

**MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, MAY 11, 2023.**

9:08 AM – 1:31 PM

Planning Commission members in attendance: Tom Coombe  
Steve Filipovich  
Dan Manick  
Pat McKenzie, Chair  
Commissioner Keith Nelson  
Dave Pollock  
Ray Svatos  
Diana Werschay

Planning Commission members absent: None

**Decision/Minutes for the following public hearing matters are attached:**

**NEW BUSINESS:**

- A. Jeffrey Erickson, a conditional use permit for a Commercial Short Term Rental as a Commercial, Retail and Service Establishments Use – Class II.
- B. Ariel Stouder O.B.O. Vertical Bridge, a conditional use permit for a Commercial Communication Tower as a Utility Facilities - Class II that will be placed at less than the tower height from a public road right-of-way and less than twice the height of the tower to the nearest adjacent principal structure.
- C. Christine Wyrobek, a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential (RES)-5 to Shoreland Multiple Use (SMU)-5 and from Residential (RES)-7 to Shoreland Multiple Use (SMU)-7.

**OTHER BUSINESS:**

**Motion by Manick/Svatos** to approve the minutes of the April 13, 2023 meeting.

**In Favor:** Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

**Opposed:** None - 0

**Abstained:** Filipovich - 1

**Motion carried 7-0-1**

**NEW BUSINESS:**

**Jeffrey Erickson**

The first hearing item is for Jeffrey Erickson, a conditional use permit for a Commercial Short Term Rental as a Commercial, Retail and Service Establishments Use – Class II. The property is

located in S23, T67N, R17W (Crane Lake). *Skyler Webb*, St. Louis County Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval to operate a commercial short term rental at the site address with no personal use of the property.
- B. The owner of the rental dwelling also owns and operates a small resort on an adjacent parcel.
- C. This rental dwelling will be affiliated with the existing resort. Its use will be similar in nature to the resort.
- D. The parcel contains a cabin serviced by a public sanitary system.

*Skyler Webb* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II as a commercial short term rental and subject to ordinance requirements.
  - 2. Zoning Ordinance 62, Article V, Section 5.6 C., states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in the SMU zone district with a Conditional Use Permit.
  - 3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
  - 4. Objective LU-7.2 of the St. Louis County Comprehensive Land Use Plan is to develop opportunities for neighborhood commercial sites that are compatible in scale and operation with surrounding residential development.
- B. Neighborhood Compatibility:
  - 1. The surrounding area is zoned Shoreland Multiple Use (SMU)-7.
    - a. A commercial short term rental is an allowed use in the SMU zone district provided a conditional use permit is granted.
  - 2. The subject parcel is approximately 220 feet west of Crane Lake.
  - 3. Much of the plat is developed residentially or commercially.
  - 4. This is a highly developed area around Crane Lake.
- C. Orderly Development:
  - 1. The parcels in the immediate area are zoned SMU.
    - a. Due to the underlying zoning, future development may consist of a variety of uses. Most of the lots in the immediate area have established residential or commercial uses.
  - 2. Due to this area already being highly developed, development density is not anticipated to increase significantly in the future.
  - 3. The proposed use may increase traffic and use of the area.
  - 4. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
    - a. The main difference compared to many short-term rentals would be that the owner operates a resort in addition to this commercial short term rental. The

commercial short term rental will be affiliated and marketed in the same manner as the resort.

D. Desired Pattern of Development:

1. The desired pattern of development appears to be a mix of residential, commercial, and planned development uses.

E. Other Factor:

1. The proposed request is within the Crane Lake Sanitary district.

*Skyler Webb* noted no items of correspondence.

**STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit for a commercial short term rental as a Commercial, Retail and Service Establishments Use-Class II, the following conditions shall apply:

1. All St. Louis County short term rental standards shall be met.
2. All local, state, and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.
3. The applicant shall adhere to local sanitary district requirements including occupancy.

*Jeffrey Erickson*, 7533 Gold Coast Road, Crane Lake, the applicant, stated the motel and home were established in the 1950s. He purchased the properties in 2006. The home in this proposal was used as a residence and office for the motel. He hooked the home and the motel into the Crane Lake Sanitary District. He has used the property as a rental since and was caught off-guard when he found out he needed a conditional use permit. He thought the home would fall under the motel. He knows other Crane Lake rentals are not being brought up for conditional use permits. He does not understand why he is being singled out when none of the others are. There are short term rental agencies that are managing these properties. He is concerned that some of these rentals are not following the same rules as he is, such as fire marshal, wastewater or well inspection.

*Donald Rigney*, Acting Secretary, stated staff have been looking into short term rentals and sending letters to those that are not permitted. There are two classes of short term rentals, one that is Residential-Class II and one that is commercial. The Residential class can be rented out for half of the year and a commercial class can be rented out 365 days per year. Some of the Crane Lake short term rentals could fall under a Residential-Class II use which would require a performance standard permit, not a conditional use permit. There is a plan in place to track down short term rentals. Those that do not comply are followed up in the enforcement process. Recent Zoning Ordinance 62 amendments have made it easier for property owners to comply. Property owners also need to reach out to the Minnesota Department of Health for their lodging license and for other licensing such as wells.

No audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Coombe* asked what the proposed condition ‘The applicant shall adhere to local sanitary district requirements including occupancy’ means. *Skyler Webb* stated because this proposal is within the Crane Lake Sanitary District, they review the application and will determine if the proposed occupancy will be allowed or otherwise impact their infrastructure. Commissioner *Nelson* stated his concern is this property is now commercial and not just a home. *Donald Rigney*, Acting Secretary, stated as far as Zoning Ordinance 62 goes, this property will be considered commercial. As far as the sanitary district goes, this application is proposed to them as staff sees it and they signed off on this proposal.
- B. Commission member *Filipovich* asked if when a property with a short term rental property is sold, if the conditional use permit would need to be reapplied for. *Skyler Webb* stated if the property is sold, no matter if the property is a commercial rental or private rental, the new property owner would need to go through the conditional use permit process again.
- C. Commission member *Manick* asked if there is a difference between private and commercial rentals if there are two bedrooms with a proposed maximum occupancy of six people. *Skyler Webb* stated the reason this property would be commercial is because the owner is operating a resort on an adjacent parcel.
- D. Commission member *Pollock* stated a commercial use could be used 365 years per year. There would be a lot more usage of the sanitary district than would be allowed under a private use with fewer days of rental.
- E. Commission member *McKenzie* stated there is an ongoing effort to locate and permit short term rentals. It is better to know of these issues than having an uncontrolled situation.

## DECISION

**Motion by Manick/Nelson** to approve a conditional use permit for a commercial short term rental as a Commercial, Retail and Service Establishments Use-Class II, based on the following staff facts and findings:

- A. Plans and Official Controls:
  - 1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II as a commercial short term rental and subject to ordinance requirements.
  - 2. Zoning Ordinance 62, Article V, Section 5.6 C., states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in the SMU zone district with a Conditional Use Permit.
  - 3. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
  - 4. Objective LU-7.2 of the St. Louis County Comprehensive Land Use Plan is to develop opportunities for neighborhood commercial sites that are compatible in scale and operation with surrounding residential development.
  - 5. The use conforms to the land use plan.
- B. Neighborhood Compatibility:
  - 1. The surrounding area is zoned Shoreland Multiple Use (SMU)-7.

- a. A commercial short term rental is an allowed use in the SMU zone district provided a conditional use permit is granted.
2. The subject parcel is approximately 220 feet west of Crane Lake.
3. Much of the plat is developed residentially or commercially.
4. This is a highly developed area around Crane Lake.
5. The use is compatible with the existing neighborhood as the neighborhood is highly developed both commercially and residentially.

