

Official Lake County Planning Commission
Minutes
Silver Bay Service Center
January 27, 2020

Approved as corrected
2/24/2020

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

Members Present: John Bathke, Mike Hoops, Dan Zeimet, Sue Smerud, and Commissioner Rich Sve.
Members Absent: Simbre Fosness

Planning and Zoning Staff Present: Christine McCarthy (Environmental Services Director), Neva Maxwell (Environmental Services Professional), Jill Paron (Environmental Services Specialist).

Other Lake County Staff Present: Russ Conrow (County Attorney), Krysten Foster (Highway Engineer)

Christine McCarthy called the meeting to order at 6:00 P.M to begin with election of officers.

Motion by Zeimet supported by Smerud nominating Hoops as 2020 Planning Commission Chair. Motion passed by unanimous vote.

Motion by Bathke supported by Sve nominating Bathke as 2020 Planning Commission Vice-Chair. Motion passed by unanimous vote.

Motion by Zeimet supported by Bathke nominating Planning and Zoning as 2020 Planning Commission Secretary. Motion passed by unanimous vote.

Chairman Mike Hoops opened the hearings.

The first hearing, **I-20-001**, was a renewal interim use application for a gravel pit on the north half of his parcel to include crushing, concrete/asphalt recycling, bituminous batch plant, crushed rock storage, and pit run operations filed by **Jerry Correll** on property described as: SE ¼ of SW ¼, Section 2, Township 57, Range 8, 40 acres, zoned R-1/Residential, ten-acre minimum, Beaver Bay Township. PID: 26-5708-02670.

Hoops introduced the application. McCarthy read the legal requirements. There were 2 comments, one from the Soil and Water Conservation District (SWCD) with recommendations, one from

Highway, stating they had no issue as it is not on a County maintained road.

Jerry Correll represented the application along with Steve Josephson. Correll explained the area had been a gravel pit for over 45 years. It has been inspected by the MPCA, and he has not received complaints. He stated Josephson will be taking over the operation.

There was no one in the audience to comment on the application.

McCarthy asked about their plans to have a bituminous batch plant. Correll stated they haven't had bituminous production in over 20 years but want to keep it an option in case there is a request. McCarthy stated this would require permits from the MPCA and requested the Planning Commission include that in the conditions.

McCarthy asked about the parcel adjacent to the North, 26-5708-02850. Correll stated it is an old rockpile left from a road project 20 years ago. He plans to have it removed. Josephson stated there is vegetation growing around and in the rockpile, including trees. Correll stated the rock would need to be crushed before it can be moved. He added the rockpile area has never been mined and he will restore the area.

Maxwell asked how they plan to control the invasive plants that are in the pit and rockpile area, referring to the SWCD comment. Correll stated they can spray and do what is needed.

Correll explained he only has one truck and the pit is used for local projects. He stated the septic sand has already been removed.

Maxwell explained that since his last renewal the Ordinance has changed. He will now be required to put up a bond of \$2,500/active acre. She estimated 12 acres are currently unrestored by using aerial maps. She said the bond can be released when an area has completed restoration at 3:1 slopes and permanently vegetated.

Hoops stated Correll would need to stay on top of

the Spotted Knapweed and Tansey.

Sve asked if there were wells on the property. Correll stated there were none; they don't use water for their operation.

Motion by Bathke supported by Zeimet to recommend County Board approval for the Interim Use application for five (5) years with the findings & conditions:

Findings:

1. Road is adequate, bond will be required for active, un-reclaimed area.
2. Drainage ponds are in place.
3. Invasive weeds are present (per SWCD comment). Invasive species will be controlled and area will be reseeded with assistance from SWCD.
4. Drainage ponds to collect run-off before it reaches Designated Trout Stream. A New SWPPP will be required, as the current one expires 4/2020.
5. This is an existing, established pit; There is no well on the property.
6. Bituminous production will be allowed with conditions.
7. No complaints were received regarding this pit. Historically, this pit has proven to have no conflicts with neighboring properties.
8. Gravel mining is allowed by the Ordinance in certain zone districts and is allowed through the Interim Use permitting process.

