

## STAFF REPORT

**Application:** Conditional use permit to place approximately 800 cubic yards of fill to create a parking space and camping area.

**Applicant:** Nick Pietsch

**Agenda Item:** 4(g)

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### Background Information:

) **Proposal:** *This application was originally submitted in October 2016. The applicant, however, requested that it be held off until he had an opportunity to better delineate where the boundaries of wetland were on the property.*

The applicants are proposing to place approx. 800 cubic yards of fill on their back lot so as to create an improved area for parking and private camping.

The fill would be located on a 2+ acre parcel that is mostly considered wetland and appears to be entirely within the floodplain of Clearwater Lake. The fill would be placed outside of any wetland areas and cover an area of about 7,700 square feet.

) **Location:**

- o Property address: None (across from 10955 and 10971 108<sup>th</sup> St NW)
- o Sec/Twp/Range: 8-121-27
- o Parcel number(s): 206000082209

) **Zoning:** AG - General Agriculture/S2 - Residential-Recreational Shorelands, Clearwater Lake 86-252 (General Development lake)

) **Lot size:** Approx. 2.17 acres according to Beacon GIS estimate

Existing and Proposed Impervious Coverage:

) Not impacted by proposal.

) **Septic System Status:** The property does not contain a dwelling. The applicant's dwelling and septic system is located on a lot across the road.

) **Natural Features:**

- o Floodplain: The lot on which the fill is proposed appears to be located entirely within the floodplain of Clearwater Lake (floodplain elevation is 996.7 - the elevation of the lot appears to be between 994 and 996.
- o Bluff/Steep Slopes: The lot does not contain a bluff or steep slopes. It is relatively flat.
- o Wetlands: The great majority of the subject lot is wetland. The applicant will need to take care to not fill wetland, or obtain the required approvals from Wright County SWCD, to fill wetland.

) **Permit History:**

- 2015 – BOA approval to split a lot into two (one of which created this lot) and attach them to lake lots across the road.

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**Applicable Statutes/Ordinances:**

505. CONDITIONAL USE PERMITS

505.1 Criteria for Granting Conditional Use Permits

In granting a conditional use permit, the Wright County Planning Commission shall consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding lands. Among other things, the County Planning Commission shall make the following findings where applicable.

- (1) That 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 diminish and impair property values within the immediate vicinity;
- (2) That 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) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- (4) That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- (5) The use is not in conflict with the Policies Plan of the County; and,
- (6) That adequate measures have been taken or will be taken to prevent or 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.

505.2 Additional Conditions

In permitting a new conditional use or the alteration of an existing conditional use, the Planning Commission may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- (1) Increasing the required lot size or yard dimension.

- (2) Limiting the height, size or location of buildings.
- (3) Controlling the location and number of vehicle access points.
- (4) Increasing the street width.
- (5) Increasing the number of required off-street parking spaces.
- (6) Limiting the number, size, location or lighting of signs.
- (7) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (8) Designating sites for open space.

Any change involving structural alterations, enlargements, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The Wright County Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the Planning Commission; time limits, review dates, and such other information as may be appropriate.

## 728. LAND ALTERATIONS

### 728.1 Permit Required

- (1) A Land Alteration Permit shall be required in all cases where excavation, grading and/or filling of any land within the county would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion or would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development, uses and enjoyment of any property in the County.
- (2) Substantial alteration shall be defined as the extraction, grading, or filling of land involving movement of earth and materials in excess of fifty (50) cubic yards in the Shorelands Districts and in excess of five hundred (500) cubic yards in all other districts except drain tiles and ditch cleaning in agricultural areas. Such substantial alteration shall require a conditional use permit.
- (5) A Land Alteration Permit is also required from the County and from the Commissioner of Natural Resources for any alteration in the Flood Plain District and the Shorelands Districts. Such alteration shall include any filling, dredging, channeling, or any other work in the beds of public waters which would change the course, current or cross section of a public water.

- (6) A Land Alteration Permit shall be valid for a period of six (6) months from the date of issue. A Land Alteration Permit shall be administered in the same manner as a Conditional Use Permit.

#### 728.2 Requirements

Before the issuance of a Land Alteration Permit or an Administrative Land Alteration Permit, it must be established that all of the following conditions are met. These conditions must also be adhered to during the issuance of construction permits, permits, conditional use permits, variances and subdivision approvals:

- (1) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (this evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised):
  - (a) sediment and pollutant trapping and retention;
  - (b) storage of surface runoff to prevent or reduce flood damage;
  - (c) fish and wildlife habitat;
  - (d) recreational use;
  - (e) shoreline or bank stabilization; and
  - (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- (2) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (3) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- (4) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- (5) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

- (6) Fill or excavated material must not be placed in a manner that creates an unstable slope;
- (7) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (8) Fill or excavated material must not be placed in bluff impact zones;
- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 105.42;
- (10) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- (11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

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**Staff Findings:** The following findings of fact are presented by Staff for consideration by the Planning Commission:

- 1) Will the Conditional use be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the immediate vicinity?**

**Needs discussion.** Any impact on neighboring properties would be most likely if the fill were to reduce the storage capacity of the lot to the point where water from heavy or extended periods of rain or during flood events were to be pushed onto neighboring property.

