

## STAFF REPORT

**Application:** Preliminary Plat of The Ridge

**Applicant:** NWT LP

**Background Information:** NWT LP owns and is seeking to subdivide a 26.2-acre parcel of property into nine commercial lots. The property is located along Highway 371 approximately one mile north of the Pequot Lakes downtown.

The zoning of this property is currently in question. It was zoned Forestry prior to annexation to the City of Pequot Lakes. A motion to zone the property Commercial was approved by the City Council during the annexation proceedings. There were no findings of fact included with this motion to support the Council's actions and there was no public hearing and/or public notification done indicating that the property was going to be zoned Commercial. The current City Attorney has recommended that we undertake the process of zoning this property and other properties annexed at the same time to ensure that the zoning classification is properly established.

For the sake of processing this application, we will proceed under the assumption that the property will be zoned Commercial. Note, this does not indicate that your Staff believes the property is, should be or ultimately will be zoned Commercial.

**Applicable Statutes:** Section 140 deals with subdivisions. Subpart "B" list the submittal items required for a preliminary plat including existing features and proposed layout.

Subpart "D" discusses minimum design standards. These include the following (only applicable standards listed):

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of the lot. The suitability analysis for each lot shall also consider soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, nearshore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. Each lot shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems. New lots requiring mound systems or holding tanks shall not be allowed.

3. Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without a variance.
4. Lot layouts shall be compatible with the existing layout of adjoining properties.
5. Each lot shall have a minimum of thirty-three feet (33') frontage on a designated right of way.
  - a. Proposed streets shall conform to the Comprehensive Plan of the City, County and State Highway plans and existing boundary conditions.
  - b. Streets shall be related to the topography so as to produce usable lots and reasonable gradients not in excess of ten percent (10%) for collector roads and fifteen percent (15%) for minor roads.
  - c. Public access shall be given to adjacent properties unless the topography clearly indicates future connection is not feasible and another possible route exists.
  - d. Streets or connections to half streets or partial streets without providing for the required right of way will not be permitted.
  - e. Dead-end streets shall be prohibited except as stubs to permit future road extension into adjoining tracts, or when designated as a cul-de-sac and the street connected to a cul-de-sac (turnaround) and shall not exceed eight-hundred feet (800') in length.
  - f. Access shall be given to all adjacent properties when required by the Planning & Zoning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City.
  - g. Right of Way shall be dedicated to the public:
 

Cul-de-Sac	68 ft. radius (turnaround)
City Collector Street	66'
City Minor Street	66'
  - h. Intersections
    1. Street centerlines shall intersect at not less than 75 degrees
    2. Street jogs shall be no less than 200' from centerline to centerline.
    3. Gradients at intersections and for 50' approaching on each side of an intersections shall not exceed four percent (4%)
  - i. Street names shall conform to the pattern of the City, continue an existing name on the same alignment and generally promote order and direction in the community.
6. Easements shall be provided for public utilities, cluster systems or drainage where required by the Planning & Zoning Commission and shall be the following minimum widths:
  - a. Waterlines 10'
  - b. Sewer lines 15'

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| c. | Storm Sewer   | 10' |
| d. | Drainageway   | 10' |
| a. | Utilities (electrical, telephone,<br>Cable television, natural gas, etc.) | 10' |
2. New lots requiring variances to allow their use for the intended purposes or requiring mounds or holding tanks for sewage shall not be allowed.

Because it plays a central part in the usability of these lots, the following from Section 60.020 is a list of the permitted uses in the Commercial district. Keep in mind that these uses are explicitly allowed in the zone – the City would have to show undisputable evidence of a health or safety issue in order to not permit these uses on a commercial lot.

Section 60.020 Permitted Uses

1. Commercial retail such as grocery, hardware, drug, clothing, furniture stores, restaurants, etc. (see Section 60.050)
2. Personal service establishments such as laundry barber, shoe repair, photography studios, etc.
3. Repair services such as radio and television repair shops
4. Office buildings
5. Professional services such as medical/dental clinics, attorneys, architects, engineers surveyors and accountants offices
6. Public and semi-public buildings such as fire stations, town halls, etc.
7. Service stations
8. Wholesale and warehouse operations
9. Stone and monument sales
10. On sale or off-sale liquor establishments
11. Veterinary clinics and kennels (kennels must be located a minimum of 300 feet from a residence if abutting a residential district)
12. Public Uses for utilities
13. Accessory uses and structures

Additionally, in Section 60.040, a lot coverage of 50% is allowed in the commercial zone.