Conditions:

1. Bond of \$2,500/ acre of active, un-reclaimed area.
2. Planning and Zoning staff will visit the site after the snow melt to evaluate the rockpile on Parcel #26-5708-02850 to determine required reclamation on that parcel.
3. Hours of operation 7:00 AM to 7:00 PM daily, except Sundays and Holidays. Crushing operations are allowed for up to 35 days in a 2-year period with no hourly limitation.
4. Applicant will provide updated Stormwater Plan (SWPPP) to Lake County Planning and Zoning.
5. An invasive species management plan approved by Lake County SWCD will be implemented to inhibit spread of terrestrial invasive species. Owners shall treat all areas where material is mined, stockpiled, or processed to prevent export of invasive species with aggregate.

6. A bituminous batch plant requires:
 - a. The contractor is to be responsible for dust control on the road.
 - b. Applicant must contact MPCA for appropriate permits.
 - c. Planning and Zoning must be notified of the activity.
7. Reclamation shall be a 3:1 slope and permanently vegetated.

Motion passed by unanimous vote. **(PCR-20-002)**

The second hearing, **C-20-001**, was a conditional use application for 9.5 miles of OHM trail filed by **Lake County Forestry** on property described as: S ½ of SW ¼ Section 17; NE ¼ of SE ¼, S ½ of SE ¼, S ½ of SW ¼ Section 18; N ½ of NW ¼, Ne ¼ of NE ¼, S ½ of NE ¼, S ½ of SW ¼ Section 19; N ½ of NW ¼ Section 20, Township 54, Range 10, 640.00 acres, zoned F-R/Forest-Recreation, 10-acre minimum, Silver Creek Township.

Hoops introduced the application. McCarthy read the legal requirements. Thirty-five comments were received in favor of the OHM trail, none were received in opposition or from adjacent owners.

David Cizmas, Lake County Forester, and Nate Eide, Lake County Land Commissioner, represented the application. Eide stated they are excited to provide a new recreational opportunity in Lake County. He stated their new motorized and non-motorized trails are being noticed around the state. Cizmas added that the project is designed to have no wetland loss. Wetlands will have bridges or be avoided. He stated there is a fair amount of demand for this type of trail, acknowledging the trail supporters present [about 20 people were in attendance].

Hoops opened the hearing to the public for comments in favor.

Mike Brandt (Two Harbors) President of Wild Country ATV Club, stated people tend to own a variety of off-road vehicles. There are not a lot of dirt bike trails available in the state. This trail could add to tourism for the area.

Brandon Kopischke (Duluth) stated the area has good terrain for dirt bikes. Also, the area has many ATV trails, but no motorcycle only trails.

Al Koivisto (Hermantown) stated there is a lot of outstate interest in this trail.

Shawn Gruell (Biwabik) explained he races motorcycles. He thinks there is a lot of interest in these types of trails and people are willing to travel to ride. He stated there are trails in Minnesota and Wisconsin. He explained they are easy to build and maintain.

Ted Czaplicki (Silver Bay) stated there are no dedicated single-track trails in Northeast Minnesota. This type of riding is different from ATVs as they ride on trails about 30" wide.

Tim Ryan (Cloquet) explained he has been building trails for 30 years. He stated there used to be more areas available for riding, but they have dwindled.

There were no comments in opposition. Hoops closed the public comment period.

Maxwell asked if this trail will be in use year-round. Cizmas explained that it isn't really possible to use the trails with deep snow cover. Jeff Luesman, [volunteer for the trail project] stated trails like this are often closed during deer firearms season.

Maxwell asked if they had plans for invasive plant control at the trailhead, something similar to boat launches. Cizmas stated the motorcycles are usually kept cleaner than ATVs as they are precision vehicles.

Maxwell explained they decided to wait until after the CUP hearing to identify wetlands in case the route needed to change as a result of the public hearing process. The proposed route appears to avoid wetlands.

Hoops asked if the trail would be built by the ATV club. Cizmas stated it would be a volunteer build.

There was general discussion about construction and maintenance.

Sve asked how they control off trail riding. Luesman stated they would have signage at the trailhead. The Nemadji trail rarely has issues with off trail riding.

