

**CITY OF EAST GULL LAKE
UNAPPROVED MINUTES
PLANNING AND ZONING COMMISSION
June 26, 2007 – 6:30 PM**

1. Call to Order

Chairperson Mason calls the meeting to order at 6:30 p.m.

2. Roll Call

Members Present: Chairperson Mason, Commissioner Haliwell, Commissioner Anakkala, Commissioner Lee

3. Public Hearings

Application for a Conditional Use Permit for Grading in Excess of 50 Cubic Yards
East Pointe Association, Applicant and Property Owner
Application 2007-29

Will Hoyt, Landecker, is present on behalf of the property owners.

Bob Hunstad, East Pointe Association President, is present on behalf of the Association.

Mr. Hoyt notes that the property located within 800 ft of Gull Lake. Explains that the applicant is proposing to grade 1500 cu. yds. of material and redeposit material on the upland areas of the property.

Motion by Commissioner Anakkala to approve Application 2007-29 for Grading in Excess of 50 Cubic Yards based upon the following findings:

- 1. The applicant proposes to construct twelve contiguous garage and storage units to serve existing property owners within the East Pointe development area which is a permitted use within the R-3 District.**
- 2. Grading greater than 50 cubic yards within the shoreland area is an allowed conditional use in the R-3 zoning district. The applicant proposed to grade roughly 1,500 cubic yards of material.**
- 3. The comprehensive plan supports residential and recreational land uses within the City. A Wetland Delineation Report has been prepared on behalf of the applicant which clearly shows the existing wetland on the property. Notations provided on the Grading and Erosion Control Plan indicate that the wetland is not to be disturbed.**

4. The applicant has submitted a grading plan which shows a drainage ditch to be constructed between the parking lot surface and the existing wetland.
5. The proposed grading, with conditions for screening, erosion control, and stormwater management, will not alter the long-term public health, safety, welfare, decency, order, comfort, convenience, or prosperity of the City. The applicant has submitted an erosion control plan which provides a drainage ditch between the parking lot surface and the existing wetland. The plan also provides for the construction of a silt fence along the entire west boundary of the wetland to be maintained during construction.
6. The Grading and Erosion Control Plan indicates that all disturbed areas are to be stabilized using seed and mulch to be disk anchored in place.
7. The proposed grading will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. The proposed garages are adjacent to a similar and larger garage structures which are located to the south of the proposed project area.
8. This project will not require the provision of additional road or sewer infrastructure.
9. The project will not affect traffic flow, congestion, parking, or vehicular approaches as the proposed project will utilize existing access via the existing driveway connecting to East Pointe Drive.
10. Dust and noise may be present during construction, but there will be no long-term impacts on neighboring properties.
11. It is unknown if the proposed grading will result in the destruction, loss or damage of a natural, scenic or historical feature of major significance; however, there is no indication that such features exist on the property.
12. The conditional use, with provisions for stormwater management and erosion control as indicated by the Grading and Erosion Control Plan submitted by the applicant, will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
13. A Drainage and Utility Easement exists on the east portion of the property which was intended to serve a drainfield site which was never constructed. Since the drainfield was never constructed and the easement no longer serves a purpose, the easement should be removed.

The Motion was made with the following Conditions:

1. Excess fill shall be deposited on property owned and maintained by the East Pointe Association and shall not be deposited on City right-of-way or City property.
2. All silt fences and erosion control measures shall be implemented as to not allow the flow of any material or sediment to the existing wetland.

3. **Groundcover shall be re-established as soon as possible after grading.**
4. **The applicant shall not alter the vegetation or otherwise disturb the existing wetland.**
5. **The applicant shall not remove any trees greater than four inches in diameter other than what is necessary to complete the approved project.**
6. **The applicant shall implement the stormwater management measures as provided for on the Grading and Erosion Control Plan submitted by the applicant.**
7. **The applicant shall remove the Drainage and Utility Easement on the east portion of the property.**

Motion seconded by Commissioner Lee.

Chairperson Mason calls for further discussion by the Commission or Staff.

Zoning Administrator Schmidt explains the drainage and utility easement.

Mr. Hoyt explains that the easement existed for the purposes of a drainfield and notes that the easement is no longer necessary as the structures which will be constructed do not require sewer or septic service.

Commissioner Anakkala asks if the easement should be removed by the Commission and amends the motion to add a condition for the removal of the easement.

Zoning Administrator Schmidt reads the condition to the Commission [Condition #7 above].

Commissioner Lee states that he also amends his second to include Condition number seven.

Chairperson Mason asks if there is any additional discussion and calls for the vote.

Motion passed unanimously.

Application for Final Plat of East Pointe Seventh Addition
East Pointe Association, Applicant and Property Owner
Application 2007-40

Chairperson Mason asks if there are is any public comment on the Final Plat.

Chairperson Mason asks again if there is any public comment or if a member of the Commission would like to make a motion.

