

**CITY OF EAST GULL LAKE
MINUTES
PLANNING AND ZONING COMMISSION
JULY 26, 2005 – 6:30 PM**

1. Call to Order – 6:30 PM

2. Roll Call –

Planning Commission: Dennis Lang, Ken Anakkala, Rob Mason (Chair), Kevin Lee, Peter Dunphy

Staff: James Lehnhoff (Planning & Zoning Administrator)

3. Public Hearings

**Variance for a Metes and Bounds Subdivision (continuation)
Application 04-38
Brent Gunsbury on behalf of Ronald and Patricia Manglesdorf**

Chairman Mason requests no discussion regarding the application.

Commissioner Anakkala asks if we should have the City Attorney present when the Manglesdorf is reviewed.

Administrator Lehnhoff states that we can ask Mr. Fitzpatrick to be present.

Commissioner Anakkala motions to table the application. Commissioner Lang seconds the motion. The motion passed unanimously.

**Conditional Use Application to Exceed the 20 Percent
Impervious Coverage Limit in the R3 Zone.
Application 05-33
Vern Winslow, Gull Sands Association**

Chairman Mason introduces the application.

Administrator Lehnhoff provides background on the application, the findings of fact, and the recommended conditions. Staff does not have a specific recommendation for this application because we are not professional French drain designers and cannot adequately evaluate the proposal.

Chairman Mason asks if the applicant has had a chance to review the staff findings? We would like to hear your perspective, tell us in your words what you are applying for.

Ruth Korte states that her husband designed the garages. They are using a French drain. Mr. Marohn told them to use that.

Administrator Lehnhoff states that Mr. Marohn suggested using a French drain but did not direct them to use that or design it for them.

Chairman Mason asks if the applicant had anything more to add other than what we have seen. Do you feel the drainage system is sufficient?

Ms. Korte states that is what Mr. Marohn said was needed. We will do whatever we need to do to put these garages out. If we don't get the garages, we will need to put up more sheds. Without the drain there would be a water problem even if more sheds would go up.

Chairman Mason states that you still need a permit for sheds.

Administrator Lehnhoff states that we would need a conditional use permit for that too because of the impervious surface.

Commissioner Dunphy asks if an engineer helped design the drain.

Vern Winslow, Gull Sands President, that that when he talked to Mr. Korte, he said it would work.

Commissioner Dunphy states that he is just wondering what kind of engineer designed the system.

Ms. Korte states that she thinks he spoke with a design company.

Chairman Mason states that we received a letter from a Pete Hess and from a Clifford and Nancy Anderson. Both letters are in opposition to the proposal due to the stormwater management issue. Mr. Hess is a member of the Gull Sands Association. Both feel that the size of the facility and the stormwater management plan are inadequate.

Nancy Anderson states that she studied the staff report and her letter speaks for itself.

Chairman Mason states that Mr. Hess is one of your members, he called me this afternoon, and he is concerned about the stormwater management plan. I believe he is in Cabin 3. He is concerned that if the garage is built, there will not be enough room for a turning radius for cars, which will require pushing the parking lot back and increase the impervious coverage. He also indicated that there would be a five foot variance, but that has not been approved or talked about.

Vern Winslow stated that we plan on conforming to the 10 foot setback. We are not going to apply for a variance, in the event that it created a parking problem, we would not move the parking area back. We would only revert back to where the parking was prior to the removal of the sewer mound, when the mound was in all of the parking was in front of their places in the west toward Ernie's. That would alleviate the parking problem, but we don't think that will be necessary.

Chairman Mason asks if the parking would be on the west side of the cabin?

Mr. Winslow states it will. Mr. Hess might be worried about that

Chairman Mason reads from letter on parking restraints. If parking is moved, we would significantly exceed impervious coverage.

Mr. Winslow states that all parking was in the front except for two units, nothing as far as parking would change as far as impervious coverage if we shifted six units from front to back. I don't think this will affect parking. We have no intention to affect any of the parking, we are improving with the garages because it allows parking in their garage rather than on the property

Chairman Mason states that they would have to have enough space to back in and out, it would be difficult to get in and out. You are going to need a lot more space than what is shown.

