The Lake County Planning Commission sat in session at 6:00 p.m. on this date and conducted hearings & other business.

Members Present: Chair Joe Skala, Mike Hoops, Mabel Tarlton, James Weinzierl, Jim Linscheid Commission Rich Sve, John Bathke, Simbre Fosness

Members Absent:

Zoning Staff Present: Christine McCarthy (Environmental Services Director), Jill Paron (Environmental Services Specialist).

Joe Skala called the meeting to order at 6:00 P.M.

The first hearing, P-18-001, was a preliminary plat application filed by Superior Views LLC/Jeff Lindgren which if approved, would allow 7 lots, named Vista Ridge, on property described as: NW ¼ of SW ¼ and SW ¼ of SE ¼ in Section 27, Township 53, Range 11, 80-acres, zoned R-1/Residential, 10-acre minimum, Unorganized Territory 2.

Skala introduced the application. Christine McCarthy summarized the staff report. The correspondence included comment from the Highway Department, Soil and Water Conservation District concerning development plans and erosion control, and 4 items opposed to the plat.

McCarthy expressed her concerns over the significant amount of area within the proposed plat that is of 12% or greater slope over a distance of 50 feet or more. She called attention to these areas on the preliminary plat map. She has reviewed the septic sites. McCarthy also called attention to lot 6. The roads do not exceed 13% slope.

Jeff Lindgren represented the application and gave a summary of his plan. He explained he first began this process in 2007. At that time, it was determined he could not put 8 lots on the 80 acres, so he created an outlot and 7 lots. He also stated he is not a builder, he is only selling the lots. In August 2017, he stated he met with McCarthy about resubmitting his plat proposal. He was told he needed additional septic work and a wetland delineation as those requirements had changed since 2007. He chose a cluster plat to keep development away from the river and wetland and to make use of the views from the top of Ski Hill. The 12% slopes were included in the lots because he wasn’t aware of Lake County’s definition of a steep slope. He also stated it was never mentioned during his sketch plan review that steep slopes couldn’t be included in the lots. He is proceeding with the plan the way it is. At the meeting today [July 16] with McCarthy and County Administrator, Matt Huddleston, they discussed Lot 6 might not be a suitable home site. He included that lot because it does have the best views.

Skala asked if the wells had been tested. Lindgren replied no wells have been drilled. He has met with a local well driller who said he didn’t anticipate any problems.

Linscheid asked if any of the lots at the top of the hill would be breaking the ridgeline. Lindgren stated he didn’t think so, but Lot 6 may be close. Linscheid stated he was more concerned with view-shed than building complications.

Bathke asked if staff had any concerns over development close to the ridge or erosion concerns or building sites. McCarthy stated erosion controls would be addressed during building with a stormwater permit. Derrick Passe [Soil and Water Conservation District] made a comment that this should be addressed during construction. Bathke asked if there were setbacks from the bluff. McCarthy stated this doesn’t meet the definition of a bluff, it isn’t shoreland.

Hoops asked if he had considered clustering the wastewater system. Lindgren stated a cluster system wouldn’t be an option because of ledge rock not allowing piping to be installed.

Sve asked whether the road would allow for Approved as corrected 8/20/18
emergency access and if the road was up to required standards. Lindgren stated it is a gravel bed, 22 to 24 feet wide with an 80-foot diameter cul-de-sac. He would be willing to have testing done on the road. Sve stated he would like a guarantee that it is up to county standards or that it won't become the burden of the County. Lindgren stated they have proposed a private road. Lindgren stated he does not intend to request the County take over the road.

Sve also expressed concerns over lighting because of the height of the development. Lindgren said he is willing to work with the county on lighting standards.

Hoops also expressed concerns over the road and putting property in danger because emergency vehicles could not get up and out, especially in winter. Lindgren said they have had a fire truck up there in summer to fill a 1000-gallon water tank that they have at the top. He stated the steepest part of the hill is mostly 12% with 100-200 feet at 13%. Lindgren stated the road does not have any slopes exceeding 15%, which meets County standards.

Skala opened the meeting to public comment.

