

**MINUTES
PEQUOT LAKES PLANNING COMMISSION
REGULAR MEETING
AUGUST 18, 2005**

PRESENT: Bill Habein, Dean Williams, Tom Adams, Tom Woog, Mark Hallan, Scott Pederson and John Derksen. ABSENT: Roger Varilek.

COUNCIL LIAISONS: Mary Pfeiffer and Chris Greer.

CITY PLANNER: Charles Marohn, PE

ZONING ADMINISTRATOR: Dawn Bittner

The meeting was called to order by Tom Woog, Commission Chair, at 6:35 p.m.

WILDERNESS RESORT VILLAS:

Mr. Marohn explained that Jeff Miller of WSN had met with Staff and Mr. Adams after our July meeting and agreed to attend or submit a written update of the progress at Wilderness Resort each month until the project is resolved. He asked that Mr. Miller be given 10 minutes to update the Commission.

Mr. Miller introduced Dave Reese, the Project Manager and stated that they are clearing and grubbing the first phase. The SWPPP has been completed. They plan to make application to the MPCA in October for approval of the sewage treatment system for the entire project. They are hoping that the Planning Commission will direct Staff to issue the Land Use Permits for the construction of the cabins. Mr. Reese explained the stormwater drawing, sewer treatment design, etc. The MPCA permit cannot be applied for as the detail design is not complete for the entire site. It takes time to collect the data for submission.

Mr. Williams stated that the Conditions of their CUP were not being followed, such as 7-day notice to Staff for silt fence installation, vegetation plan, and stormwater management plan. With regard to the sewer plan, does the MPCA have the same interpretation on phasing? Condition No. 4 states that the City Engineer needs to approve the sewage treatment design. We need to have Tim Houle look at it.

It was decided, after much discussion, that if the City Engineer approves the sewer design, Staff can issue permits for construction of the cabins in Phase 1. (Adams, Habein, Pederson and Hallan – majority in favor).

Mr. Marohn stated that an updated review of the conditions would be included in next month's Staff Report and that Wilderness Resort will be an agenda item.

APPLICANT: Allen Berens.

Applicant requests Preliminary Plat of Keen Addition.

Mr. Marohn stated that applicant had not furnished new information. Patrick Trotter, Landecker and Assoc., was present representing applicant. He stated that this plat is within 1,000 feet of Sibley Lake and the new drawing is reduced by 2 lots, making the remaining 6 lots greater than 40,000 sq. ft.

Mr. Marohn stated that the Findings of Fact from the July Staff Report (passed out at meeting) would remain the same, with the exception of #4, which should read: The governing Ordinance does not provide lot use or dimension standards for a Medium Density Residential zone. The property falls partially within the shoreland area. The zoning map indicates that the minimum lot size for this zone is 20,000 sq. ft. The lots all are greater than 40,000 sq. ft. Setbacks are also indicated on the plat and each lot provides adequate space for development.

A motion was made by Tom Adams, seconded by Bill Habein, to recommend approval of the Preliminary Plat, based on the following Findings of Fact:

1. The land falls in the Medium Density Residential zoning district, which is not described by the previous Ordinance. The previous zoning map includes a description of the Medium Density Residential zone and sets a minimum lot size.
2. The land is suitable for development in its natural state for residential use with minimum alterations as the land is generally flat and does not contain any natural features that would limit development.
3. Each lot has adequate space for the placement of two standard sewage treatment systems. The soil survey indicates that this area has soils that are "Very Suitable" for septic tank and drainfield applications, however soil borings were not provided and would need to be completed prior to septic installation.
4. The governing Ordinance does not provide lot use or dimension standards for a Medium Density Residential zone. The property falls partially within the shoreland area. The zoning map indicates that the minimum lot size for this zone is 20,000 sq. ft. The lots all are greater than 40,000 sq. ft. Setbacks are also indicated on the plat and each lot provides adequate space for development.
5. Each lot has at least thirty-three feet of frontage on right-of-way for the proposed Josh Court.
6. The proposed Josh Court will not have a gradient in excess of 15% as this area is relatively flat and would not require any gradients near that high.
7. The right-of-way for Josh Court has been extended through the property to provide public access to the adjacent property to the north should this property be developed in the future.
8. The applicant does not propose to provide direct access to CSAH 17 from this property. Rather, residents of this area would access CSAH 17 via Ingoll Way on the south.

