

CITY OF EAST GULL LAKE
APPROVED MINUTES
PLANNING AND ZONING COMMISSION
July 31, 2007 – 6:30 PM

1. Call to Order

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

2. Roll Call

Members Present: Chairperson Mason, Commissioner Anakkala, Commissioner Dunphy, Commissioner Lee.

Members Absent: Commissioner Lang.

3. Public Hearings

Application for a Conditional Use Permit for Grading in Excess of 50 Cubic Yards
Mike Blanch, Applicant and Property Owner
Application 2007-51

Chairperson Mason asks Staff to provide an overview of the application.

Zoning Administrator Schmidt reads the public hearing notice and notes that the application is for grading in excess of fifty cubic yards within the shoreland area and provides a summary of the application.

Chairperson Mason asks the applicant if there is anything in general that the applicant would like to present.

Mr. Blanch states that he thinks the overview covered most everything related to the project.

Chairperson Mason asks if there are any comments from the public.

Commissioner Anakkala notes that an application will be needed for the structure.

Motion by Commissioner Anakkala to approve Application 2007-51 for a Conditional Use Permit for Grading in Excess of 50 Cubic Yards within the Shoreland Area based upon the following findings:

- 1. The applicant proposes to grade and fill roughly 650 cubic yards of material as indicated on the Grading, Drainage and Erosion Control Plan submitted by the applicant.**

2. Grading greater than 50 cubic yards within the shoreland area is an allowed conditional use in the R-2 zoning district.
3. The Grading, Drainage and Erosion Control Plan submitted by the applicant shows the direction of the flow of water on the property from the east to the west/northwest. The property is generally flat with the majority of the change in elevation being in the east portion of the property which ranges from an elevation of 1206 to 1200. The lowest portion of the property is located on the west portion of the property with the elevation being 1198. The edge of the project area is roughly 115 feet from the west property boundary which provides sufficient area for drainage retention. The plan also provides for a metal pipe culvert under the driveway entrance to allow flow underneath the driveway.
4. The proposed grading, with conditions for 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 culvert under the driveway entrance and the installation of a silt fence along the west and north portions of the project area.
5. 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 or sod at the option of the property owner.
6. The proposed grading will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
7. This project will require the installation of a culvert underneath the driveway within public right of way. This improvement must be made at the expense of the applicant.
8. 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 Hillview Forest Road.
9. Dust and noise may be present during construction, but there will be no long-term impacts on neighboring properties.
10. The proposed project will not result in the damage, loss or destruction of known natural, scenic or historical features of major significance as no known features exist on the property.
11. 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.

The Motion is made with the following conditions:

1. **The grading and placement of fill, along with any proposed improvements on the property, shall not create additional drainage or similar impacts on neighboring properties.**
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 by seeding or installing sod as indicated on the Erosion Control Notes.**
4. **The applicant shall be responsible for the installation of the culvert installed beneath the driveway access.**
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 drainage control measures as provided for on the Grading, Drainage and Erosion Control Plan submitted by the applicant.**
7. **The property owner shall contact the City for an inspection of the property after completion. Upon finding the improvements upon the property to be in compliance with the plan approved by the City, Staff will issue a *Certificate of Compliance* to the property owner.**

Motion seconded by Commissioner Dunphy.

Chairperson Mason asks if there is any additional discussion and, hearing none, calls for the vote.

Motion passed unanimously.

4. Additions or Deletions to the Agenda

Schmidt notes that there are none.

5. Approval of Minutes
 - a. June 26, 2007 Regular Meeting

Commissioner Anakkala notes that there should be a correction made to the statement regarding the change of the word “north” to “east” on finding #1.

Zoning Administrator Schmidt notes the correction.

Motion by Commissioner Anakkala to approve the June 26, 2007 meeting minutes. Second by Commissioner Lee. Motion passed unanimously.