Kathleen Zeller expressed concerns over the number of wells and asked if blasting would be required. She stated concerns over traffic on Ski Hill due to seasonally soft conditions and the ability to keep the road cleared in the winter. Other concerns she had were lighting, use of properties as vacation rentals, animals, density of buildings, and suggested development of a community center.

McCarthy replied that blasting would require permitting. Also, the County Land Use Ordinance allows platting to develop smaller lots with reserved open space, it is an 80-acre parcel and only 7 lots are being allowed. Any rentals would require an Interim Use Permit, unless covenants do not allow rentals, keeping animals is addressed in the ordinance, and the septic sites for a community center has been requested. McCarthy also stated she is not aware of any situation where this number of wells resulted in aquifer depletion that restricted water access. They may not be able to fill a pool.

Skala asked if a community center or church was needed for 7 homes. Lindgren said he is not building anything, it is only an option he is presenting. Weinzierl asked if he was selling spec homes. Lindgren said he is not, but there would be restrictive covenants. Fosness asked if there would be a homeowner’s association. Lindgren stated that there would be; the paperwork would be prepared by an attorney.

Skala stated need to restrict roofs that reflect, and homes that blend into the area. Bathke expressed similar concerns. Lindgren explained there are metal and shingle roofs that still protect in the event of a wildfire and don’t reflect.

Fosness expressed concerns about allowing rentals, especially if some in the homeowners’ association are in favor and others are opposed. She would like to see that taken into consideration.

Adjacent property owner Bill Johnson stated this area is zoned to 10-acres; he asked the purpose of this zone. Skala replied it is to keep the lots at a larger size. Johnson stated this request is for 7 homes in 52 acres. Skala corrected him that it is 7 homes on 80 acres. Johnson stated the lots are less than ten acres and the open space is a 40 [acre parcel] away. He stated if he wants to subdivide his 40 acres, he has to do it in ten acre parcels. Skala stated he could subdivide in the same way as this proposal. Skala explained that open space cannot be sold off or developed. Johnson expressed his concern that the 7 lots were concentrated on 52 acres. Johnson expressed concern over lot 6, which is adjacent to his property. He stated the narrowest part of the lot is less than 100 feet and questioned what the setback requirements would be. He asked if there would be a marker. Skala responded the land has been surveyed. Johnson questioned where the surveyed was started from, what marker was used. Lindgren replied that there are pins at all 4 corners and the boundaries have been flagged. The survey was done by a licensed surveyor. Johnson also expressed concern over the slope during construction and having materials pushed down the hill onto his lot. McCarthy stated the stormwater permit would address this concern. He also expressed concern over past fireworks being set off at the top of the hill.

Mary Johnson expressed concern over the road in winter. She said she has been on it in winter when it is icy. She didn’t know how emergency vehicles would be able to get up.
Sve stated that wildfire is a real risk in Lake County and the potential cannot be dismissed.

Lindgren stated it is a challenge to keep the road clear in winter. They have been able to plow and sand any time they have needed to get in.

Sve also addressed a question he had heard over the location of the meeting, and why it was held in Silver Bay. He explained the meetings alternate every month between Two Harbors and Silver Bay, this was the month for the meeting to be in Silver Bay.

Property owner, Jim Cardinal, expressed concerns, stating campers had started a fire up there years ago and fire equipment couldn’t get to it.

BJ Kohlstedt, Lake County Emergency Management Director expressed her concerns as it relates to providing emergency services. She stated wildfire is the greatest threat in Lake County. She stated that she had met with Environmental Services and appeared before the Planning Commission a year ago to address roads in the subdivision ordinance. She stated that just because it may be undesirable to connect the road on the hill with another road is not a good enough reason to not provide another evacuation route. She urged the Planning Commission to consider modifying the road plan. She explained they had discussed, in last year’s meeting, to change the maximum road grade for a forest road to 10% maximum instead of 15%, and they should consider trying to meet that standard since it could become the standard in the near future.

Bathke asked whether the 13% slope could be addressed. Lindgren stated the only way to do that would be to raise the lower end of the road because of ledge rock at the top. It would require a substantial amount of fill.

