

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
CITY HALL
AGENDA
JUNE 8, 2015
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the Commission present: John Ingleman, Roger Smeby, Kevin Egan, Tom Diemert and Alternate Glen Gustafson; Council Liaison Earl North; City Engineer Mark Hallan; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Alternate Wayne Anderson was available in the audience. Alternate Pat Hastings was absent. There were 23 people in the audience. A quorum was present and the Commission was competent to conduct business.

Approval of the May 11, 2015 Regular Meeting Minutes – MOTION BY KEVIN EGAN TO APPROVE THE MINUTES FOR MAY 11, 2015 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING

Variance – Todd Pries requested a variance for the purpose of constructing a 638 square foot addition onto the south side of the dwelling, constructing a second story addition over the existing dwelling and constructing a 656 square foot attached garage onto the rear of the existing dwelling. The addition will be 65' from Lake Margaret at the closest point and the garage addition will be 7.5' from the north property line. The property is legally described as Lot 15 and Part of Lot 16, Block 16, Tingdale Brothers Sherwood Forest (site address is 8569 Nottingham Road) and is zoned medium density residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written or verbal comments regarding this application.

Todd Pries, homeowner and Brett Jans, Timberwood Construction came before the Commission to explain the application.

Kevin Egan asked if the septic will remain. Todd Pries had a septic compliance inspection within the last month. Teri read a segment of Martin Joyce's sewer compliance inspection into the record which is part of the property file. What will happen with the old cabin? Todd said it is for sale or free; however, it will be removed. Will the large tree be a problem? They will protect the tree.

John Ingleman asked if Todd will put any additional screening. He reviewed his water runoff and landscape plan with the Commission. He will supply a copy for the property file.

Glen Gustafson asked if any neighbor's had a response. Debra Grell (in the audience) from two doors down doesn't have any objections.

Roger Smeby asked how much ground will be disturbed when they remove the old cabin. Nothing, the cabin is set on blocks. The well pump house will stay; Todd said it's the only history of the old resort.

Mark Hallan asked about the well. They are putting a new well in. Mark said that truck access will have to remain for the new well location.

Teri's staff report indicated the following: The applicant is requesting a variance to construct an addition onto the existing dwelling and to construct an attached garage to the rear of the dwelling. The proposed addition will be flush with the existing dwelling on the lakeside. The existing home is at a setback of 66' from Lake Margaret. The proposed addition will be 65' from Lake Margaret. The proposed attached garage will be 7.5 feet from the north lot line. The corner of the existing dwelling is 5.4 feet from the north lot line. The addition will be a walkout on the lakeside. The applicant will be utilizing the existing foundation but a new main floor structure will be rebuilt and will include a loft area. The proposed addition will be single story with walkout basement.

The applicant came before the commission at the May meeting for a site plan review. The Commission felt the addition could be offset from the main structure to meet the 75' setback requirement. The applicant acknowledges the addition could be moved back to meet the 75' setback but it does create difficulty in creating a floor plan that works with adequate room size and within the existing dimensions of the dwelling. A second area of concern noted by the applicant is that the further the proposed improvements are pushed back, the closer it is to the septic tank and lift. The SSTS inspector noted that the tanks are pretty deep (6'-7') and it would be best if to avoid moving them (tanks). Previously, the zoning ordinance allowed additions going no closer to the lake than principal structure as a conditional use. This recognized the many nonconforming structures that were built prior to the 75 setback requirement.

The applicant has submitted floor plans and elevations of the proposed addition. In addition, the applicant has provided a copy of the proposed floor plan with an outline marked in green with how moving the addition back would impact the floor plan.

The current impervious surface for the property is 20.9%. and with the proposed changes and improvements the impervious surface will increase by .6 to 21.5%. Previously, the applicant indicated the changes he had done with the driveway to prevent erosion and runoff into the lake. The applicant will be providing a plan that details how the stormwater will be handled. The plan submitted does show two areas for proposed rain gardens.

The applicant should be asked how the old cabin will be removed from the property. There are several large trees that should be saved; it may be that the cabin can't be moved in one piece or it could be demolished on site. The applicant will want to

The proposed addition and new roof line will not exceed the 25' (to midpeak) height requirement.