Ms. Anderson states that she thought a French drain drained to a location and didn't percolate.

Chairman Mason asks if there has been a survey of this property. I don't know if I can accept the drawing the way it is, and whether you want to go to the expense, I would believe that we are going to need a survey of the property. We have really no reliability, the homes look larger than what is on this map. I have a hard time believing that we are at 20 percent coverage now. I see the dimensions that you have written down, but other than a sketch plan, I don't really see what the dimensions are.

Mr. Winslow states that when we originally applied for the permit, I think we submitted it at 18 percent, and upon Administrator Lehnhoff checking, there was stuff I didn't count, and came to 24 percent something.

Administrator Lehnhoff states that he added on the parking and the driveway because they did not.

Commissioner Anakkala states that he added up on all the buildings and could see it at 40 percent. I think it may be exceeding already.

Chairman Mason states that this is an example of where we can require a survey or not, I think we need to know. At this point in time, all we have is a gut feeling and guesses, we don't have facts. Maybe there is less or more than what we think. Based on this drawing, I couldn't vote for it.

Commissioner Dunphy states that parking on the grass, creates impervious cover.

Mrs. Korte asks what the Planning Commission needs for more information.

Chairman Mason states that he would like to see a survey with all of the buildings and land cover. It is not drawn to scale. And whether or not, it could be up to 25% or more, you still may not get it. If you find you are at 30 percent, you might as well cease what you are doing. There is no permit to exceed 25 percent. We have had a lot of stormwater management problems along Squaw Point. We would need a full stormwater management plan, and that is going to take an effort and may be expensive.

Mr. Winslow requests a copy of the submitted letters.

Chairman Mason asks if there are any other concerns?

Commissioner Anakkala asks if we addressed the issue of the French drain?

Chairman Mason states that if you are a foot above the water table, it will be difficult.

Commissioner Lang asks how the French drain is different from tiling.

Commissioner Anakkala states that it is a holding pond and it percolates. However, the water table is so high, it would be difficult to percolate away.

Ms. Anderson restates her concerns and water problems in her neighborhood.

Discussion on stormwater management on the Point.

Chairman Mason states that if you can provide us with a professional survey and a stormwater management plan, we will take a look at the issue. We are not engineers. Any other applicant provides us with very specific statistics. We can't make decisions on this. If you find you are in excess of 25 percent, then the project is probably at an end. We must contain stormwater.

Commissioner Lee agrees with Chairman Mason.

Commissioner Dunphy states that he is confused by the French drain, and the turnaround will be difficult. I can't see where you are going to be able to park across from the garage.

Ms. Korte states that sounds reasonable, and if we want to move forward.

Chairman Mason asks for a motion to table.

Commissioner Dunphy motions to table the application. Commissioner Lee seconds the motion. The motion passed unanimously.

Administrator Lehnhoff asks we can move the agenda up to better use the City Attorney's time.

Chairman Mason asks if this is in regard to Reedy.

Administrator Lehnhoff states that it is.

City Attorney Tom Fitzpatrick introduces himself. One of the things I assist is with zoning dilemmas when they get to the point where Planning and Zoning need a little bit more umphs. I was contacted about the Reedy property, and reviewed the situation.

City Attorney reviews the Reedy's project and the timeline to where we are today. They constructed a building on a non-conforming lot, which required a variance. A condition for approval was removing the accessory structure across the road from the primary structure. City was informed that the Reedy's cannot remove the accessory structure because they were under a contract with their neighbor, the Adams, that allowed the neighbor to use one stall of the accessory structure. I contacted the Adams, and they are not interested in releasing the stall from the contract. We are at an impasse. It is three years out from when the permit was issued. If you do nothing, I am sure they will keep going as they do.

Chairman Mason asks if the Reedys bought from the Adams?

City Attorney Fitzpatrick stated that they did, but it was an existing separate lot.

