

PUBLIC HEARING
CITY OF CROSSLAKE
JUNE 12, 2000
6:00 P.M. – CITY HALL

Pursuant to due notice and call, the Council for the City of Crosslake met in the Council Chambers of City Hall on Monday, June 12, 2000 at 6:00 P.M. Councilmembers present at the hearing were: Mayor Darrell Swanson, Chuck Miller, Irene Schultz, Dean Swanson and Richard Upton. Also present was City Administrator Tom Swenson, City Attorney Paul Sandelin, Community Development Director Paul Larson and Deputy Clerk Darlene Roach. Members of the Planning and Zoning Commission in attendance were Chairman Jack Webster, Jim Trautman and Jim Nauman. Sign in sheet attached as a part of these minutes.

Mayor Swanson called the public hearing to order and stated that the purpose of the meeting was to review the appeal of a conditional use permit submitted by Jay Smedberg for Evergreen Construction Services, Inc. and J. T. Smedberg and Associates. Inc. The request is an appeal to the City Council regarding a decision made by the Planning and Zoning Commission to deny a Conditional Use Permit request. The Conditional Use Permit request is to allow the construction of nine single family residences on nine separate pre-existing lots that do not meet the current zoning requirements as they relate to lot area and lot width. The properties are described as Lots 18, 19, 20, 22, 23, 24, 26 in Block 12 and Lot 14 in Block 19 of Manhattan Beach, a replat of Twin Beach, Section 6. Mayor Swanson stated that the order of business would be a presentation by Community Development Director Paul Larson; a presentation by City Attorney Paul Sandelin; questions from the Council; comments from the applicant; comments from the public; and final Council comments.

Community Development Director Paul Larson stated that on April 21, 2000 the Planning and Zoning Commission denied CUP 00-07 on a (2-2) roll call vote with the findings that the lots were inadequately sized for this type of development in relation to the surrounding area and the overall high-density issue of this type of development on substandard lots. On April 21, 2000, Evergreen Construction Services, Inc. & J. T. Smedberg and Associates, Inc. submitted an appeal to the Crosslake City Council regarding the Planning and Zoning Commission decision. Paul Larson reviewed the standards for pre-existing lots. He stated that some of the lots in the neighborhood already have homes built on them, however nine lots remain vacant and require a CUP to be considered buildable. Councilmember Swanson asked what the standards were for lakeshore minimums as opposed to off lakeshore minimums. Councilmember Miller asked for a clarification as to when the Ordinance was changed which deemed these lots non-standard and whether the applicant owned the lots prior to the change. Councilmember Upton stated that in November 1999 a change was made in the Ordinance which clarified lot size for off lakeshore lots. Councilmember Miller again asked when the Ordinance was changed making the lots non-standard. The exact date was not known, but the City Attorney stated that he would check the date of the Ordinance Amendment.

Community Development Director Paul Larson read a letter dated June 12, 2000 into the record. It was the recommendation of the City Engineer that the City Council uphold the Planning Commission decision to deny the Conditional Use Permits as submitted or require him to comply by joining the lots together.

City Attorney Sandelin stated that the purpose of the hearing was for the Council and Applicant to be given the opportunity to review the request and obtain any additional information regarding this issue. City Attorney Sandelin advised the Council to take action on the appeal this date since there is a time frame which must be adhered to. City Attorney Sandelin further stated that anytime a decision is made, there is certain criteria that must be followed. He stated that there is no master plan for the development, only a lot by lot decision. He stated that as of 1992, lot standards were in place in regards to minimum lot sizes. With the adoption of the Shoreland Standards Act along with existing City Code, property that was owned prior to this date would be considered a buildable downsized lot. Another option would be to join two lots together to meet the minimum standards. A decision that the City Council would have to make is whether contiguous lots should be joined together to form one buildable lot. He warned the Council to not base their decision on the threat of a lawsuit, but that the decision should be made based on the merits of the City Code. Councilmember Upton stated that in the case of joining contiguous lots, this would only apply if the property was owned by the same party. Councilmember Miller asked if the Ordinance Amendment required property owners to join lots and when the Council started enforcing this requirement.

Mayor Swanson asked Community Development Director Paul Larson to give the Staff recommendation regarding the applicant's request for conditional use permits. Paul Larson stated that the Staff recommended to the Planning and Zoning Commission that the conditional use permits be approved with conditions. He stated that under the current zoning ordinance, if the subject pre-existing lots were 75% of the required lot area (40,000 square feet) and 80% of the required lot width (150 feet), then the lots would be considered buildable without any request for a conditional use permit. Since the subject lots do not meet these criteria, a conditional use permit is needed to make them buildable. Based on the facts that the lots are pre-existing, and not under common ownership, fit in with established residential densities in the neighborhood and conform to the provisions of the zoning ordinances regarding such lot types, the Staff recommended approval based on four conditions.

