

**MINUTES  
PEQUOT LAKES PLANNING AND ZONING COMMISSION  
REGULAR MONTHLY MEETING  
NOVEMBER 17, 2005**

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

CITY PLANNER: Charles Marohn, PE and Lisa Barajas.

ZONING ADMINISTRATOR: Dawn Bittner.

CITY COUNCIL LIAISON: Justin Bolz-Andolshek.

The meeting was called to order by Vice-Chair Tom Adams at 6:32 p.m.

WILDERNESS POINT DEVELOPMENT – Update.

Jeff Miller, WSN, was present representing applicant. Mr. Marohn stated that there are certain documents missing and others that need to be approved prior to Final Plat. Mr. Miller stated that the stormwater and erosion control plans have been submitted and approved by City Engineer. The rental agreement and association documents have been delivered to the City Attorney. The vegetation enhancement plan was included in the packets. Emergency response – staff met with the Fire Chief and everything is fine.

A motion was made by Mark Hallan, seconded by John Derksen, to formally request the City Attorney review the organizational documents for legal conformity. All members voted “aye”. Motion carried.

Mr. Miller presented the Rental Agreement and the City Attorney was requested to review. Mr. Miller also presented the Sewage Treatment Plan. The estimated cost is \$600,000.00. The financial security issue was deferred to the City Attorney for his recommendation. Mr. Miller also explained the Vegetation Enhancement Plan and answered questions on the Sewage Treatment Plan. He also asked if he should submit the NPDES permit now or wait. The City Engineer has signed off on it. The Planning Commission stated they could submit it now, but reserves the right to make them make changes if the Planning Commission makes any changes in the future.

A motion was made by Dean Williams, seconded by Mark Hallan, to accept the Stormwater and Erosion Control Plan, the Vegetation Enhancement Plan and the Sewage Treatment Plan. All members voted “aye”. Motion carried.

The Vegetation Plan deals with vegetation and not dockage, even though docks are indicated on the Plan. Next month they need to bring the following:

1. Rental and Association documents.
2. Title Opinion.
3. Plat Check.
4. Bond, letter of credit or other financial mechanism.
5. Document on dockage.
6. Rezone the Open Space and pay necessary fees.

APPLICANT: City of Pequot Lakes

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

A motion was made by Mark Hallan, seconded by John Derksen, to table this. All members voted “aye”. Motion carried.

APPLICANT: Carl and Colleen Smith

Applicant requests Preliminary Plat of Trailside Estates.

A motion was made by Bill Habein, seconded by Roger Varilek, to table this. All members voted “aye”. Motion carried.

APPLICANT: Anderson Brothers Construction

Applicant requests Conditional Use Permit for an Extractive Use.

Terry Curtis, Director of Business Development and Government Affairs and Ron Wickham, VP of Aggregate, P. O. Box 668, Brainerd, Minnesota, were in attendance representing applicant. Mr. Curtis explained that they plan to install turn lanes and acceleration lanes and traffic control signs per MnDOT specs. Phase 1 will take about one to one and a half months to clear and construct berms. Phase 2 will be creating the ponds, wash plant and stock piles. The concrete and asphalt plants will be established. Phase 3 will be the excavation. Monitoring wells will be placed and independent testing will be done. They will conduct an EAW for the entire 174 acres. The duration for excavation is approximately 15 years. They plan to excavate during daylight hours and crush from 6 AM to 10 PM. They will post a performance bond. Crow Wing County asks for \$25,000.00.

Public Comment:

Jeff DeVries, 28478 Mayo Hills Road, represented the Community Group as spokesperson. They submitted a petition with 265 signatures requesting the CUP be

denied, to rezone from Forest Management to Agriculture, and to re-evaluate the noise ordinance in residential districts. Mr. DeVries went through the first part of his handout. Mr. Wickham addressed his comments. Even lawn mowers have power drives. The buffer from the wetland is greater than 150'. Most trees along Hurtig Road remain. Others need to be removed. The crusher and plants are portable. Where there are any tanks, the area is lined to hold 1 ½ times the liquid.

Mr. Devries went through the rest of his handout and at the end of his presentation, requested a denial of the Conditional Use Permit.

Mr. Curtis stated that there is a potential for groundwater contamination. Spills are governed by Mining Safety and Health Assoc. (MSHA) and the MPCA. Anderson Brothers has never had a violation nor had a CUP revoked.