C. Orderly Development:

1. The parcels in the immediate area are zoned SMU.
  - a. Due to the underlying zoning, future development may consist of a variety of uses. Most of the lots in the immediate area have established residential or commercial uses.
2. Due to this area already being highly developed, development density is not anticipated to increase significantly in the future.
3. The proposed use may increase traffic and use of the area.
4. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
  - a. The main difference compared to many short-term rentals would be that the owner operates a resort in addition to this commercial short term rental. The commercial short term rental will be affiliated and marketed in the same manner as the resort.
5. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. The desired pattern of development appears to be a mix of residential, commercial, and planned development uses.
2. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factor:

1. The proposed request is within the Crane Lake Sanitary district.

The following conditions shall apply:

1. All St. Louis County short term rental standards shall be met.
2. All local, state, and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.
3. The applicant shall adhere to local sanitary district requirements including occupancy.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 8

**Opposed:** None - 0

**Motion carried 8-0**

**Ariel Stouder (O.B.O. Vertical Bridge)**

The second hearing item is for Ariel Stouder O.B.O. Vertical Bridge, a conditional use permit for a Commercial Communication Tower as a Utility Facilities - Class II that will be placed at less than the tower height from a public road right-of-way and less than twice the height of the tower to the nearest adjacent principal structure. The property is located in S29, T57N, R17W (Fayal). Commissioner *Nelson* disclosed he has known the Deloria family (adjacent property owner) for his entire life. He has known the proposed landlord/property owner for nearly as long. He has no financial or other interest in this proposal. The Planning Commission did not ask that he recuse himself.

*Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval of a 150-foot-high communication tower that does not meet the tower height from the right-of-way and twice the height of the tower from the nearest adjacent principal structure.
- B. The applicant is asking for a waiver to allow the tower 105 feet from the road right-of-way and 261 feet from the nearest adjacent principal structure.
- C. The property has an elevation change of 24 feet from east to west.
- D. There are wetlands on the property. However, no wetlands are anticipated to be impacted.

*Mark Lindhorst* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.24 E., requires conditional use approval for a communications tower that does not meet performance standards.
  2. Goal ED-3 of the St. Louis County Comprehensive Plan is to increase internet service and access to surrounding areas where service is needed. It also states that having internet access is a significant factor in attracting business and industry to St. Louis County.
- B. Neighborhood Compatibility:
  1. The zoning consists of Multiple Use (MU), which allows communications towers with a performance standard permit when all performance standards are met. The surrounding neighborhood consists of both residential, commercial, and large tracts of private and public land.
  2. There are 12 residences within one-quarter mile.
- C. Orderly Development:
  1. This is a standard tower which will provide cell coverage to the area.
  2. As stated in the Comprehensive Land Use Plan, increasing internet access is a significant economic factor in attracting business and industry.
- D. Desired Pattern of Development:
  1. There is a need to construct a new cell tower in this area to increase reliable coverage as well as providing increased internet access.

*Mark Lindhorst* noted no items of correspondence.

## **STAFF RECOMMENDATION**

In the event that the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit, the following conditions shall apply:

### **Condition Precedent:**

1. The applicant shall obtain approval for access from the appropriate road authority.

### **Conditions Concurrent:**

1. All other commercial communication tower minimum standards shall be met.
2. The placement and design of the 150-foot-tall tower shall comply with all applicable state and federal regulations.
3. The applicant shall allow for emergency communications on the tower if requested by St. Louis County.

*Ariel Stouder*, Fullerton Engineering, the applicant, stated she is present on behalf of Vertical Bridge. This is a proposal to install a 150-foot-high communication tower. Vertical Bridge would own the communication tower and they would install T-Mobile's equipment, the first carrier to be located on this tower. They have been planning this tower since 2019. Due to factors such as Sprint buying out T-Mobile and Vertical Bridge's involvement, there have been a few changes. To meet the setbacks, the tower would need to go back further and remove tree cover. If they moved further south, there are wetlands located to the south of the property. The wetland would touch the foundation of the tower and if the wetlands were to expand, they would need more invasive maintenance to ensure the tower is structurally sound. This can be done, but they would prefer to stay clear of the wetlands.

She cannot speak to the tower on Highway 37. This tower location was chosen with T-Mobile's network in mind. They are filling a gap in the network. T-Mobile's coverage would be best served in this location. The tower height will spread out the most coverage. The tower on Highway 37 may not have offered the same opportunities for T-Mobile. The RF coverage on how far the carrier will go is determined in tower placement, tower height and what local environmental conditions involve the signal. In the application packet, there are maps that show coverage. This tower location shows the most coverage.

When searching tower locations, they look to see if there are existing fiber optic routes in the area. That is what helps plug in the network. If they are too far from the area, they would need to trench and dig more areas up which could cut into the public right-of-way. They want to be the least invasive to the county's roadways.

The antennas will be higher up in the air and there is no danger that will spill over to the neighbors. When they put up new towers, they are in compliance with appropriate environmental agencies, such as the federal government. They produce studies to show this will not be a danger to anyone. This includes any potential dangers to wildlife. If anything is flagged, they are required to address this and ensure the tower is in compliance to keep the wildlife and human population safe. The proposed tower is not located in wetlands. She confirmed this with the state of Minnesota's website. As far as generator noise, the generator will not be running all of the time. In the event of keeping the tower up and running, the generator will need to be active. The tower will be located

in an area zoned for multiple use which is consistent with the use of the property. This property was used as a business. It would be difficult to say that a tower in an area such as this would cause issues with property value.

When initial talks were done, there was preference from the landlord to find a different location than the abandoned restaurant to locate the tower. They would have walked the site and looked at existing conditions. This was likely part of the negotiation why the location was chosen. If the restaurant was near the right-of-way, that might also have caused setback issues. If the restaurant is under different ownership, they may not have had interest in locating the tower on this property. The only landowner that expressed interest in locating the tower on the property is on this parcel.

When these processes are started, there is a search radius. These properties would be large with space to spare. They would not contact residential properties or small properties. This property owner would have sent letters or called. This would have been done in 2018 or 2019.

Three members of the audience spoke in opposition.

*Amy Jackson*, 7915 Bodas Road, stated they are located across the road from the proposed tower location. She is concerned about the wetland impact regardless of where the tower is located on the property. Towers are a danger to birds and frogs. The noise emitted from the tower could be dangerous to the residents as well. There are vibrations, alarms, and noise from the generators that will cause noise pollution. There have been studies that towers can cause sleep disorders, fatigue, memory loss, and other issues. There is a concern about the value of their properties and the township. If she wanted to resell her property, there may be less interest in her property if there is a tower outside her front window. There is a business on the other end of the property that is not being utilized and why was this property owner not contacted? If that cost was not considered, the cost for the residents in the area should be. If Vertical Bridge has been working on the tower on this property since 2019, why have neighbors not heard of this before?

*Philip Deloria*, 7909 Bodas Road, stated he owns the property that would be closest to the tower. He agrees with his neighbor. He has done research on radio frequencies and radiation with these towers. He has two small children that are across the road from this. He is concerned about property values. He does not see why this tower needs to be in this location. If the tower is moved one-quarter mile, it would not change the coverage. He was contacted for his sign-off on the setback requirement and he said no. He asked when the landlord was originally contacted and why were no neighbors contacted about this?

*Nicole Deloria*, 7909 Bodas Road, stated she agrees with Ms. Jackson.

No audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Coombe* asked if the tower would only be 14 feet short of doubling the height distance to the nearest residence. *Mark Lindhorst* said yes. The tower would also be about 30 feet short of the right-of-way. If the tower were moved to meet the minimum



performance standards, the applicant would not require a conditional use permit and a performance standard permit could be issued.