9. The proposed Josh Court will end in a cul-de-sac until development on the adjacent property to the north warrants construction of the road extension.
10. Temporary cul-de-sac easements have been provided on Josh Court until further construction of the road is extended to the northern edge of the property. These easements would revert back to the adjacent property owners once Josh Court is extended.
11. The radius of the temporary cul-de-sac is 68 feet, meeting the minimum required radius for a cul-de-sac.

subject to the following:

1. Lots 2 and 3, Block 1, will not have direct access to CSAH 17.

All members voted "aye". Motion carried.

The Planning Commission stated that the maps included with the Staff Report are very helpful.

APPLICANT: Arvig Evergreen LLC

Applicant requests Preliminary Plat of Evergreen Fourth Addition.

Patrick Trottier, Landecker and Assoc., was present, as well as Mike Arvig, applicant. Mr. Trottier stated that he had a new draft of this proposed plat. Mr. Marohn stated that he had not seen the new plat and would not have a recommendation. He suggested that this remain tabled until the September meeting.

APPLICANT: Earl Hemmerich

Applicant requests Preliminary Plat of Island Vista.

Mr. Hemmerich and his attorney, Steve Qualley, were in attendance. Mr. Marohn explained that this matter was tabled last month in order to receive input from the Council regarding North Sluetter Road. It is Mr. Marohn's interpretation and the opinion of the City Attorney that the Preliminary Plat cannot be denied due to the condition of the road south of the plat.

Finding of Fact #2 should be changed to sq. ft., not acres and western should be changed to eastern. #6 – cross off "shoreline" and stop after "zone".

Public comment – none.

A motion was made by Bill Habein, seconded by Mark Hallan, to recommend approval of the Preliminary Plat, based on the following Findings of Fact:

1. The land is properly zoned Shoreline Residential as the land is located adjacent to Sibley Lake and is suitable in its natural state or residential development.

2. Lot 1 contains a substantial portion of the property area as wetlands, with 43,310 square feet indicated as wetland. The property also has bluff that runs to the southeast and steep slopes (greater than 12%) in the eastern portion of the property, which limits development to the southeastern portion of the property.
3. Each lot has sufficient area for the placement of two standard soil sewage treatment systems.
4. Lot 3 currently has an outhouse located on the property and Lot 4 has an existing garage and an existing cabin. These structures are currently accessed by a driveway that runs from the existing cul-de-sac on North Sluetter Road.
5. Additional means have not been proposed to access the lake, but stairways or lifts may be constructed should future property owners wish to have lake access.
6. The lot areas and dimensions conform to the requirements of the Residential zone
7. The lot layouts are compatible with the existing layout of adjoining properties and do not constrain the development of other properties in the area as the lots are locked in by North Sluetter Road to the west, Sibley Lake to the east, and a large wetland area to the north.
8. Side lot lines are at right angles to straight road lines, radial where they meet with the cul-de-sac, and do not contain unnecessary bends or jogs.
9. Each lot has a minimum of 33 feet of frontage on public right-of-way on North Sluetter Road.
10. The proposed North Sluetter Road indicated on the plat would serve as an extension of the existing road to the South. The proposed plat would extend the road, which currently ends in a small cul-de-sac, by 420 feet.
11. The proposed street would not have a gradient in excess of 12% as the road would be located in a relatively flat area with the greatest gradient being approximately 8%.
12. The proposed street would include 33 feet of right-of-way in this plat with the additional 33 feet of right-of-way to the west to be acquired from the State of Minnesota.
13. The proposed cul-de-sac would have a 68-foot radius on the half located on this property. The road easement that may be obtained from the State of Minnesota to the west would provide the western half of the turnaround, but would be rectangular rather than curvilinear.
14. The proposed road does not provide access to the adjacent property to the north. That adjacent property, however, has not had access in the past and is mostly unbuildable as it is covered in wetlands. There is also possibility of access to this property from the north.

subject to the following conditions:

1. The additional 33 feet of right-of-way to the west shall be acquired from the State of Minnesota.
2. The existing outhouse on Lot 3 and the existing cabin on Lot 4 shall be removed. In addition, the existing driveway shall be abandoned.
3. The existing garage on Lot 4 shall be removed within six months of approval of the final plat if a land use permit for a principle structure has not been obtained.

Roll Call Vote: Mr. Habein: Aye; Mr. Williams: Aye; Mr. Adams: Aye; Mr. Hallan: Aye; Mr. Pederson: Aye; Mr. Derksen: Nay. Motion carried 5 – 1.

