

The following are the findings of fact and recommended conditions for the Wilderness Point CUP application from the March 17, 2005 Pequot Lakes Planning Commission meeting. These will be forwarded to the City Council for their consideration at their April 5, 2005 regular meeting.

### **Findings of Fact:**

#### *On the zoning & setbacks*

1. The underlying zone is Waterfront Commercial.
2. The Waterfront Commercial district allows commercial PUD's with a conditional use permit.
3. The Commercial PUD is subject to all of the setback requirements of the underlying zone, in this case Waterfront Commercial.
4. All of the units are outside of the 75 foot shoreline setback.
5. All units meet the 30 foot bluff setback.
6. There is no defined minimum parcel size for Waterfront Commercial in the Ordinance.

#### *On the conditional use permit*

1. There is no reason to believe that expansion on the Wilderness Resort, with vigorous conditions, would harm the health, safety, or welfare of the community.
2. Access to the resort is off of public right-of-way.
3. The PUD would continue to act as a resort. Although there will be some intensification of use, there will be no change in land use. The use will remaining compatible with the adjacent properties.
4. A Commercial PUD is a permitted conditional use within the Waterfront Commercial District.
5. The Comprehensive Plan specifically identifies Wilderness Resort as a recreational amenity of the City (page 64). One of the goals of the Comprehensive Plan is to "*Maintain private resorts and facilities for public recreational use*" (page 65). This proposal, with vigorous conditions to safeguard the environment and the water quality, is consistent with the objectives of the Comprehensive Plan.
6. On-site stormwater retention ponds will reduce sedimentation and nutrient loading of public waterways.
7. The site is largely covered by wooded areas and wetlands. The proposal will not significantly reduce the amount of wooded areas and will not impact the wetlands.
8. There are two bluff areas that have an existing road crossing them. Conditions to the development will deal with this situation.
9. There is increased erosion potential with the new construction, especially in areas near the top of the bluff.
10. The proposed improvements are needed to maintain the viability of Wilderness Resort. This has been the testimony of the applicant, which is not disputed. The proposed use is needed in the shoreland because it expands the existing facility, which is already located in the shoreland.

11. The amount of liquid waste generated has not been calculated, except to acknowledge that the treatment facility will exceed 10,000 gallons per day and therefore will need to be designed by a licensed engineer. There is adequate room available on the property for the construction of such a facility.
12. The most structures that are currently most visible from the lake, including a cabin on the bottom of the bluff directly on the point and the six primitive camping sites (RV sites) directly on the water, will be removed. New construction will occur in areas that are elevated and mostly screened from view from the lake, during leaf on conditions. There will be no vegetation removal within the bluff.
13. There is no standard set forth for determining the safe level of watercraft on the lake.
  - a. The existing Wilderness Point Resort is permitted for 16 docks encompassing 40 mooring spaces.
  - b. The applicants are proposing 40 mooring slips.
  - c. The Ordinance provides for a number of docks not to exceed first tier dwelling units. There are 23 dwelling units allowed in the first tier at residential densities. There are 40 dwelling units allowed in the first tier at commercial densities with an average square footage of 1,800.
  - d. There have been no formal or substantiated complaints that boating activity on the lake has been unsafe. The City is aware of no complaints, formal, substantiated or otherwise.
  - e. There have been no accidents caused by the level of boating activity reported on Middle Cullen Lake.
  - f. The current level of dockage has not been demonstrated to create an unsafe condition. It is unclear whether or not an increase of 8 mooring slips would create an unsafe situation.

*On the application process for a PUD*

1. The survey submitted by the applicant indicates all of the information required by Section 150.030 Subd. A of the Land Use Ordinance. The information shown includes: property boundaries, surface water features, existing and proposed structures, land alterations, sewage treatment systems and water supply systems, and topographic contours at two feet intervals.
2. The applicant has not submitted a property owner's association agreement.
3. The applicant has not submitted any documents pertaining to deed restrictions, covenants, or easements.

*On the site suitability and density analysis*

1. There are 45 proposed units.
2. The total area of the site is approximately 32.3 acres.
3. There is approximately 26.5 usable acres.
4. The proposed PUD meets density requirements.
5. The existing lodge is to be kept.
6. A boat house along the southwestern shore is shown to remain.

*On PUD maintenance and design criteria*

1. Deed restrictions and covenants have been submitted to preserve and maintain open space or utility access.
2. More than 50 percent of the proposed PUD is open space, which does not include dwellings, roads, parking spaces, or any other developed areas.
3. More than 50 percent of the shore impact zone is preserved. Deed or other type of restrictions will be required to prove continued protection.
4. An erosion control plan has not been submitted.
5. A stormwater management plan has not been submitted. The applicant is required to be prepared for a 100-year, 24 hour storm event with no ponding or flooding of structures. The survey does indicate that two stormwater retention ponds will be included in the development, but volumes and conveyance mechanisms have not been calculated.
6. Commercial PUDs allow up to 35 percent impervious surface with a stormwater management plan and up to 25 percent impervious coverage without a stormwater management plan. The development does not exceed 22 percent impervious coverage in any tier or overall.
7. The PUD will use a centralized ISTS system for all of the resort units. The drainfield at the tip of the peninsula is to be removed, and the drainfield at the northeastern edge of the property will remain. An additional drainfield will be added on the northeastern side of the development.
8. The units are clustered on the southeastern portion of the property. The northern portion of the property is primarily wetland. No development is proposed in the wetland.
9. A beach and picnic area is located on the southern part of the eastern edge of the property. These areas have been consolidated into one area to reduce their overall impact.
10. The PUD is allowed up to 34 mooring sites; one site for each unit available in the first tier. The PUD is also allowed one day dock for loading and unloading for units beyond the first tier. The PUD exceeds the allowed number of mooring sites with a proposed 40 mooring sites. The existing CUP for the resort provides for 40 mooring sites.
11. The mooring sites are proposed in three sections on both sides of the peninsula. The slips are outside of the emergent vegetation identified on the site.
12. The survey does not indicate what existing vegetation would be removed or what kind of screening would be kept or planted.

