



Le Sueur County, MN

Tuesday, February 27, 2018

Board Meeting

Item 3

9:10 a.m. Josh Mankowski, P&Z Administrator (5 min)

RE: Request for Action: Schaefer, Bode

Staff Contact:

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION

TO: LE SUEUR COUNTY BOARD OF COMMISSIONERS

FROM: LE SUEUR COUNTY PLANNING AND ZONING COMMISSION

SUBJECT: "REQUEST FOR ACTION"

DATE: February 27, 2018

The Planning Commission recommends your action on the following items:

ITEM #1: JOEL & MELISSA SCHAEFER, CLEVELAND, MN, (APPLICANT); MIKE & TRACY DRASH, KASOTA, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right for a building eligibility from the SE/NW to the SW/NW in a Conservancy "C" District. Property is located in the NW quarter, Section 34, Kasota Township.

Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the following findings for this request:

Therefore, the Planning Commission recommends approval of the application as written.

ITEM #2: DAVID & KELLY BODE, NORTH MANKATO, MN, (APPLICANT\OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow the applicant to construct a retaining wall within the shore impact zone, create a 10 x 50 beach sand blanket within the shore impact zone; Grading, Excavating, and Filling of 19.25 cubic yards within the shore impact zone and a total of 54.25 cubic yards of material on the lot in a Flood Fringe "FF" Floodplain Overlay District and a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lots 18 & 19, Edgewater Terrace Subdivision, Section 3, Cleveland Township.

Based on the information submitted by the applicant, as required by the Le Sueur County Zoning Ordinance, the Planning Commission developed the following findings for this request:

Therefore, the Planning Commission recommends approval of the application with the following conditions:

- Conditions stated in the letter from Joshua Mankowski that the applicant is to maintain vegetative cover on the slope and along the shoreline (except the location for the sand blanket).
- Condition that the trees are to be trimmed, as stipulated by the Le Sueur County Planning & Zoning Ordinance, to provide additional light in the sloped area to help establish better vegetative cover.
- No plant barrier, liner, or filter fabric material shall be placed underneath the beach sand blanket per Le Sueur County Planning & Zoning Ordinance.

ACTION: ITEM #1: _____

ITEM #2: _____

DATE: _____

COUNTY ADMINISTRATOR'S SIGNATURE: _____

FINDINGS OF FACT

WHEREAS, JOEL & MELISSA SCHAEFER, CLEVELAND, MN, (APPLICANT); MIKE & TRACY DRASH, KASOTA, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right for a building eligibility from the SE/NW to the SW/NW in a Conservancy "C" District. Property is located in the NW quarter, Section 34, Kasota Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on February 8, 2018 in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

WHEREAS, the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends approval of the application due to the following findings:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
- 5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
- 6. The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
- 7. The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

WHEREAS, On February 27, 2018 at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application as requested by **JOEL & MELISSA SCHAEFER.**

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the February 27, 2018 Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*

5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right for a building eligibility from the SE/NW to the SW/NW in a Conservancy "C" District. Property is located in the NW quarter, Section 34, Kasota Township,

APPROVED/DENIED.

ATTEST:

Lance Wetzel, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

WHEREAS, DAVID & KELLY BODE, NORTH MANKATO, MN, (APPLICANT\OWNER):

Request that the County grant an After-The-Fact Conditional Use Permit to allow the applicant to construct a retaining wall within the shore impact zone, create a 10 x 50 beach sand blanket within the shore impact zone; Grading, Excavating, and Filling of 19.25 cubic yards within the shore impact zone and a total of 54.25 cubic yards of material on the lot in a Flood Fringe "FF" Floodplain Overlay District and a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lots 18 & 19, Edgewater Terrace Subdivision, Section 3, Cleveland Township.

WHEREAS, the Le Sueur County Planning and Zoning Commission held on public hearing on February 8, 2018 in order to hear public testimony from the applicants as well as interested parties pertaining to and as provided by the Zoning Ordinance of Le Sueur County.

WHEREAS, the Le Sueur County Planning and Zoning Commission, acting as an advisory board to the Le Sueur County Board of Commissioners recommends approval of the application due to the following findings:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
- 5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
- 6. The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
- 7. The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

WHEREAS, On February 27, 2018, at their regularly scheduled meeting, the Le Sueur County Board of Commissioners APPROVED/DENIED the Conditional Use Permit application as requested by **DAVID & KELLY BODE.**

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following Findings of Fact were adopted at the February 27, 2018 Le Sueur County Board meeting in order to protect the public health, safety and general welfare of the citizens of Le Sueur County.