The applicant should be asked what his plans are for additional screening; will trees be planted and how many.

The septic system serving the property was recently inspected by Martin Joyce for compliance with the proposed improvements and is on file. A new deep well will be drilled and the proposed location is in front of the cabin that is to be removed. The proposed location will meet the 50' setback from the neighboring septic tank and the applicant's septic tanks. It should be noted there is a system serving the old cabin that will need to be pumped and filled according to the MPCA rules.

STAFF RECOMMENDATION

Recommend approval of the variance as the applicant has demonstrated practical difficulties for not meeting the 75 setback requirement. The proposed addition will not alter the essential

character of the area but will be very similar if it were at 75 feet from the lake. The proposed garage location and configuration of the home will mostly likely provide more privacy for the neighbor to the north as the entrance of the home will move away from the north side of the property and be relocated on the south side of the home where there is more area. The following conditions should be considered if approval of the variance is granted:

- The old cabin be removed from the property within 6 months of issuance of the zoning permit.
- The septic system serving the old cabin be pumped and filled in accordance with the MPCA.

MOTION BY KEVIN EGAN TO GRANT THE VARIANCE REQUESTED (AT 8569 NOTTINGHAM ROAD). BECAUSE OF THE PRACTICAL DIFFICULTIES DISCUSSED HERE. WITH THE CONDITION TO FOLLOW THE STORMWATER PLAN PROVIDED AND WITH THE CONDITION TO REMOVE THE OLD CABIN WITHIN SIX MONTHS. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

After the Fact Conditional Use Permit – David Wilt requested an after the fact conditional use permit for the movement of more than 10 cubic yards of dirt within the defined bluff area. The property is legally described as Lot 29, Gullwood (site address is 8226 Gullwood) and is zoned medium density residential (R-2).

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There was one written letter of support from Lyn Ewing regarding this application.

David Wilt came before the Commission to explain his application. He said from the last meeting he heard the Commission wanted more screening. He said that with the leaf out conditions, it has been hidden more. He asked for guidance as to what is needed. Teri said that it is very visible in the winter. She suggested using strategically placed conifers along the path. Kevin Egan said to work with Teri for size and location of tree placement.

Kevin Egan said that the Commission may impose a fine for the After the Fact CUP; something this Commission doesn't do very often. David said he asked Teri prior to his project and she said there was no permit needed. Teri had told David there was no permit required to construct steps to the lake that were four foot in width.

John Ingleman said that there should be no more trees taken out.

Rob Johnson (8228 Gullwood Road) said he was here when the initial property violation took place (when the homes were built). He said that common sense prevailed and they fined the owner and didn't make them move the homes. He said that David has made great improvements to the property. Kevin Egan said the record should state that the fine imposed for the first violation was \$120,000.00 (combined with the neighboring property).

Teri's staff report indicated the following: The applicant is requesting an after the fact conditional use permit for the construction of a pathway to the lake which involves moving more than 10 cubic yards of earth within the bluff impact zone. The pathway to the lake is concrete with rock adjacent to the pathway.

The property owner appeared before the Planning Commission in May and the work was discussed. It was the consensus of the commission that it would do more damage to the environment to remove the pathway and the earth that was used to construct the pathway. The

pathway is 4' in width with the concrete however; the adjacent rock does extend the width of the pathway.

The property owner has submitted a drawing showing areas where he proposes to plant trees on the property to provide screening. The type and size of tree to be planted is not indicated.

Last month when the Planning Commission toured the property there was no evidence of erosion taking place along the pathway to the lake. In addition, the owner has submitted photos taken after a 3" weekend rainfall with no evidence of erosion.

STAFF RECOMMENDATION

Recommend approval of the after the fact conditional use permit with the rationale that the removal of the earth moved into the site would do more harm to the environment at this point in time. The following conditions should be made:

- The bluff should be left natural with no weed whipping, mowing or brush removal.
- Only dead, dying, diseased or trees posing a hazard may be removed from the lakeside of the property with evidence of such provided to the Lake Shore Planning & Zoning Office. Replacement of such trees must be done with a native species which is maintained until maturity.
- Trees should be planted (species, size, location and number) to be planted as agreed upon.
- A penalty should be assessed as determined by the Commission.

