build a septic (pre-treatment) system within the 100-year floodplain on an existing site that was developed in the floodplain prior to the county adoption of the floodplain ordinance. Drain field is outside floodplain. See narrative and site plan.

[Signature]
Applicant Signature

3-31-25
Date of Application

I hereby certify that the above information is true and correct to the best of my knowledge, and that any knowingly false representations may invalidate any approvals. With my signature, I also grant permission to Chisago County Officials to enter upon the subject property for the purpose of such inspections as may be necessary.

Date of County Public Hearing APR 24, 2025 Date of Township Presentation APR 15, 2025

Township Action Taken (Township Use Only)

- ☒ Recommendation of Approval ☐ Recommendation of Denial

Recommended Conditions of Approval OR Legal Findings for Recommendation of Denial

Signatures of Township Officials or Authorized Personnel

GONE ZISK
Clay Sarr



**Bogart, Pederson
& Associates, Inc.**

CIVIL ENGINEERING
LAND SURVEYING
ENVIRONMENTAL SERVICES

Traditional Values • Creative Solutions

April 1, 2025

Beth Gervais
Chisago County, Environmental Services
313 N Main St., Suite 240
Center City, MN 55012

**RE: Floodplain Ordinance Variance Request Narrative, Wild Mountain Ski
Facility**

Dear Beth:

I have prepared this detailed written narrative in partial fulfillment of the Chisago County variance application checklist of items required to request a variance on the floodplain ordinance, adopted in 2012. Wild Mountain is a winter ski lodge and summer water attraction amusement park located within Amador Township, Chisago County, MN. The park features skiing and snow tubing during the winter season and zip lines, water slides, a lazy river, and a proposed pool during the summer season. The Wild Mountain facility predates the adoption of the Chisago County Floodplain ordinance, and a large portion of the developed area is engulfed by the 100-yr Base Flood Elevation (BFE); **See Exhibit 1.**

The Wild Mountain facility is served by multiple septic systems onsite spread over the property. These septic systems range in size and type but are generally designed as ISTS systems consisting of primary settling tanks and drain fields. The facility was served a Notice of Violation by the MPCA, requiring the site to be permitted as a State Dispersal System (SDS). SDS permits typically require a greater magnitude of pre-treatment prior to final disposal of wastewater and, as such, require more infrastructure to achieve a higher level of treatment. Bogart Pederson and Associates (BPA) was retained to design a septic pretreatment system and drain field to meet the required treatment limits under the new SDS permit. Due to placement of existing infrastructure onsite, a portion of the new system (pretreatment tanks and 16X16 FT control building) were designed within the floodplain.

Exhibit 2 displays the existing and proposed components of the pretreatment and dispersal. Wastewater from the Main Chalet building and pool Shower House converges within the floodplain and percolates within an existing drain field, also located within the floodplain. We propose to remove the existing drain field and set pretreatment infrastructure within the vicinity. Treated wastewater will be pumped to a dosing tank that will dose a proposed trench drain field outside and above the local floodplain.

All existing tanks were pumped and inspected in 2024 and were found to pass an integrity review. It should also be noted that two of the existing tanks were permitted and

installed in 2024 and are therefore near the beginning of their service life. As a matter of course, existing infrastructure is typically reused in proposed septic designs to reduce costs and practice optimal resource management.

Moving all pretreatment components south of the existing drain field, outside of the floodplain was a design consideration. However, that would still require a transfer tank to be permitted within the floodplain that would pump untreated wastewater for an exceptionally long distance. Turbid, untreated wastewater has a higher likelihood of clogging or freezing in the line, even with sloped drain back to the transfer tank under that supply length. Additionally, moving the pretreatment to a more remote area of the facility will make operator accessibility and maintenance efforts more difficult to conduct.

Fill material will be required to be imported and graded within the vicinity of the pretreatment area to provide minimum coverage over the tanks and also to raise the low floor of the control building to 1-FT above the BFE. The treatment tanks must remain in the proposed area due to aforementioned reasons of maintenance accessibility and preventative measures to reduce risk of line clogging or freezing. However, to move the control building outside of the flood plain to a feasible building location would require moving the control building a minimum distance of over 600-FT. Distances of over 100-FT are unfeasible due to excess loss of amperage from the power source to motors, a limit of 100-FT for low voltage signals from pump floats and transducers, and finally excessive head loss to be overcome by a low head chemical pump that is housed in the control building.