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*

5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

BE IT FURTHER RESOLVED, by the Le Sueur County Board of Commissioners that based on the above Findings of Fact, a Conditional Use Permit to allow the applicant to construct a retaining wall within the shore impact zone, create a 10 x 50 beach sand blanket within the shore impact zone; Grading, Excavating, and Filling of 19.25 cubic yards within the shore impact zone and a total of 54.25 cubic yards of material on the lot.

APPROVED/DENIED

ATTEST:

Lance Wetzel, Chairman, Le Sueur County Board of Commissioners.

Darrell Pettis, Le Sueur County Administrator

DATE: _____

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
February 8, 2018

MEMBERS PRESENT: Don Reak, Jeanne Doheny, Don Rynda, Shirley Katzenmeyer,
Doug Krenik, Al Gehrke, Commissioner King

MEMBERS ABSENT: Pam Tietz,

OTHERS PRESENT: Joshua Mankowski, Michelle Mettler, Commissioner Rohlifing

1. The meeting was called to order at 7:00 by Chairperson, Jeanne Doheny.
2. Agenda. Motion to approve agenda was made by Don Reak. Second by Doug Krenik. Approved.
3. Minutes from January 11, 2018 Meeting. Motion to approve minutes was made by Al Gehrke. Second by Shirley Katzenmeyer. Approved.
4. Applications

ITEM #1: JOEL & MELISSA SCHAEFER, CLEVELAND, MN, (APPLICANT); MIKE & TRACY DRASH, KASOTA, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right for a building eligibility from the SE/NW to the SW/NW in a Conservancy "C" District. Property is located in the NW quarter, Section 34, Kasota Township.

Joshua Mankowski presented power point presentation. Joel Schaefer was present for the application.

TOWNSHIP: Notified. Response: None.

DNR: Notified. Response: None.

LETTERS: None

PUBLIC COMMENT: Mike Drash stated that the TDR was coming from a heavily wooded lot of Schaeffer's to the new location.

Discussion was held regarding: Joel Schaefer explained why they are seeking to transfer the development rights. It will be moving from an adjacent quarter-quarter that is less suitable for building to an area where development has already taken place. Discussion about building eligibility per quarter-quarter was had. This is not transferring all the building eligibilities in the quarter-quarter, just this one building eligibility.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*

2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *Is the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan?*

Motion was made by Doug Krenik to approve the application.

No further discussion.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #2: DAVID & KELLY BODE, NORTH MANKATO, MN, (APPLICANT/OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow the applicant to construct a retaining wall within the shore impact zone, create a 10 x 50 beach sand blanket within the shore impact zone; Grading, Excavating, and Filling of 19.25 cubic yards within the shore impact zone and a total of 54.25 cubic yards of material on the lot in a Flood Fringe "FF" Floodplain Overlay District and a Recreational Residential "RR" District on a Recreational Development "RD" lake, Lake Jefferson. Property is located at Lots 18 & 19, Edgewater Terrace Subdivision, Section 3, Cleveland Township.

Joshua Mankowski presented power point presentation. David Bode was present for the application.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

LETTERS: Joshua Mankowski regarding recommendation to approve the application on the grounds that the project will help address an ongoing erosion issue on the lot and will reduce the total impervious surface on the lot from 32% to 22.1%. Recommended conditions for approval included maintaining vegetative cover on the slope and along the shoreline (excluding the location of the sand blanket) to reduce erosion issues.

PUBLIC COMMENT: None

Discussion was held regarding: The project starting out as boulder stairs that then grew to include retaining walls. They did not have any formal drawing done before the work was started. The applicant thought the addition of the retaining wall would help with erosion issues on the hill. Work was stopped once the Cease and Desist order was issued. Plans for a sand blanket were added in later. Don Reak discussed using native vegetation along the steps, on the slope, and along the shoreline. Joshua Mankowski stated that, due to shading issues, it would be difficult to establish the typical native vegetation. Don Reak then recommended possibly trimming trees to allow more light. Discussion on the removal of the existing shed. This shed is proposed to be removed as part of the application. Discussion on the negative impacts of manicured lawn and sand blankets on the lake.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *Is the Conditional Use Permit consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?*
7. *Is the Conditional Use Permit consistent with the Comprehensive Land Use Plan?*

Motion made by Al Gehrke to approve the application

Discussion was held regarding: Statement from Joshua Mankowski that nothing can be placed under the sand blanket such as landscaping fabric. Including with approval the conditions stated in the letter from Joshua Mankowski that the applicant is to maintain vegetative cover on the slope and along the shoreline (except the location for the sand blanket), from Don Reak that the trees are to be trimmed, as stipulated by the Le Sueur County Planning & Zoning Ordinance, to provide additional light in the sloped area to help establish better vegetative cover, and that no plant barrier, liner, or filter fabric material shall be placed underneath the beach sand blanket per Le Sueur County Planning & Zoning Ordinance.

Second by Don Reak. Motion approved. Motion carried.