MOTION BY KEVIN EGAN TO GRANT THE AFTER THE FACT CONDITIONAL USE PERMIT REQUESTED AT 8226 GULLWOOD ROAD. WITH THE CONDITION THAT THE BLUFF SHOULD BE LEFT NATURAL WITH NO WEED WHIPPING, MOWING OR BRUSH REMOVAL. ONLY DEAD, DYING, DISEASED OR TREES POSING A HAZARD MAY BE REMOVED FROM THE LAKESIDE OF THE PROPERTY WITH EVIDENCE OF SUCH PROVIDED TO THE LAKE SHORE PLANNING & ZONING OFFICE. REPLACEMENT OF SUCH TREES MUST BE DONE WITH A NATIVE SPECIES WHICH IS MAINTAINED UNTIL MATURITY. TREES SHOULD BE PLANTED (SPECIES, SIZE, LOCATION AND NUMBER) TO BE PLANTED AS AGREED UPON. TOM DIEMERT SECONDED THE MOTION.

DISCUSSION FOR POSSIBLE FINE: DAVID SAID HE LOOKED AT CASS COUNTY WEBSITE FOR INFORMATION. HE NEEDED TO FOLLOW LAKE SHORE'S ZONING PLAN (NOT CASS COUNTY'S). AN OBLIGATION OF MAINTENANCE WILL HAVE TO BE RECORDED AND REMAIN WITH THE PROPERTY. EARL SUGGESTED ACTING ON TWO ISSUES SEPARATELY. JOHN INGLEMAN SUGGESTED \$1,500. KEVIN AMENDED THE MOTION TO INCLUDE A \$1,500 FINE. GLEN GUSTAFSON SECONDED THE AMENDMENT. MOTION PASSED UNANIMOUSLY.

Preliminary CIC Plat/Conditional Use Permit/Variance – Rebound Lodge LLC (dba-Lost Lost Lake Lodge) has made application for a Preliminary Common Interest Community Plat, Conditional Use Permit and Variance for the property known as Lost Lake Lodge. The request involves demolishing cabins 1-4; renovating existing units 12, 14, 17, and 16. Converting units 5&6, 7&8, and 9&10 as single units; and constructing 12 new twin homes. In addition a variance is sought for the encroachment of the decks and porches on units 4, 5, 6, 7 and 8. The decks and the porches are proposed to be located within 30' bluff setback. A variance is also sought for

Units 1 and 14 for a second story. The property is described as Government Lots 5 and 6 Section 9, Township 135, Range 29 (7965 Lost Lake Road) and is zoned Waterfront Commercial (WC).

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There was one 8-1/2 page comment regarding this application from Timothy Q. Moore (7837 Lost Lake Trail) read into the record. This comment was copied for the Commission.

Cindy Hidde, StoneMark Land Surveying Inc.; Tom Steffens, Lakeshore Properties, LLC and Brett Reese with Rebound Lodge LLC. Tom Steffens said that Tim Moore's comments were delivered today and they haven't had time to address them.

Chairman John Ingleman called for comments from the audience –

Bill King with Lakeshore Properties asked if cabin 14 is on the point. It is and without a variance given there cannot be a full kitchen. He said that they would have to take up one full bedroom to create a kitchen. He has seen the plan to make/keep it a two bedroom unit and it will look nice from the lake side. He was hired for marketing of the resort and feels that people want a full kitchen unit.

Brett Reese said that Rebound Lodge has been the owner of the property for five years now and what they are trying to do is continue Lost Lake Lodge; over the years other resorts have changed/updated and they would like to update too. He thinks it will be good for the economy and community and wants to come up with a model that will work for everyone. He said they are here to receive comments and feedback to complete the project. Bill King said the demand for managed properties is in high demand. He commented that where he previously worked he had 14 units presold without any units even being built; the project didn't ever get built.