- B. Commission member *Coombe* asked if the tower is out of the glide path A, B, and C for the airport. *Mark Lindhorst* stated this tower will not be anywhere near the airport. One of the requirements is for the applicant to check with the Federal Aviation Administration (FAA).
- C. Commission member *Svatos* stated there is another tower down Highway 37 not far from this location and asked if the proposed tower would be too close. *Mark Lindhorst* stated he checked with the applicant to see if co-location is possible. If it were not possible, it may be because the tower is full.
- D. Commissioner *Nelson* stated he is familiar with this property. There are other opportunities on this property that move the tower away from residential areas. The balance of the property between Old Highway 53 and Highway 53 is commercial. He asked why the tower is placed next to the residents. *Ariel Stouder* stated the wetland is on the property and there is a landlord on the property with their own business. In order to serve the landlord's needs, a separate access point would support that. This just happened to be the better part of the area on the property without the need to clear more or do more invasive work on the property. This part of the property is best suited to their needs.
- E. Commission member *Pollock* asked if the residences are all far enough away from the tower. Commission member *Manick* stated one residence is too close. *Mark Lindhorst* added the location of where that residence is located and stated the residence does not meet twice the height of the tower in setback distance away.
- F. Commissioner *Nelson* asked if the applicant is not granted the two reduced setbacks, would this site still be of use? *Ariel Stouder* stated she would need to speak with Vertical Bridge. They look to follow the laws and regulations. This location is more suitable for tower construction, especially to prevent damage to the tree line, impact to wetlands, or anything the landlord may want to do with their property. Commissioner *Nelson* asked if the tower would be at this location were those two setbacks not considered. *Ariel Stouder* stated that would need to be discussed with her client.
- G. Commission member *Manick* asked if the tower would encroach on the wetland if it were moved 39 feet back or is that the landlord's request? *Ariel Stouder* stated that would be possible at great cost. They have done a lot of surveys regarding the suitability of this location. To move the tower, they cannot guarantee that it would be safer than this location without extensive work. They have FAA and regulatory approvals that say this is a good location for this tower. She cannot speak to the impact of the tower and its base on the wetland. They would need to contend with the environmental costs.
- H. Commission member *McKenzie* asked if the placement of these towers is so critical that it could not be placed across Highway 53. *Ariel Stouder* stated there are different ways to look at this. Location is critical as the signal to reach a population is critical. Moving that distance will impact the coverage provided. There are different factors, such as tree line coverage or any soil impacts to the height of the tower.
- I. Commission member *Pollock* stated the neighbor was contacted for their support. *Philip Deloria* stated that Fullerton Engineering contacted him by phone, and he had a letter sent. There was a package with the prints for the tower. He was told it would cost \$500 to change its location, which seems low. He was offered \$1,000 to sign off on it and he said no. This was in 2023.

- J. Commissioner *Nelson* stated this property is all commercial and there are storage units. There are places on this property where the tower can be located and meet setbacks. Moving the tower closer to dwellings is a concern. The tower should meet setbacks or be as far away as possible.
- K. Commission member *Filipovich* stated the property is nine acres. He asked if the staff had an elevation map. *Mark Lindhorst* stated there is no elevation map, but there is a drop off before the wetland area. Commission member *Filipovich* stated that area looks like a pond.
- L. Commission member *Pollock* stated the tower could move 45 feet one way or 39 feet the other way. Is the applicant doing this for optimum location for signal? Or is this a cost factor location? There are trade-offs to moving the tower cost-wise. This can be tweaked to get to the optimum location. This could be moved to meet the setbacks. This tower can still be done.
- M. Commissioner *Nelson* stated this could be cost related. This property is surrounded by Highway 53 and by county roads. There are three internet cables that run along this property. There is power around the property. He does not understand limiting factors of meeting the setback if all of these are available. Setbacks are in place to protect home and property owners in the area.
- N. Commissioner *Nelson* stated that the criteria for granting a conditional use permit should not apply as the applicant is not meeting standards and, therefore in a denial, the criteria do not apply.

## **DECISION**

**Motion by Nelson/Svatos** to deny a conditional use permit for a Commercial Communication Tower as a Utility Facilities - Class II that will be placed at less than the tower height from a public road right-of-way and less than twice the height of the tower to the nearest adjacent principal structure, based on the following staff facts and findings:

### **A. Plans and Official Controls:**

- 1. St. Louis County Zoning Ordinance 62, Article VI, Section 6.24 E., requires conditional use approval for a communications tower that does not meet performance standards.
- 2. Goal ED-3 of the St. Louis County Comprehensive Plan is to increase internet service and access to surrounding areas where service is needed. It also states that having internet access is a significant factor in attracting business and industry to St. Louis County.

### **B. Neighborhood Compatibility:**

- 1. The zoning consists of Multiple Use which allows communications towers with a performance standard permit when all performance standards are met. The surrounding neighborhood consists of both residential, commercial, and large tracts of private and public land.
- 2. There are 12 residences within one-quarter mile.

### **C. Orderly Development:**

- 1. This is a standard tower which will provide cell coverage to the area.
- 2. As stated in the Comprehensive Land Use Plan, increasing internet access is a significant economic factor in attracting business and industry.

D. Desired Pattern of Development:

1. There is a need to construct a new cell tower in this area to increase reliable coverage as well as providing increased internet access.

**In Favor:** Coombe, Filipovich, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 8

**Opposed:** None - 0

**Motion carried 8-0**

**Christine Wyrobek**

The third hearing item is for Christine Wyrobek, a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential (RES)-5 to Shoreland Multiple Use (SMU)-5 and from Residential (RES)-7 to Shoreland Multiple Use (SMU)-7. The property is located in S15, T63N, R18W (Beatty). Commissioner *Nelson* disclosed that he knows the applicant and her family as she has been a vendor for St. Louis County. The Planning Commission did not ask that he recuse himself.

*Mark Lindhorst*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The proposed rezoning has been initiated by the applicant. The proposed change from Residential (RES)-7 to Shoreland Multiple Use (SMU)-7 and Residential (RES)-5 to Shoreland Multiple Use (SMU)-5 will only involve the five parcels listed in this report.
- B. The reason for the request is to establish a campground as a commercial planned development which is not an allowed use in a Residential (RES) zone district.
- C. There is a cabin and shed on parcel 250-0020-02041. All other parcels are vacant.
- D. The parcels contain varied topography including bluff, steep slopes, and drainages.
- E. There are wetland areas located throughout the property. The applicant will need to meet Wetland Conservation Act requirements.
- F. Most of the property is boat access only.

*Mark Lindhorst* reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
  1. Per Zoning Ordinance 62, Article V, Section 5.4, the Residential (RES) district is intended to be used in those areas of the county with extensive or the potential for extensive residential development. This district shall be used to promote a high-quality residential living environment where non-residential uses are restricted. This district may be used in shoreland and nonshoreland areas that are typically platted, or, if not platted, have a development density of dwellings of more than one dwelling per 300 lineal feet of lot frontage.
  2. Per Zoning Ordinance 62, Article V, Section 5.4, the Shoreland Multiple Use (SMU) district is intended to provide a balance between lake and river use and the water resources by allowing a wide range of uses that are consistent with adjacent land uses and the recreational and natural attributes of the water body.