Due to the proximity of the floodplain to the Main Chalet building, there is virtually no version of a proposed design that will not require a new tank to be installed within the floodplain. For the aforementioned reason of line stability and maintenance accessibility, we recommend placing all pretreatment units and control building within the proposed location.

It should be noted that the submitted design for the MPCA SDS permit has received review comments. Only one comment from the MPCA was made in regard to the floodplain, which stated:

“The proposed location for the EQ tank, SBR tank, and transfer tank appears to be located in a 100-year floodplain. The ground elevation in this area must be raised and tank access hatches located above the 100-year floodplain elevation. Tanks must be installed using buoyancy control methods.”

We will be revising the final design meet all MN Revisor 7080.2270 rules for septic systems within floodplain areas.

We ask that a variance to build the proposed septic system within the floodplain be granted on condition of this project obtaining an MPCA technical approval of the design.

Please let me know if you have any questions regarding this request.

Sincerely,



Dan Bogart, PE
Bogart, Pederson & Associates, Inc.

EXHIBIT 1
DNR 100-YEAR FLOOD PLAIN



EXHIBIT 2

Proposed pretreatment area (New tanks and 16'x16' control building)

Existing drain field - to be abandoned

Tanks installed in 2024 (see as-built)

Existing tanks

Dark line is the MnDNR flood database flood area
Main Chalet building

Proposed transfer line

Shower House

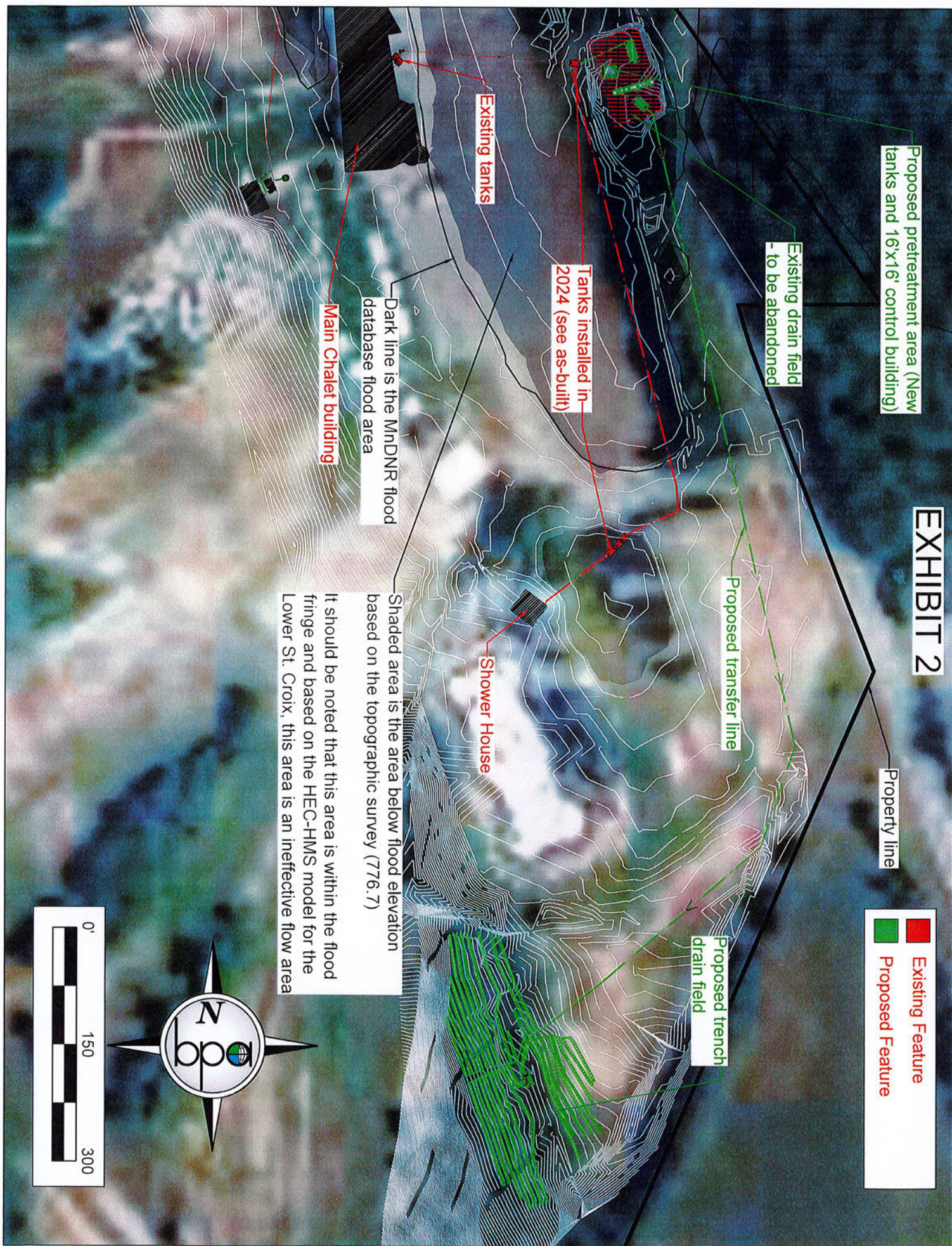
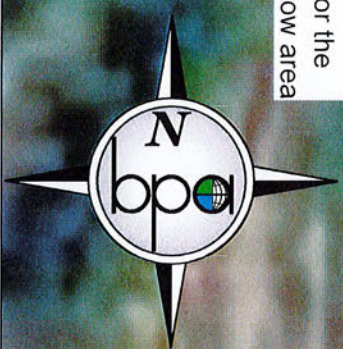
Proposed trench drain field