Donn Beaubien (7765 Lost Lake Trail) is concerned about the dirt trail (driveway) as she walks the area; she is also concerned with added people and if the driveway will be paved. What is being done with the added density? Jodi Young asked where Donn is talking about. Donn walks the property early in the morning and is real concerned about the driveway being dirt; especially when there are more people added. Teri said that the road going into Lost Lake Lodge is an easement road owned by the Moore's. Tom Steffens' addressed that stating that the easement is 66' and they have intentions of paving it after the construction traffic is done. The road would be constructed at 66' wide and this would also allow for extra parking. Tom also commented (to address one of Tim Moore's concerns) that they may secure off site storage for boat trailers.

Robert Eliason (7738 Lost Lake Road) is concerned about the visual impact from the lake side. He said that cabin 12 is in a low area and this will create quite a visual impact and this will change the character of the neighborhood.

Roger Beaubien (7765 Lost Lake Trail) is wondering what the density will be and what it is currently at. There will be a total of 20 units. There are currently 14 units. He stated there has been expansion in the area from the marina, the boat rental, and Causeway which has added much more use and he is concerned about the safety. Will this be addressed in the plan? Teri said it has been discussed and along Lost Lake Road there are a number of undeveloped lots that may also be sold for development; the Commission will take safety into consideration. He said he is speaking from Lost Lake Lodge driveway to county 77 which is the curviest part of the road. John Ingleman said he's hearing it's a safety issue now. Donn added this is a prime time to create a collaborative agreement with the businesses involved along Lost Lake Road.

Bill King asked if the plan meets the density issue right now. Teri said there is a discrepancy in the calculations that were done during the winter months and the wetlands and bluffs weren't taken into effect. Bill King asked if speed bumps could be considered. Mark Hallan said they could be used, but they would have to be the removable type which would have to be maintained.

Tom Diemert gave an example of where he lives and the traffic has increased by 10X since he purchased his property 20 years ago.

Bill King asked how many acres of area are there. Teri said there is 9 acres. John Ingleman asked if that is buildable acres. Bill King asked if the driveway is considered in the impervious surface calculations. Teri said the driveway doesn't come into the calculations as it isn't their property.

Robert Eliason wanted to say he is in support of Tim Moore's letter of concern.

Chuck Nielson (7761 Lost Lake Road) said he is concerned about the curves in the road too. He commented that it is a blind entrance/exit to Lost Lake Lodge.

Dick Lee (7711 Lost Lake Trail) asked if 20 units should be allowed on 9 acres. He said it is already a highly used road because of the businesses already there.

Shawn Hansen (7797 Interlachen Road) and Nisswa Chamber Executive said that the road issues do need to be addressed. She said to proceed with caution as they become a managed property. She said it could have an economic impact as they move forward and from a tourism aspect this is benefit to the area.

MaryAnn Eliason (7738 Lost Lake Road) stressed that all the questions and concerns that Tim Moore has written should get addressed before a CUP is granted.

Brett Reese said that from Rebound Lodge they want to do the right thing and as they move forward they want to preserve, restore, maintain and enhance the Lost Lake Lodge property working with partners in the community.

Tom Diemert said that changing cabin 12 and adding a story which is only 25' from the lake he can't support that. He said that it's not remaining in the footprint. Teri said what he probably means is that it is intensifying the nonconformity by adding the 2nd story.

Kevin said this is a lengthy process and many concerns need to be addressed.

Mark Hallan said the existing conditions map and the impervious surface calculations need to be addressed. Teri that the winter conditions didn't allow everything to be calculated in the first site plan; said that there are pathways that have become impervious surface just because of years of use. She said the significant trees need to be identified. Mark said there are wetlands flagged areas that are not shown on the preliminary plan.. Cindy Hidde said they hired Ben Meister of Meister Environmental and he couldn't finish due to the winter conditions; he went out in April for the initial wetland delineation. Mark asked if any staff has been there from the engineering firm (Stonemark) because there seems to be discrepancies with the notes and conditions on the site plan. Mark said that there are many details that need to be addressed/further defined on the Preliminary Plat.