Chairman Mason states that the City did not create the lot.

City Attorney Fitzpatrick states that there was a legally binding agreement for storage in 1997. They didn't disclose that during the variance process. It was only when we started to press for an explanation that we got this contract.

Commissioner Lang states that none of us were here but Chairman Mason or possibly Commissioner Dunphy.

Commissioner Dunphy states that at the time we acted on it, this contract was never brought to light.

Commissioner Anakkala asks if it has been reviewed to reduce the size of the garage but let them keep one garage.

Administrator Lehnhoff states that that hasn't been explored.

Commissioner Anakkala states that if they took down two thirds of the garage. Maybe they could make the

Chairman Mason states that we should have a list of alternatives to propose to the Reedy.

City Attorney Fitzpatrick states that it is good for the Commission to suggest concepts you are willing to accept. Ultimately it is his responsibility to come up with whatever it takes to work with the Adams. It is the Reedy's responsibility for them to come up with options. But I do think it is helpful for the Reedy's to have some guidance.

Chairman Mason states that if we said to tear it all down but that one stall for the lifetime of the contract, that could work.

City Attorney Fitzpatrick states that that could be a considerable amount of time.

Commissioner Dunphy asks if there is there a role for condemnation.

City Attorney Fitzpatrick states that he doesn't think so. We can for safety hazards and purchase buildings through eminent domain, but then we have to pay for it. Your authority would be to seek a court order giving the city the authority to require the garage to be torn down.

Commissioner Dunphy asks if that is typical.

City Attorney Fitzpatrick states that it has been done before, but it is an extreme remedy. The legal action would be from the City to the Reedy's, and the Adams to the Reedy's.

Commissioner Lang states that is a concern that he had a legally binding contract when he asked for a variance.

City Attorney Fitzpatrick states that he almost certainly knew about the contract when he received the variance. It was a few years between purchasing the lot and building the house. Their agreement is a lawyer written document. It was done during the transaction.

Chairman Mason asks for suggestions.

Commissioner Anakkala states that we need to get his attention and to see what his options are.

Chairman Mason states that we should give them no more than three options with one to be completed by a certain date. Asks what can the City do?

City Attorney Fitzpatrick states that that depends on how flexible you want to be. You have another meeting; direct him to be here, to explain to him personally on what he can do.

Chairman Mason states that maybe we say you tear it down, leave one stall, until the end of the agreement. I don't think they could just keep one stall, so they would need to rebuild one stall.

City Attorney Fitzpatrick states that that would require additional agreement from the City.

Chairman Mason states that keeps the impervious coverage down, and possibly meets the agreement. We are just trying to expedite the solution.

Commissioner Dunphy agrees that it should be torn down with one stall left or the Adams should be accommodates some other way by the Reedy's.

City Attorney Fitzpatrick states that one of the correspondences from the Reedy's to the Adams offered a stall from the new garage, but they did not want that.

Commissioner Lang states that we could accept the one stall left idea.

Administrator Lehnhoff states that at a minimum, we should have a revised stormwater plan and we should review how this will change the impervious coverage. Offers to write a letter for City Attorney Fitzpatrick's review.

Commission comes to a consensus that a letter should be written to the Reedy's with a few options for resolving the situation.

Rezoning from R-1 to R-2
Application 05-36
Mark Schmutzer

Administrator Lehnhoff reads public notice and provides the background.

Chairman Mason states that we know most of what is going on here, unless there is something new to add.

Celt, a neighbor of Mr. Schmutzer, states his concerns. Doesn't understand how a new lot can be created on his small property. Thought our comp plan was to keep the rural setting. If we are going to spit, that is getting smaller.

Chairman Mason states that they are not splitting a new property. The "new" property will be combined with another property. It is not a new buildable property.

Discussion of how the zoning map was made. Trying to correct past errors.

Celt asks about the existing deck and how he can subdivide his lot.

Administrator Lehnhoff states that the existing deck may be non-conforming, but it won't affect the property.

Commissioner Anakkala asks how long has it been there?

Celt states that it has been there for years.