Existing Feature
Proposed Feature

Property line

Shaded area is the area below flood elevation based on the topographic survey (776.7')

It should be noted that this area is within the flood fringe and based on the HEC-HMS model for the Lower St. Croix, this area is an ineffective flow area



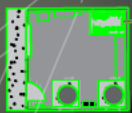
County Highway 16 ROW

Property line

85-FT setback from center of roadway

135-FT setback from center of roadway

RIGHT OF WAY
LOCATION BASED
ON CHISAGO
COUNTY RIGHT
OF WAY PLAT NO.
1 AND VAL CROIX
ACRES



Impervious Surface Calculation Worksheet
Required for properties located within the Shoreland Management District

Area of Property			
Total Property Area (acres)		Square Feet Per Acre	Total Property Area (Square Feet)
142.3	x	43,560	= 6,198,588

Existing Conditions	
Item	Impervious Area (Square Feet)
Tubing Facility	4,512
Main Chalet	19,127
Snack Shack	192
Pump House	959
Medical Building	677
Maintenance Shop	10,858
Storage Building 1	3,267
Storage Building 2	1,438
Shower House	1,215
Lazy River	29,111
Parking Lot	109,769
Concrete Surface	4,552
Pavement	9,347
Misc. Bituminous	752
Total	195,776