Donn Beaubien said that Mark's concerns are their concerns and they need to be addressed.

Jodi Young, Rebound Lodge said they want everyone to know they are here in concept and they want to meet the needs of the community and the guests to the area.

Earl North Lake Shore Councilmember said that this is the third time they have discussed this preliminary plan. He said the project is large and complex and he said they need to get the plan in order before it comes before the Commission. In submitting incomplete plans it is confusing and confounding the process.

Chuck Nielson thanked the Lake Shore Planning Commission for the work they do.

Roger Beaubien asked if they can be notified of further action. State statute requires notification of adjacent property owners within 300 feet of the property involved and Lake Shore notifies within 500 feet. She requested addresses of those that don't fall within that area.

Tom Steffens' said they haven't received any commentary from the City Engineer or been able to address Tim Moore's concerns. He did have a concern with Tim's concern number 1 in that the personal use by family or guest of the owner of rental unit shall not exceed 42 days between May 1st and Nov 1st of each year. He agrees with what Crow Wing County allows which is 51% of the year of season. Bill King said that using 42 days or less is very hard to market. Teri asked what clients typically want. Bill King said somewhere between 42 days and 6 months. John Ingleman said that he has trouble with six months as it sounds like they could live here six months and somewhere else for the other six.

Teri clarified that preliminary approval usually has the grading plan, sewer system, placement of structures, etc. and that is considered the Preliminary Plat and this is not a complete plan. When the Preliminary Plat is approved these issues have been addressed.

Teri's staff report indicated the following:

1. The applicant has submitted a preliminary plat (conditional use permit request) and a variance request for Lost Lake Lodge. The application involves expanding the resort to 20 units which would be platted along with the restaurant/lodge. The other buildings (arcade, bath house, garage and employee housing) would be considered common elements. The applicant plans to remove four cabins on the Gull side that are located on the east side of the walking path. According to the Existing Conditions Survey Cabins labeled as 5&6, cabin 7&8 and 9&10 will be remodeled and become 1 unit each. The Ponderosa Cabin and Cabin 14 will be remodeled and a second story added which will require a variance. Six new buildings for a total of 12 units are proposed to be constructed. A variance is being requested for the decks and porches on units 4-8. The decks and porches will encroach into the 30' setback requirement from the top of the defined bluff. A question for the applicant is how will the proposed improvements be done? Will it be done in phases? A construction schedule should be submitted.
2. The property is zoned Waterfront Commercial. The lot size for the Waterfront Commercial District is 2.5 Acres for General Development and 10 acres for Natural Environment. This property does have land adjacent to a general development lake and natural environment lake (Lost Lake). According to the records of Cass County this parcel as 9.9 acres of land. The property is an established resort and is licensed by the Minnesota Department of Health.
3. The proposed twin units will be 75 from Gull Lake and located in tier 1. A bluff determination has been completed since the applicant last appeared before the Commission. There are two areas that are considered bluffs.

4. In order for the resort to expand, it must meet the criteria for Existing Resorts under Section 40.6 of the City Code.
- Expansions are permitted provided they meet the allowable density calculated in 40.2.3. According to the calculations provided by the applicant there appears to be adequate density for expansion however, there is a discrepancy from the applicant's submission in January regarding the suitable area in Tier 1 on the Gull Lake side. The January submission (which did not show the bluff) had an area of 206,508 square feet. The current submission has an area of 209,988 plus there are two areas with bluffs. The area of Tier 1 should be verified. Otherwise, based on the numbers provided the density appears to be within ordinance guidelines.
 - Expansions must be designed so there are no garages or storage structures associated with the dwelling units that would encourage long-term residential use. There were no such structures included with the application.
 - On-site water supply and sewage treatment systems shall be designed and installed to meet MDH and MPCA standards. There is an existing on-site system that serves the property. It is estimated that the amount wastewater generated will exceed 2500 gallons per day. An advanced designer and inspector will be needed for the septic system. Greg Halling Engineering has put together a plan that will need to be reviewed by the city engineer.
 - Impervious surface coverage shall not exceed 25% for the entire project area. The entire project is at 21.4% and tier 1 (Gull Lake side) is at 24.4%. The maximum amount of impervious surface in Tier 1 is 25%.
 - For expansions with less than 20 units and more than 15% impervious coverage in the first tier, a stormwater plan shall be provided. Greg Halling has provided an Erosion Control, Grading and Drainage Plan. These plans will be reviewed by the city engineer for adequacy and compliance. It appears more than 10,000 square feet of area will be disturbed so the applicant will need to meet the MPCA General Stormwater Permit for Construction Activity requirements.
 - The ordinance requires that at least 50 % of its shoreline be left in its natural state. If less, than no more vegetation removal of the shoreline can be done. From my estimation, at least 50 % of the shoreline is in its natural state due to large amount of wetlands. A condition on approval should address this requirement.
 - 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.