Motion by Commissioner Anakkala to approve the Final Plat of East Pointe Seventh Addition, Application 2007-40, based upon the following conditions:

- 1. The property is zoned R-3, Shoreline Residential District. The proposed accessory structures are a permitted use within the R-3 zone.**
- 2. The proposed lots will not generate any sewer demands and therefore room for sewage treatment systems is not applicable.**
- 3. The proposed lot is not riparian and will not be used for any water based recreation.**
- 4. The lot area and dimensions meet the requirements of the Zoning Ordinance.**
- 5. The layout of the proposed lots is compatible with the existing layout of adjoining properties, which are also part of the East Pointe Association.**
- 6. The East Pointe Association has access off of public right of way on East Pointe Drive.**
- 7. There are no proposed public roadways and no public improvements required with the subdivision and, therefore, no need for a financial guarantee or development contract.**
- 8. There are no easements needed or required within the proposed subdivision.**
- 9. The City has received a Plat Check completed by a Professional Land Surveyor, Mr. Gregory H. Fordham, License #19085.**
- 10. A Drainage and Erosion Control Plan, designed by a licensed engineer, Mr. Willis A. Hoyt, License #17287, has been submitted and will handle the stormwater needs of the development. This plan has been revised according to the conditions placed upon the preliminary plat approval.**

The Motion was made with the following Conditions:

- 1. The Grading and Erosion Control Plan shall be implemented as approved by the City.**
- 2. The property restrictions requiring the following shall be approved by the City Attorney prior to the start of construction.**
 - a. The proposed accessory structures be owned by owners or occupants of the East Pointe PUD; and**
 - b. The rental of the proposed accessory structures may be only to other owners within the East Point PUD; and**
 - c. Construction materials shall be earth tone colors; and**
 - d. Screening on the property must be permanently maintained.**
- 3. The Final Plat shall be submitted to the Cass County recorder within two years of approval of the Final Plat by the City Council.**
- 4. The Drainage and Utility Easement to the east of the property shall be removed prior to the start of construction.**

Motion seconded by Commissioner Lee.

Chairperson Mason asks if there is any additional discussion.

Motion passed unanimously.

Application for a Variance to Utilize a 33' Ingress and Egress Easement in Lieu of 33' Right of Way for a Metes and Bounds Subdivision
Kathy Bishop, Applicant; Mary Ann Baker Trustees, Property Owner
Application 2007-32

Zoning Administrator Schmidt provides a summary of the public hearing notice and provides a summary of the application.

Mr. Chad Conner, Professional Surveyor on behalf of the applicant, provides an overview of the application and notes the road vacation and that Tract A had existed in the past. Stated that the nonconformity existed in the past changes made in the past were made in 1988.

Mr. Conner further explains the sewer easement on the property and the tract A, B and C. He states that they believe that the lots are preexisting and that the property owners would like to present preexisting lines.

Chairperson Mason states that they cannot create a nonconformity.

Ms. Bishop states that they worked hard to straighten the lot lines and explains the lot ownership structure. She notes that another family member will build new house on Tract A.

Commissioner Anakkala asks to change north to east on finding #1.

Motion by Commissioner Anakkala to approve Application 2007-32 for a Variance for a Metes and Bounds Subdivision to utilize a 33' wide ingress and egress easement in lieu of public right of way based upon the following findings:

- 1. Due to the existence of a rather large wetland, which is a unique topographical feature, along the north boundaries of Tracts A, B, and D, the placement of public right of way as required by the strict interpretation of the Ordinance would be impractical. Due to this, the Planning Commission may interpret this to be hardship as defined by City Ordinance.**
- 2. The proposed Tracts A, B, C, and D, with conditions as proposed by the Commission and agreeable to the applicant, conform to the Ordinance with the exception of a preexisting nonconforming cabin structure located on Tract D. The approval of the Variance request would not increase or intensify the nonconforming aspects of the structure.**
- 3. The deviation from the Ordinance, with conditions, would be in keeping with the spirit and intent of the Ordinance as the circumstances which cause this proposed division to be nonconforming are designed to protect**

- the character of the community, ensure proper and sufficient access to properties, and ecologically and visually protect Gull Lake.
4. The preexisting house and cabin structures with all accessory structures as indicated on Tracts A, B, and D are allowed uses under the R-3 District. Tract C is currently vacant and is within the R-2 District.
 5. The variance would unlikely alter the essential character of the locality. Neighboring properties are comprised of similar tracts with dwellings and accessory structures.
 6. Reasonable use of the property currently exists under the Ordinance due to the presence of the existing dwelling structure and guest home structure.
 7. The proposed impervious surface coverage for Tracts A, B, C, and D has not been provided, however is clearly below the 20% maximum allowed under City Ordinance. The maximum total impervious surface coverage requirement for the R-2 and R-3 Districts is 20%.
 8. The variance application is not for economic reasons alone. A variance is required to be granted to the applicant in order for the City to approve the proposed subdivision due to the fact that access along public right of way does not exist for all lots.
 9. The proposed subdivision would neither impact or promote the prevention of, or have an effect on the control of pollution of the ground and surface waters including sedimentation and control of nutrients.
 10. Tracts A, B and D are served by municipal sewer and water service and therefore soils information is not necessary. Soil borings would be required prior the installation of a septic system on Tract C, if such a system were to be installed.