Sve asked if Kohlstedt’s recommending denial or a different type of road if 10% grade cannot be met. She explained a type 4 road is 10% maximum, currently Lake County roads only go to type 5. She stated the cul-de-sac meets the 40-foot radius requirement, but because it is a 4000-foot long road, not the 600-foot maximum for a cul-de-sac, she recommends another route for egress. She also stated there is a subdivision in the county that fire department vehicles cannot access.

Skala mentioned there are places in the county where cabins don’t have road access and people that buy these types of properties need to realize that emergency vehicles can’t get in.

Kohlstedt suggested the possibility of having a water storage tank at the top of the hill for emergencies.

Bathke asked about the recommendation to connect the road to 20th Avenue and how that plan would work. He wondered if it was a practical option considering there is private property in between and another steep slope.

Adjacent property owner Vern Willow expressed concerns over the road. He stated that the last ¼ mile of Ski Hill Road is an upgrade private road. He said it is soft, and there isn’t enough room for 2 cars to pass. His opinion that is if the development is allowed, the road needs to upgraded.

Ms. Zeller agreed with this, stating the road is only a car and a half wide. She is also concerned if the road is widened that the easement onto her property will be extended.

Adjacent property owner, Eric Beck asked who would pay for the upgrades to the road.

Sve explained that county road improvements are not assessed to individual owners, the whole county pays for roads; it would have to be added to the road plan.

Beck asked if the county will pave Ski Hill. He asked if people who pay $500,000 for a house will want to drive down a dirt road to get to it.

County Administrator Matt Huddleston stated that the likelihood of an unpaved county road being paved are very low at this time.

Zeller asked whether power utilities had been extended that far. Lindgren explained that the power company has already buried power lines to the top of the hill along the 66-foot road easement. The power company is aware of the plans to develop the land.

McCarthy explained the options for the Planning Commission were to approve the preliminary plat, approve with modifications, or disapprove; they have until August 30, 2018 to make a decision
based on the 90-day deadline from the date of application. She stated if they approve with conditions they could allow the Planning and Zoning office to approve changes that are in accordance with the conditions. She suggested some of the conditions might be regarding items discussed such as moving lot 6, changing the outlot, moving the storage unit location, and concerns with the road.

Lindgren stated the plan for pole barns was intended for the storage of snowmobiles, boats, and other recreational items.

Hoops stated he liked the idea of eliminating lot 6, it does not meet minimum width requirements and it would reduce the houses on the ridgeline.

Huddleston requested to add the condition that the County would not be asked to take over this road; it will never meet County road standards.

Bathke asked if the County Highway Engineer asked for a guarantee that this would not become a County road.

Hoops stated the language to use is "a private road irrevocably dedicated to the public, but not a public road."

Lindgren expressed concern over non-residents of the plat using the road. He also didn’t understand why he would dedicate it irrevocably to the public if the County doesn’t share in the costs of the road.

Huddleston explained the language stated by Hoops is allowed in ordinance should the County decide it is in the best interest of the County to take over the road. He stated that the County wouldn’t be concerned at this time if Lindgren wanted the road to be gated.

Zeller asked if children would have bussing provided. McCarthy answered children can be required to walk up to a mile to a bus stop.

Skala called for considerations for approval. He stated he would like the covenants to address roofs to be non-reflective and to include vacation rentals must follow the permitting process unless covenants disallow rentals.

Hoops asked what covenants are being proposed?

Lindgren stated a lawyer would write up the covenants. The covenants are submitted with the final plat. There is also a review of the plat map by a licensed peer surveyor. He said he plans to submit his final plat as soon as possible.

McCarthy stated he meets most of Great Lake Fire Fighting Compact, as addressed by Kohlstedt, except slopes. Lindgren should address road concerns in the GLFFC, move lot 6, identify 2 septic sites for a community center on Outlot B, set parameters for proposed modifications, and state “the road is irrevocably dedicated to the public, but not a public road.”

Sve stated lighting should be addressed and stormwater requirements must be met.

McCarthy stated a stormwater pollution prevention plan (SWPPP) is required through the Minnesota Pollution Control Agency.

Lindgren stated he is not familiar with SWPPP. He thought, after speaking with Derrick Passe at SWCD that he didn’t need one. He stated he isn’t developing the sites, he is selling lots.