Administrator Lehnhoff suggests contacting our office with how to subdivide the property.

Commissioner Lang motions to approve the rezoning. Commissioner Anakkala seconds the motion. The motion passed unanimously.

Schmutzer Metes and Bounds Lot Split

Chairman Mason states that the Schmutzer metes and bounds lot split is the second part of the application.

Administrator Lehnhoff explains the background of the applications, the findings of fact, and recommends approval with conditions.

Commissioner Dunphy motions to approve the lot split with the conditions. Commissioner Lee seconds the motion. The motion passed unanimously.

4. Additions or Deletions to the Agenda
5. Approval of Minutes
 - a. June 2005 Regular Meeting

Commissioner Anakkala motions to approve the minutes as written. Commissioner Lang seconds the motion. The motion passed unanimously.

6. P&Z Administrators Report
 - a. Permits

Commissioner Dunphy asks about the Johanos permit and if they need to remove any structures.

Administrator Lehnhoff states that he will review the permit, but they do have time to comply with the conditions of the Variance.

- b. Correspondences
- c. Potential Violations/Enforcement Action
 1. Rivers

Administrator Lehnhoff goes through the violations. Mr. Rivers contacted us and he has moved his light. He invited the Planning Commission out to view the light.

Administrator Lehnhoff explains the Ritter violation and the contradiction in the Ordinance.

Chairman Mason states it would be difficult to deny the permit.

Mr. Ritter explains his situation. Didn't change the contour of the land. Described what he did. Didn't know he needed a permit, but probably should have checked. He won't fight the violation fee if he can keep the boat ramp.

Commissioner Lang motions to accept that Mr. Ritter won't appeal the permit but he can keep the boat ramp. Commissioner Dunphy seconds the motion. The motion passed unanimously.

Chairman Mason asks staff to review the Ordinance and come back with suggestions for changes to make it more clear.

- d. Council Action
 1. City Council

Administrator Lehnhoff states that the Council accepted the Ordinance amendment to non-conforming structures.

- e. Applicant Feedback Survey

None.

- f. Variance/CUP Follow-up

Administrator Lehnhoff reviews the status of the follow up inspections. Progress has been made.

7. Open Forum

Lloyd Elringer - 1260 Green Gables Road - I would like to put up an accessory structure on the separate lot, a nice utility building. It is a separate lot. We would like to move up here, but it is contingent upon us having a building up here now.

Chairman Mason asks how much land do you have?

Mr. Elringer states that it is two separate lots.

Chairman Mason asks how many acres?

Mr. Elringer states that it is about 1.3 acres? It is a wooded area.

Administrator Lehnhoff explains the Ordinance and that you cannot build an accessory structure without a primary structure.

Discussion on the rule of no accessory structure without a primary structure. Suggestion of combining the lot into one lot so that an accessory structure can be built. Mr. Elringer does not wish to combine the lots.

John Hillen introduces himself. The Beach club has been great and they are good people. Always had a harmonious relationship. Describes changes at Sylvan and the affect on him. Refers to previous correspondences. Proposes moving the docks over to the other side of the property.

Chairman Mason asks Jeff Clark of the Sylvan Beach Club to explain the other side. I have lived and worked there for 30 years, the beach club has always been there. Part of the Pine Beach West development is the public beach area, which is approximately 400 feet. They created the marina with the development. Each of the members use to be allowed to be part of the beach club, but now there are 40 properties within the Pine Beach West Area and some are members of the beach and some are members of the marina. When it was created, there was no regulation set as far as what could be there. It just had to meet setbacks. What has happened over the years is that the docks were spread out but now have been consolidated. Debby Thuringer brought legal action to force them to consolidate the boat lifts. At that time, they looked into what could or could not be done. Basically what they were told was that it could go out as far as they wanted by the DNR.

Jeff Clark – President of Sylvan Beach club – explains the situation is that Ms. Thuringer and her sister have legal right to take the property back if it doesn't conform to the terms of the warranty deed. We have to maintain that piece of property called Outlot A to the satisfaction of Deb and Kathy. It behooves the members of the Association to follow their liking.

