

**BOARD OF ADJUSTMENT/PLANNING COMMISSION
CITY OF LAKE SHORE
LAKE SHORE CITY HALL
MINUTES
NOVEMBER 9, 2020
9:00 AM**

Commission Members Present: Jim Woll, Arla Johnson and Glen Gustafson; Alternate Pat Hastings; Council Liaison John Terwilliger; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Absent were Bob Toborg, Gene Hagen; Alternate Shawn Hansen and City Engineer Joe Dubel. A quorum was present and the Commission was competent to conduct business. Chad Conner of Widseth Engineering was in the audience at City Hall representing the variance request.

Others present via phone conference: Fred and Betsy Steinbach, Marilyn Taylor, Kyle McClintick, Alan McClintick, Jack Crowell, Brad Taylor, Doug and Mary Miller, Kelli Horst.

Jim Woll called the meeting to order at 9:00 a.m.

Approval of the October 12, 2020 Regular Meeting Minutes – MOTION BY GLEN GUSTAFSON TO APPROVE THE MINUTES FOR THE OCTOBER 12, 2020 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING –

Variance – Preliminary Plat of Portview – The McClintick Family - Fred Steinbach representing Daniel Crowell Jr Trust, Etal requested a variance and Preliminary Plat approval. The Preliminary Plat known as Portview consists of 11 residential lots and one outlot on 61.5 acres of land. The plat involves variances for lot width on Lots 1 and 2, Block One and city road standards. All other lot standards will be met including impervious surface limits. The plat formalizes the existing development on the property. The property is described as Part of the SW ¼ of the SW ¼ and Part of Government Lot 4, Section 17, Township 135, Range 29. The property is zoned Medium Density Residential (R-2), Wooded Residential (WR) and Agricultural (A).

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. Teri received 3 phone requests for a copy of the preliminary plat; all three had no objections with the plat. There were 2 letters supplied to the Commission for the record from Kyle McClintick and Mary Miller in support of the variance.

Fred Steinbach gave a brief history of the how the land was distributed between family members to create the Portview Plat.

Alan McClintick owns lot 1, next to Fred, he has one of the 75’ lots that he inherited from his father and will again pass it down to his family; he would appreciate the support of the Commission.

Kyle McClintick supplied a letter and spoke in favor of the variance. Mary Miller supplied a letter in support of the variance.

Teri said she sent the preliminary plat to the DNR and Darrin Hoverson’s reply hasn’t changed from his site plan review response.

Teri staff report indicated the following:

BACKGROUND:

The applicants previously came before the Planning Commission for a site plan review and are now moving forward with their request to plat their property. The subject property was a former resort (Portview) founded 99 years ago. The resort ceased to exist almost 50 years ago and the cabins were deeded to the children of the resort founder. In 1974, a plat was done formally dividing the property however, it was not recorded but was used for ownership, maintenance, taxes etc. As the family continues to grow so does the complexity of ownership. The family after many years of trying to formalize the plat of 1974 have come to a consensus that platting is in their best interest as well as the city.

PRELIMINARY PLAT:

The applicant is requesting approval for a preliminary plat known as Portview. The property is approximately 61 acres situated between County 107 and Lake Margaret which is a general development lake. Currently the property has three zoning classifications: Medium Density Residential-GD, Wooded Residential and Agricultural. The area shown as Outlot A is zoned Wooded Residential and Agricultural. The lake lots are zoned Medium Density Residential (R-2). The applicants are requesting to subdivide the property into 11 lake lots and one outlot. Variances are being requested for the lot width on Lots 1 and 2 and the deviation to allow the continued use of the existing roadway.

The plat has been prepared by a licensed surveyor. The plat contains the name of the owner (the final plat will contain all owners), legal description of the property, and total acreage. Boundary lines are shown on the plat at a scale of not less than 1" = 100'. The date of the survey is indicated on the plat along with the name of the proposed subdivision (Portview).

The plat shows the existing conditions as required by ordinance. Contour information has been obtained from Minnesota LIDAR. There are no bluffs or wetlands on the property. The near shore aquatic conditions have not been addressed on the plat since the majority of the shoreline has been developed and been used recreationally for the past 99 years.

Tree cover is not shown on the plat; however, attached are aerial photos of the property. Soils information is not indicated on the plat but soil borings have been done for the property for sewer compliance inspections.

There are no known significant historical sites on the property unless you consider the historical cabins of the resort.

The plat does contain the lot area of each lot. Each lot exceeds the minimum lot area of 30,000 square feet. The R-2 district requires a minimum lot size of 30,000 square feet and 15,000 sq ft of buildable area. The total lot area and buildable area have been calculated for Lots 1-11, Block 1 and all exceed these requirements.

Building envelopes have been shown for each of the lots. The building setback for the riparian lots is 75 feet. There are adequate building envelopes on each lot **without** requiring a variance (this is important to note for Lots 1 and 2). Most of the lots already contain a principal structure and/or accessory structure. It is important to note that the structures located on Lots 1-4 do not meet current setback requirements. Any future buildings will need to meet structure setbacks.

Impervious calculations have been done for each of the lots, none of the lots exceed the impervious coverage limits of 25%.

There is no proposed green space shown on the plat or other public dedications other than the future roadway.

The lots will be served by on-site septic systems. There is adequate area on each lot for a primary and alternate septic system. Lots 1-3 share a septic system. An agreement between property owners for the continued use of the septic system should be arranged or each lot should construct their own system. Soils for the properties are adequate for an on-site septic system.

Information regarding adequacy of domestic water supply has not been reported on the plat; however, the lots do have wells already so this is not an issue.