McCarthy explained soil disturbance over an acre requires a SWPPP, and there is also concern with the slopes on the property.

Sve asked if it was possible, since Lindgren is not developing the lots, that he could sell a lot which then couldn’t be developed because it can’t meet the stormwater requirements?

McCarthy stated the purpose of the stormwater plan is to let the MPCA know this work is being done, in the event they want to do a site visit. If they don’t obtain the SWPPP, then they risk being fined if the MPCA discovers they don’t have a plan, or haven’t taken measures to address stormwater runoff, or receive a complaint.

Sve also states he wants to see ridgeline aesthetics addressed. Color of homes should be addressed in the covenants.

Fosness asked what the steps were for reapplying if the Planning Commission disapproves the application. McCarthy stated Lindgren would have to wait a year to reapply. Paron read from the ordinance that the Planning Commission must state the reasons for denial. Huddleston stated he
wasn’t sure if a denial of a preliminary plat required a year to reapply as other permit applications require. Huddleston also explained the importance of the preliminary plat. He stated once the required modifications are met, Lindgren has permission to move forward to final plat. There is some review after that, but the Planning Commission cannot change the requirements.

Motion by Sve, supported by Hoops to table the decision on the preliminary plat until the August 20, 2018 meeting. Motion passed by unanimous vote.

The second hearing, P-18-002 was a plat amendment filed by John Willard which if approved, would allow amending Lot 13 and Lot 14 of Block 2 of East Split Rock River Sites Addition One, named East Split Rock River Sites Addition Two, on property described as: Lot 13 block 2 and Lot 14 Block 2 of the East Split Rock River Sites Addition 1 SE/SW; Section 23, Township 55, Range 9, 88.64-acres, zoned FR/Forest-Recreation District, 10-acre minimum, Silver Creek Township.

Skala introduced the application. McCarthy summarized the staff report. There was no correspondence. She explained this is an amendment on an existing plat. The County does not have a formal plat amendment process. The amendment is not going through the entire preliminary plat process, but it must meet all the preliminary plat requirements.

John Willard represented the application. He explained the purpose of the amendment is to take an approximately 80-acre and 8-acre lot and giving 25 acres to the smaller lot. No new lots are being created, just balancing out the acreage between the two.

Sve asked what the conditions were on the original plat. McCarthy stated there were 5 conditions, referencing the staff report.

McCarthy explained this amendment proposal went through the variance process to only require wetland delineation east side of the river and not the entire area covered by these two lots. She stated to put in a road to access the west side of the river would be a significant project, and would require a wetland delineation. She stated the variance condition was no permits would be issued west of the river.

Sve asked about the forestry comment regarding shooting lanes that encroached into county land. McCarthy stated this was part of the variance hearing.

Willard explained this was not done by him or the other landowner and fines were issued for cutting timber on county land.

Linscheid clarified the variance requirement that no permits would be issued west of the river without a full wetland delineation.

Linscheid also asked if access was available from the backside of the property. Willard stated there is not. He explained the owners planned to use the lots for recreation. Linscheid stated the need to consider the need down the road.

McCarthy stated there is an existing easement for a road.

Motion by Bathke supported by Linscheid to recommend that the County Board approve the plat amendment application as submitted with the following findings and conditions from the original plat:

Findings:
- The overall density met the zoning requirements for the district.

Conditions:
1. No further subdivision except on Lot 13 which may be subdivided into 4 additional lots; for a total of no more than 18 lots and one common area on 211 acres of land.
2. Covenants must include the restriction: no clear cutting to the river.
3. Homeowner covenants must be approved by the County Attorney.
4. Extend road easement to South boundary abutting County land.
5. The Association is responsible for the common area maintenance.

Motion passed by unanimous vote. (PCR-18-025).

The third hearing, C-18-009, was a conditional use application filed by Jason and Kristin Hale which if approved, would allow 5-10 chickens (no roosters) and 2 ducks on property described as: 1.8 acres out of Govt. lot 1 as described in Book 60 of titles pg. 151 or Document Number T39296
in Section 20, Township 52, Range 11, 1.8 acres, zoned R-C/Resort Commercial, 2-acre minimum, Unorganized Territory #2.