APPLICANT: City of Pequot Lakes

Applicant requests to rezone from Forestry to Agriculture – Arlen Sergent. Parcel # 290271402A00009.

Mr. Sergent requested, in writing, to table this matter for one month. This was on the Opt-Out List and the 60-day Rule does not apply.

APPLICANT: City of Pequot Lakes

Applicant requests to rezone from Multi-Family Residential to Transition Residential – Carl and Colleen Smith. Parcel #s 290104100BA0009 and 290104100BB0009

Mr. Marohn explained that the next 2 hearings are in the same area. Two parcels are currently zoned Multi-Family (MF) and the other is zoned Wooded Residential (WR). The Smith's request Urban Residential (UR). Mr. Marohn explained the Transition Residential zone and the Urban Residential zone, which would be near town and have a grid layout. Mr. Smith stated that these parcels would be developed similar as the south end of town, Trailview Townhomes. The Preliminary Plat would be applied for next month if the rezone is approved. Mr. Marohn explained that the Transition Residential zone would allow 1 unit per acre, or 20 units clustered on 16 acres, as opposed to 40-some units in an urban class.

Earl Hemmerich was present and stated that he owns the 2 parcels and has entered into a purchase agreement with the Smith's. He plans to sell the property north of Pequot Terrace. The purchase agreement does not include Pequot Terrace. He stated that rezoning from Multi-Family to Transition is a downzone. There is a tremendous difference in property values.

The Planning Commission questioned whether or not Pequot Terrace would become a non-conformity. Staff's opinion is that it would not become a non-conformity, but would need to look at their file. Mr. Smith stated that he plans to extend City utilities. Both PUD and Conservation Design require open space. Staff stated that we were directed not to downzone and MF to TR would, MF to UR would not, and WR to TR would. Mr. Smith stated the Forsberg property is where the lift station would go, as well as storm water ponds. He needs the density to keep affordable. He has already met with City Engineer Tim Houle and Mr. Marohn and the Developers Agreement would be coming after Preliminary Plat.

Mr. Hemmerich stated that there currently is no agreement to sell Pequot Terrace. The north 100 feet is what is being sold to Mr. Smith.

Councilman Greer was in the audience and stated that we have a developer willing to extend utilities, it increases tax base and Pequot needs to grow.

A motion was made by John Derksen, seconded by Tom Adams, to recommend Parcel 290104100BB0009 be rezoned to Urban Residential, based on the following Findings of Fact:

1. The parcel is within walking distance.
2. The parcel abuts the Downtown Mixed Use zone.
3. Public water and sewer on southern boundary.
4. Present ownership remains unchanged.
5. No conflicts between land uses.

All members voted "aye". Motion carried.

A motion was made by Dean Williams, seconded by John Derksen, to recommend Parcel 290104100BA0009 be rezoned to Transition Residential, based on the following Findings of Fact:

1. The rezoning to Transition Residential is consistent with the City's Comprehensive Plan and Future Land Use Map.
2. The properties to the west, a property to the south, and a property to the east all have been rezoned to Transition Residential. Several properties to the east that have been proposed to be rezoned to Transition Residential, as well, but have chosen to have a later separate public hearing. The subject property is partly adjacent to a property to the north that has been rezoned to Agriculture.
3. Rezoning the property to Transition Residential would not constitute spot zoning. Rezoning to Urban Residential also would not constitute spot zoning.
4. The Transition Residential zone is compatible with the surrounding zones and serves as a buffer between the more intense Downtown Mixed Use zone to the south and the Agriculture zone to the north.
5. Rezoning to Urban Residential would not be compatible with the Agriculture zone to the north.
6. The areas of the two properties meet the minimum buildable area of five (5) acres for the Transition Residential zone, being 9 and 16.5 acres. These properties also meet the minimum lot area and dimension requirements for the Urban Residential zone.
7. This property is not currently served by City sewer and water services, but utilities could be extended to this property from the end point at County Road 112 and Grove Street.

Mr. Qualley stated that the Ordinance does not say Urban Residential *cannot* abut Agriculture zone. Mr. Marohn stated that it was the intent that Urban Residential would not abut the Agriculture zone.

Roll Call Vote: Mr. Habein: Aye; Mr. Williams: Aye; Mr. Adams: Nay; Mr. Hallan: Aye; Mr. Pederson: Nay; Mr. Derksen: Aye. Motion carried. 4 – 2.

APPLICANT: City of Pequot Lakes

Applicants requests to rezone from Wooded Residential to Transition Residential. Carl and Colleen Smith. Parcel No. 290104100A0009.