Motion by Smerud supported by Bathke to approve the Conditional Use application with the following findings and condition:

Findings:

1. There is safe access off E. Alger Grade and

parking lot already exists.

2. The trail is designed to avoid wetland areas.
3. Forestry Department has chosen this location as an appropriate site.
4. Trail has been designed to avoid wetlands and stream and wetland crossings will be bridged.
5. No utilities are required. Vault privies are available at trailhead.
6. This is a remote area; snowmobile and ATV trails are already present.
7. There are no nearby residences; no comments or complaints were received from adjacent property owners. Trail will be entirely on County land.
8. Trails and recreation are included as part of the Comprehensive Plan and permitted through the Land Use Ordinance.

Condition:

Before construction, potential wetland crossings will be identified by Planning and Zoning staff. A wetland delineation will be obtained if Planning and Zoning staff determine it is needed.

Motion passed by unanimous vote. **(PCR-20-003)**

The third hearing, **C-20-002**, was a conditional use application for a common interest community, Silver Cliff Beach Homes, supplemental plat concept filed by **Silver Cliff Properties, LLC** on property described as: Part of Outlots 6,7 and 11 of Gov't Lot 2, except 1st Supplemental Plat of CIC 21, Silver Cliff Beach Homes, Section 22, Township 53, Range 11, 1.44-acres, zoned RC/Resort-Commercial, 2-acre minimum, Town of Silver Creek. PID: 29-5310-22457.

Hoops introduced the application. McCarthy read the legal requirements. Comments were received from Lake County Soil and Water Conservation District, County Emergency Management, North Shore Management Board, County Highway, and the County Recorder.

Mark Reiling represented the application. He explained the project was started in 2005 [following preliminary plat approval in 2004]. The plan was to build 6 twin homes and one individual unit for a total of thirteen (13) units. They built 3 twin homes and the septic system in the first phase. They submitted the First Supplemental in

2007 and built one more twin home [two units] and a slab for a twin. He explained after the recession he wasn't able to sell the remaining units. He stated these are all second homes, owner owned, with no interval ownership, timeshares, or rentals allowed. He explained the current market is for individual units. He has buyers for the proposed individual units, but no interest in the remaining twin where the slab has been built. He explained this proposal is to build 2 individual units, for a total of 12 units (5 twins and 2 singles). Reiling explained that prior to this development the property had a motel with 20 rooms, 2 private homes, 3 rental cabins, and a lot more traffic.

McCarthy explained that in 2006, the zone density requirement was changed from one dwelling unit per one-acre minimum to a 2-acre minimum. She stated this lot was a part of the original approval. The original approval was for 13 units, prior to the 2006 change. She also explained the setback from the right of way would need to be determined due to the proposed location of Unit 10. She stated her concerns with having space for utilities and septic lines. She also stated a septic designer would need to submit a design for the placement of the tanks for these units.

Maxwell explained the units are oriented for a view of the lake; the property line in front of these units is private property, not the lake vegetation line.

McCarthy explained that the septic system is built for a greater capacity than the 12 units. She doesn't see the septic capacity as being a concern with this plan. She does want a designer to verify that the way the lines lead to the treatment area will work.

Reiling explained that the original concept plan was for 14 units, which is what the septic was designed and built for. However, the first preliminary plat approval was for 13 units, and now they are proposing a total of 12 units.

Maxwell gave the staff report. The SWCD is working with Reiling on a shoreline plan to control erosion. Planning and Zoning recommends a 43' structure setback from centerline; which is 10' from the right of way, which is 33' from centerline. She stated this would be a deviation from the road standards. She also asked the Commission to consider the conditions of the 2004 approval. She asked Reiling if he was still okay with no hot tubs or Jacuzzis. He stated he was. Maxwell also read the

comment to notify neighbors of a new well. She wasn't sure of this was still applicable.

Hoops stated the condition to notify neighbors if another well is drilled came from the building of Grand Superior Lodge where multiple wells were drilled and caused the water table to be drawn down. He stated he would like to see the condition included.