Bill Erickson, West Twin Lake, asked about the monitoring wells and noise. Once there is contamination, then what? Mr. Curtis stated the wells will be placed in strategic locations and they have never had one show anything to react to. The crusher is 99 decibels and reduces as you move away. The generator is the sound heard. Truck shifting would increase road noise. Noise would not exceed state and local standards.

Jonathan Yahn, West Twin Lake, stated Anderson Brothers is a good company and aggregate is needed. He then read several quotes from the Comp Plan regarding maintaining rural character.

Kelly (?), 28403 Mayo Hills Road, mentioned the Comp Plan stating green, rural and safe. This CUP contradicts the Plan and the Planning Commission is urged to deny the CUP.

Gary Peterson, 3712 Lincoln Street, Columbia Heights, stated that Anderson Brothers is a good company and has a pit west on Co. Rd. 168. They crushed 24 hours for an extended period of time. Noise is a factor. He requested denial of the CUP.

When asked what the economic advantages to Pequot Lakes were, Mr. Curtis stated that they sell the aggregate for roads, landscaping, municipalities and sewers. They are an employer. Employees purchase fuel and lunches locally.

David Kennedy, 27142 Loon Point, stated lighting would be a problem. They should expand at present location.

Mr. Curtis explained that this is an interim land use. It would be restored to a residential or agricultural use. The lighting is in the hole, shining down. These could be changed.

Jane Kimball, 27653 West Twin Lake Drive, stated this operation would be higher than her house. Again Mr. Curtis stated the lighting could be changed.

Mr. Habein stated the processing equipment is 1,000 feet away, but the loader or whatever type of machinery used is within 500' of a residence. The Ordinance states machinery cannot be used less than 1,000 feet from a residence. Ms. Barajas stated the processing equipment is 1,100 feet from a residence.

Mr. DeVries asked for clarification: 1,000 feet from a residence or a residential zone. Ms. Barajas stated it is residence.

Jeff Johnson, 28431 Mayo Hills Road, mentioned a pit on County Road 29. That is a County Pit. Anderson Brothers does not propose any traffic on Hurtig Road. He stated there is a pit on the west side of the lake, one on 168 and 29. There are too many pits. He is opposed to the project, but if they go ahead with this project, maybe they could be required to make a donation to the 3 lake associations.

Curt Lovitz, Breezy Point, was concerned with the noise.

Jon Hake, 4392 Jack Pine Drive, stated they plan to excavate to 2' from the water table and West Twin Lake is a spring fed lake. Economic benefit is hard to establish.

Ed Freiermuth, Mayo Hills Road, noise is a problem. He can hear the 371 traffic now. Pits make more noise and spills greater than 2 tablespoons per day. Property values will decrease.

John Sandberg, 19765 Erin Avenue, Prior Lake. Property values will decrease. Ms Barajas explained the EAW and EIS process. The Planning Commission can make requirements for restoration.

Tim Seagull, Twin Cities – “undeveloped area” explained and acknowledged in Staff Report.

Holly (?): How does it fit in with the Comp Plan?

Mr. Pederson read from page 3-3 of the Staff Report, #4, which must be met: *The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance, or prosperity of the City.*

Gilroy Arvig – The Evergreen undeveloped area is close to this area. They could not move forward with their development with a negative impact nearby.

Kelly Wolf – Anderson Brothers cannot say how it will benefit the City.

Ike Palmer – Noise is a concern and in response to the operation of the tar plant and the and the perfume additive to conceal the smell, he stated his daughter has allergies and his wife is allergic to perfume.

Ed Freiermuth – No benefit to City.

Kelly (?) – Denial won't hurt Anderson Brothers. The gravel pit will affect tourism in Pequot Lakes.

Byron Wolf, Hurtig Road – questioned monitoring wells.

Gary Peterson – negative environmental impact.

Wesley Norwood, West Twin Lake – More tax base from a residential development. Tax base could go down.

By a show of hands, a great deal of the audience have shallow wells.

Public comments closed.

Access to the property from Highway 371 already exists. Based on soil borings, the maximum amount of gravel contained on this parcel is 72 acres. When questioned, the applicant estimated the current daily flow of traffic from this parcel at zero. Applicant further stated he could see as many as 200 trucks out and 199 in per day. When a member of the Planning Commission asked when the last time a wash plant, tar plant or concrete plant was approved, no one could remember, including past Planning Commission members of both the old City and Sibley Township.

The Planning Commission stated that the restored land could be used for a City Park or a ball field. The neighbors against the extractive use could also be against a 200 home development. A major transportation project is going through, possibly shorten work hours? Noise is a problem.