Chairman Mason explains that Ms. Thuringer worked with Jeff and the association as to where to put those docks.

Mr. Clark states that occurred three years ago, and we have continued to work with her and bring a resolution. Took a few years to put the financing together and figure out what we can do.

Commissioner Dunphy asks where are the docks located.

Chairman Mason explains the location of the docks and Mr. Hillen's home.

Mr. Hillen disagrees with Chairman Mason. The lifts were in the marina and way down the beach.

Commissioner Anakkala asks if there use to be docks on the north side.

Chairman Mason states that Ms. Thursinger required the docks to be lined up so they were along the edge of the marina. I asked her today if she could move it over. And Hillen's dock is a few feet off of the property line.

Mr. Hillen states that he just wants to move traffic away from his property.

Mr. Clark states that in all fairness, those on the south side of the dock don't affect you. We have only added about six slips.

Chairman Mason states the fact is that they have the legal right to do that. And the DNR prefers consolidated docks. Debby looked hard into how to do that. States they can put 7 docks per 100 feet.

Mr. Hillen states that this has been a huge impact on safety.

Chairman Mason states Mr. Thuringer has offered to buoy off the property.

Mr. Hillen asks if the dock can be moved five or ten feet over.

Discussion on where and how the docks could be moved and reconfigured. There would be difficult moving the docks according to Mr. Clark because they would be off the sand bar and have to remove some slips.

Administrator Lehnhoff explains that the City only has regulations on the number of docks/slips a PUD can have. There are no residential restrictions.

Mr. Hillen states that the quality of my lake living there has been harmed.

Chairman Mason stated that the marina was created there before your house. You should have researched what you were going to be next too.

Mr. Hillen states that Mrs. Thuringer is unreasonable. How can they do it without talking to me? I feel like I have been steamrolled here.

Commissioner Lee states that he doesn't see where we have any authority.

Administrator Lehnhoff explains that the DNR and the City have no regulations restricting docks on properties like this. Contacted Ron Morriem, only regulations are with if there is a safety issue. We no longer allow outlots in the City, but this was created long before that rule.

Mr. Hillen states that he is being treated unfairly.

Commissioner Dunphy states that he thought there was a 7 docks per hundred feet of shore, and ten feet from the property line setback.

Discussion on 7 docks per hundred feet.

Chairman Mason states that whether it was seven or not, the Beach Club is legal. I guess you are welcome to talk to talk to Ms. Thuringer.

Commissioner Lee states that Hillen may have a valid point, but I don't know what we can do about it.

Mr. Hillen states Ms. Thuringer is being completely unreasonable. I have the dock there to protect my kids. If you saw the 4th of July, you would be concerned too. It seems to me she should accommodate moving it over.

Continued discussion on Beach club.

Mr. Hillen thanks the Commission for hearing him out.

Chairman Mason states that enough time has been spent on this. Thanks for coming in Jeff.

Administrator Lehnhoff states that he will look into the seven docks per hundred feet of shoreline rule. Check past staff reports and bring back information at the next meeting.

Mr. Rivers states that the light has been moved and partially blacked out. Invites the Planning Commission to come see the new light.

John Kavanaugh asks for guidance from the Planning Commission and a potential lot split and rezoning. Explains what he wants to do.

Planning Commission indicates that it may be a good idea, but he would need to submit an application.

8. Old Business

- a. Discussion of Waterslides
- b. Stormwater Management Plans with Directions

Brief discussion on where we are going with the application and there will be a real life example next month.

- c. Comprehensive Plan Update

9. New Business

- a. Schmutzer Metes and Bounds Lot Split – Moved to after Schmutzer rezoning.

Discussion on the Parks Committee.

10. Adjourn –

Commissioner Anakkala motions to adjourn. Commissioner Lang seconds the motion. The motion passed unanimously.

Adjourns 9:13 PM

Respectfully submitted,

James Lehnhoff
Planning and Zoning Administrator