5. The following should be met for the conditional use to be approved: the use must be appropriate for the zoning district (waterfront 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 improvements will be utilized as resort which is allowed under the waterfront commercial zoning. The property to the south is a similar use (timeshare). The proposed use should not be injurious to the public health, safety, welfare, decency, order and comfort of the community.*
6. The proposed use would be consistent with the Comprehensive plan as this building would promote businesses and promote the attractiveness of Lake Shore. The Comprehensive Plan encourages recreational commerce and supports year round businesses to ensure Lake Shore is a year round destination for visitors.
7. In addition the Planning Commission should consider the following:
 - The Conditional use should not be injurious to the use and enjoyment 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 feasibility of city sewer was reviewed briefly and it is most likely not cost effective at this time.*
 - 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. *No changes are shown on the plans for vehicle approaches. The additional units will add minimal traffic.*
 - Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use. *The applicant has provided an updated parking plan. The plan appears to meet the ordinance requirements for the resort and restaurant. However, the plan does not indicate any handicapped parking. below.*
 - 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. *It should be noted that areas surrounding the resort do have Indian Burial Mounds, these have been identified and are marked.*
 - The Conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients provided an adequate erosion control plan and stormwater plan is submitted. *The proposed site does have a steep slope to Gull Lake and the rear which drains towards Lost Lake drops off quickly as well.*

8. The Waterfront Commercial standards require 1.5 parking spaces per dwelling unit. In addition, the applicant will need to meet ADA (American with Disabilities Act) standards and provide handicapped parking. Again, the parking plan submitted does not indicate which are handicapped accessible (They also require different dimensions than a typical parking stall). The parking plan should be amended to reflect handicapped parking. The applicant should address the parking that is located outside of the property (Moore property). Will this area continue to be used for overflow parking? In addition, where will trailers be parked for resort guests that bring a boat and trailer?
9. The applicant has submitted a landscape plan for the site. The landscape plan is more of a cosmetic landscape plan which addresses landscaping around the units. I would like to see a plan that provides some screening of the new units from the lake. The new units will have a dramatic impact from the lake.
10. Trash handling equipment: The applicant should address how he will handle trash equipment for the facility; this may not change much from the current procedure.
11. Mechanical Equipment: Mechanical equipment should be similar to a residential home.
12. Exterior Lighting: The applicant should be prepared to discuss lighting for the exterior of the buildings or if any additional lighting is planned within the resort.
13. Signage: The applicant has not submitted a plan for new signage and this should be verified.
14. Architectural Appearance: The applicant has provided elevation drawings of the buildings. The proposed twin units will have more bulk since it will be larger and a story and half.
15. Outdoor Storage: The applicant should address if any additional outdoor storage is planned. Again, the issue of boat trailer storage should be addressed.
16. Access. The applicant is not proposing any changes to access to the resort so there should be minimal change for the neighborhood.
17. The property is a commercial property therefore, the applicants will need to comply with ADA requirements and other state requirements. Proof of compliance is at the applicants expense for any professional reviews incurred by the city.
18. Docks. How will the docks be handled? 40 dock slips are shown on the site plan. Typically, a dock space is allowed for each unit within the first tier. There are two units within the second tier. In this case, the property also has a restaurant which serves customers coming by boat. A copy of the plan has been submitted to the DNR for their comments.
19. Open Space Protection: Before final approval is granted, adequate provisions must be developed for preservation of open space and the continuance of resorts. The City Attorney is reviewing the association documents. One recommendation would be to require the Declaration be amended to include in a provision requiring the city to approve any changes to the Declaration (inserted into Article 15).