Mr. Curtis stated that the Swenson pit will be mined out during the next 15 years. He also stated that there is more aggregate to the north of the proposed project within the 174 acres. He also stated that with the wash plant, well, pond and recycle pond, the well will pump 2 million gallons of water per year, equivalent to 10 to 12 homes.

When asked about turn lanes, Mr. Curtis stated they would meet safety standards of MnDOT. Safety is an issue with Olson Road.

Spillage is also a major concern. Anderson Brothers does have an Emergency Response Plan. They will apply for their NPDES permit after approval. They also plan to commence with the EAW after approval. The EAW would guide the conditions of CUP if they completed it prior to approval.

Some negative impacts to consider: Least Darter, watershed, groundwater, negative impacts to health, safety and welfare, and Phase 3 wash pond drains to wetland.

A motion was made by Dean Williams, seconded by John Derksen, to deny the Conditional Use Permit for an Extractive Use.

Ms. Barajas recommended tabling to work with Staff to develop findings of fact. Mr. Marohn recommended the motion be withdrawn until the City Attorney can develop findings of fact.

Mr. Williams added the following Findings of Fact, seconded by Mr. Derksen, to support the motion to deny:

1. The use or development does not conform to the comprehensive land use plan.
2. The use is not compatible with the existing neighborhood.
3. The use with conditions would be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
4. The conditional use will impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
5. Adequate measures cannot be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
6. The conditional use will not promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.
7. The conditional use will result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
8. The proposed use has the potential to be injurious to the use and enjoyment of existing residences in the area. All of the residences are at least 500 feet from the project site, but associated project noise from general operations has the potential to interfere with the enjoyment of the nearby lake properties.

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

SHORT RECESS: Meeting reconvened at 10:13 p.m.

#### NEW BUSINESS:

Valerie Dwight Wetland Application.

Mr. and Mrs. Dwight were in attendance. Mr. Marohn explained the Staff Report. The Planning Commission had several questions regarding the TEP recommendation. He also advised the Planning Commission that there would be after-the-fact fees and staff fees in addition to the TEP recommendation. Staff was directed to check and see if we can increase TEP recommendations and if they need to be included on the fee schedule.

A motion was made by Mark Hallan, seconded by Scott Pederson, to accept the TEP recommendation for wetland replacement and Crow Wing County 4:1 ratio, assess a penalty of 5 times to \$500.00, plus Staff expenses not to exceed \$400.00 and monies would go into the Lake Education Fund. All members voted “aye”. Motion carried.

Road Vacation on West Twin Lake.

Mr. Marohn explained the Staff Report and the fact that there is no public access on West Twin Lake. It would be very difficult to get DNR approval to vacate the road and difficult for the City to approve with structures in the right-of-way.

Park Dedication Fees:

A motion was made by Mark Hallan, seconded by Roger Varilek, to table. All members voted "aye". Motion carried.

Options for Campgrounds:

Mr. Marohn explained the Staff Report. He recommended conducting a public hearing next month on an overlay zone and make recommendation to Council.

OLD BUSINESS:

State Building Code:

A straw vote was taken – 6 against and 1 in favor of recommending adoption of the State Building Code.

MINUTES:

A motion was made by John Derksen, seconded by Bill Habein, to accept the October Minutes as read. All members voted "aye". Motion carried.

ZONING ADMINISTRATOR'S REPORT:

Bittner pointed out the 8 permits issued in October and the 18 letters sent out. The following Potential Violations/Enforcement Actions were discussed:

1. Lance Schmidt – Garbage not removed by deadline. Police Department to talk with Mr. Schmidt.
2. DNR/Paul Bunyan Trail – They plan to have refuse removed November 21.
3. Darrell Lake – Staff advised there were a few additional bio-logs to be installed and that there currently is \$3,263.88 in outstanding consultant fees. Staff was directed to forward an invoice for these fees.
4. James and Barbara Whitty – Staff informed them that she had received no response to her inquiry for a progress report.
5. Jon Nornberg – Staff was advised to inform Mr. Nornberg that a variance would not be granted for larger signs. This banner should be removed. He should use other means of advertising.

A motion was made by Mark Hallan, seconded by John Derksen, to recommend to the City Council a moratorium on extractive uses, direct Staff to investigate the creation of

an overlay zone in the northeast corner of the city or handle in another method than what we are doing now. All members voted “aye”. Motion carried.

A motion was made by Bill Habein, seconded by Mark Hallan, to adjourn the meeting. All members voted “aye”. Motion carried. The meeting was adjourned at 11:35 p.m.

Respectfully submitted,

Dawn Bittner  
Zoning Administrator