Maxwell also mentioned that the covenants state the owners own a "cube of air up to 40' in height"; the building height maximum in the Ordinance is 35'. She stated the lot density would also need to be addressed.

There was no one present from the audience to comment on the application.

Smerud asked Reiling if the existing slab would be removed. Reiling stated they didn't plan to remove it at this time. The slab is for a twin unit as part of the First Supplemental.

Sve asked Krysten Foster about the road requirements and issues. She stated it needs to be a Type 4 road based on the number of residences it serves. Sve asked about the comment for a right-angle intersection. Foster stated she commented on that in the pre-application correspondence [Silver Cliff Rd. to Silver Cliff Lane]. She stated this would be a deviation from the standard of the Subdivision Ordinance for platted roads.

Sve asked for clarification on Reiling's request for more time. Reiling explained that the timeline for submitting final plat for the remaining approved units had expired after 3 years.

Smerud stated she visited the site and thinks it is beautiful and well done. However, she had a problem with this considering the North Shore Management Board and zoning, how they could approve 2 units on only 1.44 acres in a 2-acre/dwelling unit zoning district. She asked for discussion on this issue.

Bathke asked what the area is zoned.

Maxwell stated it is Resort-Commercial with a 2-acre minimum.

Bathke stated the previous development on the

property had a higher density with motels and more traffic, so he didn't know why this density, which is much less, would be a problem now. He stated he thought this same 1.44 acres could have a resort, or PUD. McCarthy stated a resort would require 5 acres. Paron stated the PUD language and density changes for the North Shore Management Zone happened between the time of approval and the expiration on the approval. Paron stated the approval was grandfathered, and then it expired, over 10 years ago. She explained there is no density increase allowed in the first tier, the first 200' from the shoreline, under the PUD language. If they were beyond that, they could have an increase in density.

Bathke asked about the Outlot to the west. Paron stated that is their septic system.

Smerud stated the development is already over density; 8 units today in the North Shore Management Zone would require 16 acres.

McCarthy explained to the Planning Commission that the application was moved forward because the whole plat was originally approved for 13 units. McCarthy stated she would have felt differently if this was an outlot that was never approved for development.

Smerud stated that was 2004/2006. Now it is 2020 and the expiration [to submit final plat] was a long time ago. She stated she felt strongly that they should be following the rules of the North Shore Management Zone because they were created for a reason.

Sve acknowledged that Smerud's argument was valid. He stated this conversation wouldn't have had to happen if they had built it all during the original approval timeline.

Bathke stated that, historically, this property had a higher intensity use.

Sve stated the importance of continuing with the shoreline plan with the SWCD due to increasing water levels and erosion concerns.

McCarthy started the need for a stormwater management plan. She also referred to the comment submitted by BJ Kohlstedt, Emergency Management Director. Kohlstedt stated there was good access for emergency vehicles and water

tanks and fire hydrants.

Maxwell requested that there be a condition for an approval that stormwater drains away from the lake toward the wetlands. Reiling stated that stormwater drains to the pond, and overflow from the pond goes to the lake.

Motion by Bathke supported by Sve to approve the Conditional Use application for a CIC concept plat with the following findings and conditions:

Findings:

1. Safe access exists; the road will need to meet the requirements of a Type 4 road.
2. Infrastructure is in place and effective.
3. The Soil and Water Conservation District is working a shoreline vegetation project.
4. Best management practices will be used to control runoff during construction.
5. Utilities, well, and septic system are in place. Drainage ponds are in place and working. Septic system was built for up to 14 Class 2 units.
6. There have been no issues with the existing units.
7. There were no comments or complaints from neighbors for this application.
8. Resolution PCR-04-049 approved density of 13 units on 13.89 acres. Infrastructure is already in place for that density. This approval limits density to 12 units. Deviations from the Standards are allowed under Article 9 of the Lake County Subdivision Ordinance.

Conditions:

1. Setback from the platted road shall be 10' from the right of way (ROW shall be 33' from centerline).
2. If the proposed units exceed the Class 2 square footage, the septic capacity will need to be re-evaluated.
3. Shoreline revegetation plan will be submitted to Planning and Zoning and implemented with assistance from the SWCD.
4. No hot tubs or Jacuzzis.
5. Covenants will include septic maintenance agreement.
6. Neighbors will be notified if another well is drilled.
7. The road must meet Type 4 road standards.
8. The entire plat, including the First and Second Supplementals, shall not exceed

12 units.