*Other*

1. Middle Cullen Lake has 29,416 feet of shoreline, as per GIS data provided by Crow Wing County. Wilderness Resort has a total of 2,653 feet of shoreline. The resort comprises 9.0% of the total shoreline on the lake.
2. Each unit is required to have 1.5 parking spaces. This information is not indicated on the survey.
3. The survey does not indicate where any signage will be placed.
4. The existing resort contains a large number of RV site, which will be removed. This will reduce the amount of large vehicle traffic to and from the resort.

**Conditions:**

1. Prior to submission of a final plat application, the following shall occur:
  - a. The applicant shall submit a stormwater management/erosion control plan that handles the 100-year, 24-hour storm event in perpetuity.
  - b. The stormwater management/erosion control plan shall be reviewed by the Planning Commission. The plan will be revised as directed by the Planning Commission.
  - c. Following review and revision as directed by the Planning Commission, the stormwater management/erosion control plan shall be accepted by the Planning Commission and then become a controlling document for the development.
2. A site inspection by the City Staff of all erosion control devices shall occur prior to any construction on the site. The City shall be given seven days notice of when the inspection is requested.
3. Prior to submission of a final plat application, the following shall occur:
  - a. The applicant shall submit the rental contract and association contracts to the City Attorney for review and approval. The documents shall address the following, at a minimum:
    - i. Mechanism for maintenance of common areas.
    - ii. Mechanism for maintenance of open space areas.
    - iii. Mechanism for maintenance of shore impact zone preservation areas and bluff zones.
    - iv. The continued operation of Wilderness Resort as a commercial resort.
  - b. Revisions shall be made to the documents to the satisfaction of the City Attorney.
  - c. Once acceptable to the City Attorney, the documents shall be reviewed by the Planning Commission. Revisions shall be made to address Planning Commission concerns.
  - d. Once Planning Commission member's concerns have been addressed, the Planning Commission shall approve the documents and they shall become controlling documents for the development.
4. Prior to submission of a final plat application, the following shall occur:
  - a. The applicant shall submit information showing sewage treatment design, including capacity, treatment capability and conveyance mechanism.
  - b. The sewage treatment design shall be reviewed by the City Engineer. Revisions to the plans shall be made to the satisfaction of the City Engineer.
  - c. Once acceptable to the City Engineer, the design shall be reviewed by the Planning Commission. Revisions shall be made to address Planning Commission concerns.
  - d. Once Planning Commission member's concerns have been addressed, the Planning Commission shall approve the design and it shall become a controlling document for the development.

5. A bond, or other financial mechanism acceptable to the Planning Commission, for 125% of the cost of construction of the sewage conveyance and treatment system shall be posted with the City to ensure its construction.
6. The developer shall notify the City at least seven days prior to the construction of the sewage treatment system. The City shall inspect the system as it is installed to ensure that it conforms to the approved design.
7. Prior to submission of a final plat application, the following shall occur:
  - a. The developer shall submit a vegetation enhancement plan. The plan shall detail preservation areas (natural areas) and the mechanism for preservation. At a minimum, the plan shall:
    - i. Restore and preserve all areas within the shore impact zone outside of the beach and picnic area, except for 8-foot walkways to the docking areas.
    - ii. Restore and preserve all areas within a designated bluff.
    - iii. Preserve all wetlands and all areas within 50 feet of a delineated wetland.
    - iv. Provide screening between unit number 41 and the adjacent residential property.The plan must designate specie type and density. The plan must also specify an implementation schedule.
  - b. The vegetation enhancement plan shall be reviewed by the Planning Commission. The plan will be revised as directed by the Planning Commission.
  - c. Following review and revision as directed by the Planning Commission, the vegetation enhancement plan shall be accepted by the Planning Commission and then become a controlling document for the development.
8. All structures shall conform to the City's minimum building standards for a PUD and to the state building code.
9. Any changes to the Association shall be submitted to the City for approval and must be acceptable to the City.
10. The applicant shall apply for a stormwater NPDES permit. The City will be copied with this application.
11. The applicant shall be allowed 40 moorings. No more than 20 moorings shall be eligible for a shore station or other type of covering or canopy.
12. The road in the bluff and shoreline setback shall be removed and re-vegetated. An 8-foot wide walking trail may replace the road; however, all automobile traffic shall be banned. The walking trail shall be constructed with pervious materials.
13. All buildings scheduled for removal shall be removed within 36 months of this approval. There shall never be more than 22 units in the first tier.
14. The applicant shall be responsible for all expenses that the City incurs in administering these provisions. The applicant will be billed for the charges of the City Attorney, City Engineer, City Planner and any other staff member or special consultant whose expertise is needed to administer these provisions. Invoices shall be paid within 30 days of receipt. Charges may be disputed by appealing in writing to the City Council within 20 days of receipt.

15. The existing Conditional Use Permit is null and void.
16. Boat lifts and canopies shall be of dark earth tone colors, such as dark green.
17. The beach shall remain in its existing location and the beach and picnic area shown on the site plan shall remain natural.
18. As part of the final plat application, common space shall be rezoned to allow for resort operation but to limit future subdivision of the common space.