ITEM #3: Request to amend the Le Sueur County Zoning Ordinance to allow for short-term transient rental.

Joshua Mankowski presented power point presentation. Glen Sohre was present for the application.

TOWNSHIP: Notified. Response: None

DNR: Notified. Response: None

Discussion was held regarding: Glen Sohre state that he would like the County to add this use. He currently has operated a vacation rental in the County not knowing it was not allowed. The intent of applying for the ordinance revision is also to allow for public discussion on this topic. He would like to have this added. Need to bring in public input.

PUBLIC COMMENT:

Bruce Klugherz regarding concerns with allowing VRBOs in the Recreational Residential District including lot size, placement of residents on lot (proximity from lot line). Read a letter from Jerold Lucas of Brandt Law Office. The letter outlined five items that are required to apply for an ordinance amendment that Mr. Lucas believes were not met. They are as follows 1) The applicant is required to state the reason for the amendment request, 2) the applicant provides a statement of compatibility to the Le Sueur County Land Use Plant, 3) the applicant must submit test of the portion of the ordinance to be amended, 4) proposed amended test and statement

outline any other facts that the amendment may have on other areas of the ordinance, and 5) applicant is required to submit any additional information which may be requested by the department or by the commission. This is a difficult decision and hopes that final ordinance will consider safety for the community.

Dorothy Jacobson regarding observed issues including constant campfires, increased traffic, noise, large numbers of people and vehicles. This is a residential neighborhood and this use does not fit.

Brenda Henneck regarding her issues. VRBOs are not regulated as rental property, why allow spot zoning, she purchased the property because it was not near a resort or rental property, this use creates a big change in the neighborhood, what is in it for the County, costs and resources, monitoring and police. renters do not know lake rules, big change to the lake.

Seth Hammond asked if the County has considered the concerns and comments that have been received from the public in the past. Joshua Mankowski stated that the comments and concerns were discussed during a previous work session and that there are some letters that were requested to be read into the meeting during the public comment period.

Brian Swanson regarding his property that has been in the family for 50+ years. Would like a good reason why this use isn't allowed, would like to rent out his basement, understands that this is a difficult decision, there are loud noises anywhere on the lake, noise from the landing, this use could be controlled and operated properly, noise is an issue from some people who own/live on the lake, purchase the house for this purpose, allows for extra income to pay for the property.

Questions for clarification from Don Reak about Bed & Breakfast in the County. Michelle stated that these uses do still require Planning and Zoning approval.

Helen Klugherz regarding trying to sell her property next to a VRBO. She had to disclose that the home is next to a VRBO, decreased value.

Rodney Cruze regarding allowing this use in Le Sueur County. He owns a cabin in a neighboring county that he rents out. He works with his neighbors; he doesn't want his place damaged by renters. There are owner occupied properties that are unkempt and remain in disrepair. There are always different people using the rental. We are limiting how people can use their property. He would like to have the ability to rent out his current property in the future. He works with his neighbors, even paying one to help care for the cabin. Didn't realize there was this restriction.

LETTERS:

Brenda and Kevin Roemhildt regarding the issues they have had owning property next to a current VRBO in the County. Issues include: number of people staying compared to the size of the lot, the number of tents, drinking, number of cars, trash left on their lot, their property being used as overflow parking, difficulties their lawn service have had completing their work due to the aforementioned issues, large parties with a lot of drinking. They have personally used VRBOs when they have traveled and have always found a rule book/guide upon arrival. They are excited to learn that some rules and regulations might be put in place, this is a neighborhood, not a party rental.

Dennis and Mary Jo Erickson submitted a letter stating their concerns about this type of businesses in their neighborhood. There is a lack of on-site management, the property owner resides out-of-state, noise, parking, trespassing, decrease in property values.

Bruce & Helen Klugherz email stating their experience residing near a VRBO on Limberdink Road. Noise is a problem, it doesn't stop at 10:00 pm, excess speed on private road, drinking and driving, underage use of ATVs on the road, excess speed and not maintaining appropriate distances while using personal watercraft, VRBO customers claiming ignorance of the laws/rules and does not care because they are only there for a short time, lude behavior while intoxicated, and not cleaning up after pets while walking down the road.

Motion was made by Don Reak to Deny the application. The County should review this type of ordinance revision during our regular review process.

Second by Shirley Katzenmeyer. Motion approved. Motion carried.

5. Discussion Items: Discussed possibly holding another work session to continue the discussion of ordinance revisions. Time and date will be determined at a later date.
6. Warrants/Claim-signatures.
7. Motion to adjourn meeting by Shirley Katzenmeyer. Second by Al Gehrke. Motion approved. Motion carried.

Respectfully submitted,

Joshua Mankowski

***Tape of meeting is on file in the
Le Sueur County Environmental Services Office***