Mr. Marohn explained that this parcel abuts the parcel from the previous public hearing.

A motion was made by Mark Hallan, amended and seconded by Dean Williams, to recommend rezoning this parcel to Transition Residential, based on the previous motion and the following Findings of Fact:

1. The rezoning to Transition Residential is consistent with the City's Comprehensive Plan and Future Land Use Map.
2. The new zones were created based on the criteria set forth in the new Land Use Ordinance and the Comprehensive Plan.
3. The parcel is bordered on the south and east by properties that were proposed to be zoned Transition Residential, these properties have chosen to have a separate public hearing a later date.
4. The parcel is bordered on the north by property that has been rezoned to Agriculture.
5. Rezoning the property to Transition Residential would not be spot zoning. Rezoning this property to Urban Residential may constitute spot zoning if the properties to the south are not rezoned to Urban Residential.
6. The Transition Residential zone is compatible with the zones of the surrounding properties, being of Agriculture and Transition Residential zoning.
7. The Urban Residential zone is not compatible with all of the zones of the surrounding properties, specifically the property zoned Agriculture to the north.
8. The property does not have access to City sewer and water, but if developed in conjunction with the adjoining properties to the south, would then have access to municipal services.

All members voted "aye". Motion carried.

APPLICANT: City of Pequot Lakes.

Applicant requests to rezone from Rural Residential to Transition Residential - Suzanne Motyka. Parcel No. 260142300M0009.

Mr. Marohn explained the Staff Report. Mr. Woog explained the construction error made by the contractor that built her home.

A motion was made by Tom Adams, seconded by Scott Pederson, to recommend rezoning this parcel to Downtown Mixed Use, based on the following Findings of Fact:

1. The proposed rezoning is consistent with the City's Comprehensive Plan and Future Land Use Map.
2. The property is bordered on the east by property that the City has proposed to be rezoned to Transition Residential; the owner of that property, Kimbler, is requesting that the property be rezoned to Downtown Mixed Use. This parcel is identical in lot size and dimensions to Ms. Motyka's property.
3. The property is bordered on the north and west by property zoned Downtown Mixed Use.
4. Rezoning the property to either Transition Residential or Downtown Mixed Use would not constitute spot zoning.
5. The Transition Residential and Downtown Mixed Use zones are compatible with each other.
6. The subject property is currently served by City sewer and water, a requirement for inclusion in the Downtown Mixed Use zone.
7. The property's area of roughly 21,000 square feet does not meet the minimum required lot area of 5 acres for the Transition Residential zone.
8. The parcel's area of roughly 21,000 square feet meets the minimum lot area of 2,250 square feet for the Downtown Mixed Use zone.
9. The parcel's width of roughly 90 feet does not meet the minimum lot width of 200 feet for the Transition Residential zone.
10. The parcel's width of roughly 90 feet meets the minimum lot width of 25 feet for the Downtown Mixed Use zone.

All members voted "aye". Motion carried.

APPLICANT: City of Pequot Lakes.

Applicant requests to rezone from Rural Residential to Transition Residential – Joseph Kimbler. Parcel No. 290142300N0009.

Mr. Marohn explained the Staff Report and the same situation occurred on this parcel as the previous public hearing.

A motion was made by Bill Habein, seconded by Tom Adams, to recommend rezoning this parcel to the Downtown Mixed Use zone, based on the following Findings of Fact:

1. The rezoning to Transition Residential is consistent with the City's Comprehensive Plan and Future Land Use Map.
2. The parcel is bordered on the east by property zoned Transition Residential.
3. The parcel is bordered on the west by a property that the City has proposed to be rezoned Transition Residential; the owner of that property, Motyka, however, is requesting that her property be rezoned to Downtown Mixed Use. This parcel is identical to the Kimbler property.
4. The property is bordered on the north and west by properties that are zoned Downtown Mixed Use.

5. Rezoning the property to Transition Residential or Downtown Mixed Use would not constitute spot zoning.
6. The Transition Residential and Downtown Mixed Use zones are compatible with each other.
7. The property in question is currently served by City sewer and water, a requirement for inclusion in the Downtown Mixed Use zone.
8. The property's size of roughly 21,000 square feet does not meet the minimum lot area of 5 acres for the Transition Residential zone.
9. The property's area of roughly 21,000 square feet meets the minimum lot area of 2,250 square feet for the Downtown Mixed Use zone.
10. The property width of roughly 90 feet does not meet the minimum lot width of 200 feet for the Transition Residential zone.
11. The parcel's width of roughly 90 feet meets the minimum lot width of 25 feet for the Downtown Mixed Use zone.

