



ITEM REPORT PLANNING AND ZONING COMMISSION

Agenda Date: 8/14/2024
Agenda Section: New Business

TO: Baxter Planning and Zoning Commission

FROM: Matthew Gindele, City Planner

REQUEST: **PUBLIC HEARING.** Conditional Use Permit to allow grading and filling in a shoreland district for property located at 13281 Mile Lake Drive (City file 24-029)

APPLICANT: Craig S and Heather L Vogl, 911 N.E. 5th St., Little Falls, MN 56345
RS, Residential Staging

ZONING:

1. Application Request

The applicant is proposing to fill in a hole/ravine that was dug out of the naturally occurring hillside. Staff's understanding is that this area was dug out for a borrow pit approximately 30+ years ago. The applicant would like to fill it in with excess fill from building his new home and potentially bringing in additional fill. The intent is to improve the safety and functionality of the property by filling in the whole/ravine and grading it to more closely match the natural grade of the hillside.

2. Context

Adjacent Land Use and Zoning

	Adjacent Land Use	Zoning
North	Single Family Residential	RS, Residential Staging
East	Vacant	RS, Residential Staging
South	Vacant	RS, Residential Staging
West	Mile Lake/Cass County	Mile Lake/Cass County

Characteristics of the Site

The subject property is zoned RS, Residential Staging and is 3.63 acres in size. The property is heavily wooded and is situated on the east shore of Mile Lake. The property is longer north to south than it is east to west. The property has fair topography as it slopes approximately 15 feet down toward the lake. As stated, the property is on Mile Lake and is therefore within the shoreland overlay district. Mile Lake also acts as a FEMA floodplain and a small area of the subject property near the lake is within the floodplain. There does not appear to be any wetlands on the property.

3. Analysis of Request

Conditional Use Permits

The applicant is requesting a CUP to allow filling and grading in a shoreland area. The Shoreland Overlay District allows grading and filling with a conditional use permit, subject to the following conditions:

1. The smallest amount of bare ground is exposed for as short a time as feasible;

2. Temporary ground cover, such as sod, is planted;
3. Methods to prevent erosion and trap sediment are employed;
4. Fill is stabilized to accepted engineering standards.

A CUP shall not be issued until the city determines how to protect the lake by mitigating erosion and stormwater drainage during and after construction, visual impacts or any other impact caused by construction. The applicant has submitted a best management practices (BMP) plan for staff's review and approval to identify the methods to protect the lake during and after construction (see "Grading & Filling Questionnaire" and "Re-vegetation Plan" attached to this report). With the implementation of the BMP plan, staff finds that the lake would be protected during and after construction to the standards listed above.

Staff has also reviewed the request against the general CUP standards. Section 10-7-4 of the Zoning Ordinance defines the criteria for reviewing and processing a conditional use permit (CUP). Specifically:

- A. *Excessive Burden: The use shall not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.*

The proposed grading and filling will not create a burden on existing parks, schools, streets and other public facilities because the use does not add any use of such public facilities.

- B. *Compatibility: The use shall be compatible with adjacent land uses so that existing uses will not be depreciated in value and there will be no deterrence to development of vacant land.*

The proposed filling and grading is compatible with adjacent land uses and does not depreciate adjacent land values because the project is intended to restore the natural topography and increase useable area and functionality of the property which would increase property value.

- C. *Appearance: The use shall have an appearance that will not have an adverse affect (sic) upon adjacent properties.*

The proposed use will not have an adverse effect on adjacent properties because it will be consistent in appearance with the surrounding area.

- D. *Overall Needs: The use, in the opinion of the planning and zoning commission shall be reasonably related to the overall needs of the city and to the existing land use.*

The use is consistent with the city's land use plan for the property and meets overall needs.

- E. *Consistent With Purpose: The use shall be consistent with the purposes of this title and purposes of the zoning district in which the applicant intends to locate the proposed use.*

Grading and filling are allowed uses in the shoreland district with a Conditional Use Permit and therefore, are consistent with the purpose of the Shoreland Overlay District. The applicant has submitted a plan that meets the city's zoning requirements with the granting of this CUP as long as all conditions are met.

- F. *Comprehensive Plan: The use shall not be in conflict with the comprehensive plan of the city.*

The use is not in conflict with the comprehensive plan of the city.

- G. *Traffic: The use will not cause traffic hazard or congestion.*

The use will not cause a traffic hazard or congestion.

H. Facilities: The use shall have adequate utilities, access roads, drainage and necessary facilities.

The site has adequate utilities, access, drainage and necessary facilities to accommodate the proposed grading and filling.

4. Department of Natural Resources Review

The DNR has reviewed the conditional use permit application for grading and filling in a shoreland overlay district and offers the following comment:

The applicant has indicated that they will replace trees on the graded hill area by transplanting smaller trees from nearby wooded areas or by purchasing trees and planting them. This is a good written intention to revegetate areas lost by tree removal. However, we recommend that if approved, a condition be placed on approval requiring the submission of a re-vegetation plan that includes a plan for specific re-vegetation, tree-density, and tree placement areas, along with maintenance plans adequate to keep seedlings from dying upon transplantation.

Staff has added this as a condition of the draft approving resolution.

5. Recommendation

Staff recommends approval of the conditional use permit subject to the findings and conditions in the draft resolution.

Attachments

1. Resolution 2024-073 Approving the CUP
2. Site Location Map
3. Applicant Narrative
4. Site Survey
5. Grading Plan
6. Tree Clearing Plan
7. Grading & Filling Questionnaire
8. Re-vegetation Plan