**Staff Findings:** We have reviewed the proposed subdivision and offer the following findings of fact for you to consider in specific response to the requirements of the Ordinance:

1. The land has not been properly zoned, if the term “properly” refers to due process. There have been no findings developed to evaluate what the proper zone of the property should be.
2. Lot 1, Block 1 has steep topography over more than 50% of the lot. The steep sloped areas are not developable with only minimal alteration. Significant alteration of the land will be required to develop this lot. The steep slopes create severe erosion potential and call into question the long-term viability of commercially sized sewage treatment systems. This lot does not meet the standards of Section 140, Subpart D.

3. Lot 2, Block 1 is not a buildable commercial unless there is significant alteration of the topography. Over 75% of the lot has slopes exceeding 12 percent. There is a 9% slope over the area shown by the applicant as a building site, which is not conducive to commercial development. Drainage from the east side of the lot is to Lot 1, Block 1. The sewer system is proposed to be built on a 15% slope, which is not reasonable. There is a severe potential for erosion from the public right-of-way with development of this lot. This lot does not meet the standards of Section 140, Subpart D.
4. Lot 3, Block 1 is only marginally buildable as a commercial lot. Roughly a third of the lot is unbuildable due to steep topography. Significant alteration of the remaining topography will be needed for construction on this lot. Drainage from this property is to Lot 2, Block 1. There is severe potential for erosion on to the public right-of-way from development on the west side of the property. Proposed sewage treatment systems are placed at the top of a 10% grade, which raises health concerns from effluent seepage. This lot does not meet the standards of Section 140, Subpart D.
5. Lot 1, Block 2 is only marginally buildable as a commercial lot. The sewage treatment systems are proposed to be located on a 16% slope. Steep slopes with severe erosion potential cover nearly half of the lot. There is not enough area to provide 50% coverage without significant alteration of the topography. This lot does not meet the standards of Section 140, Subpart D.
6. Lot 2, Block 2 is not a buildable commercial lot. The proposed building site is not accessible without significant topographic alteration. Stormwater from both adjacent lots and the proposed right-of-way drain to the building site. Although only approximately a fourth of the lot has slopes exceeding those allowed, the lot does not have any areas where commercial construction could be done without significant alteration to the topography. This lot does not meet the standards of Section 140, Subpart D.
7. Lot 3, Block 2 is not buildable as a commercial lot. The lot is not accessible without significant alteration to areas with excessive slopes. There is severe erosion potential in these areas. The proposed sewage systems are in a severe slope area, an area which is a drainageway for stormwater from the proposed right-of-way and the northeast side of the lot. The proposed building is on an 8% slope. There would be no way to achieve 50% coverage on this lot without significant alteration to the topography. This lot does not meet the standards of Section 140, Subpart D.
8. Lot 4, Block 2 is marginally buildable as a commercial lot. Development on this lot will not be possible without significant alteration of the topography. Drainage from this lot goes on to Lot 5, Block 2. This lot does not meet the standards of Section 140, Subpart D.
9. Lot 5, Block 2 is not buildable as a commercial lot. Approximately 60% of the lot has slopes that are severe. There is extreme erosion potential in these areas. There is also the potential of erosion from the public right-of-way. This lot does not meet the standards of Section 140, Subpart D.
10. Lot 6, Block 2 is not buildable as a commercial lot. Approximately 50% of the lot has slopes that are severe. Development on this lot will require

significant alteration of the topography. The sewage systems are proposed to be located in an area with slopes exceeding 20 percent, which raises concerns over erosion, long-term viability of the system and the health impacts of effluent leaching. Drainage from this lot is to Lot 5, Block 2. The lot is not accessible without significant topographic alteration. This lot does not meet the standards of Section 140, Subpart D.

11. The applicant has not demonstrated that any of these lots are adequate for sewage treatment and, given the nature of the topography, there is reason to question the long-term viability and health impacts of many of the proposed systems.
12. Although surrounding parcels are undeveloped, development of this property is not compatible with those surrounding parcels for the following reasons:
  - a. Significant amounts of fill are proposed at Station 6+50 and Station 15+00 on the preliminary road layout. These fill sections will necessitate grading on adjacent parcels. The applicant has not presented any easement that would allow this work.
  - b. The proposed road alters the drainage patterns from the adjacent parcel in the vicinity of Station 6+00, Station 12+00 and Station 21+50. This would cause water to back up on the parcel to the east.
  - c. The surrounding parcels are not zoned for commercial development. This subdivision does not provide any buffer to the surrounding, non-commercial properties.
13. The City Engineer, in a November 22 letter, has raised the following concerns that have not been addressed:
  - a. The design speed for the roadway is less than 30 mph. (This was not a directly stated as a concern of the City Engineer but a point of fact. The Commission should determine whether or not commercial roads should be designed for traffic speeds less than 30 mph).
  - b. Safety concerns over the 8% grade approaching T.H. 371.
  - c. Potential safety concern over sight distances between driveways caused by steep slopes.
  - d. Drainage concerns, particularly as it relates to drainage onto public right-of-way and adjacent properties.
  - e. The lack of a storm drainage system.
14. The north leg of the proposed Rolling Ridge Court roadway exceeds the maximum allowable length for a cul-de-sac of 800 feet.