Motion passed; Sve, Bathke, Zeimet in favor, Smerud opposed. **(PCR-20-004)**

The fourth hearing, **P-20-001**, was a preliminary plat application for the addition of two (2) individual units on 1.44 acres named "Silver Cliff Beach Homes, Second Supplemental", a common interest community, filed by **Silver Cliff Properties, LLC** on property described as: Part of Outlots 6,7 and 11 of Gov't Lot 2, except 1st Supplemental Plat of CIC 21, Silver Cliff Beach Homes, Section 22, Township 53, Range 11, 1.44-acres, zoned RC/Resort-Commercial, 2-acre minimum, Town of Silver Creek. PID: 29-5310-22457.

[discussion for the concept and preliminary plat were held simultaneously]

Motion by Bathke supported by Zeimet to approve the preliminary plat, Lac Superieur Acres, with the finding and conditions of the concept plan, C-20-002.

Findings:

1. Safe access exists; the road will need to meet the requirements of a Type 4 road.
2. Infrastructure is in place and effective.
3. The Soil and Water Conservation District is working a shoreline vegetation project.
4. Best management practices will be used to control runoff during construction.
5. Utilities, well, and septic system are in place. Drainage ponds are in place and working. Septic system was built for up to 14 Class 2 units.
6. There have been no issues with the existing units.
7. There were no comments or complaints from neighbors for this application.
8. Resolution PCR-04-049 approved density of 13 units on 13.89 acres. Infrastructure is already in place for that density. This approval limits density to 12 units. Deviations from the Standards are allowed under Article 9 of the Lake County Subdivision Ordinance.

Conditions:

1. Setback from the platted road shall be 10' from the right of way (ROW shall be 33' from centerline).
2. If the proposed units exceed the Class 2 square footage, the septic capacity will need to be re-evaluated.
3. No hot tubs or Jacuzzis.

4. Covenants will include septic maintenance agreement.
5. Neighbors will be notified if another well is drilled.
6. The road must meet Type 4 road standards.
7. The entire plat, including the First and Second Supplementals, shall not exceed 12 units.

Motion passed; Sve, Bathke, Zeimet in favor, Smerud opposed. **(PCR-20-005)**

Motion by Sve supported by Bathke to approve the January 6, 2020 minutes as submitted. Motion passed by unanimous vote.

Motion by Bathke supported by Sve to take hearing P-19-001 from the table (tabled at January 6, 2020 hearing). Motion passed by unanimous vote.

The fifth hearing, **P-19-001**, was a preliminary plat application to develop 12 residential lots on Lake Superior, named Lac Superieur Acres, filed by **ACRE Development LLC** on property described as N 100 ft of Gov. Lot 3 & those parts of Gov't Lots 1 & 2, Section 11; Gov't Lot 1, Section 12 & SW ¼ of SE ¼ Section 2 as desc. in Book 136 of Deeds pg. 197 less that desc. in Doc. A000192283; Also 3.1 acres out of Gov't Lot 1 as Desc. in Book 136 of Deeds pg. 194, in Sections 11 & 12, Township 52, Range 11, 70.06 acres, zoned CR/Commercial-Rural, two-acre minimum, Unorganized Territory #2.

Hoops introduced the application. Barb Ankrum represented the application.

Maxwell gave the staff report on her site visit to identify waterways with defined bottoms. She stated with the snow cover they were only able to identify two defined bottom waterways with certainty. She stated she did not want the map to indicate these were the only defined bottom waterways, because she won't know for certainty until the snow melts. She stated one septic site was within the 50' setback from the waterway, so that was not a valid site. To resolve this, the original lots 2 & 3 were combined to form a larger lot 2.

Maxwell reviewed the lot revisions that were made to resolve the issues identified in the January 6, 2020 hearings. There is now a total of 11 lots

proposed.

McCarthy stated the applicant has changed the traffic circle to an open cul-de-sac.