3. Zoning Ordinance 62, Article V, Section 5.6, indicates that Commercial Planned Developments are not an allowed use in a Residential zone district which is the reason for the requested rezoning.
4. Parcels 250-0020-02040, 250-0020-02041 and 250-0020-02042 fall into the Forest and Agriculture (FA) land use category of the St. Louis County Comprehensive Land Use Plan.
  - a. This land use category primarily consists of forest harvest management and the raising of crops or livestock, as well as farm dwellings. In some cases, they consist of natural areas that are not being farmed or actively managed. Areas designated as Forest and Agriculture on the future land use map include areas not intended for future rural or urban development. Lot sizes are typically larger than 40 acres. It is not clear how the SMU zoning would be more consistent with the land use plan as described above.
5. Parcels 250-0040-00520 and 250-0040-00525 fall into the Lakeshore Development Area (LDA) land use category of the St. Louis County Comprehensive Land Use Plan.
  - a. These areas are intended for rural development adjacent to lakes, including infill, new development, or redevelopment of existing residential, commercial, or mixed-use areas. The scale and intensity of Lakeshore Development Areas are to be distinguished from uses requiring approval as planned resorts.
6. The Future Land Use Maps guide all changes to the zoning map. Each map defines land use categories as opposed to zoning districts. Land use categories are broadly defined as opposed to zoning districts which specifically detail lot size regulations, structure location requirements, and which uses are allowed, not allowed, or conditional.
  - a. In many instances, land use categories simply indicate general locations that can support future growth and development.
  - b. Those categories may accommodate several uses and several differed zoning districts.

B. Zoning:

1. The parcels are surrounded by residential zoning and located within the shoreland area of Lake Vermilion. The main purpose of this rezoning is to establish a campground as a commercial planned development that benefits the applicant.
2. The Residential zone district is intended to be used in those areas of the county with extensive or the potential for extensive residential development. The proposed request for the rezoning is to establish a commercial planned development that is an incompatible use and is not allowed within a residential district.
3. This request falls into spot zoning. At the time of this request, the only parcels benefiting from the rezoning are the parcels under the applicant's request. The applicant stated that Beatty Township would not initiate the rezoning.

C. Public Need:

1. This rezoning clearly benefits the landowner. There are areas on Lake Vermilion with SMU zoning which allows for new and expansion of existing commercial

developments. No public need or benefit has been established regarding rezoning the property.

D. Public Interest:

1. The current zoning was established for the protection of existing residential development and to restrict incompatible uses. There are multiple areas on Lake Vermilion that are zoned SMU or LCO that would support the requested commercial planned development. These areas were specifically identified during the Lake Vermilion planning process to allow for commercial development to continue and expand if needed.

E. Other Factors:

1. The landowner is the main benefit for the rezoning.
2. The applicant has not demonstrated that there is a clear public benefit.
3. There is established SMU or LCO zoning on Lake Vermilion that allows for commercial development.
4. Rezoning parcels for a specific project may set precedence for future spot zoning throughout the county.
5. Spot zoning is zoning to discriminate in favor of one lot or parcel out of harmony with surrounding lots or parcels and the comprehensive or land use plan, and without benefit to the community.

*Mark Lindhorst* noted 18 items of correspondence for the May public hearing, with one in support and 17 against. One item of correspondence was a resolution from Beatty Township opposed to the proposed rezoning. Correspondence received from the March (58 items for the rezoning only) and April (68 items) public hearings was also considered. All correspondence was provided to the Planning Commission prior to the hearing. In addition, six items of correspondence were provided by the applicant and were submitted to the record.

### **STAFF RECOMMENDATION**

If the Planning Commission determines that the proposal meets the criteria for a zoning map amendment, it shall forward the proposal to the St. Louis County Board with the recommendation to approve a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential-5 to Shoreland Multiple Use-5 and from Residential-7 to Shoreland Multiple Use-7.

One Beatty township official spoke.

*Earl Grano*, 8673 Gran Ridge Drive, Cook, stated he may be an expert on Lake Vermilion. He grew up within three miles of the shoreline and has been on every bay whether on boat, ski, or snowshoe. One of his first solo flights was the perimeter of Lake Vermilion. The Black Bay peninsula is a pristine bay left on Lake Vermilion. This area borders the Boundary Waters Canoe Area (BWCA). The Black Bay area is roadless, rugged, and there are only a few houses left. Their annual township meeting was the second week of March 2023. Everyone there was against their proposal. They had taken a neutral position. They spoke with an attorney that suggested they stay

neutral. They spoke with a township attorney who said that with as many landowners that were opposed to this, he suggested Beatty Township take a position. They were assisted with a draft resolution that included eight points as to why this should be turned down. He has never had as many phone calls or been stopped on the street by strangers that were opposed to this proposal. There are 15 roads in their township of which Raps Road is the most scenic, but the most dangerous of all the roads. Any increase in traffic would complicate the problem. This is why they issued the resolution.

*Christine Wyrobek*, 183 Verhelli Road, Cuero, TX, the applicant, stated she just received the Beatty Township resolution as well as correspondence yesterday. She was disappointed that Beatty Township passed the resolution in May after they had already been neutral. It was unclear why she was not contacted when the township reconsidered their position. She had a right to respond to the township with the county staff report. She could have shared her own petition with the township and submitted that into the record. One of the most common service-connected conditions that qualifies for veteran disability is Post Traumatic Stress Disorder (PTSD) which impacts the veteran's family and friends. It is inaccurate and ill-informed to assume that disabled vets and their families would have an increased need for emergency services or that the existing services that are tasked with providing coverage to residential businesses reporting camera uses around the lake would somehow be different here. Road and access issues are appropriate to address during the conditional use permit process and we are committed to ensuring that emergency services access will be available. Beatty Township holding a public hearing on her application without any notice or opportunity to make input only allowed one side of the story to be heard and she is disappointed that the township took such an action.

She shared a PowerPoint presentation with the audience. She was born and raised in Cook and she has a home in Britt. She has children and other relatives in the area. She and her husband Thomas have a history of donating for family vacations for veterans. In the staff report, it indicated that the main purpose of this rezoning is to establish a campground as a commercial planned development that benefits the applicant. The staff report is not the law and is the staff's opinion on what this is about. The main purpose of this rezoning is to help disabled veterans and their families connect with nature and each other, bring a new industry to the lake, help the west end of the lake become more accessible to people, and supply economic benefits to the local, small communities. Projects proposed for the area include a campground, educational center, public trails, public disk golf, public educational areas, and public picnic areas. Lake Vermilion is 40 miles long. Wakeumup Bay and Hinsdale campgrounds are state-run and are available on a first come, first served basis. There are no campgrounds available on the west end of the lake.

She read most of the local letters of concern and noted three concerns. The biggest concern is the roadway. They understand that the road is not developed and is in a topographical area. They do not plan on using Black Bay Road for full camp access. They have over 300 acres available for parking outside of Cook. They have a plan on parking, and they intend on having a service to help haul people to the property. They would not be able to bring docks to the property as the road is not accessible. They respect the beauty and safety of the road. There are concerns about campgrounds as a safety and environmental issue. Campgrounds are a nature-based recreation area. There is generally no legal or policy protection as there is no reason for this. There is also resistance to change, an unwillingness to adapt or fear of the worst as change can cause expressions

of aggression about a campground regardless of the circumstances. The non-profit campground will provide tents and camping gear at some of the tent sites along the campsites. Input received in the development of the St. Louis County Comprehensive Land Use Plan consistently noted the importance of outdoor recreation as a critical aspect of future land use and economic opportunity, especially for the county's small communities. The lodging industry is foundational to county tourism and recreation in that the quantity and quality of lodging can significantly influence tourists' decisions to visit. The Lakeshore Development Area (LDA) category recognizes the ability of existing recreational or tourist facilities to grow and for new complimentary uses to be developed. In the event the property is rezoned to Shoreland Multiple Use (SMU), a commercial planned development would be an allowed use in this zone district with a conditional use permit. The property as a campground falls within the LDA category. Input received through development of the plan identified the need to continue to support the lodging industry. In particular, demand was noted for RV and tent campgrounds and that the county should support the development and expansion of such campgrounds within the confines of existing regulations. LDA areas were developed to guide development/redevelopment to appropriate areas; generally, this means areas where development has already occurred or areas which can reasonably be expected to support additional growth or redevelopment. These areas are important to the ability to live and work in rural portions of the county, given the economic goal to promote tourist services to supplement existing county economic drivers and for the county to attract outside investment. Those categories may accommodate several uses and several different zoning districts, including campgrounds.