All members voted "aye". Motion carried.

The meeting was adjourned for a 5 minute break and called back to order at 9:14 p.m.

ADDITIONS OR DELETIONS TO THE AGENDA:

6. a. Patricia Heald – Steps to lake.
6. b. Jewell Subdivision.
6. c. Discussion of Fences in the DMU, UR & C.

PATRICIA HEALD – Steps to lake.

Mr. Marohn explained that Staff had received telephone calls from Mrs. Heald and that he had met with her on site. There currently is a dirt path to the lake that switches back and forth. The path is 2 – 3 feet wide and nicely vegetated between the switchbacks. She would like to install Keystone-type blocks that would become stairs, sliced into the hill. He had informed her that the preferred alternative would be above-ground steps on posts. The Planning Commission felt the stairs in the ground would promote erosion. Mr. Marohn stated that they would not need to use any machinery to do the work. They would use the pavers for the treads and risers. Mrs. Heald had stated that wooden stairs were twice the cost. She will hire a landscaper to do the whole job at once. The path is approximately 80-feet in length. The water would need to be diverted at end of switchbacks. Mr. Pederson stated that stone or rock steps are more aesthetically appealing from the lake than wooden stairs. Mr. Marohn was asked to contact the landscaper and find out if he has done similar steps. Mr. Marohn was directed to inform Mrs. Heald that the Planning Commission prefers the above-ground stairs or to have the landscaper attend the next meeting and present a full proposal.

We skipped to Virgil Dahl (Zoning Admin. Report) as he was in the audience.

VIRGIL DAHL

Staff explained that Mr. Dahl had requested a permit to install a new Individual Sewage Treatment System. Staff could not issue a permit due to his on-going violation. He had completed all of the clean-up listed on the July 20, 2004 Letter of Understanding, although not by the designated date (Sept. 6, 2004). When Staff visited his property to verify clean-up, numerous RV's were documented. The Planning Commission was concerned with the size of the tank for the new ISTS. They stated that the tank should only be sized for a 2 bedroom trailer.

A motion was made by Mark Hallan, seconded by Bill Habein, directing Staff to issue the permit for the ISTS if the design is minimally sized for the existing 2 bedroom manufactured home. All members voted "aye". Motion carried.

Staff then advised the Planning Commission that Mr. Dahl has made application for an ATF permit for a bedroom addition and deck. Staff was directed to follow-up on the new violations.

JEWELL SUBDIVISION:

Mr. Marohn explained that the requirement for right-of-way dedication applied to parcels less than 10 acres. All three parcels are greater than 10 acres. We had requested that they dedicate that portion of Hurtig Road. It was agreed to let them proceed. They will need to make new application and the Planning Commission recommends the City Council waive the application fee.

FENCES IN THE DMU, UR & C

Mr. Marohn explained that there are customized standards in each zone in the new Ordinance with no permits required. This may have been an oversight and Staff will bring an amendment next month.

MINUTES

A motion was made by Dean Williams, seconded by Tom Adams, to approve the Minutes of the July meeting, as corrected. All members voted "aye".

ZONING ADMINISTRATOR'S REPORT:

Bittner pointed out the permits issued in July and the correspondence sent. The Commission questioned the letters regarding lawn mowing. Bittner stated the old

Ordinance had specific language regarding lawns and she still receives complaints and mails a more generic maintenance letter now.

Staff received a complaint on the vacant lot on Ash Street and will follow-up.

The following Potential Violations/Enforcement Actions were discussed:

1. Gary and Jaculin Peterson – The Planning Commission directed Staff to charge the 5 times after-the-fact permit fee.
2. Thomas Morris – Mr. Derksen advised that a concerned resident has been contacted to work with him.
3. Dale Kroells – The cabin has been removed.
4. Darrell Lake – Staff to meet with Mr. Cibuzar.
5. James and Barbara Whitty – Mr. Marohn will contact their attorney.

A motion was made by Mark Hallan, seconded by Bill Habein, to adjourn the meeting. All members voted “aye”. Motion carried. The meeting was adjourned at 10:38 p.m.

Respectfully submitted,

Dawn Bittner
Zoning Administrator

*** Mr. Adams announced that there will be a Basket Auction, October 15, from 6:00 to 9:00 p.m. at Deacon’s Lodge to benefit the Library.