There was discussion regarding the proposed road entrance. Krysten Foster explained the proposed road must create a perpendicular 4-way intersection with the section of Stanley Road that connects Scenic Dr. to Old North Shore Rd., or the proposed road/ Old North Shore Rd. intersection must be greater than 125' from Stanley Rd./ Old North Shore Rd. intersection, per Article 8 Section 8.01E of the Subdivision Ordinance. There was discussion about the need to relocate utilities to change the intersection and that the costs would be "astronomical". Acre Development LLC owns the property to the south of the proposed road.

McCarthy asked about the long-term plans for Outlot C. McCarthy stated an easement is required all the way to the end of that outlot. She stated that the septic sites would be in the way of the required easement. Ankrum stated they will change the name to "Lot 9".

There was general discussion about the Ordinance requirement to provide lake access to non-riparian lots. The DNR submitted a comment following the January 6, 2020 hearing at the request of Planning and Zoning. Dan Petrick, DNR and Use Specialist commented that the purpose of the lake access lot is to reduce crowding and congestion from watercraft and reduce the need for multiple docks. He stated that since the lake lots proposed are "lake view" lots due to steep terrain, "there doesn't seem to be a resource impact". The Planning Commission decided they could provide a deviation from the standard and not require a lake access to non-riparian owners.

Foster stated the road is also a deviation from the standard as it is longer than 800' and a dead-end road. She also stated that future extension of the road is impractical due to the railroad tracks.

McCarthy stated she received the updated Stormwater Pollution Prevention Plan (SWPPP) that reflects the new lot configurations. She stated the drainage plan will need to be evaluated as each lot is developed. McCarthy also stated pg. 19 shows a drainage pond in the buildable area of a lot. She stated ponds cannot be placed in the buildable area. She also stated it appears the new

lots have enough room to allow for the pond to be relocated.

Motion by Bathke supported by Smerud to approve the preliminary plat with the following findings and conditions:

Findings:

1. The road has been constructed as part of now revoked, North Shore Home Plat. Deviation from the road standard, per Lake County Subdivision Ordinance, Article 9, is approved for length of a dead-end road longer than 800 feet. Creating a through road is impractical due to steep terrain and railroad tracks.
2. Storm water retention ponds were built for the construction of the road. More storm water retention ponds may be required as lots are developed, at property owner's expense.
3. Erosion hazard area and bluff setbacks must be met. Wetland credits cannot be purchased to develop lots.
4. Wetland delineations shall be marked on property; this is especially important on Block 1, Lot 3. Wetland credits cannot be purchased. There is enough space on lots to meet setbacks if defined-bottom waterways exist.
5. Storm water permits are required for lot development.
6. Lots are large; no close neighbors. Lake County Land Use Ordinance addresses requirements for lighting.
7. Large lots provide buffer between neighbors, adjoining property is owned by railroad.
8. Lots meet requirements of the Zoning District. Deviation from the standard, per Lake County Subdivision Ordinance, Article 9, approved to remove requirement for a lake access for non-riparian lot owners. The Ordinance does not differentiate between inland lakes and the unique nature of Lake Superior. The steep terrain does not provide beach access for the lakeside lots and the lake shore is not suitable for docks. Water-oriented accessory structures are not allowed on Lake Superior.

Conditions:

1. The intersection needs to be perpendicular to Old North Shore Rd. to either create a 4-way stop, or a jog greater than 125' from

Stanley Rd. intersection.

2. Traffic circle will be made into an open cul-de-sac
3. Road must meet the standards of a Type 4 road.
4. Bonding will be required at time of final plat for any incomplete road work on the cul-de-sac and intersection.
5. Clearly mark location of wetlands on properties in such a way that will withstand weather.
6. Outlot C will be redesignated Lot 9.
7. Covenants will address if vacation rental homes are allowed; must meet Lake County permitting requirements.

Motion passed by unanimous vote. **(PCR-20-001)**

Motion by Bathke supported by Zeimet to adjourn the meeting. Motion passed by unanimous vote.

Respectfully Submitted,

Jill Paron
Environmental Services Specialist