A Storm Water Permit from MPCA is not required as the property is already developed and the applicants would not meet the threshold for such a permit

Proposed street standards and profiles have not been developed. The applicants would like to continue to use the existing roadway to access Lots 1-11. A 66' foot right of way is shown on the plat for a future road. It would require the property owners to pay 100% of the cost to bring it up to city standards. A road maintenance agreement for Lots 1-11 is being drafted that will address maintenance of the existing roadway.

The plat does not show any utility easements. Utilities are in for the majority of the properties.

Vegetation and topographic alterations are not addressed on the plat. Again, the majority of the property is already developed and most is well wooded. City ordinances regarding vegetation removal do apply to the properties.

There are no covenants proposed for this development.

Park Dedication fee- the city has in the past only required a park dedication fee for lots created without a principal structure. In these circumstances, there are three lots without a principal structure so a \$250 park dedication for the three lots should be required. The premise behind the park dedication fee, is that new development will create pressure on existing parks so cities are allowed to collect fees to maintain and provide adequate parks.

Additional items that will need to be prepared for final plat are:

- Title opinion acceptable to the city attorney
- Evidence of plat check by an independent land surveyor
- All professional costs incurred by the city shall be reimbursed by the applicants.
- Draft copy of the road maintenance agreement

VARIANCE:

The applicants are seeking a variance for the lot width for Lots 1 and 2. Both lots have a lot width of 75 feet where a 100 feet is required. Both lots have a 100' at the rear and a depth of 400'. Each lot exceeds the minimum lot area of the ordinance of 30,000 square feet. A principal structure and accessory structure can be constructed on the property without a variance. If the variance for lot width is approved, a condition of no future variances for structures should be added to the approval.

The strict interpretation of the ordinance would be impractical due to circumstances not created by the landowner. The applicants have detailed in their application as to why other methods would

not work for creating lots meeting the 100' lot width. Adjusting lot lines would create property lines that would dissect existing structures. One of the objectives of the applicants is to maintain the old cabins from the resort. The applicants have discussed the rationale as to why creating a Common Interest Community Plat would not be satisfactory due to how the applicants have operated and managed the property since 1974. In addition, if the applicants were to proceed with a CIC plat, future development would entail amending the CIC Plat, which is a cumbersome process. Future development would include garages, sheds, etc.

The variance would not alter the essential character of the area. The property will still remain the same as it is today. The cabins on Lots 1 and 2 will remain with or without the variance. It is the intent of the owners of proposed Lots 1 and 2 to keep the existing cabins however, if the cabins were to be demolished a safeguard would be to allow no future variances. The lots created have an advantage of meeting the lot area which allows for new structures to be constructed without variances.

The applicants are also requesting to allow the existing roadway to remain and serve the lots. The proposed easement road is 33' and does meet the city requirement for easement width. The plat does show a future road with a 66' road right of way that could be brought up to city standards sometime in the future. The property owners would be responsible for 100% of the cost to bring the road up to city standards. The city has done this with Pamela Drive. The existing roadway would continue to be maintained by the applicants or the owners of Lots 1-11. As mentioned above, a road maintenance agreement is in the process of being drafted.

STAFF RECOMMENDATION:

Recommend approval of the variances and the Preliminary Plat provided the items listed in number 19 are completed by the time the final plat is to be signed by the city. The proposed plat is **not** a resort conversion and should not be held to those standards. The resort conversion took place over 40 years ago when the founder of the resort deeded the individual cabins to his four children. The family unfortunately, developed a plat in 1974 but failed to record it but yet managed and paid taxes according to the 1974 plat. Overall, the plat is in substantial compliance with the city ordinances and as noted above further development of the property can be done without the need for variances. The property is unique in how it has evolved with ownership of the individual cabins based on the 1974 unrecorded plat. This type of situation is not common; Sherwood Forest which did develop as a CIC plat in 2002 is the closest situation. That plat required multiple variances for density, shoreline width, impervious surface etc. This is not similar to an existing resort being developed for future saleable lots such as the older Cold Spring Resort located on Upper Gull nor is it the same as if Agate Lake Resort would sell or Samara Point. I do not believe the city is setting a precedent with this plat and the proposed variances requested due to the practical difficulties outlined by the applicants. At this point, the city is basically recognizing and formalizing the 1974 plat.

MOTION BY GLEN GUSTAFSON TO APPROVE THE VARIANCE AND PRELIMINARY PLAT OF PORTVIEW AS PRESENTED; SUBJECT TO THE COMPLETION OF THE FOLLOWING ITEMS: A TITLE OPINION ACCEPTABLE TO THE CITY ATTORNEY, EVIDENCE OF A PLAT CHECK BY AN INDEPENDENT LAND SURVEYOR, ALL PROFESSIONAL COSTS INCURRED BY THE CITY SHALL BE REIMBURSED BY THE APPLICANTS, A DRAFT COPY OF THE ROAD MAINTENANCE AGREEMENT, AND A \$250 PARK DEDICATION FEE FOR THE THREE LOTS WITH NO PRINCIPAL STRUCTURE; NO FUTURE VARIANCES TO LOTS ONE AND TWO WILL BE ALLOWED. ARLA JOHNSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

NEW BUSINESS – There was no new business.

OLD BUSINESS – There was no old business.

REPORTS

City Engineer – Joe Dubel was absent.

Chairman – Jim Woll had nothing to report.

Council Liaison – John Terwilliger had nothing to report.

Zoning Administrator – Teri Hastings said she anticipates a December meeting. She said the city council passed a change in compensation and the Commission will now receive \$125.00 per meeting. Other city committees will receive \$50 per meeting.

PUBLIC FORUM – There was no public forum.

MOTION BY ARLA JOHNSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF NOVEMBER 9, 2020 @ 9:19 AM. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald
Lake Shore City Clerk