

**BOARD OF ADJUSTMENT/PLANNING COMMISSION  
CITY OF LAKE SHORE  
CITY HALL  
MINUTES  
OCTOBER 14, 2013  
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the commission present: John Ingleman, Dave Baldwin, Dick Miles, Mark Nelson and Tom Diemert; Alternate Roger Smeby, Council Liaison Susan Amacher; City Zoning Administrator Teri Hastings and City Engineer Mark Hallan. City Clerk Patti McDonald was absent. There were 4 people in the audience. A quorum was present and the Commission was competent to conduct business.

MOTION BY MARK NELSON TO APPROVE THE MINUTES FOR AUGUST 12, 2013 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. DAVE BALDWIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**PUBLIC HEARING**

Rezone/Conditional Use Permit – Lee Wangstad requested to rezone a property and a conditional use permit. The request involves rezoning the property described as Lots 1-4 Marsh Vista located in Section 16, Township 135, Range 29. The request involves rezoning the property from R-1, Low Density Residential to NC, Neighborhood Commercial. The property has approximately 9.14 acres of land and is located across from Birchwood Hills and Fernmont Roads along County Road 77. The applicant is seeking a conditional use permit to construct a 40'X32' building. The building will be used to operate a metal fabrication/repair shop and a graphic design/publishing business. The applicant will meet all setbacks and impervious coverage requirements.

The following documents became part of the record-Notice of mailing, notice of publication, signed application and attachments. Teri received one verbal comment from Russell Blixt opposed to the rezoning.

Teri's staff report indicated the following: The applicant has submitted a rezoning request that involves four vacant lots approximately 9 acres. Provided the rezoning is approved, the applicant is combining the lots to create two lots versus four. The property is currently zoned R-1, Low Density Residential. The applicant is proposing to have the property rezoned to NC, Neighborhood Commercial. The minimum lot size for Neighborhood Commercial is 40,000 square feet with 20,000 square feet buildable; the same as the R-1 district.

The criteria for rezoning or classifying property are listed in Section 5.1 (6) A-P of the ordinance.

The zoning of the surrounding property is indicated on the attached map. The property located within the city limits is zoned residential and most of the property surrounding the subject property is held in single ownership however, there is some property held by ETOC (Grand View Lodge) . The golf course and resort units are located within Nisswa.

The topography of the property consists of a berm on the south side (county highway side) and heavily wooded banks on the north, east and west sides of the property that are adjacent to a large wetland area. The wetland area creates a peninsula of sorts for the subject property. The closest

property to the east is MK Auto Body (also has a home on the property) and part of The Pines Golf Course.

It appears there are no significant historical sites on the property. As mentioned previously there are wetlands surrounding the property.

The property is fairly wooded with the exception of the road easement and central building envelope. The topography of the property does not prohibit development; however, there are limits due to the steep banks and wetlands.

The property to be rezoned is adjacent to County 77 and is maintained by Cass County. The property is currently vacant. The lots are served by a service drive easement. It is the intent of the applicant to combine Lots 1 and 2 along with 3 and 4 to create two lots versus four.

The property to be rezoned will be served by sub-surface treatment systems (on-site septic system). According to the plat information (2001) the soils should be suitable for an onsite septic system.

There are no known areas of significant historical or ecological values of the area that would prevent it from being rezoned.

The rezoning would not create a spot zone as there are properties in the vicinity being used for commercial purposes (MK Auto body, Grand View Golf Course, Anderson Brothers Gravel Pit, and Lake Fun Rentals). The corridor of County 77 throughout the city is interspersed with commercial uses. While this is not a typical zoning pattern it does seem to work within this community and believe this site could be rezoned to neighborhood commercial given the location and the topography of the subject property.

#### **STAFF RECOMMENDATION**

This rezoning request meets the criteria within the ordinance for rezoning and is consistent with the City's Comprehensive Plan for strategies for economic development( examine zoning classifications for areas that would be suitable for the expansion of commercial uses).

#### **CONDITIONAL USE PERMIT REQUEST**

##### **ISSUES:**

In addition to the rezoning request the applicant is requesting a conditional use permit to construct and operate a metal fabrication/repair and a graphic design/publishing business. If the commission recommends denial of the rezoning then the conditional use permit should be denied. However, if the commission recommends approval to the City Council then the following would apply. The conditional use permit would be contingent upon the City Council approving the rezoning classification. The following items are related as if the rezoning would be approved.

The property is zoned Neighborhood Commercial. The lot size for the Neighborhood Commercial District is 40,000 square feet with 20,000 square feet being buildable.

In permitting new conditional use permits; the Planning Commission may impose, in addition; to the standards and requirements expressly specified by the ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the city as a whole. This may include the following:

- Increasing the required lot size or yard dimension.