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6. P&Z Administrator's Report

Zoning Administrator Schmidt provides an overview of the permits issued since the June 26, 2007 meeting. He also provides an overview of a pending violation at 10893 Mallard Lane. Schmidt explains the nature of the violation noting the replacement of a nonconforming structure in violation of City Ordinance and asks the Commission to provide a determination of the following:

1. Determine if the change in roof pitch is in violation of the provisions of Section 4.4 of the Ordinance, and
2. Determine if there is an expansion in the use of the structure as a guest quarters in violation of Section 4.4 of the Ordinance, and
3. Determine if the clearing and removal of vegetation on the site is in violation of Section 6.9 of the Ordinance.

1. 10893 Mallard Lane – Replacement of Guesthouse/Boathouse.

Mr. Brinker, Property Owner is present.

Mr. Mark Cross, Architect for the Property Owner is present.

Mr. Cross states that he had met with Staff in advance of the project and would like to address the issues, the first being the pitch of the roof.

Mr. Cross presents a photo outlining the shape of the new structure and compares the outline to the preexisting structure.

Mr. Cross stated that Mr. Brinker is proposing to rebuild the boathouse to match the new house for Mr. Brinker. He said that they were putting a steeper slope to the structure than what had previously existed in the preexisting structure. He noted the portion of the structure which was water oriented storage. He stated that they had eliminated the boathouse garage door a couple of years prior and that the use of the structure as a boathouse does not exist, although it was used for storage. He stated that the roof pitch has changed, but understands that the use of the structure for water-oriented storage cannot change.

Commissioner Anakkala stated that a guest house structure could be placed on the property in conformance with the Ordinance.

Chairperson Mason stated that the problem with the structure is that the boathouse use is nonexistent and that the use of the structure as a boathouse or for storage must remain. He further explained that the permit issued was to replace the structure and that the structure must be replaced to its current use as a storage structure.

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Mr. Cross stated that part of the use of the structure was for a boathouse and that portion of the structure would remain for storage.

Chairperson Mason stated that there is very little storage in the structure and that the structure must contain storage elements.

Commissioner Anakkala stated that the assessor report indicates that the entire [north] portion of the structure is used for boathouse purposes.

Mr. Blanch stated that the boathouse Ordinance was written to replace boathouse related structures.

Mr. Brinker explains which areas of the structure are to be used for living room area which includes the lower level of the structure.

Commissioner Anakkala stated that the building should be placed to be conforming to the Ordinance and asked why it wasn't brought into conformance.

Commissioner Dunphy stated that he believes that there is a change in use.

Mr. Cross explains that the lean to structure was the boat storage area and that the portion of structure is intended for use as a storage structure which would accommodate a boat hanging from the ceiling with lights in it.

Commissioner Mason states that he is looking for the applicant to replace a door structure or something similar to provide some level of assurance of the use of the portion of the structure for water-oriented storage.

Commissioner Anakkala stated that the plans show several revisions since the permit was originally issued.

Mr. Cross stated that they have made a few revisions since the permit was issued and that they will work with the City to resolve the violation. He stated that the rails to the boathouse were removed.

Commissioner Lee stated that he feels they tore down a boathouse and replaced it with a guesthouse.

Chairperson Mason asks for suggestions by the Commission or the applicant how to resolve this.

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Commissioner Dunphy states that he believes that the structure was rebuilt entirely for guest quarters. He asks if a garage door to the left (waterfront) would remedy the situation.

Commissioner Mason stated that a door could be placed on the lakeside or rear of the north portion of the structure to conform to the Ordinance.

The Commission then discusses potential remedies to the violation which were included within the following motion.

Zoning Administrator Schmidt asks the Commission to address the roof pitch as it has changed from the preexisting structure.

Commissioner Anakkala states he feels that the change in roof pitch is an architectural change and doesn't materially change the structure. He further notes that no one should be penalized for good architecture.

Commissioner Dunphy states he believes the pitch of the roof is within the size and shape as the preexisting structure, but that the use of the structure exclusively as a guesthouse was not correct.

Commissioner Anakkala states that he believes that the height of the structure has increased. He explains that using eight feet for the first level, one foot for floor joists, eight feet for the upper level, and four feet for the roof from the plate line, he believes that the new structure is two to three feet taller than the preexisting structure.

