

PUBLIC HEARING  
CITY OF CROSSLAKE  
MONDAY, JANUARY 14, 2002  
6:00 P.M. – CITY HALL

Pursuant to due notice and call, the City Council met in the Chambers of City Hall to hear an appeal for Conditional Use Permit 01-17, submitted by Dean Reidt. The request is an appeal to the City Council regarding a decision made by the Planning and Zoning Commission on October 19, 2001 approving an after-the-fact conditional use permit. The applicant is appealing the conditions applied to the approved permit. The conditional use permit request was to allow for more than 10 cubic yards of earth to be moved within the shore impact zone. The initial work was performed prior to application for the required conditional use permit. The property is described as Lot 1, Block 2, Old Log Landing, Section 9, Township 137, Range 27 and is zoned Medium-Density Residential. The surrounding property is zoned Medium-Density Residential and Urban Residential. Present at the hearing was Mayor Darrell Swanson, Councilmembers Sandy Eliason, Chuck Miller, Irene Schultz and Dean Swanson. Also present was City Administrator Tom Swenson, City Attorney Paul Sandelin, Community Development Director Paul Larson, Keith Pohl of Crow Wing County Soil and Water Conservation District, Public Works Director Ted Strand and Clerk/Treasurer Darlene Roach. (Sign in sheet attached as a permanent part of the minutes.)

Mayor Swanson called the Public Hearing to order at 6:00 P.M. and stated that the order of events would include a presentation by the Planning and Zoning Staff, a legal opinion by the City Attorney, a presentation by the Applicant, comments from the public and final questions and comments by the City Council. It was noted that this appeal was different than most other appeals in that the "after-the-fact" conditional use permit was approved by the Planning and Zoning Commission at its meeting of October 19, 2001 and the applicant is appealing the conditions applied to this approval.

City Attorney Paul Sandelin stated that the Council needs to determine what the applicant is disputing as far as conditions and whether the decision by the Planning and Zoning Commission has a rationale basis which is supported by facts and not arbitrary or capricious. Since the CUP was approved, the focus will be on some specific conditions that the applicant is disputing.

Community Development Director Paul Larson stated that the Planning and Zoning Commission heard the request for a conditional use permit after the work had been performed by the contractor. Although the permit was approved, several conditions were attached to the approval which the applicant is opposing. It is these conditions that resulted in Mr. Reidt's appeal to the City Council.

Attorney Gerry Brine, representing Dean and Judy Reidt, addressed the Council. He stated that it was the original intention of the Reidt's to correct or stabilize some erosion problems that they were experiencing on the property. He stated that the Reidt's take full responsibility for what happened and that the problem occurred as a result of poor

communication between the Reidt's and the contractor who was hired to do the project. While Mr. Reidt understands that the contractor was acting as his agent, he assumes no responsibility for the work performed by the contractor. Attorney Brine proposed that each condition placed on the conditional use permit be reviewed individually, not necessarily in terms of opposition, but in order to allow the Reidt's to fully understand each condition.

The conditions are as follows:

- 1.) "The sand blanket installed shall be reduced in size to meet the City of Crosslake's standards per Chapter 8.50 Subd. 15.D.2.b." The sand blanket was determined by Mr. Pohl of CWC Soil and Water as being at 48' as opposed to the 30' allowed. The applicant had good reasons for placing the blanket where he did, but would be in agreement with reducing the size of the blanket to 30' assuming that the 30' can be anywhere within the 48' area and that they be allowed to put the excess sand onto the blanket that already exists rather than removing it from the area. It was noted that this was agreeable with Mr. Pohl and Planning and Zoning Staff.

It was noted at this time, that the letter dated October 25, 2001 from Planning and Zoning to Dean Reidt and Del Anderson be used as a point of reference for the conditions.

- 2.) "Seed the area above the mulch with turf reinforced matting as approved by Crow Wing County Soil & Water Conservation District." The applicant wanted to make sure that he understood the exact area when the mulch area is talked about. The applicant has the understanding that the area is above the shoreland plateau and starting up the embankment where it was not riprapped but where some boulders were placed and some shrubberies planted. Mr. Reidt stated that this area has already been seeded. Keith Pohl addressed the Council and stated that Soil & Water agrees with the work that has taken place in regards to this condition.
- 3.) "The area north of the sand blanket shall be seeded as approved by CWC SWCD." This area is a sand base and the applicant inquired whether this was necessary. Community Development Director Paul Larson stated that seeding is required because without vegetation erosion would occur. Mr. Pohl stated that the reason for the seeding is to stabilize the area during heavy rainfall. Mr. Reidt stated that this area was seeded and mulched.
- 4.) "The low growth ground cover, as approved by CWC SWCD, shall be planted between the sand blanket and the rip rap to prevent erosion." This is one of the conditions that the applicant is objecting to. Mr. Pohl stated that this was not one of the conditions that Soil and Water reviewed. Community Development Director Paul Larson stated that some type of vegetation should be planted since it would not be practical to mow in this area. He did state, however, that this is not a strong condition placed on the approval. Mr. Reidt addressed the Council. He stated that he has had this discussion with Del Anderson of Little Yukon Landscaping and he advised him that the DNR told him that as long as a 6" layer

of mulch was placed between the riprap and the sand that would be sufficient. This area is on the beach side and a lot of sand was left on the boulders due to lack of rain, but he stated that he would be happy to lay down a 6" strip of grass between the rip rap and the sand if that would be agreeable with the Planning and Zoning Commission. Paul Larson stated this strip of grass would suffice as low growth ground cover.