Jay Smedberg addressed the Council. He stated that he moved to Crosslake in 1995 and upon discovering how expensive lakeshore lots were, made a decision to accommodate residents by building high quality off shore lake homes. He stated that he approached Planning and Zoning with a sketch plan showing his intent and stated that he would be asking for variances and CUP's to construct the structures. At that time, he stated the Planning and Zoning Commission reviewed the sketch plan and were in agreement with the plan, however, the Commission was not comfortable in approving blanket variances and strongly encouraged that the developer develop the plan using the planned unit development process. He then decided to go with the permit process rather than the

planned unit development process. He stated that in the area of the lots, the property is located 40' above the lake level and does not do anything to harm the safety and welfare of the public. He stated that he approached the Public Works Commission with his plan and has gone through considerable expense to build roads in the area. He stated that prior to purchasing the property, he was aware of the lots being sub-standard. He stated that in April, 1999 the Ordinance was reviewed and the Planning and Zoning Commission recommended that a change should be made to join contiguous lots. He felt that this decision was not giving him reasonable use of his land. Regarding the septic system issue, he stated that a possibility exists where septic systems could be shared on most lots.

At this time, letters received from the following were read into the record: (1) Dan Flatz letter dated May 31, 2000; (2) Richard Dietz letter dated April 8, 2000; (3) Ruth and Allen Mjones letter dated April 10, 2000; (4) Richard Dietz letter (pictures included) dated June 2, 2000; (5) John and Laurie Hoening dated June 9, 2000; (6) Roy and Lois Wolterstorff dated June 12, 2000; (7) Chuck and Mary Jo Masog dated June 5, 2000; (8) Jeanne and Jerry Smedberg; (9) Curtis A. Larson dated June 12, 2000 with attachments; and (10) Drs. Stephen and Christine Reichl dated May 24, 2000.

The hearing was opened to the public for comments.

Planning and Zoning Commission Member Andy Anderson commented on a decision made recently by the Commission, which was questioned by Mr. Smedberg. He stated that the other applicant met the requirements in the Ordinance and that the Commission was being consistent in their decisions.

Roy Wolterstorff, who lives in Kavli Woods, stated that Mr. Smedberg has taken all precautions to preserve the area. He stated that he lived on Whitefish Lake for twenty-five years and that the lake homes are closer to the lake than those in Kavli Woods and there is no concern about the clarity of water from the lake homes. He stated that Kavli Woods is a beautiful area.

Lois Wolterstorff stated that they love living in Kavli Woods and that Mr. Smedberg has gone out of his way to do things right. She wondered why the Historical Society was so interested in showing the area if it was so bad. She stated that a tour by the Historical Society resulted in over 400 persons viewing their home.

Dan Flatz stated that he bought his home to be on a quieter street. He wondered if the plan was to re-route the traffic down his street. Mr. Smedberg stated that that was not the plan.

Planning and Zoning Commission Member Jim Trautman stated that the Commission does not make decisions on precedents. He stated that each case comes on its own merit. He stated that when lots are owned contiguous, the Commission feels they can place conditions on them.

Councilmember Miller stated that he feels precedent is an issue as are statements made to the property owner.

Gerry Smedberg stated that Jay Smedberg has really worked hard on this project and has enlisted the help of architects and planners. He asked how many precedents have been set. He stated that if sewers are an issue, lets work it out.

Mary Smedberg concurred with the Historical Society's interest in the project. She stated that a Minnesota Design Team has also visited the area. She stated that Jay chose to create a beautiful neighborhood for their family as well as for others.

Mayor Swanson stated that the Council has to consider the law and not base a decision on opinion. He stated that they have to make a decision on what is right and with what they can live with.

Councilmember Miller expressed concern with the fact that Mr. Smedberg was led to believe that he would be able to get CUP approval and that now the plan has changed.

Mr. Smedberg read an excerpt from a September 15, 1999 letter from Gammello & Sandelin, P.A. which states that the lots would be buildable.

There being no further comments, MOTION 06PH1-01-00 WAS MADE BY CHUCK MILLER AND SECONDED BY RICHARD UPTON TO ADJOURN THIS PUBLIC HEARING AT 7:18 P.M. MOTION CARRIED WITH ALL AYES.

Recorded and transcribed by,


Darlene J. Roach

Deputy Clerk

Kaveliwoods Conditional Use Permit Appeal

6:00 P.M.

Monday, June 12, 2000

Sign-In Sheet

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