The county takes into account the vision, aspirations, values and needs of residents, businesses and visitors and related those to the appropriate uses of land by those who live, work, recreate and visit St. Louis County. Residents get one-third consideration which may not seem fair, but it is the County's job to consider everyone.

Rough-N-It is a 501C3 non-profit organization. A non-profit is a public-benefit organization. It is organized for the general public benefit, rather than for the interest of its members. On November 22, 2022, Rough-N-It received its Internal Revenue Service (IRS) certification of 501C3 status. Per the IRS standards, the organization must not be organized or operated for the benefit of private interests. The IRS definition of a 501C3 charitable organization is organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, educational or other specified purposes.

The St. Louis County Comprehensive Land Use Plan is the governing document by MN Statute 394.23. The board has the power and authority to prepare and adopt by Ordinance a comprehensive plan. A comprehensive plan or plans when adopted by Ordinance must be the basis for official controls adopted under the provisions of Sections 394.21 to 394.37. This plan will guide development in the county for the next 10 to 20 years, with the goal of fostering a vibrant and healthy county. The plan will provide a vision and road map for the county's future policy decisions on land use, public investment, infrastructure improvements and intergovernmental cooperation. The plan sets the framework for the county's land use pattern, where development may occur, and what type of uses are allowed. The plan comes first to set the direction and zoning comes second to administer that direction. Zoning is an administrative tool to implement and comply with the St. Louis County Comprehensive Land Use Plan.

This proposed area is underdeveloped. The LDA was developed to guide development/redevelopment to appropriate areas; generally, this means where development has already occurred or areas which can be reasonably expected to support additional growth or redevelopment. These LDA areas are intended for rural development adjacent to lakes including redevelopment or existing residential, commercial, or mixed-use areas. The LDA areas are intended for rural development adjacent to lakes including infill. These LDA areas are intended for rural development adjacent to lakes including new development. The county must act in favor of the landowner. Restrictions on land use must be clearly expressed. Even if the language is ambiguous, the interpretation is that the least restrictive to the landowner, while still reasonable in light of the Ordinance language, is what should be used.

Based on their interpretation of staff's facts and findings, County staff has confirmed that the campground is in the LDA land use area. The LDA is a recognized area on Lake Vermilion for future growth and development set by the St. Louis County Comprehensive Land Use Plan. The proposed zoning is not spot zoning. The area is an underdeveloped area. The LDA area is the recognized area on Lake Vermilion for future growth and development set by the St. Louis County Comprehensive Land Use Plan and the zoning shall be adjusted to support that. The 501C3 non-profit has been certified by the IRS as a public charitable organization which is all for public benefit. Input received through development of the St. Louis County Comprehensive Land Use Plan identified the need to continue to support the lodging industry, including the need to ensure regulations are equitable throughout the industry. In particular, demand was noted for RV and tent campgrounds and that the County should support the development and expansion of such campgrounds within the confines of existing regulations. This subject property fits into the LDA land use category where the development is designed by the St. Louis County Comprehensive Land Use Plan. This property and location are well-suited for this use and the location fits where the lake needs a campground. There is no other land available equivalent to support the projects. There are no other campgrounds on that half of Lake Vermilion that can accommodate a family's desire to plan.

*Julie Padilla*, Fryberger Law Firm at 302 West Superior Street, Suite 700, Duluth, stated she represents and is an advisor for Ms. Wyrobek. She stated the St. Louis County Comprehensive Land Use Plan's LDA land use area clearly allows the use contemplated by the applicant. If the county did not want any development in this area, a different land use area should have been chosen for this location. Any ambiguity in the language should in part go to the landowner. Zoning is a restriction on inherent property rights and in order for that to be upheld, it has to be clear. To deny the rezoning would not be in line with the St. Louis County Comprehensive Land Use Plan and this is where the legal challenge would arise. She submitted a letter into the record that lays out these arguments related to the clarity of the St. Louis County Comprehensive Land Use Plan, the definition of spot zoning and how this works. She has served on the Planning Commission in St. Paul.

Three members of the audience spoke in support.

*Jill Waisanen*, 7687 Highway 135 North, Embarrass, stated she is in support of the rezoning. This meeting is just for the rezoning. The applicant has good intentions for this property.



*Dave Rose*, 300 1<sup>st</sup> Avenue, New London, stated he is in support of the rezoning because of the future disabled veterans use. He represents Veterans on the Water. They have an RV park in Tower where they bring veterans out on the water. He is a veteran, and he realizes this property will be developed. He just wants something that will work for everyone.

*Natalie Plushwik*, 6576 Dewey Point Road, Chisholm, stated she is in support of the rezoning. She grew up on Lake Vermilion and supports helping disabled veterans. There is nothing more appealing or helpful to anyone than being outdoors and out in nature.

One member of the audience asked a question.

*Cheryl Harelstad*, 8741 Raps Road, asked if the rezoning is approved, would the commercial use be allowed to exist forever on the property? Would it just be for this project? What would happen if the property were sold? *Mark Lindhorst* stated the proposal is just for the rezoning of five parcels. This is also not Commercial zoning. This is a change in zoning from Residential to Shoreland Multiple Use, which allows for a variety of different types of uses. One of these uses may potentially be for a commercial use.

Forty-two members of the audience spoke in opposition.

*Ronald Johnson*, 9084 Little Sweden Road, Cook, stated he owns Whispering Winds resort. He is a past president of the resort association and has been an active board member for 25 years. They are not against the campground on some property. With the initial presentation done for the March public hearing, they did not feel this was a well-planned use of this property. As a private business owner, he is not against development, but it should be well-planned.

*Randy Love*, 8586 Wakeump Road, stated he is uncertain if this case is about inheritance, but the rezoning is at the bottom of this. The Defense Department could get veterans access to any one of the resorts on Lake Vermilion to allow them to enjoy the lake. That would be a different means than by going this route. This will cause controversy if this continues on.

*Peter Wunsch*, 3059 Black Bay Road, stated he is an adjacent neighbor to the shoreland property. This will impact their family's property which has been in the family for 70 years. His parents bought this property in 1953 for its remoteness, the pristineness, and the wildlife that would be directly affected by this development next door to their property.

*Adam Leinonen*, 9186 Raps Road, stated he wants the Planning Commission to consider the four criteria. He challenged the Planning Commission to find any proposal that would miss the four criteria of approval more than this proposal does. There is a lot of use and benefit to Lake Vermilion. Any vote in favor of the rezoning will make all of those opposed question the integrity of the process. This process has been around for a long time.

*Lori Melbostad*, 8864 Raps Road, stated she submitted the petition. When public notice went out, the neighbors reacted so quickly against this. There are 187 names on the petition that were collected in four days for the March hearing. Correspondence deadline. Had they had 60 days, they may have had thousands of names. There are people whose families have owned property on this

lake longer than Minnesota has been a state. There is not one person in this group that does not support veterans, but this decision should not be to the detriment of everyone in the area.

