

**MINUTES
PLANNING AND ZONING COMMISSION
REGULAR MEETING
FEBRUARY 17, 2005**

PRESENT: Bill Habein, Dean Williams, Karl Moon, Tom Woog, Mark Hallan, Marty Nelson and John Derksen. ABSENT: Tom Adams.

CITY PLANNER: Charles Marohn, PE.

ZONING ADMINISTRATOR: Dawn Bittner.

CITY COUNCIL LIAISONS: Craig Nagel and Mary Pfeiffer.

The meeting was called to order by Chairman Woog at 6:37 p.m.

ELECTION OF CHAIR/VICE-CHAIR:

A motion was made by Karl Moon, seconded by Bill Habein, to elect Tom Woog Chairman. All members voted "aye". Motion carried.

A motion was made by Mark Hallan, seconded by Marty Nelson, to elect Tom Adams as Vice-Chair. All members voted "aye". Motion carried.

Mr. Woog gave the Planning Commission 5 minutes to read the comments received regarding the Public Hearings. The meeting resumed at 7:50 p.m.

APPLICANT: Wilderness Point Resort, LLC

Applicant requests to rezone from Residential to Waterfront Commercial zone.

Mr. Marohn explained his Staff Report. Mr. Woog stated that comments had been received from the following individuals: Ron Moreim, Minnesota Department of Natural Resources; Ann Beaver, Cullen Lakes Association; Katie Utter; Steve Antolak; John Utter; and Susan Raper. These comments will be made a part of the original record.

Chad Connor of WSN was in attendance representing the applicant. He used an overhead map to describe the location of the parcel to be rezoned.

A motion was made by Karl Moon, seconded by Dean Williams, to recommend approval of the rezone request, based on the following Findings of Fact:

1. The property is not zoned correctly as the Residential zoning classification does not exist in the Ordinance.
2. The future land use map indicates a Forest Preservation usage for this property. The current Forestry zoning classification calls for a 10 acre minimum lot size. The subject parcel is just slightly larger than one acre. A rezoning to Forestry would create a non-conforming lot.
3. The parcel is bordered on the north and east by property zoned Waterfront Commercial. That property comprises the current Wilderness Resort.
4. The parcel is bordered on the west by public right-of-way.
5. The property directly across the right-of-way from subject parcel is zoned Shoreline Residential.
6. The Future Land Use map envisions the subject parcel being joined with the adjacent Wilderness Point property under a Forest Preservation land use classification. The adjacent Wilderness resort property is owned by the same owner as the subject parcel. That owner is not requesting, and is not likely to request, a rezoning of Wilderness Point Resort to Forestry.
7. In light of Finding of Fact number six, a rezoning of the subject parcel to Forestry would be a spot zone for the foreseeable future.
8. To avoid a spot zone, the subject parcel would need to be zoned either Waterfront Commercial or some type of non-riparian residential.
9. There is no applicable non-riparian residential zoning classification that would provide for a parcel size as small as the subject parcel. Urban Residential provides for 20,000 square foot lots for unsewered properties, but this property could not be considered "urban", as an urban property would be closer to the downtown. The same analysis applies to the Multi-Family district, which has no minimum lot size. The only remaining residential district is Rural Residential, which allows for 5-acre lot sizes.
10. The applicant is requesting the rezoning so as to attach the property to the existing resort property.
11. Given these findings of fact and understanding that the property is going to be attached to the adjacent resort, the Waterfront Commercial zoning classification would be the most applicable.

All members voted "aye". Motion carried.

APPLICANT: Wilderness Point Resort, LLC.

Applicant requests a Conditional Use Permit for a commercial Planned Unit Development in the Waterfront Commercial zone.

Mr. Marohn pointed out the 14 pages of Staff comments in the Staff Report, explained the Conditional Use Permit (CUP) process, the Findings of Fact and the Conditions.

Chad Connor of WSN was in attendance representing the applicant and presented a Power Point presentation. Mr. Woog opened the floor for public comment.

John Utter, 5592 Lady Slipper Drive, Pequot Lakes: Asked about the square footage of the cabins. Mr. Connor stated that the new cabins are approximately 830 sq. ft. plus the loft. The older ones are smaller.

Doug Woog, 6252 Inland Trails: Questioned the size of the old trailers. Mr. Marohn stated that 700 or 800 sq. ft. is the default number used in the ordinance.

Charlie Boudrye, 6258 Inland Trails: If the cabin and the land underneath is sold, it would not be a conforming lot size. It must remain as a resort and rental property.

Mr. Connor stated that 2 feet out from the building wall would be the "lot". Everyone owns the open space.

Mr. Marohn explained that there are 54 total units with 54 owners. The Homeowners Association is made up of the 54 owners. Each owner is 1/54 owner of open space. There would be a rental entity to manage the rental.

Someone asked who would police (rental of units) and keep it from getting out of control. Mr. Marohn explained the resort would provide an annual report detailing how many times a unit is rented, how many times it was available for rent and how many times owner occupied. Homeowners Association would pay for the audit.

Katie Utter, 5592 Lady Slipper Drive: If this is truly a resort, where are the services, such as laundry?

Mr. Connor stated the laundry was possibly in the lodge.

She also asked where the enforceability for rules would be, possibly in covenants?

Mr. Marohn stated that the Declaration and Bylaws are more restrictive than covenants. The municipality can enforce the rules.