20. In addition, the city attorney is working on a document that would need to be recorded that if the resort ceases to be licensed as a resort; it may need to move or remove units that do not comply as a residential development (planned unit development).

VARIANCE:

1. The applicant is also requesting a variance to add a second story to the cabin on the point (cottage #14 on the preliminary plat) and to the Ponderosa (cottage #1 on the preliminary plat). These units are nonconforming; cottage 14 does not meet the lake setback and cottage 1 is within the bluff. In addition, the decks and porches on the twin units (units 4-8) will require a variance from the top of bluff setback.
2. Elevation drawings have been provided for the second stories. The cottages will meet the height requirement. Cottage 14 is only 26 feet from the lake. The cottage is quite small (14x40) and can a second story be added to the structure or does additional work need to be done to the cabin before adding a second story. The second story would create a more usable cabin for resort guests. If the Commission allows the second story the commission should consider mitigation efforts, such as some screening, removal of bituminous area within the shore impact zone.
3. The Ponderosa cabin or Cottage 1, does meet the 75 setback requirement. The concern with the second story on this structure is the impact on the bluff during construction. How will the impact be minimized? What erosion control measures will be used? What additional screening is planned?
4. The decks and porches for units 4-8 are proposed to encroach into the bluff setback. The encroachment varies from 10 feet to 2 feet. The decks and porches will not have full foundations but will be utilizing a more noninvasive footing. The porches and decks will be a minimum of twenty feet from the top of the bluff. There is an existing bituminous path that follows the top of bluff.
5. If the twin units would be moved further to the east, the ground starts to fall away so the placement of the building is in the most logical area. The proposed decks and porches are not excessive in size.

STAFF RECOMMENDATION:

Recommend approval of the Preliminary Plat/ Conditional use permit provided the following are adequately addressed:

- Revised landscaping and screening plan showing adequate screening of the twin units, cottage 14 and cottage 13).
- Revised parking plan to be submitted showing handicapped parking and meeting ADA requirements.
- The proposed building should be constructed out of the materials proposed.
- Satisfactory erosion control and stormwater plan to be submitted and approved by the city engineer. Evidence of the MPCA stormwater permit.
- Satisfactory plan related to septic system. The city will need to hire an inspector for the system which will need to be reimbursed by the applicant.

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 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 proposed improvement will enhance the existing resort.

Conditions:

- Limit the number of dock slips.
- The bluff areas shall not be mowed and should remain natural.
- At least 50% of the shoreline shall remain in its natural state.
- The resort must maintain licensure from the Department of Health as a resort.

Rational for the Variance:

Recommend approval of the variances requested as the proposed improvements can be mitigated. The decks and porches will not have an adverse impact to the bluff due to the type of construction. The topography of the property does not lend itself to moving the units in order to meet the bluff setback.

REVISED RECOMMENDATION: LOST LAKE LODGE

1. After the walk through of the Lost Lake property on Thursday; it became apparent there were several areas of the plan that need to be addressed and or readdressed. Mr. Steffens will be supplying additional information but there is not going to be sufficient time to review the new information prior to the meeting on Monday since I am out of the office on Friday. The applications (variance/cup/preliminary plat) should be tabled or denied so there is time to address the issues listed below and to review the new information submitted.

Areas of Concern:

- Dock Plan. The current configuration of the plan is not feasible and it appears the plan is evolving based on the comments on site from Mr. Steffen. The city needs a plan that will not be changed so that we can act upon it.
- Trees of significance. There are many nice mature trees on site; it would be beneficial to have those noted on the survey. The new units and the amount of grading that will be needed will require many trees to be removed from the property. I think this information is important for the Planning Commission to know before approval is granted.