*Mark Litherland*, 8784 Partridge Rock Trail, stated his property is about one-quarter mile from the proposed rezoning. He was before the Planning Commission ten years ago when he developed 40 acres and sectioned off 15 acres and 600 feet of shoreline into five parcels, three shoreland lots and two back lots. This was approved his first time through. What is being planned here is 47 campsites on about the same amount of acreage which would be high-density. He does work for Lake Vermilion shoreland management. He has degrees in limnology and hydrology and knows about watersheds and the environment. He knows that the property in question cannot hold 47 campsites. While his property has a lot of topsoil, this property has minimal topsoil which makes any future septic system doubtful.

*Marnie Bigler*, 8721 Raps Road, stated her family has been in this area for over 100 years. She is a mother, daughter, daughter-in-law, and sister-in-law of a soldier. This case is not about doing what is right for veterans, but if this area would make a good multiple use area. It is offensive to say that she is against veterans. St. Louis County is 8,600 plus square miles. The area in question is just a little peninsula on Black Bay. She is concerned about the infrastructure on Raps Road not being able to support the additional development.

*Mark Schmidt*, 8780 Raps Road, stated when they purchased property out there it was zoned Residential. Now he is concerned about changing the Residential zoning. The current proposal says spot zoning, and this is pure spot zoning. This will affect everyone else in the area and it should not be approved as it is against the ordinance and state statute.

*Philip Simensen*, 3061 Black Bay Road, stated some families have lived here for over 100 years. First, if the zoning map amendment is approved, this will permit any other use allowed in an SMU zone district. The applicant has not demonstrated any present-day use benefit in a low-end density residential community or any other usage. Today it was learned that there are multiple owners. If this gets approved, does the applicant come back? Do multiple applicants come back? Are there other things behind the scenes? He asked the Planning Commission to stay to the rules and regulations and decide on the rezoning. If there is not enough information, he would like an Environmental Assessment Worksheet (EAW) if not for planned usage but for present usage.

*Jim Aune*, 3084 Black Bay Road, stated he has lived next to this property and has been on this property. This is a beautiful, fragile, pristine property with very steep banks. He does not know how disabled veterans will get up these hills. There is no topsoil on this property. He does not see how splitting up the property by adding campsites will not destroy the property.

*Mark Harelstad*, 8741 Raps Road, stated he is the president of Raps Road. His wife, Cheryl, is the Vice President of Raps Road. As president, it is his role to conduct annual meetings, encourage communication, and organize activities for the community to stay intact. When the proposal was brought forward, they received a variety of calls. As a group, they are opposed to the rezoning. The property in question has always been in a residential area. The rezoning will negatively affect their properties, community, and potentially Lake Vermilion. They value the neighborhood and family properties and the non-commercial nature of this area of the lake as well as the peace and

quiet the limitations and protections provide. This allows these people to have residential zoning. Many residents purchased their properties based on their lifestyle and investments to retire on Lake Vermilion. The community opposes the rezoning change that would come with the development of the subject property. They oppose this based on the development of a single owner versus all the neighbors. This is not a one-person issue. The applicant stated the land was purchased and the applicant bought this property as it fit into the St. Louis County Comprehensive Land Use Plan for a campground. The applicant purchased residential property without the changeover and knew it could be used for something different. The applicant had general comments and nothing specific. Their community is looking for the benefit of everyone.

*Tim Merkel*, 8749 Raps Road, asked what would happen if the 501C3 non-profit was sold or went into other ownership or had another use, such as a hotel.

*Mark Lindhorst* reiterated what uses would be allowed in a Shoreland Multiple Use (SMU) zone district with a conditional use permit, including Commercial, Retail and Service Establishments - Class I and Class II, Extractive Use - Class II, Mineral Exploration and Evaluation, Public/Semi-Public Use, Recreational Use - Class I, and Planned Development - Class I (Residential) and Class II (Commercial). Other uses like a dwelling could be approved with a land use permit. That does not mean they could get approved. The requests would need to meet all other requirements.

*Karen Whisler*, 3047 Black Bay Road, stated while this may be an undeveloped area, there are a lot of residents in the area. Her grandparents purchased the property in the early 1900s and they have kept the area pristine. People enjoy the Black Bay area. There are picnic grounds that are conducive to anyone. This is rugged land, and the area is not conducive to a campground. They do not remove trees or clear land for parking lots. They want to preserve this land for the future. She is not against supporting veterans. She has been a nurse for 30 years. Pontoons bring nursing home patients to the area. They serve the public there. This use would not be good for the residential area.

*Carol Erickson*, 3091 Black Bay Road, stated she agrees with her neighbors.

*Dan Erickson*, 3091 Black Bay Road, stated he agrees with his neighbors.

*Tom Soderberg*, 3129 Raps Point Trail, stated he agrees with his neighbors.

*John Goerdt*, 8902 Raps Road, stated he agrees with his neighbors. The land is not conducive to the use proposed.

*Fred Sorgenfrei*, 8724 Metsa Road, stated he has lived in the area all his life. He is concerned about the noise created around this part of the lake by 20 to 30 boats going out fishing. Noise travels across water. He also agrees with the neighbors.

*Boyd Snyder*, 9036 Raps Road, stated he agrees with his neighbors.

*Lisa Simensen*, 3061 Black Bay Road, stated she is opposed because she does not know what will happen after the rezoning. This property could be developed or not developed.

*Mike Riggs*, 3121 Raps Point Trail, stated he submitted a letter in opposition and agrees with his neighbors. He purchased his property in 2015 for his family because of how it was zoned residential. There are large expanses of Lake Vermilion that are not developed.

*Mike Sorensen*, 8783 Raps Road, stated he is not against veterans, and they should be supported. This is the wrong place for this support. There are better places that will do things for veterans.

*Jim Miller*, 8782 Raps Road, stated Raps Road is a narrow, scenic road with no centerline and there have been near misses because sometimes drivers drift to the opposite side of the road. He is opposed to rezoning that would add additional traffic.

*Steve Sorgenfrei*, 7879 Willis Lane, Lino Lakes, stated he has been coming to Lake Vermilion since he was an infant. He is against rezoning and is in support of whatever can be done for veterans. There is no timeline for what could happen to this property. Once the property is rezoned, it is rezoned, and nothing can be put back in the box.

*Robert Simensen*, 8707 Raps Road, stated he agrees with his neighbors.

*Shirley Koski*, 8693 Norwegian Bay North, stated she is next to the subject property. There are veterans in her family. There are no veterans that will be able to access this property. This is not the right place for this proposal.

*Cathy Hiveley*, 8972 East Wakemup Village Road, stated she was originally part of the Lake Vermilion Planning Commission when they were trying to make sure that the lake would stay pristine. She asked when the zoning was changed. With a residential zone district, one should be able to build a house or put in a septic tank and it would be hard to do on this property. She took care of her father-in-law who was a veteran, and she is not opposed to that.

*Mark Lindhorst* stated this property is currently zoned Residential. Other areas have the Shoreland Multiple Use zone district. There is also a Lakeshore Commercial Overlay where there were residences and resorts so that resorts could expand and/or continue operation. Once the resorts are gone and are no longer in operation, the property would go back to being residential.

*Cheryl Harelstad*, 8741 Raps Road, stated if this area is rezoned, would it mean that the rest of the neighbors could also have the uses allowed in a SMU zone district? For example, she would love an amphitheater. What does this rezoning mean for the future for all of us? It is a dangerous precedent. Lake Vermilion is a fragile and special place and this is why the area is residential.

*James Lakmann*, 8709 Raps Road, stated he is concerned about the safety issues on Raps Road. He has been driving on Raps Road since 1955. It is amazing no one has been killed on this road. He appreciates Beatty Township showing up in support of the neighbors.