Bob Tyson, Good Ol Days Resort, Nisswa: Multi-owner resorts are becoming popular to keep rental for tourism, possibly an operator/owner split. He had a list of items for the Commission to consider, the original is attached, covering cabin design, grounds design and resort operation.

Jim Rockwell, 7050 Wallin's South Shore Drive, Nisswa: He was confused why cabins had to be rented. Residential use would have less impact on the lake.

The Commission explained that the Comprehensive Plan indicates a need to keep our resorts to maintain tourism. Developing this property as a commercial PUD allows the owner high density and the area gets the tourism.

Connie Rockwell, 7050 Wallin's South Shore Drive, Nisswa: She questioned getting all of the owners together for annual meetings and to follow the rules? Over time, the Bylaws mean nothing.

Jim Palmquist, Little Falls: Trailer parking.

Mr. Woog closed comments from the public.

Mr. Connor stated that the City Attorney needs to look over the association documents and that the applicant is willing to work to make this happen. He also stated the Condition #9, rental weeks - what if it is a bad summer or no snowmobiling? He also questioned Condition #13, mooring spaces – existing CUP allows 16 docks. Our Ordinance allows 1 space per unit in the Tier 1. He also questioned Condition 14, boat lifts – they need to have some slips with lifts.

Mr. Williams stated he would like the following added as Findings of Fact:

1. Reduced large vehicle traffic;
2. Resorts lead to more tourism;
3. Decreasing number of non-conforming structures.

Finding of Fact #2 on page 14 should be “Declaration”. Some of the Conditions refer to the platting process and should be moved to the Preliminary Plat.

The Commission would like a Condition added to void the old CUP.

Boat Slips – 34 allowed by Ordinance. Mr. Woog asked the Commission how many they would like to see. Somewhere between 34 and 40.

The proposed garages are not transient. Mr. Connor stated the garages would be used to park trailers and some vehicles. There is 1 garage for each cabin, plus some for equipment. It was suggested to use the garage area for exterior parking of trailers. Trailer parking could be contained in the Bylaws.

Boat lifts – Mr. Woog asked the Commission how many they would like to see. Somewhere between zero and some. The applicant was asked to come back with a number and rationale for that number, covered or not.

Mr. Marohn's notes:

1. Prior to Final Plat, change to Preliminary Plat.
2. #9 meet with City Attorney.
3. #13 moorings.
4. #14 lifts.
5. #16 & 17 rewrite.
6. Add existing CUP null & void.

Mike Wagener, manager at Wilderness Point Resort, accused the Planning Commission of holding up their plans again. Mr. Wagener was reminded that several different plans had been brought before the Commission since September and that these were the first applications that had been received. These applications were received January 26, 2005 and received public hearings in less than 30 days.

A motion was made by Karl Moon, seconded by John Derksen, to table the public hearing on the Conditional Use Permit for a commercial Planned Unit Development to our next regular meeting. All members voted "aye". Motion carried.

A motion was made by John Derksen, seconded by Karl Moon, to table the public hearing on the Preliminary Plat of Wilderness Resort to our next regular meeting. All members voted "aye". Motion carried.

ADDITIONS AND DELETIONS TO THE AGENDA: None.

OPEN FORUM: None.

NEW BUSINESS:

- a. Standard for Attendance: The City Council had asked the Planning Commission to make a recommendation regarding compensation for being late to meetings. After discussing the additional amount of time spent during the month speaking with concerned citizens, either in person or on the phone, site visits, meeting preparation, extra meetings, etc., a motion was made by Mark Hallan, seconded by Karl Moon, to recommend that Commission Members should be compensated if they attend any portion of the regular monthly meeting. All members voted "aye". Motion carried.
- b. Ettesvold CUP Review: The Planning Commission reviewed the 5 conditions of her CUP and determined that there were no modifications, additions or removal of conditions. A motion was made by Dean Williams, seconded by Karl Moon, that the conditions have been reviewed and meets the conditions of her Conditional Use Permit. All members voted "aye". Motion carried.

OLD BUSINESS:

- a. Dave Buck, Review of Variance Conditions: Staff was directed to contact Acorn Nursery to determine whether or not Dwarf Honeysuckle shrubs are native species and a good choice for erosion control. Staff was directed to take a digital picture of the landscaping in August. A motion was made by Karl Moon, seconded by Marty Nelson, to accept the sketch plan contingent upon Staff's recommendation from the Nursery. All members voted "aye". Motion carried.

APPROVAL OF THE MINUTES:

A motion was made by John Derksen, seconded by Karl Moon, to accept the January Minutes as read. All members voted "aye". Motion carried.

PLANNING AND ZONING ADMINISTRATOR'S REPORT:

Bittner asked if anyone had any questions regarding the permits issued and the correspondence included in the packet. There were none. Under the Potential Violations/Enforcement Actions, Bittner stated:

1. Lance Schmidt: Renter has moved and word on the street is that Mr. Schmidt plans to burn the residence in the spring.
2. Roger Langenbau: She has spoken with a representative of the DNR who assured her that they will address the debris along the Trail in the spring and possibly have the STS help remove. Bittner was directed to remove Mr. Langenbau's name from the list and rename it DNR.

A motion was made by Karl Moon, seconded by Mark Hallan, to adjourn the meeting. All members voted "aye". Motion carried. The meeting was adjourned at 10:34 p.m.

Respectfully submitted,

Dawn Bittner
Zoning Administrator