Skala introduced the application. McCarthy summarized the staff report. There was one comment received with questions about the conditional use process, concerns over attracting other animals, smell, noise, and handling of waste.

Jason and Kristen Hale represented the application. Mr. Hale explained the reason they want chickens and ducks are for eggs, they are low maintenance, little noise, and for their children to enjoy. He stated waste will be composted and used for the garden. They will be kept in a 24 by 12-foot dog kennel with a covering to keep out rain.

The hearing was opened to comments from the audience. John Willard, applicant for the previous hearing, stated in the Twin Cities area many suburbs are changing rules to allow chickens and in the plats he develops people want to be allowed to have chickens even when livestock are prohibited. There was general discussion about the benefits of allowing chickens and the learning opportunity it provides for children.

Linscheid and Bathke cautioned about protecting the chickens from predators such as weasels and bobcats.

Sve stated the County Board is supportive of sustainable farming, and the Conditional Use process is to address concerns of neighbors.

McCarthy asked if they would be constructing a coop. Hale started the fenced area was adjacent to the garage and they planned to make an area inside the garage.

Motion by Fosness supported by Bathke to approve the conditional use application as submitted with the following findings:

Findings:
1. Safe access exists from highway 61 and onsite parking is in place.
2. The lot meets current stormwater standards.
3. The lot is wooded with natural vegetation and has gentle slopes.
4. No construction is proposed and no impacts should occur to wetlands from this activity.
5. The property has a septic system and well.
6. Residential livestock keeping is consistent with the Comprehensive Plan.

Motion passed by unanimous vote (PCR-18-026)

Motion by Weinzierl supported by Linscheid to approve the minutes as submitted from the June 18, 2018 meeting. Motion passed by unanimous vote.

The fourth hearing, I-18-016 was an (initial) interim use application filed by John Jay and Nancy Diley which if approved, would allow a vacation rental home on property described as: That part of lot 1 N & W of State Hwy 61 exc .01 acres as described in Book 115 of Deeds pg 386 or parcel 7 of MN DOT R/W Plat 38-30 on file in B43 of plats in the office of the Lake County Recorder—see Book 135 of Deeds pg 466 & that part of SW¼ of NE¼ as described in Book 53 of Titles pg 84. in Section 28, Township 55, Range 8, 21.94 acres, zoned R-4/Residential, two-acre minimum, Beaver Bay Township.

Skala introduced the application. McCarthy summarized the staff report. There was no correspondence.

John Jay and Nancy Diley represented the application. Mr. Diley explained they had thought they would be spending most of their time after retirement at their property on Highway 61. However, they don’t spend as much time here as they thought. They also don’t want it to sit vacant and unused. He stated they have stayed at places through VRBO, and thought it was a good option for their place.

Sve stated he will abstain from voting because he has worked for the Dileys. However, he will provide comment on the property because he is familiar with it. He stated a concern regarding rental in winter due to the steep driveway.

Diley stated they intend to rent May through October as their children use the house in winter. They would only rent in winter to people they know and have cars that can handle the driveway in winter. He also stated John’s Sanitary does snow removal for them.

Bathke asked if they were close to trails.
Diley stated they are close to a logging trail and has seen ATV’s, but snowmobiling would be a challenge. He doesn’t want ATV’s or snowmobiles off the driveway.

Mrs. Diley stated they have Ward and Colleen Wallin taking care of the property and housekeeping.

McCarthy stated the maximum occupancy would be 8 guests as they have a 4-bedroom septic system.

Mrs. Diley stated they intend to rent to 6 people maximum. Mr. Diley added there is a room in the basement, but because it does not have an egress window they will be keeping the basement locked.

Linscheid asked how far the Wallin’s are from the property. Mrs. Diley explained they drive by daily.