Proposed Conditions

Item	Impervious Area (Square Feet)
Control Building	304
Total	304

Signature of Preparer

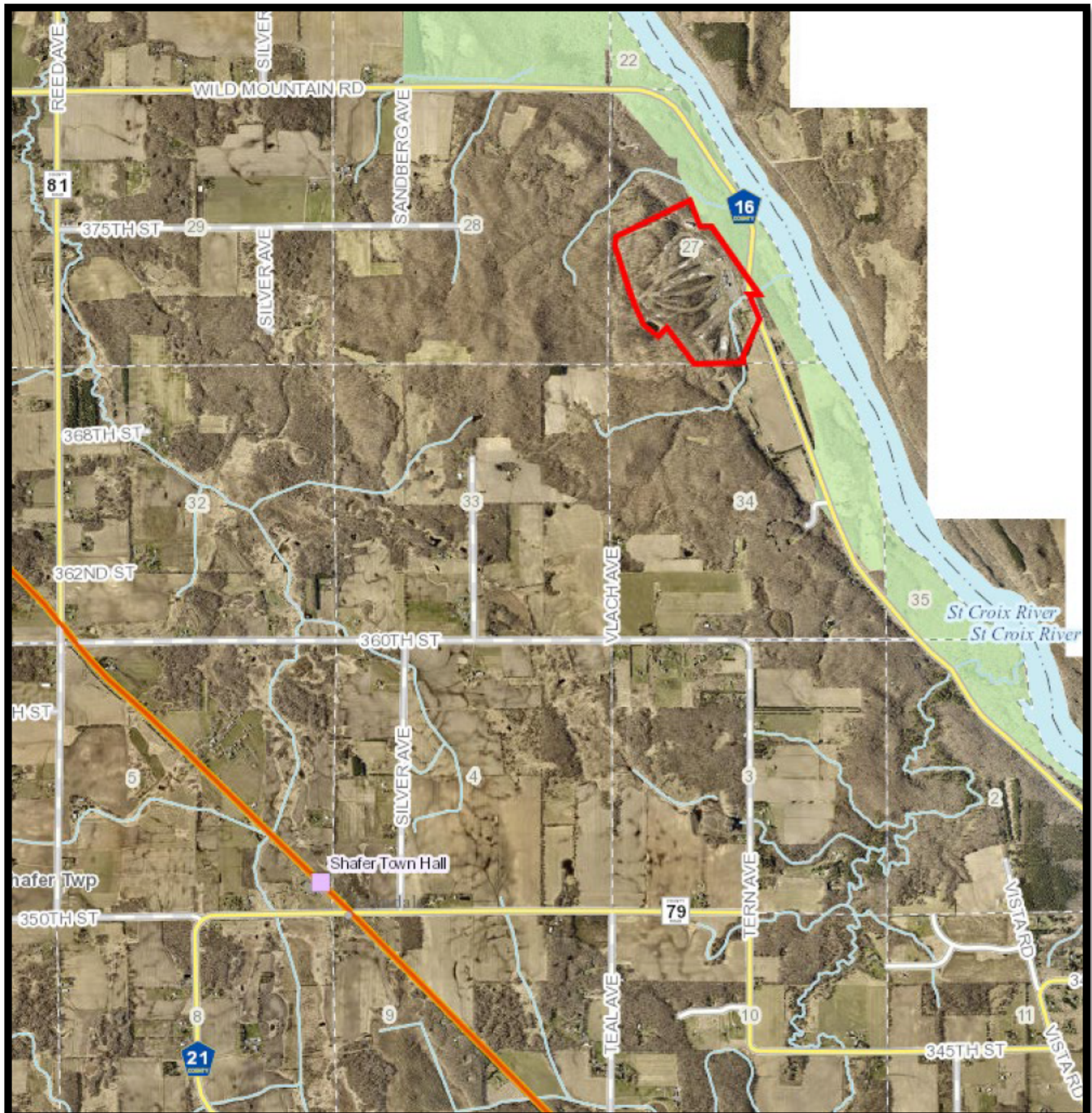
Date of Preparation

Calculate			
Total Existing Impervious (sq. ft)		195,776	
Total Proposed Impervious (sq. ft)		304	
Total Impervious (sq. ft)		196,080	
Total Impervious Surface (%)		3.16	

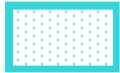
Cashmere Properties, LLC – Property owner Cashmere Properties, LLC is requesting a Variance in order to partially replace / improve an existing non-conforming septic system located within the Floodplain Management District. The 125.9± acre subject site is located at 37200 Wild Mountain Road / CSAH 16 in Amador Township, S27, T35, R19 (PID 01.00127.00).



Cashmere Properties, LLC – Property owner Cashmere Properties, LLC is requesting a Variance in order to partially replace / improve an existing non-conforming septic system located within the Floodplain Management District. The 125.9± acre subject site is located at 37200 Wild Mountain Road / CSAH 16 in Amador Township, S27, T35, R19 (PID 01.00127.00).



Cashmere Properties, LLC – Property owner Cashmere Properties, LLC is requesting a Variance in order to partially replace / improve an existing non-conforming septic system located within the Floodplain Management District. The 125.9± acre subject site is located at 37200 Wild Mountain Road / CSAH 16 in Amador Township, S27, T35, R19 (PID 01.00127.00).