**Planning Commission Direction:** At this point the Planning Commission must make a decision as the City has run out of time for evaluating this application. The Commission can either develop findings to approve the preliminary plat or adopt and/or modify the proposed Staff findings to deny the preliminary plat.

Keep in mind, once the preliminary plat is approved, the applicant must only complete the items required for the final plat and any conditions included in the preliminary plat in order to receive approval. The final plat process is simply a review to certify that these

conditions have been met. Review occurs during the preliminary plat phase and so this is the City's only chance to make changes in the subdivision.

**Staff Recommendation:** The Staff findings lead to a conclusion that these lots are not developable as commercial property. There is no way that any of these lots could accommodate 50% coverage allowed in the Ordinance without significant alteration of the topography. Unless we intend to go to great lengths to struggle with nine separate property owners to balance erosion potential, topographic alteration and drainage issues with implied development rights, these lots should not be approved. We do not recommend putting this City in that position.

Based on the findings of fact presented in this report, we recommend that this subdivision be denied.

Further, after noting the extreme erosion potential of this property, there are significant environmental concerns raised by the clearing of trees that has taken place on this property. This clearing has changed the volume and speed of stormwater runoff on the site. Haul roads and skidder tracks have created channels for water that increase the erosion impacts. There has been nothing done to address these potential problems. We recommend that you direct the property owner to present a stabilization and revegetation plan to address these concerns.

Finally, we recommend that you direct your Staff to notice a public hearing to officially establish the zoning classification of this property. This should be done at the earliest reasonable time in conjunction with the future land use planning and ordinance updating currently being done by the City.

## **P&Z Administrator's Report**

- A. February Permits: The following permits were issued over the last month by the Zoning Department.
1. Employee Development Corporation, 31015 Front Street. Sign permit, \$60.
  2. Gary Morrison, Nelson Street. New dwelling and accessory structure, \$612.80.
  3. Elin Ohlsson, 4466 East Sibley Street. Demolition permit, \$75.
- B. Correspondence: Your Staff sent the following letters of correspondence since the last meeting:
1. December 29 letter to Don Babinski concerning his permit extension request.
  2. January 3 letter to Jerry Grossoehme concerning payment for a sewer inspection and potential plan modifications.
  3. January 21 letter to Joni Tulenchik regarding their special meeting request.
  4. January 21 letter to Mike Pestello regarding his conditional use permit request.
  5. January 29 letter to Lakes Gas with concerns on their temporary building permit.
  6. January 29 letter to Elin Ohlsson regarding obtaining a demolition permit.
- C. Potential Violations/Enforcement Actions: The City Staff is currently working on the following potential violations/enforcement actions. We will report on these each month until they are resolved to the satisfaction of the Planning Commission.
1. Roger Langenbau: We are still waiting to meet with Mr. Langenbau. We are going to try again to schedule a meeting in the coming month.
  2. DBA Wilderness Resort: We have heard from Ann Beaver on this matter and are coordinating with her to provide clarification to our finding that there is no violation on this property.
  3. Virgil Dahl: We have not made another attempt to contact Mr. Dahl and have not heard from him. It is our intention to try and contact him within the next month.
  4. Susan and Timothy Brawley: There has been no response from the Brawleys on this matter. It is unlikely that anything can be done before spring to address the situation. We have sent another letter to continue to document our concerns and try to continue our dialogue.
  5. Walker Junk Yard: We have not had an opportunity to meet with Mr. Walker and get him on an agenda for a Planning and Zoning meeting. We will look to do this in the upcoming months.
  6. David Swenson: There has been no contact with Mr. Swenson over the past month.

7. George Lugar: There has been no contact with Mr. Lugar over the last month.
8. Larry and Nancy Greden: This matter is on hold with a completion date of July 1, 2003.
9. Elin Ohlsson: Ms. Ohlsson has obtained a demolition permit. This matter has been resolved.

#### 8a. Oasis Sign Concept Plan Review

We hand delivered a letter (attached) to Mr. Lueck at the Oasis requesting his presence at the upcoming meeting. We have also scheduled a staff meeting with him during the day prior to the P&Z meeting. We are hoping to have a concept plan to present for your review at the meeting.