Motion by Bathke supported by Weinzierl to recommend the County Board approve the interim use application with the following findings and conditions:

Findings:

1. Safe access exists from Highway 61 and there is appropriate parking space available. The driveway is steep and gravel; it is the homeowner’s responsibility to caution guests regarding accessibility given weather conditions (high precipitation events or icy conditions).
2. The property meets impervious requirements.
3. The property is well vegetated.
4. There will be no impact to public waters from the proposed activity.
5. The septic passed a compliance inspection on 5/30/2018 for 4 bedrooms.
6. Vacation rental activity has not proven to be harmful on neighboring properties if conditions are met.
7. Vacation rentals have not proven detrimental to neighboring properties.
8. Vacation rental are permitted through Section 6.16 of the Lake County Land Use Ordinance.

Conditions

1. Quiet hours from 10 PM to 7 AM.
2. No discharge of firearms or fireworks.
3. All ATV’s and snowmobiles must be trailered while on the property.
4. All outdoor fires must be limited to use in a designated fire ring.
5. Occupancy limited to 8 guests.

Motion passed by unanimous vote; one abstention: Sve. (PCR-18-027)

The fifth hearing, **Split Rock Wilds Mountain Bike Trail EAW Review**, filed by Lake County Forestry/Land Department, to determine if an Environmental Impact Statement is required. (PCR-18-028)

Nate Eide, Lake County Land Commissioner represented the application.

Linscheid asked if there will be new construction in the woods, and if there is flexibility in placement of the trail, in the event of a heavy rain event or some other situation that makes the area unsuitable from the original plan.

Eide stated there will be 25 miles of new trail. He explained there is some flexibility. He explained what is needed at this time is for the Planning Commission to decide if the EAW is acceptable, and no Environmental Impact Statement is needed. Eide expects there will be some adjustments as construction begins. If a reroute was necessary and it was in a sensitive area it might be necessary to come back to the Planning Commission.

Linscheid also asked what kind of provisions existed for riders that go into the mud and cause damage to the trails.

Eide stated this does happen, but they try to prevent it through education. He also stated there is a culture of self-policing among bikers. He said as a last resort they could close the trailhead.

Sve asked if there was interest in forming a Mountain Club, similar to the local snowmobile clubs. Eide stated there was some interest in forming a non-profit group that would assist with trail maintenance.

There was general discussion about the location of the trailhead.
Bathke stated the importance of this trail to the local economy.

A motion was made by Bathke, supported by Hoops to recommend a negative declaration for the need of an Environmental Impact Statement to the County Board with the following findings:

Findings:
Based on the information contained in the Environmental Assessment Worksheet and the written comments received and the responses to those comments, the Planning Commission has reached the following conclusions:

1. The Environmental Assessment Worksheet, this Findings of Fact and Record of Decision document, and related documentation for the project were prepared in compliance with the procedures set forth by Minnesota Rules 4410.1000 to 4410.1700 and the Minnesota Environmental Quality Board.

2. The Environmental Assessment Worksheet, this Findings of Fact and Record of Decision document and related documentation for the project have satisfactorily addressed all of the issues for which existing information could have been reasonably obtained.

3. The project proposed does not meet any of the mandatory EIS thresholds contained in Minnesota Rules 4410.4400.

4. The project does not have the potential for significant environmental effects based upon the above findings and the evaluation of the following four criteria per Minnesota Rules 4410.1700, subpart 7:
   a. The type, extent, and reversibility of environmental effects have been considered and they do not contain the potential for significant environmental effects.
   b. The cumulative potential of environmental effects has been considered and the project does not contain the potential for significant environmental effects.
   c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority indicates that this proposed project does not have the potential for significant environmental effects. The mitigation of environmental impacts will be designed and implemented in coordination with regulatory agencies and will be subject to the plan approval and permitting processes as outlined in the EAW.
   d. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies and the project proposed has been considered and it indicates that this project does not have the potential for significant environmental effects.

5. Pursuant to Minnesota Rules 4410.1700, subpart 5, a copy of this Findings of Fact and Record of Decision is being provided, within 5 days to all persons on the Minnesota Environmental Quality Board List, the persons commenting, and to persons who requested a copy.

Motion passed by unanimous vote (PCR-18-028)

Motion by Weinzierl supported by Fosness to adjourn the meeting. Motion passed by unanimous vote.

Respectfully Submitted,

Christine McCarthy
Environmental Services Director