The Motion was made with the following Condition:

1. The applicant shall provide a 33' ingress and egress easement as provided on the Certificate of Survey submitted by the applicant.

Motion seconded by Commissioner Lee.

Chairperson Mason asks if there is any discussion and calls for the vote.

The motion passed unanimously.

Application for a Metes and Bounds Subdivision (No Public Hearing)
 Kathy Bishop, Applicant; Mary Ann Baker Trustees, Property Owner
 Application 2007-33

Chairperson Mason notes that a metes and bounds subdivision application is not open for public comment and asks if the Commission has any questions on the application.

Commissioner Anakkala states that the application should be approved based upon the preexisting property lines.

Motion by Commissioner Anakkala to approve Application 2007-33 for a Metes and Bounds Subdivision based upon the original survey document dated 4-30-07 and based upon the following findings:

1. The buildable lot area of Tract A is roughly 40,000 sq. ft., the buildable area of Tract B is roughly 125,000 sq. ft, Tract C is roughly 20 acres (total area), and Tract D is roughly 40,000 sq. ft. all of which meet the minimum lot area requirements of the R-3 District and R-2 District for Tract C.
2. The applicant has submitted a Certificate of Survey indicating all proposed property lines.
3. The survey does not indicate vegetation cover, however Tracts A, B and D contain trees and vegetation consistent with adjacent property within the general vicinity of the subject properties and Tract C contains significantly more trees and vegetation.
4. The applicant has not submitted soil surveys, however Tracts A, B, and D are served by municipal sewer service. Soil borings would be required prior the installation of a septic system on Tract C, if such a system were to be installed.
5. The survey indicates the location of adjoining lot lines and existing structures on the accompanying Certificate of Survey.
6. There are no known significant historical or ecological sites on the property.
7. There are no indications that the subdivision would be injurious to the public healthy, safety, or welfare.
8. The applicant has not indicated the location of a primary and secondary sewage treatment system for Tract C and as of the preparation of this report; however, Tract C is large in area at roughly 20.4 acres and would have the ability to accommodate such a primary and secondary system.
9. All four lots conform to the Zoning Ordinance and this subdivision will not result in the creation of non-conforming lots.
10. Tracts A and D are similar in total area, shape, and size as adjacent lots. Tracts B and C are larger and more unique in shape, size and geometry.
11. Tracts B and C all meet the minimum requirement of 33 feet of frontage on a designated right-of-way, Tract D is served by a private roadway and Tract A is provided access through an ingress and egress easement to Green Gables Drive.

The Motion is made with the following Conditions:

1. The applicant shall provide a 33' ingress and egress easement as provided on the Certificate of Survey submitted by the applicant.

Motion seconded by Haliwell.

Chairperson Mason asks if there is any other discussion.

The motion passed unanimously.

Zoning Administrator Schmidt notes that the application is contingent upon the approval of the Variance by the City Council.

4. Additions or Deletions to the Agenda

Zoning Administrator Schmidt explains that he has received a request from an interested person as to the possibility of dividing a portion of property located lot 7 and 8 of Gullview Addition. Explains that the specific question was if the lot could be divided to split a portion of the bluff, which would be a triangular piece extending from the lake to the northwest corner of the lot, and combine that portion with the property to the north.

Commissioner Anakkala states that he believes that would be acceptable, however the remaining lot would have to be conforming to the Ordinance, or at least not increase a nonconforming circumstance, and that the existing structure could only be added to under a CUP.

5. Approval of Minutes
 - a. May 29, 2007 Regular Meeting

Motion by Commissioner Lee to approve the minutes of the May 29, 2007 meeting, second by Commissioner Anakkala. Motion passed unanimously.

6. P&Z Administrator's Report

Zoning Administrator Schmidt provides an overview of the Zoning Administrator's report.

7. Open Forum

8. Old Business

- a. Application for a Variance to Construct a Home Upon a Nonconforming Lot; Jim Deanovic and Thomas VanDyke; Application 2007-08.
- b. Application for a Conditional Use Permit for 21.8% Impervious Surface Coverage; Jim Deanovic and Thomas Van Dyke; Application 2007-34.
- c. Ordinance Amendments

Planning Commission reviews the proposed Ordinance Amendments and instructs Staff to prepare a map showing the impact of a CUP requirement for all structures in excess of 6,000 s.f. to the Commission.

9. New Business

10. Adjourn – This agenda is not exclusive. Other business may be discussed as deemed necessary.

Motion by Commissioner Anakkala to adjourn, seconded by Commissioner Lee. The motion passed unanimously.