- Limiting the height, size or location of buildings.
- Controlling the location and number of vehicle access points.
- Increasing the street width.
- Increasing or decreasing the number of required off-street parking spaces.
- Limiting the number, size, location or lighting of signs.
- Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.

The following should be met for the conditional use to be approved: the use must be appropriate for the zoning district (neighborhood commercial). The use with conditions would be compatible with the city's Comprehensive Plan. The use with conditions would be compatible to neighborhood. The use would not be injurious to the public health, safety, welfare, decency, order and comfort, convenience, appearance or prosperity of the city.

The proposed use would be consistent with the Comprehensive plan as this use would promote year round businesses and promote the attractiveness of Lake Shore being a year round destination. In addition, the Comprehensive Plan encourages the development of service oriented businesses to support the growing number of full time residents.

In addition the Planning Commission should consider the following:

- The Conditional use should not be injurious to the use and enjoyments of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
- The Conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- The Conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- The Conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares.
- Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
- Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
- The Conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
- The Conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

The Neighborhood Commercial standards do not specify a number of parking spaces for this type of use (the Planning Commission will need to determine the number of spaces) In addition, the applicant will need to meet ADA (American with Disabilities Act) standards and provide handicapped parking. The applicant is proposing 6 spaces; the ordinance requires the parking space to be 10'x20' . The site plan shows parking spaces at 9'x20'. The size of the spaces will need to be adjusted. There is adequate area to expand the parking area if needed. It should be noted there is an ingress/egress easement (Vista Drive) serving this development. the applicant should be asked what type of surface is planned for the parking lot and driveway.

The applicant is proposing two overhead doors on the west and east ends of the building. The ordinance states overhead doors shall be placed primarily in the rear and secondarily in the side yard. Given the steep bank to the rear, it makes more sense to locate the overhead doors on the side. The overhead doors should not interfere with parking or use of the adjacent property.

The applicant is combining Lots 3 and 4 for this application (the certificate of survey states only Lot 4). The Neighborhood Commercial District allows 40% impervious surface. The amount of proposed impervious surface for this site plan is 6.2%. The applicant is proposing to do some site grading on the site. This will be reviewed by the city engineer.

The applicant has submitted a landscape plan for the site. There is currently a berm with trees planted between County 77 and the easement road. This berm will provide screening of the building. In addition, the applicant is proposing to add additional trees and shrubbery around the building. the applicant is also planning on seeding the site with different grass mixtures. The applicant is proposing to keep the vegetation on the bank to the wetlands. My understanding is the applicant may need to remove some trees in this area to accommodate the grading for the site. The NC district requires 10% of the land to be seeded or sodded and landscaped with approved ground cover, shrubbery and trees.

Trash handling equipment: The applicant should address how he will handle trash equipment.

Mechanical Equipment: I do not believe there should be out of the ordinary mechanical equipment for the building located outside. This should be verified and if necessary a condition on type and location may be needed.

Exterior Lighting: The applicant should be prepared to discuss lighting for the exterior of the building. Due to the residential properties across the street, the lighting should be downcast and prevent glare. Lighting levels will need to meet the ordinance requirement.

Signage: The applicant is proposing signage on the building. The applicant will be asked for the sign dimensions. The sign shall not cover more than 25% of the face of the building. Two signs are allowed for the business.

Architectural Appearance: The applicant has provided elevation drawings of the building with color scheme. The applicant is proposing a pole barn type construction which is acceptable. The proposed building will have overhangs and the applicant is proposing a covered entrance and rear deck to enhance the building.

A septic system site evaluation and design is required. At the time of this report this information was not available.

Outdoor Storage: The applicant should address if any outdoor storage is planned. While outdoor storage may be necessary from time to time, it should be limited even though the site is well screened from the public's view.

**STAFF RECOMMENDATION:**

Recommend approval of the conditional use permit for the metal fabrication/repair and graphic design/publishing business with the following conditions:

- The only access for the business should be off the ingress/egress easement (Vista Drive). No direct access from CSAH 77.
- Landscaping to be completed one year from the issuance of the permit and according to the plan submitted (or any modifications requested by the Planning Commission)
- X number of parking spaces as required by the Planning Commission.
- Lighting for the building should not create glare or generate beyond the property lines.
- Signs shall adhere to the ordinance requirement.
- The proposed building should be constructed out of the materials proposed.
- Outdoor storage of on any permanent basis is prohibited or unless modified by the Planning Commission.

**Rationale for the conditional use permit:**

The use with the above conditions should not be injurious to the use and enjoyment of other property in the immediate vicinity. The property will be well screened with the existing berm. The use will not require public cost for public facilities and services. The property will have proper vehicle approaches which should not cause traffic congestion or hazardous conditions. The business will not result in the destruction of a natural or historical feature of the area.