Floodplain Management
District



RESOLUTION NO. BOAA2025-0401
A RESOLUTION OF THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY,
MINNESOTA, APPROVING A VARIANCE ALLOWING FOR THE PARTIAL REPLACEMENT /
IMPROVEMENT OF AN EXISTING NON-CONFORMING SEPTIC SYSTEM WITHIN
THE FLOODPLAIN MANAGEMENT DISTRICT ON PROPERTY LOCATED AT
37200 WILD MOUNTAIN ROAD / CSAH 16 IN AMADOR TOWNSHIP

WHEREAS, property owner Cashmere Properties, LLC and applicants Sara Larsen & Brad Larsen, Dan Bogart, and Shane Steinbrecher submitted an application dated received March 31, 2025 and considered complete on April 3, 2025 for a Variance to the Chisago County Floodplain Management Ordinance allowing for the partial replacement / improvement of an existing non-conforming septic system located within the Floodplain Management District; and

WHEREAS, the 125.9± acre subject site is located in the Agricultural (AG) District / Floodplain Management District; and

WHEREAS, the subject site is legally described as:

PID 01.00127.00

THAT PART OF:

The Southwest Quarter of the Northwest Quarter; the Northwest Quarter of the Southwest Quarter; the Southwest Quarter of the Southwest Quarter; the Southeast Quarter of the Southwest Quarter; all that part of the Southeast Quarter of the Northwest Quarter described as follows: Beginning at the Southwest corner of said Southeast Quarter of Northwest Quarter, thence Northerly along the Westerly line of said Southeast Quarter of Northwest Quarter to a point 250 feet South of the Northeast corner of the Southwest Quarter of Northwest Quarter; thence Southeasterly on a line, to be hereinafter known as "Line A", intersecting the South line of the Southeast Quarter of Northwest Quarter 450 feet Easterly of point of beginning; all in Section 27, Township 35, Range 19.

AND

All that part of Government Lot 6 of Section 27, Township 35, Range 19, lying West of a line described as follows: Commencing at a point on the North line of said Lot, 660 feet East of the Northwest corner thereof; running thence Southeasterly in a straight line to a point on the South line of said Lot, 280 feet East of the Northwest corner of Government Lot 5 of said Section; all in Chisago County, Minnesota.

AND

The Northwest Quarter of Section 34, Township 35, Range 19; The Southwest Quarter of the Northeast Quarter of Section 34, Township 35, Range 19; That part of Government Lot 2 of Section 34, Township 35, Range 19, lying West of a line, to be hereinafter known as "Line B", described as follows: Commencing at a point on the North line of said lot, 1000 feet East of the Northwest corner thereof; running thence Southerly in a straight line to the Northwest corner of Government Lot 3 of said Section; excepting therefrom, the following: Commencing on the North line of said Government Lot 2, 1000 feet East of the Northwest corner thereof; thence South 15 degrees 10 minutes 01 seconds East, a distance of 72.24 feet; thence South 66 degrees 12 minutes 11 seconds West, a distance of 317.47 feet to the Easterly right-of-way line of County Road 16; thence Northerly along said right-of-way 204.11 feet to the North line of said Government Lot 2; thence Easterly along said North line to the point of beginning.

All according to the map or plat thereof on file and of record in the office of the County Recorder in and for Chisago County, Minnesota.

AND

That part of Government Lot 5 lying West of the centerline of County Road No. 16, of Section 27, Township 35, Range 19, Chisago County, Minnesota.

DESCRIBED AS FOLLOWS:

COMMENCING at the southwest corner of the Southwest Quarter of Section 27, Township 35, Range 19; thence on an assumed bearing of North 89 degrees 28 minutes 34 seconds East along the south line of said Southwest Quarter a distance of 2601.07 feet; thence North 14 degrees 15 minutes 06 seconds West a distance of 92.68 feet to a point to be hereinafter known as "POINT A"; thence North 23 degrees 15 minutes 13 seconds East a distance of 829.28 feet to the centerline of County Road 16 and the POINT OF BEGINNING of parcel to be described; thence South 23 degrees 15 minutes 13 seconds