*David Campa*, 8731 Metsa Road, said the applicant was stating the Planning Commission cannot refuse her because the campground would be advantageous to the area. If this property is rezoned, how can anyone say this can only be rezoned for a campground and not for any other purpose?

*Dick Nowlin*, 1945 Little Sweden Road, stated the applicant and her attorney are trying to convince the Planning Commission that the St. Louis County Comprehensive Land Use Plan controls a zoning amendment. He has been a land use attorney for 45 years and he rewrote the law in Minnesota. This is not how this is supposed to be done. There would be no need for a Planning Commission to determine hearings if that were the case. Extraneous amendments in the St. Louis County Comprehensive Land Use Plan do not control this issue. Ronald Johnson's son has been working five to six years to get places for veterans from all over the country to stay at Whispering Winds resort. There are nine cabins that will be occupied by veterans on opening weekend. The job of trying to get veterans to come to Lake Vermilion is not easy. There are five or six resorts that would welcome the chance for veterans to come. There is no need for an additional property. The ownership of the peninsula is a confused mess. He does not believe the applicant owns this property. In talking to Lutheran Social Service, they said they have not sold anything. There is no clear ownership here.

*James Hutter*, 3033 Black Bay Road, stated he owns Da Bi Na Wa Lot D which is 2.87 acres of land. He is opposed to this proposal. He provided written correspondence in opposition. He is concerned about access to the subject property as there is no road for access.

*John Wunsch*, 3059 Black Bay Road, stated they have been at their property since 1953. They are next door neighbors to Lot 46A and B. He agrees with his neighbors on their opposition. Lot 46A and B are so small that the marker used to mark the property line encroaches on their property. This is not good property for anything other than residential.

*Judy Bullis*, 8940 Raps Road, stated the applicant and her attorney were interpreting the law and she is questioning if this interpretation is correct. This rezoning opens other possible uses that are not consistent with this residential area. The four criteria have not been met. The residents will not benefit from this use at this point. Safety issues have been brought up along Raps Road. When the applicant was talking about not using the road to access the property, will she bring them in by boat? This was very unclear. More clarifications need to be made.

*Kevin Manbeck*, 3088 Black Bay Road, stated the Planning Commission needs to consider if spot zoning of this nature is justified. There are two conditions that need to be met if spot zoning is approved. One is the scale of the neighborhood. The scale of this campground project is larger than the neighborhood can support. The other condition is the neighborhood benefit from the proposal. Based on the number of those opposed, this proposal is not to the benefit of the neighborhood.

*Mary Ellen Anderson*, 8711 Raps Road, stated she has enjoyed Lake Vermilion's pristine environment. They have the obligation to preserve and protect Lake Vermilion. The proposal to rezone from residential to multiple use is hard to do. They understand what the community is saying. She is concerned about safety. Boats going back and forth over the small bay, the docks that would need to be installed, and the parking required to bring RVs across the waterway is a lot. The second concern is the environment and how the land will be used. There is nothing to prevent the applicant from camping on this property. This could be a private campground and who will oversee that? There is also fire danger. During dry periods, who will monitor a campground with

up to 47 campsites? The third concern is the impact to the community. She is opposed to the rezoning moving forward.

*Michelle Manick*, 8545 Peterson Road, stated she agrees with her neighbors in opposition. She added that the closest public boat access is near the Landing Supper Club. That area cannot handle the boat traffic it has now. There is no way that would be able to handle any additional traffic based on the changes to this property. If this is a 501C3 and the applicant is not benefiting from anything, why was the property itself not placed in the 501C3 name and why is the applicant personally owning this property. The applicant is looking to benefit from this happening. She added their petition in opposition was all Lake Vermilion residents. She is concerned the applicant's petition is not. This proposal is not in the best interest of Lake Vermilion.

*Robert Koch*, 12985 Eveleth Avenue, Apple Valley, stated they own the property east of the subject property. He is in support of the opposition. Out of 47 campsites, what will be the maximum capacity allowed at this campground. He is concerned about hundreds of people walking across his property. He is concerned about the number of people on that property and having a clean septic. He is concerned about the water quality and the noise. This proposal would not be in harmony with its surroundings.

*Dana and Terry Hurley*, 8727 Metsa Road, stated if a conditional use permit is allowed, anything could be allowed after rezoning. The applicant has indicated this will be a campground, but this is not the current proposal. The 501C3 is not relevant. What is relevant is the number of people speaking in opposition. This is about the number of people that would be impacted by this rezoning versus the benefit for the applicant. They do not know how the land will be used. The benefit demonstrated here is higher than any benefit to the applicant.

*Andy Kahn*, 8519 Black Bay Road, stated this was zoned low density residential for a reason. Any change to the rezoning takes away from having natural areas on the lake.

*Brian Wellman*, 3032 Sunset Road, stated he agrees with Mr. Nowlin. His property is about 15 miles from the subject property. He has worked in land development for 25 years. The terms they use are highest and best use. Raps Road is water access and the lay of the land. The highest and best use is this is a low density and residential in nature. This is a rezoning application. This has nothing to do with campgrounds or veterans. There is nothing in the application that would preclude the rezoning. He does not know what use there will be if the rezoning is approved.

*Unidentified woman*, no address given, stated they want to preserve what they have. They want the least amount of impact. They did not build a small woodshed without following the law. They do not cut trees down. They save every tree they can. They keep the shoreline as it is. They do not manicure their lawns. They do not use fertilizers. They want Black Bay to be beautiful for everyone to enjoy. They want to preserve the quality of the lake. She is concerned about what the future septic may look like at a campground and where people will go to the bathroom. This rezoning will impact them in a way that should not happen.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked when the Lake Vermilion Plan was completed. *Mark Lindhorst* stated it was in 2008 or 2009. Area residents worked with the townships and the county to come up with the zoning map seen now. That plan is now gone because the county has adopted the St. Louis County Comprehensive Land Use Plan, but the zoning map still exists.
- B. Commission member *Manick* asked if the rezoning was approved, any commercial use could be considered? *Mark Lindhorst* stated yes. This is only for rezoning these lots and not any future commercial use.
- C. Commission member *McKenzie* stated the application mentioned that the Lakeshore Classification Area is justification for rezoning. *Mark Lindhorst* stated the St. Louis County Comprehensive Land Use Plan shows lakeshore classification area. A lot of lakes are zoned SMU or Residential. In these areas, that provides the opportunity for infill, commercial development, and new residential if they are allowed. This is different from zoning. Zoning was set to depict the type of uses based on lot sizes. If the zoning would allow for that activity, the St. Louis County Comprehensive Land Use Plan would determine if the area meets the intended use or not for a specific request. Commission member *McKenzie* asked if these are just general descriptions. *Mark Lindhorst* stated yes.
- D. Commission member *Manick* stated that Ms. Padilla's letter stated that the County's definition is not spot zoning because the request relates to five parcels that are owned by multiple parties and not one lot or parcel, and asked who the other parties are. *Christine Wyrobek* stated when they purchased the land there was a problem with the purchase because the land was an inheritance. They needed to go to Court to fix this problem before the property could be recorded in her name. Over the past few months, there have been others interested in joining their effort. She does have a letter from the landowner stating they are okay with the rezoning. Commission member *Werschay* asked if there are different landowners why they are not here asking for this rezoning. *Julie Padilla* stated that Christine Wyrobek is the owner of the record of the five parcels. The future ownership may have one or more additional owners of the same purpose to move the campground forward. Those names would be added to any future applications once they become a legal owner of record. Commission member *Manick* asked if it would have been better to wait until the ownership was settled. *Mark Lindhorst* stated that this application was taken in when Christine Wyrobek was the owner. *Christine Wyrobek* stated there is only one other landowner involved and they are in support of this. She was told by the County to get something in writing from this landowner and that was submitted into the record. Commission member *Coombe* asked which parcel of the five is owned by Lutheran Social Services. *Christine Wyrobek* stated that this is the two-acre parcel.
- E. Commission member *Manick* noted that for those giving testimony, this is just a rezoning case. Even if the property is rezoned, the use may not be for a campground but could be any other use allowed in a Shoreland Multiple Use zone district. People do not need to be afraid to mention a campground. Commission member *Coombe* agreed.
- F. Commissioner *Nelson* thanked the audience for their testimony and maintaining respect.
- G. Commission member *Manick* stated that this area is underdeveloped. It does not necessarily mean that the property should be developed. To approve the rezoning, all four criteria must be met.