John Boeder of 8399 Birchwood Hills Road asked what type of welding business. Lee Wangstad explained the welding business would be for lawn care equipment and similar items. The proposed shop would not handle backhoes or anything of that size.

John Boeder also asked about the criteria used for rezoning property. Teri reviewed the criteria listed in the zoning ordinance for rezoning of property. One of the criteria for rezoning is the need to preserve historical or ecological sites. Teri stated that this site (Lot 1) does have an Indian burial mound located on it. Teri has conferred with the state archaeologist on the property. A report was sent to Teri regarding the site.

John Boeder asked about the size and look of the building. The building will be 40'x40' with an ivory, black and red color scheme.

Lee said he has made no major changes from the site plan review. He hopes to be adding employees by spring. Future expansion of the building is not planned. The building has been set up for the capacity to have three welders. The size of the equipment will limit the type of work being done. Lee Wangstad. stated he will have one large. ½ ton crane which would limit him to working on small items such as lawn mowers etc. lee explained his forte is blue print reading and small production work. Lee's business plan is to work for 10 years then to pass the business onto his workers. He is not planning on outdoor storage. Lee informed the commission on how he selected the site as opposed to other properties for sale in the area. Lee is combining Lots 1 and 2 together and Lots 3 &4. The other parcel (Lots 1 and 2) will have to compliment his business and fit in with the area.

Mark Nelson commended Lee Wangstad on a great job of preparing the application.

Tom Diemert asked where the work will be done; inside or outside? Lee stated the apron could be used for work outdoors during summer but most of the majority of work will be indoors.

Dave Baldwin questioned how home businesses operate in the city. Teri stated they are a permitted use provided they meet the ordinance criteria. Dave Baldwin asked about the graphics part of the business and if any chemicals would be used. Lee responded that there would be not chemicals used for the graphics, it is software based. Any printing that is needed is done off site. The welding portion of the business uses oxygen but no chemicals and he will need to follow OSHA standards.

The commission discussed the different uses surrounding the property and the varying degrees of intensity of use (golf course to Auto Body Shop). Dave Baldwin inquired how to proceed regarding the protection of the Indian burial mound. Teri stated the first step was to authenticate the mound with the state archaeologist. Typically, the state archaeologist places a 20' setback around the mound. Teri has contacted the state archaeologist to get the process started.

Dick Miles clarified the two applications before the commission and the process. The Rezoning is a recommendation to the City Council and then the conditional use permit which would be contingent upon a positive rezoning recommendation.

Dave Baldwin is not in support of the rezoning application at this time. Lee Wangstad commented the lots as residential have been on the market for an extensive period of time with no action.

**MOTION BY RICHARD MILES TO RECOMMEND THE REZONING OF LOTS 1-4 MARSH VISTA FROM R-1, LOW DENSITY RESIDENTIAL TO NC, NEIGHBORHOOD COMMERCIAL AS TWO BUILDING SITES BASED ON THE APPLICATION DATED 9-19-13 SECONDED BY TOM DIEMERT. MOTION PASSED WITH DAVE BALDWIN VOTING NAY.**

Dick Miles asked about the road (Vista Drive) and if it would be sufficient to handle the traffic that would be generated by the business. Lee Wangstad indicated he felt the road would be adequate. He is planning on asphaltting the road and parking lot. He plans to add class v in the rear to accommodate trailers. There are two overhead doors (east and west ends) that will be used for trailers if needed. Mark Hallan noted there was an error on the site plan with the contouring; however it did not impact the site for the building location, parking lot and aprons. Lee Wangstad stated he plans to have this area as class v versus pavement. Lee also noted there is an electrical pedestal he cannot move and must design around. Mark Hallan stated the site has plenty of area to make this work.

The commission discussed the parking for the proposed business. Lee has shown six parking stalls on the site plan. The ordinance does not specify the number of parking spaces for a welding shop so it is at the discretion of the commission as to the number of parking spaces. It was noted the parking spaces on the site plan are undersized and will be adjusted to meet the ordinance size of 10'x20'. Mark Nelson suggested a minimum of six parking spaces and a maximum of 10 parking spaces.

The commission discussed signage for the business. Lee did not think that a free standing sign would be necessary. The elevation drawings show signage on the building. Building signage is allowed to cover 25% of the face of the building. Outdoor storage-no. Lee will have a one trailer. No dumpster. No chemicals. Oxygen, all stored inside. Some volatile. Light sandblasting. Will not powerful.

Dave Baldwin asked about the type of power and is it adequate for the proposed use. Lee Wangstad stated he had this checked out and it is adequate.

Lighting for the building and property were discussed. Lee Wangstad stated he plans to have a typical entry door light for the main door and an overhead downcast light on the east side of the building. Lee stated he will not have a security light or a farm light.