West a distance of 829.28 feet to the hereinbefore described POINT A; thence South 14 degrees 15 minutes 06 seconds East a distance of 104.39 feet; thence South 15 degrees 40 minutes 05 seconds East a distance of 421.03 feet; thence North 68 degrees 47 minutes 08 seconds East a distance of 105.09 feet; thence South 23 degrees 20 minutes 53 seconds East a distance of 286.29 feet; thence South 51 degrees 12 minutes 01 seconds West a distance of 228.74 feet; thence South 22 degrees 50 minutes 49 seconds East a distance of 468.87 feet; thence South 64 degrees 06 minutes 08 seconds West a distance of 235.82 feet; thence North 30 degrees 02 minutes 03 seconds West a distance of 703.24 feet; thence North 48 degrees 25 minutes 24 seconds West a distance of 599.12 feet; thence North 37 degrees 53 minutes 19 seconds West a distance of 1,261.73 feet; thence South 41 degrees 57 minutes 08 seconds West a distance of 235.69 feet; thence North 53 degrees 02 minutes 34 seconds West a distance of 375.20 feet; thence North 23 degrees 50 minutes 56 seconds West a distance of 407.90 feet; thence North 20 degrees 31 minutes 29 seconds West a distance of 325.24 feet; thence North 17 degrees 03 minutes 23 seconds West a distance of 881.52 feet; thence North 09 degrees 03 minutes 47 seconds East a distance of 172.11 feet; thence North 63 degrees 37 minutes 38 seconds East a distance of 1,586.42 feet to the hereinbefore described "Line A"; thence South 22 degrees 34 minutes 54 seconds East along said "Line A" a distance of 537.58 feet, more or less to the north line of said Government Lot 6; thence easterly along the said north line a distance of 210.00 feet to the hereinbefore described "Line B"; thence southeasterly along said "Line B" a distance of 1,600.28 feet, more or less to the south line of said Lot 6; thence westerly along said south line a distance of 193.35 feet, more or less to the centerline of County Road 16; thence southeasterly along said centerline 497.55 feet, more or less to the POINT OF BEGINNING.

WHEREAS, notice was provided and on April 24, 2025 the Board of Adjustment and Appeals conducted a public hearing regarding this application, at which it heard from the Land Services Coordinator and the property owner and/or applicant(s), and invited members of the public to comment; and

WHEREAS, the Board of Adjustment and Appeals considered several criteria for granting Variances and made the following findings per Zoning Ordinance Section 8.07 Variances:

- | | |
|-------------|---|
| Criteria #1 | The proposed action will not impair an adequate supply of light and air to adjacent property; |
| Finding #1 | <i>The proposed action will result in a State Dispersal System (SDS) with much of the necessary infrastructure located below grade and a control building located above grade between the chalet (main principal structure located on the subject site) and the adjacent roadway to the east (Wild Mountain Road / CSAH 16). Because the proposed system will be located no closer to adjacent properties to the north, south, or west than the existing system or existing</i> |

structures, and because it appears that only one adjacent property is developed with structures and those structures are approximately 3,000' or more south of the proposed system, the County finds that the proposed action will not have any impact on the supply of light and air to adjacent properties.

Criteria #2 The proposed action will not unreasonably increase the congestion in the public right-of-way;

Finding #2 *The County finds that the proposed action, involving the construction of a State Dispersal System (SDS) to support the use of the subject site as a Commercial Recreation Area known as Wild Mountain, will not change the primary use of the subject site or directly cause an increase in traffic to and from the subject site. Further, the Chisago County Highway Department, serving as Road Authority, did not express any concerns related to the location of the proposed system in relation to Wild Mountain Road / CSAH 16 or potential impacts to the public Right-of-Way.*

Criteria #3 The proposed action will not increase the danger of fire or endanger the public safety;

Finding #3 *Given the nature of the proposed action, with much of the infrastructure being located below grade, and being that the permit holder will be required to obtain a building permit prior to construction of the proposed control building and it will, therefore, be constructed in compliance with all applicable building and fire codes, the County finds that the proposed action will not increase the danger of fire or endanger the public's safety.*

Criteria #4 The proposed action will not unreasonably cause undue negative impact to surrounding properties;