Zoning Administrator Schmidt explains that the height of the structure is a primary question and concern. He stated that without a thorough assessment of the preexisting structure, He stated that there are architectural methods to make a structure look taller and larger than it actually is, although if this is the case, that the applicant must prove to the City that the height of the new structure is consistent with the height of the old structure.

Mr. Cross stated that he will submit interpolated photos and an architectural drawing of the new structure prior to the Council meeting.

Zoning Administrator Schmidt states that he will forward this information with the Staff Report to the Council and have Council review on Tuesday, if possible.

Mr. Cross asks if the Planning Commission will allow work to continue.

Zoning Administrator Schmidt states that the Commission should not lift the cease and desist at this time and, at the earliest, have Council lift cease and desist.

Motion by Commissioner Dunphy to approve the following recommendations to remedy the violations at 10893 Mallard Lane to the City Council.

- 1. The applicant shall provide the City with a storage plan showing the portions of the structure used for the purposes of storage with installation of door on the north portion of the structure.**
- 2. The applicant shall present a screening plan which shows screening of the structure at least 50%. The plan shall include the planting of trees on each side of the structure, the planting of native grass and other taller vegetation in front of the structure and a plan for shoreline restoration. The plan shall also include a stormwater management plan.**
- 3. The applicant must demonstrate the consistency of the height of the new structure with the height of the old. To do so, the applicant shall provide interpolated photos, to scale, or similar method to verify the height of the preexisting structure in comparison to the existing structure.**

Motion seconded by Commissioner Anakkala. Motion passed unanimously.

2. 11151 Pine Beach Peninsula Road – Rental of Dwelling

Zoning Administrator Schmidt explains that a letter was also sent to CA Thrush, property owner, regarding the rental of property at 11151 Pine Beach Peninsula Road.

7. Open Forum

Chairperson Mason asks if there are any members of the public who would like to present during open forum. No such presentation given.

8. Old Business
a. Ordinance Amendments

Zoning Administrator Schmidt presented Ordinance revision language which would require a Conditional Use Permit for all principal structures 6,000 square feet in total area or greater within the R-3 Shoreline Residential Zoning District. The Commission reviewed a map which shows what property would be potentially impacted by such a revision.

The Commission reviewed the revision of the home occupation provisions of the Ordinance which would exclude certain uses and impacts as allowed under a home occupation permit.

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Zoning Administrator Schmidt explained that the revision would essentially exclude uses previously allowed under the Type III and Type IV home occupation provisions of the previous Ordinance.

Chairperson Mason notes that a CUP should be required for the replacement of nonconforming structures as well.

Commissioners Dunphy, Lee and Anakkala note that they agree.

Zoning Administrator Schmidt presents the revisions to Appeals procedures and fees. He explains that the revision is essentially a clarification of the appeals provisions contained throughout Section 10 of the Ordinance and that the City should establish fees for appeals within the City fee schedule.

Motion by Commissioner Dunphy to conduct a public hearing on the proposed Ordinance revisions at the August 28, 2007 Planning Commission meeting, seconded by Commissioner Lee. Motion passed unanimously.

9. New Business
 - a. Extension of Conditional Use Permit issued to property located at 5301 Pine Beach Road on 11/1/05.

Zoning Administrator Schmidt reads a letter by Mr. and Mrs. Lachelt requesting an extension on a previously approved Conditional Use Permit.

Chairperson Mason asks how long the Commission could extend the CUP for.

Zoning Administrator Schmidt explains that the Ordinance does not have a limit on the length of time an extension may be granted for, however suggested that a CUP must be completed within two years of issuance and an extension of two years seemed to be consistent with that.

Motion by Commissioner Dunphy to extend Conditional Use Permit #05-61 granted to Mr. and Mrs. Lachelt for a period of two years expiring November 1, 2009, seconded by Commissioner Lee. Motion passed unanimously.

10. Adjourn

Motion by Commissioner Anakkala to adjourn the meeting, seconded by Commissioner Dunphy. Motion passed unanimously.

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Respectfully Submitted:

Timothy J. Schmidt
Zoning Administrator