- 5.) "Shrubs shall be planted at a minimum 4' on center in the mulch area for stabilization of the slope. Recommended species are sumac, riverbank grape, sand cherry, and native (Woods) rose." Shrubs have been planted on the South side and more will be planted on the North side.
- 6.) "A current Certificate of Compliance for the septic system shall be submitted prior to any further permits being issued." Mr. Reidt opposes this condition. Attorney Brine stated that as a mechanical engineer, Mr. Reidt has done some research based on the type of sewer pipe used. Based on documentation, he feels that the 200 pound per square foot impact that the boulders had on the area would not cause any damage to the septic pipes. He stated that the rocks were not dumped on the septic tank, but were dumped on a portion of the drain field. Mr. Reidt stated that he also would be concerned if he felt the septic system was damaged, but did not feel obtaining a Certificate of Compliance was necessary. Paul Larson stated that he was in agreement that no rocks were dumped on the septic tank, but an inspection would ensure that no damage was done to the tank, that the drainfield was in place and that nothing is backing up in the house. Visits to the site indicate that no rocks were dumped on the tanks and that there does not appear to be any problem with the septic system. It was agreed that this requirement would be eliminated since the Certificate of Compliance would not tell anything already known and it would not determine if the soil was compacted or that the system would fail within any certain period of time.
- 7.) "The applicant shall be charged five times the conditional use permit fee, with the applicant and contractor being equally liable for the fee. The applicant and contractor have 30 days to remit the fee." Mr. Reidt does take some responsibility for this, but the results of the contractor's performance or lack thereof did contribute to this problem. Attorney Brine requested that the Council consider reducing the amount of the fee due from the applicant based upon the shared responsibility of the contractor. Attorney Paul Sandelin stated that the City Code does state that the owner and contractor are jointly held liable, however, then the City would have to go after the contractor to obtain the other 50%. Councilmember Swanson asked what leverage the City had to go after the contractor. It was the consensus of the Council that the City would not want to pursue two entities for obtaining the fee and that this is an issue between the contractor and the homeowner. It was agreed that this condition would remain.
- 8.) "The applicant has 90 days to comply with these conditions." The applicant requested that he have until the end of May to comply. Paul Larson stated that this would be agreeable with the Planning Commission. June 1, 2002 was set as the deadline date.
- 9.) "Geotextile fabric shall be installed behind the riprap." The applicant opposes this condition. The applicant feels that more damage would be done to the lake

by pulling the riprap out since it has been in place for 9 months. Paul Larson stated that he has reviewed this condition with Keith Pohl and both are in agreement that more damage will be done at this time by removing the riprap. It was agreed that it could be left as is.

- 10.) "An approved site plan shall be submitted to the Planning & Zoning Department before a land alteration permit is issued." Mr. Reidt requested a clarification on this condition. Paul Larson stated that a drawing is a normal part of the permit process that shows where grading is going to take place, where riprap will be applied, where boulders will be placed and etc. In order to issue the permit, a drawing showing where the work was completed is needed. A drawing will be submitted by Mr. Reidt.

Mayor Swanson thanked everyone involved in the process.

Mr. Reidt addressed the Council. He stated that he hired a local contractor Little Yukon to do the job. After the work had been started, he stated that he received a phone call from Nancy Joslin stating that a permit had not been obtained for the work done. Mr. Reidt then asked Mr. Anderson to obtain the permit. No further calls or correspondence were received from the Planning and Zoning Department. On Friday after the work had been completed, Mr. Reidt made full payment to Mr. Anderson. The following Wednesday, a letter was received by Mr. Reidt from Nancy Joslin requesting that the project be stopped. It was then that Mr. Reidt was informed that the Police had been on-site requesting that Mr. Anderson stop work. After receipt of the letter, Mr. Reidt stated that he met with Paul Larson and obtained the \$200 permit. Regarding the \$800, he stated that the amount was not a big deal, but he feels that it is wrong that Little Yukon gets away with this, that Mr. Anderson is a terrible person and won't even return his telephone calls. He stated that Mr. Anderson would not assist on a single issue that was outlined. Mr. Reidt stated that he wanted to make the Council aware of the facts.

MOTION PH1-01-02 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN SWANSON TO APPROVE THE CONDITIONAL USE PERMIT FOR DEAN REIDT WITH THE CONDITIONS AS AGREED TO AT THIS PUBLIC HEARING. MOTION CARRIED WITH ALL AYES.

MOTION PH1-02-02 WAS MADE BY CHUCK MILLER AND SECONDED BY DEAN SWANSON TO ADJOURN THIS PUBLIC HEARING AT 6:33 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,



Darlene J. Roach  
Clerk/Treasurer