- 2) Will the establishment of the Conditional Use impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area?**

**Needs discussion.** See discussion in 1) above.

- 3) Do adequate utilities, access roads, drainage and other necessary facilities exist or will they be provided?**

**Yes.** The area is already served by utilities and a township road.

- 4) Have adequate measures been taken to provide sufficient off-street parking and loading space to serve the proposed use?**

**Yes.** The fill itself requested does not create a need for additional off-street parking and its purpose is to provide additional off-street parking than would otherwise exist.

**5) Will the use conflict with the Policies Plan of Corinna Township and/or Wright County?**

**Needs discussion.** The Comprehensive Plan states the following as strategies to “protect, preserve, and enhance lake water quality” and to “Protect, preserve, and work to ensure effective management of wetlands, wildlife, and other important natural and environmental features”.

- Require on-site storm water retention and erosion-control plans for all new lakeshore development and redevelopment of existing sites, to ensure that storm water runoff is properly managed and treated before entering surface waters.
  - Comment: The applicant will need to adequately stabilize any areas of fill and ensure that stormwater is properly managed to drain water towards appropriate areas rather than areas likely to harm neighboring properties or public right of way.
- Seek ways to ensure that new development, landscaping, or other alterations on lakeshore properties preserve and/or provide for the planting of native trees and shoreline vegetation.
  - Comment: The site of the proposed fill mostly does not contain trees. Several mature trees may need to be removed or would likely die from the placement of fill.
- Require the use of best management practices as outlined by the Minnesota DNR, University of Minnesota Extension, or other appropriate agencies during the development and re-development of all property in the Township to prevent erosion and sedimentation that eventually reaches area lakes and wetlands through ditches, direct runoff, or other means.
  - Comment: See comments above.
- Limit the amount of grading and filling in the shoreland area so as to minimize the disturbance of soil and prevent erosion.
  - Comment: The proposal will obviously involve a significant amount of fill on the property that would be subject to erosion until it is stabilized. Proper placement and retention of the fill will help to avoid problems.

**6) Have adequate measures been taken, or will they be taken, to prevent or 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?**

**Yes.** The proposed project would have the potential to create temporary noise, dust, fumes, vibrations and other such characteristics during the fill placement process. These should not be excessive or unusual however and would not be present once construction is complete.

**7) Are there any other conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area or the community as a whole?**

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**Planning Commission/Board of Adjustment Direction:** The Planning Commission/Board of Adjustment may approve the conditional use request, deny the request, or table the request if the Commission/Board should need additional information from the applicant. If the Commission/Board should approve or deny the request, it should state the findings which support either of these actions.

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**Staff Recommendation:** Staff recommends that the application be approved only if the applicant can show that the fill would not negatively impact neighboring properties.

If the applications are approved, Staff would recommend the following conditions:

1. (For consideration) That the area of fill be limited to the minimal necessary to allow for the parking of two passenger vehicles and two recreational vehicles (maximum 1,000 square feet). This will allow for reasonable additional parking areas while minimizing the loss of flood storage area, impact on wetlands and impact on neighboring properties or road right of way.
2. That the fill shall maintain a minimum 10 foot setback from side property lines and wetland areas.
3. That the applicant shall submit for approval a tree replacement plan to replace any trees that would be removed or likely killed by the fill, and implement the approved plan by October 15, 2017.
4. Erosion and sedimentation control measures must be installed and maintained until the construction areas have been stabilized. These shall include at a minimum silt fences between the area of disturbance and the road and neighboring property to the west, seeding of all disturbed areas and installation of erosion control blankets as identified in the submitted erosion control plan, or as otherwise recommended by Wright County SWCD and/or approved by the Zoning Administrator.
5. The applicant shall implement a permanent stormwater management plan designed to minimize the potential for ongoing erosion or sedimentation and to allow adequate time for infiltration or other treatment of runoff from the site prior to it flowing onto the township road and/or the neighboring property to the east. These may include directing rain gutters to appropriate areas, rain barrels, or other acceptable best management practices. Once approved, the plan

- should be implemented at the time of construction or within a reasonable time period after construction is completed.
6. The applicant shall submit a stormwater mitigation plan that identifies additional best management practices that could be taken to address stormwater containment that may be necessary if the fill were to negatively impact the neighboring property or the lake if the approved plan proves to be inadequate.
  7. If, at any time within five (5) years of the approval of the placement of the fill the Zoning Administrator determines, after consultation with the Wright County SWCD and the landowner, that significant erosion, drainage or other negative impacts from stormwater runoff are occurring as a result of this project, the applicant shall implement best management practices sufficient to mitigate those negative impacts, whether or not such necessary practices were contained in the original or mitigation plan identified in #3 and 4 above. This may include the removal of fill placed during this process to restore an area for flow or detention of water.