**MOTION BY MARK NELSON TO APPROVE THE CONDITIONAL USE PERMIT FOR LEE WANGSTED FOR A WELDING FABRICATION/REPAIR BUSINESS AND GRAPHIC DESIGN/PUBLISHING BUSINESS ON THE PROPERTY DESCRIBED AS LOTS 3 AND 4 MARSH VISTA WITH THE FOLLOWING CONDITIONS:**

- ACCESS FROM THE HIGHWAY IS LIMITED TO VISTA DRIVE (NO DIRECT ACCESS TO 77).
- LANDSCAPING TO BE COMPLETED WITHIN ONE YEAR OF THE PERMIT.
- MINIMUM OF 6 PARKING SPACES WITH A MAXIMUM OF 10 PARKING SPACES.
- LIGHTING TO MEET CITY STANDARDS.
- SIGNAGE TO BE IN ACCORDANCE WITH THE SIGN ORDINANCE.
- THE PROPOSED MATERIALS OF THE BUILDING SHOULD BE AS SUBMITTED ON THE ELEVATION DRAWINGS.
- OUTDOOR STORAGE IS PROHIBITED.
- ONE YEAR REVIEW OF OPERATION OF BUSINESS.
- LIMIT OF LIGHT SANDBLASTING.

DICK MILES SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

## **NEW BUSINESS**

### Lot Split – Dave Hochmayr

Teri's staff report indicated the following: The applicant is applying for a lot split for Lot 15, Block 12 and Lot 16 Block 12 of Tingdale Brothers Sherwood Forest on Gull Lake. The applicant is looking to create a tract from each lot which qualifies for a metes and bounds lot split. (One split of a parcel in a 3 year time period). The applicant owns Lots 1-9, 11-17 and 22 of Block 12 of Tingdale Brothers Sherwood Forest. The property is zoned R-1, Low Density Residential which has a minimum lot size of 40,000 square feet (a little less than an acre). The buildable area for this zoning district is 20,000 square feet with a minimum width of 150'. Each tract meets this requirement. The remnant pieces do need to meet this requirement as well.

The applicant has submitted a survey by a licensed surveyor. Legal descriptions have been prepared for the property. The remnant of Lot 16 currently does not have access; prior to the lot split being recorded the remnant will need to have access via an easement or combined with Lot 15 or 17.

Tracts A and B do not contain any bluffs or wetlands. All existing structures and improvements are shown on the survey. It should be noted the drainfield on Tract A does not have the same setbacks as a building (drainfields may be placed 10 feet from the property line).

Monuments have been placed marking the corners of the property. The existing septic system and well are indicated and there is sufficient area on the site for a secondary system. The remnant tract doesn't indicate areas for on-site septic systems. Teri doesn't see any problems with on-sites for these properties.

Building envelopes are shown on Tracts A and B. Contour information and a aerial photo of the wooded vegetation are attached.

**STAFF RECOMMENDATION**

Recommend approval of the splits provided the lot area is added to the remnant tracts and adequate access is provided for the remnant on Lot 16 as presented. Prior to recording the split with the county an approval sticker from the city is required. The proposed lots meet the minimum lot size requirement of 40,000 square feet (less than 1 acre) and all other subdivision requirements.

Teri mentioned the certificate of survey has been revised to show lot areas on the remnant parcels of Lots 15 and 16 along with an easement for Lot16.

Dave Hochmayr came before the commission and said he moved here in 1970's. He initially purchased Lot 14 since then he has acquired all of the property surrounding his home. Some of the property he has acquired has homes and now he is looking at selling some of the property but still trying to maintain his privacy.

**MOTION BY DAVE BALDWIN TO APPROVE THE LOT SPLIT DATED 10-11-13 AS IT MEETS THE ORDINANCE REQUIREMENTS. MARK NELSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

**OLD BUSINESS-none**

**REPORTS**

City Engineer – Mark Hallan

Chairman – John Ingleman

Council Liaison – Susan Amacher

Zoning Administrator – Teri Hastings stated there will be a November meeting and the date is November 4th due to the Veterans Day Holiday.

**PUBLIC FORUM** – Tom Diemert asked about the construction taking place near his home and how the property is zoned. Teri Hastings stated the property is zoned RR/Agriculture and the person is building a large storage building attached to his home. The property owner operates a landscaping business. Teri mentioned there is also a large storage building being constructed nearby for boat storage which is an allowable use in the RR/Agriculture district.

Dave Baldwin stated he is concerned about wind generators and would like to see the ordinance address the issue. This item will be placed on the November agenda.

**MOTION BY DAVE BALDWIN TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF OCTOBER 14, 2013 @ 10:22 AM. MARK NELSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.**

Transcribed by Teri Hastings  
Lake Shore Planning and Zoning Administrator