- H. Commission member *Coombe* stated this is spot zoning. This is one small area that will benefit and there are many neighbors that will not benefit. State statute says that spot zoning is illegal. Commission member *Pollock* stated one of the audience members that provided testimony said spot zoning should be dependent on the scale of the neighborhood and benefit of the neighborhood. Commission member *Coombe* stated they should not make an unjustified change to the zoning map because spot zoning is not legal.
- I. Commission member *Werschay* stated she does not understand how an applicant can rezone a property that they do not own. The applicant says they own the property but that may not be the case. She does not know who owns this property.
- J. Commissioner *Nelson* stated while it is admirable to help military veterans, rezoning property means that one does not know what will happen after. What will this do to the value of the land? This will increase the value dramatically. This will increase the value to the detriment of the immediate and adjacent landowners. They do not know what will happen after rezoning.
- K. Commission member *Filipovich* stated this property will be developed with buildings on it no matter what happens here. If the Planning Commission approves the rezoning, this will go before the St. Louis County Board. Commissioner *Nelson* agreed that this is the process. It is the onus that the decision falls upon the Planning Commission for guidance as the decision-making body and the County Board has not gone against the Planning Commission before. Commission member *Filipovich* stated if the applicant wants another chance at this request, the Planning Commission could pass the rezoning. The audience may not want that, but there is that chance. He asked if the rezoning is turned down, could the applicant reapply for this type of request. *Mark Lindhorst* stated that does not mean that someone could not come back and ask for a different type of rezoning or a different request. The Planning Commission has to deal with this request now. Commission member *Filipovich* stated this could go through and the County Board could look at this request.

## DECISION

**Motion by Manick/Coombe** to deny a zoning map amendment involving parcels 250-0040-00520, 250-0040-00525, 250-0020-02040, 250-0020-02041, 250-0020-02042 within T63N, R18W. The proposed zoning change is from Residential-5 to Shoreland Multiple Use-5 and from Residential-7 to Shoreland Multiple Use-7. The motion is based on the following facts and findings:

- A. Plans and Official Controls:
  - 1. Per Zoning Ordinance 62, Article V, Section 5.4, the Residential (RES) district is intended to be used in those areas of the county with extensive or the potential for extensive residential development. This district shall be used to promote a high-quality residential living environment where non-residential uses are restricted. This district may be used in shoreland and nonshoreland areas that are typically platted, or, if not platted, have a development density of dwellings of more than one dwelling per 300 lineal feet of lot frontage.
  - 2. Per Zoning Ordinance 62, Article V, Section 5.4 the Shoreland Multiple Use (SMU) district is intended to provide a balance between lake and river use and the water resources by allowing a wide range of uses that are consistent with adjacent land uses and the recreational and natural attributes of the water body.



3. Zoning Ordinance 62, Article V, Section 5.6, indicates that Commercial Planned Developments are not an allowed use in a Residential zone district which is the reason for the requested rezoning.
4. Parcels 250-0020-02040, 250-0020-02041 and 250-0020-02042 fall into the Forest and Agriculture (FA) land use category of the St. Louis County Comprehensive Land Use Plan.
  - a. This land use category primarily consists of forest harvest management and the raising of crops or livestock, as well as farm dwellings. In some cases, they consist of natural areas that are not being farmed or actively managed. Areas designated as Forest and Agriculture on the future land use map include areas not intended for future rural or urban development. Lot sizes are typically larger than 40 acres. It is not clear how the SMU zoning would be more consistent with the land use plan as described above.
5. Parcels 250-0040-00520 and 250-0040-00525 fall into the Lakeshore Development Area (LDA) land use category of the St. Louis County Comprehensive Land Use Plan.
  - a. These areas are intended for rural development adjacent to lakes, including infill, new development, or redevelopment of existing residential, commercial, or mixed-use areas. The scale and intensity of Lakeshore Development Areas are to be distinguished from uses requiring approval as planned resorts.
6. The Future Land Use Maps guide all changes to the zoning map. Each map defines land use categories as opposed to zoning districts. Land use categories are broadly defined as opposed to zoning districts which specifically detail lot size regulations, structure location requirements, and which uses are allowed, not allowed, or conditional.
  - a. In many instances, land use categories simply indicate general locations that can support future growth and development.
  - b. Those categories may accommodate several uses and several differed zoning districts.
7. The proposed zoning is not consistent with the comprehensive or land use plan adopted for the county. There has been no evidence by the applicant or a qualified land use professional that this is consistent with the Land Use Plan.

B. Zoning:

1. The parcels are surrounded by residential zoning and located within the shoreland area of Lake Vermilion. The main purpose of this rezoning is to establish a campground as a commercial planned development that benefits the applicant.
2. The Residential zone district is intended to be used in those areas of the county with extensive or the potential for extensive residential development. The proposed request for the rezoning is to establish a commercial planned development that is an incompatible use and is not allowed within a residential district.
3. This request falls into spot zoning. At the time of this request, the only parcels benefiting from the rezoning are the parcels under the applicant's request. The applicant stated that Beatty Township would not initiate the rezoning.

4. The proposed zoning is considered spot zoning, which is zoning to discriminate in favor of one lot or parcel out of harmony with surrounding lots or parcels and the comprehensive or land use plan and without benefit to the community.

C. Public Need:

1. This rezoning clearly benefits the landowner. There are areas on Lake Vermilion with SMU zoning which allows for new and expansion of existing commercial developments. No public need or benefit has been established regarding rezoning the property.
2. There does not exist a clear public need for and benefit from additional zoning of the type proposed, which is above and beyond any benefit or convenience to the landowner. Above and beyond is a large term. There has been no clear benefit from anyone clamoring to get the veterans here. There is not much public interest in this rezoning.

D. Public Interest:

1. The current zoning was established for the protection of existing residential development and to restrict incompatible uses. There are multiple areas on Lake Vermilion that are zoned SMU or Lakeshore Commercial Overlay (LCO) that would support the requested commercial planned development. These areas were specifically identified during the Lake Vermilion planning process to allow for commercial development to continue and expand if needed.
2. There is not a showing that the public interest would be best served by rezoning the property in question rather than other property in the community. There is no public need being evident. There are properties available on Lake Vermilion for this type of development.

E. Other Factors:

1. The landowner is the main benefit for the rezoning.
2. The applicant has not demonstrated that there is a clear public benefit.
3. There is established SMU or LCO zoning on Lake Vermilion that allows for commercial development.
4. Rezoning parcels for a specific project may set precedence for future spot zoning throughout the county.
5. Spot zoning is zoning to discriminate in favor of one lot or parcel out of harmony with surrounding lots or parcels and the comprehensive or land use plan, and without benefit to the community.

**In Favor:** Coombe, Manick, McKenzie, Nelson, Pollock, Svatos, Werschay - 7

**Opposed:** Filipovich - 1

**Motion carried 7-1**

**Motion to adjourn by Manick. The meeting was adjourned at 1:31 PM.**