Finding #4 *The subject site is currently used as a Commercial Recreation Area, known as Wild Mountain, and the proposed action will not change how the property is being used or create negative impacts to surrounding properties. The County finds that the proposed State Dispersal System (SDS) will be located in the same vicinity as portions of the existing septic system and will be located no closer to surrounding properties than the existing system. The County further finds that the proposed action will in fact create a positive impact to surrounding properties and the community by allowing for a system that will provide a higher magnitude of pre-treatment prior to final disposal of wastewater.*

Criteria #5 The proposed action will not cause an unreasonable strain upon existing facilities and services;

Finding #5 *The subject site is currently used as a Commercial Recreation Area, known as Wild Mountain, and the proposed action will not change how the property is used or impact existing facilities and services. The site is and will continue to be served by well(s) and septic systems, and accessed by a well-established*

and well-maintained County State Aid Highway (Wild Mountain Road / CSAH 16). Therefore, the County finds that the proposed action will not create any strain or increased impact upon existing facilities and services.

Criteria #6 The proposed action will not have a negative direct and indirect fiscal impact upon the County or school district, unless the proposed use is determined to be in the public interest; and

Finding #6 *The County finds no evidence to suggest that the proposed action, involving the partial replacement / improvement of a septic system, will have any fiscal impact on the County or school district.*

Criteria #7 The proposed action will not be contrary in any way to the spirit and intent of applicable land use controls.

Finding #7 *The subject site is zoned Agricultural (AG) District / Floodplain Management District. The subject site was developed in the 1960s as a recreational ski area, prior to the County's adoption of official land use controls, and has since obtained a Conditional Use Permit allowing the pre-existing use as a Commercial Recreation Area in accordance with the Chisago County Zoning Ordinance. While the Chisago County Floodplain Management Ordinance is quite restrictive and generally prohibits uses which require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment, or any other form of development, the Ordinance also allows for Variances and addresses nonconformities which were lawful prior to the adoption of the Ordinance and their right to continue.*

In review of the State mandated practical difficulty standard, the County finds that the proposed action is reasonable in that the subject site / facility is required by the Minnesota Pollution Control Agency (MPCA) to be permitted as a State Dispersal System (SDS) and the applicants have adequately demonstrated that there are no other viable options for placement of the system; that the subject site is unique in that it was developed, partially within the floodplain, prior to the County's adoption of official land use controls; and, that the proposed action will not alter the essential character of the area being that all properties in this general area are required to have septic systems being that they don't have the benefit of municipal sewer.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT AND APPEALS OF CHISAGO COUNTY, MINNESOTA, that the request for Variance is hereby **approved**, subject to the following conditions:

1. This approval allows for the partial replacement / improvement of an existing non-conforming septic system within the Floodplain Management District in conformance with application materials submitted on March 31, 2025 and kept on file with the Department of Environmental Services. This approval will allow for, among other things, the

abandonment of an existing drainfield and location / construction of pre-treatment infrastructure within the same vicinity, and the importation and grading of fill material within the vicinity of the pre-treatment area to provide minimum coverage over the tanks and to raise the lowest floor elevation of the control building to be 1' above the Base Flood Elevation (BFE). Any significant deviation, as determined by the Department of Environmental Services, shall require further review and approval from the Board of Adjustment and Appeals at the property owners' expense.

2. This Variance is contingent on the project obtaining technical approval of the design from the Minnesota Pollution Control Agency (MPCA) and compliance with all MN Revisor 7080.2270 rules for septic systems within the floodplain.
3. The permit holder shall obtain a building permit from the Department of Environmental Services prior to construction of the control building, and the lowest floor elevation of the structure shall be placed at least 1' above the Base Flood Elevation (BFE).
4. In accordance with the Chisago County Floodplain Management Ordinance, the permit holder is hereby notified that 1) the issuance of a Variance to construct a structure below the 100-year flood elevation will result in increased insurance premium rates for flood insurance, and 2) such construction below the 100-year flood elevation increases risk to life and property.
5. This Variance shall be made use of within one year of the date of approval or it shall become null and void.

Adopted by the Board of Adjustment and Appeals of Chisago County, Minnesota,
this 24th day of April, 2025.

Gregg Carlson _____
Douglas Greene _____
John Sutcliffe _____

Jolene Wille _____
Charles Yeager _____

Douglas Greene
Chair

ATTEST:

Beth Gervais
Land Services Coordinator