MOTION BY GLEN GUSTAFSON TO DENY THE PRELIMINARY PLAT/CONDITONIAL USE AND VARIANCE APPLICATION OF REBOUND LODGE AND ALLOW THEM TO COME BACK BEFORE THE COMMISSION WITH NO ADDITIONAL FEES. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS –

Lot Split – Lou Geistfeld – Teri’s staff report indicated the following: The applicant is applying for a lot split. The applicant owns the Southwest Quarter of the Northwest Quarter of Section 6, Twp. 135, Range 29 which is approximately 37 acres. The property is zoned Agricultural which has a minimum lot size of 10 acres and 2.5 acres (108,900 square feet) of buildable area. Buildable area excludes bluffs and wetlands. Tract A has a buildable area of 225,082 square feet and Tract B has a buildable area of 254,992 square feet. Tract A and B have slightly less than 10 acres. Please see the note below regarding the issue.

The original intent of the government lot subdivision was to create 40-acre tracts. Not all of these original tracts can be exactly 40 acres, and the variance is usually within a few acres +/- . Further subdivision of those 40-acre tracts has been allowed down to 10 acre tracts (+/-) if they can be described as an aliquot part. An aliquot part is a surveying term describing a piece of land that can simply be described in successive subdivisions of some larger area. For example, the NW1/4 of the SW1/4 of Section ____, or the North 1/2 of Section ____. All parts resulting from the subdivision are, in basic form, equal. If the landowner wanted to subdivide the 40-acre tract by describing three 10-acre parcels and one 8-acre parcel, that is not considered an aliquot part,

and would not be allowed. The Counties have based approval of these subdivisions, even if the resulting parcel area is less than their Ordinance may strictly require, upon the original intent of subdividing a 40-acre tract into four 'equal' 10-acre tracts.

The applicant has submitted a survey by a licensed surveyor. Legal descriptions have been prepared for the property (Tract A and Tract B).

The proposed Tracts, meet the minimum width for the zoning district of 300'. Both tracts have access onto a public right of way; however, the roadway is not city maintained.

The property does contain wetlands. The wetland area does encompass parts of Tract A and Tract B along with the north half of the forty. The wetland area has been delineated by Ben Meister, a certified wetland delineator. The property owner does have future plans to subdivide the north half of the forty and has met with the staff from Cass County regarding the matter and the wetlands. Attached is an email thread regarding the matter between Kelly Condiff, Cass County and Ben Meister, wetland delineator.

1. Monuments have been placed marking the corners of the property as well as the division line for the two tracts.
2. Building envelopes are shown on each of the tracts along with the setback from the wetland area. The survey does not show a proposed home location on Tracts A and B; however there is adequate area for a home and accessory structure.
3. The survey does show topographic information which has been digitized from the Cass County GIS site.
4. The survey does not provide soils information. Given the numerous wetlands, a mound system may be needed. A mound system was recently constructed on the property 1/2 mile south due to the water table issue.

STAFF RECOMMENDATION

Recommend approval of the lot split with the condition that the wetlands in Tracts A & B be placed in a conservation easement. The proposed split meets the intent of the zoning and subdivision ordinance.

MOTION BY GLEN GUSTAFSON TO APPROVE THE LOT SPLIT REQUESTED BY LOU GEISTFELD WITH THE CONDITION THAT THE WETLANDS IN TRACTS A & B BE PLACED IN A CONSERVATION EASEMENT. THE PROPOSED SPLIT MEETS THE INTENT OF THE ZONING AND SUBDIVISION ORDINANCE. TOM DIEMERT SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Mark Hallan had no further comments.

Chairman – John Ingleman has nothing to report.

Council Liaison – Earl North said that it would be helpful if the city engineer supplied a report before the meeting date. Mark said he could that. Earl also had a note of caution that stemmed from the incidents acted on last month; the Commission dealt with two similar issues and the end

result wasn't the same. John Ingleman asked what was inequitable. Earl said that the Commission asked one to come back for an after the fact CUP and not the other.

Zoning Administrator – Teri Hastings said that the new zoning map is complete.

PUBLIC FORUM – There was no public forum.

MOTION BY ROGER SMEBY TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF JUNE 8, 2015 @ 11:08 AM. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk