



MINUTES

REGULAR MEETING OF THE CITY OF NISSWA  
PLANNING COMMISSION/BOARD OF ADJUSTMENT  
TUESDAY, APRIL 2, 2019, 4:30 PM

**Members Present:** Don Jacobson, Anne Laufman, Josh Young, Gary Harris, Bob Fier  
**Members Absent:**  
**Others Present:** Mark Hallan  
**Staff Present:** Justin Burslie - Interim Planning & Zoning Administrator, Maggi Wentler

**1. Call To Order**

**2. Onsite Visits**

- a. 24730 Hazelwood Drive – Copper Creek - CUP
- b. West End of Commons Drive – Gullwood Holdings - CUP
- c. 4871 County Road 77 – Adventures to go MN – CUP
- d. 4117 Sunset View Rd – Thelen - Variance

**3. Meeting Roll Call**

**4. Additions & Deletions from the agenda**

**5. Approve Minutes:**

- a. March 5, 2019 Regular Scheduled Meeting Minutes
- b. August 15, 2018 Special Workshop Minutes

**6. Open Forum:**

- a. Holly Holm Introduction

**7. Public Hearings:**

- a. Conditional Use Permit 003-19 – Gullwood Holdings LLC – Tabled
- b. Conditional Use Permit 004-19 – Copper Creek Landscaping/Joe Hall – Approved
- c. Conditional Use Permit 005-19 & Preliminary Plat 006-19 – Fallen Woods/Russell Gibbons – Recommend to City Council
- d. Variance 007-19 – Mike Thelen – Approved
- e. Conditional Use Permit 008-19 – Adventures to Go MN LLC - Approved

**8. New Business:**

- a. Grand View Replacement Structures, Discussion

**9. Old Business: None**

**10. Planning & Zoning Administrator’s Report**

- a. Permits
- b. Violations
- c. Status of Architectural Materials Subcommittee

**11. Commission Discussion Items - None**

**12. Future Commission Discussion Items**

- a. Zoning Violation/Conditions Enforcement

- 46 b. Residential Structure Size Maximums
- 47 c. Open/Clear Cutting /Tree & Brush Management
- 48 d. VRBO
- 49 e. Housing
- 50 f. Highway 371 Corridor Development (Section 4.8.3)
- 51 g. Central Business District Development
- 52 h. Housekeeping Ordinance Corrections / Editing
- 53 i. Central Business District Impervious Coverage Allowances
- 54 j. Shoreland Planned Unit Development (Section 4.10.1)
- 55 k. Mobile/Temporary Concession Vendors
- 56 l. Land Use Chart/Storage Building Regulations

57

58 **13. Adjourn**

59

60

61

62

63 **MEETING MINUTES FROM APRIL 2, 2018**

64

65 **1. Call to Order:** Laufman calls the meeting to order 4:30pm.

66

67 **2. Onsite Visits:**

68

69 a. 24730 Hazelwood Drive – Copper Creek - CUP

70 b. West End of Commons Drive – Gullwood Holdings - CUP

71 c. 4871 County Road 77 – Adventures to go MN – CUP

72 d. 4117 Sunset View Rd – Thelen - Variance

73

74 **3. Meeting Roll Call: 5:30 pm**

75

76 **4. Additions & Deletions from the agenda**

77

78 **MOTION:** Jacobson to table Public Hearing 7a Gullwood Holdings per  
79 applicant’s request until the regularly scheduled May meeting, seconded by  
80 Young. All members voting “Aye”, motion carries.

81

82 The commission will discuss items 8a and 9a, 9b, 9c, and 6 prior to the public  
83 hearing that starts at 6:00pm.

84

85 **5. Approval of Minutes:**

86

87 **a. March 5, 2019 Regular Scheduled Meeting Minutes:**

88

89 **MOTION:** Harris motioned to approve the March 5, 2019 minutes as  
90 presented, Young seconded. All members voting “Aye”, motion carries.

91

92 **b. August 15, 2018 Special Workshop Meeting Minutes:**

93

94                   **MOTION:** Jacobson motioned to approve the August 15, 2018 minutes as  
95 presented, Laufman seconded. All members voting “Aye”, motion carries.  
96  
97

98       **6. Open Forum:**  
99

100           **Bob Johnson** – Johnson stated he purchased the property at 5518 Lakers Lake  
101 last fall and is fixing up the building. He stated that the property was previously  
102 used as a storage building. He has a potential tenant what would like to rent this  
103 space as a Chiropractic Office. He will be coming in next month with a CUP  
104 application. Johnson wanted to give the planning commission a heads up this will  
105 be coming and to see if they had any comments or concerns. Johnson stated he  
106 would like to request a six stall parking lot. This would allow enough room for a  
107 water retention area and the ability to keep some trees on the property. Harris  
108 mentioned this seems like a better use of the property than it currently is.  
109

110  
111       **7. Public Hearings:**  
112

113           **MOTION:** Jacobson motioned to open the public hearing at 6:00pm, Young  
114 seconded. All members voting “Aye”, motion carries.  
115

- 116       **a. Conditional Use Permit application 003-19: to construct a Residential**  
117           **Storage Building**  
118           **Property Location: West end of Commons Dr. PID: 280143100AB0009**  
119           **Applicant/Property Owner: Gullwood Holdings LLC**  
120

121           Motion was made during Item #4 to table per applicant’s request.  
122

- 123       **b. Conditional Use Permit application 004-19: to construct and operate a**  
124           **Commercial Greenhouse/Retail Business**  
125           **Property Location: 24730 Hazelwood Drive PID: 28117000015E009,**  
126           **281170000160009, 280141400G00009, 280141400F00009,**  
127           **28117000014D009**  
128           **Applicant/Property Owner: Joe Hall, Copper Creek Landscaping LLC**  
129           **Present: Joe Hall**  
130

131           Burslie read his staff report in for the record.  
132

133           Hall mentioned that the right hand turn lane is already there, and there are no  
134 issues from MNDOT for Hall to start using this entrance. Laufman would like  
135 the city to get something in writing from MNDOT stating this is ok. Hall  
136 stated he checked with MNDOT prior to purchasing and they had no issues.  
137 Not sure why the city needs to have a letter as this is an issue between him  
138 and MNDOT, but he can submit a letter. Hallan stated this will be important  
139 for the City to have since you are paving in the MNDOT right of way as the  
140 existing bituminous at the entrance does not currently extend all the way to  
141 the ROW, which is over 50’ off the west edge of TH 371 pavement.  
142

143 Hall stated he is working with Noble Escrow and Title to file the lot line  
144 adjustment and consolidation of all parcels. This should be filed with Crow  
145 Wing County by the end of this week. He will turn in a copy to city staff once  
146 complete.

147  
148 Burslie stated he received a letter from Elizabeth Murphy who lives on  
149 Brooke Drive. Her main concerns are the additional traffic this greenhouse  
150 will bring on Hazelwood, the construction and long term noise increases, and  
151 the impact this will have on the value of her property. Burslie stated he  
152 responded to her and you can see this response in blue on the document he  
153 provided all commission members with at the beginning of the meeting.

154  
155 Carolyn Wedin (audience) lives on Hazelwood Drive. She questioned if there  
156 would be a privacy fence put up as this greenhouse would be going in her  
157 backyard. She would prefer not to look at a greenhouse or have their  
158 customers walking on to her property.

159  
160 Shawn Hansen (audience) stated this is an appropriate use of the land per the  
161 city's ordinance. This will employ many employees. She encourages the  
162 commission to work with Hall to make this happen.

163  
164 Harris stated he had no issues, except concerns with the access on and off of  
165 Highway 371, and if the driveway would be paved or leave as dirt. Hall stated  
166 he will be adding bituminous as the driveway. Anderson Brothers is working  
167 on this project. Hall noted again he will provide a letter from MNDOT with  
168 approval to use this access. Young questioned if there were any plans of  
169 screening from the neighbors. Hall stated he has no plans of installing a fence.  
170 He possibly will add some bushes. He noted that the Wedin's house is about  
171 300 feet from where the proposed greenhouse will be built. There is already a  
172 fence behind the proposed location. Young questioned where most of the  
173 traffic will come from. Hall stated he is hoping off of Highway 371, but can't  
174 stop people from using Hazelwood. Young also questioned if there will be  
175 signage. Hall stated he will be using the sign posts from the previous business  
176 that is already there. Hall noted he took the sign off last fall and has one year  
177 to replace it. Burslie stated Hall can do this if it replaced with in the  
178 timeframe stated in the ordinance. Young questioned the timeline to construct  
179 this greenhouse/retail shop. Hall stated he hopes it will only take a couple  
180 weeks.

181  
182 Jacobson questioned if Hall would be piling mulch, rocks, or dirt on the  
183 property. Hall stated currently his proposal is for just a greenhouse now. He  
184 has no plans at this time to sell mulch, rock or dirt, maybe down the road.  
185 Jacobson would like an updated survey with the location of the greenhouse  
186 and other structures shown. This is a normal requirement. Hall stated he is  
187 working on combining all parcels into one. Jacobson stated a site plan is  
188 required for CUP applications. Burslie believed that there was enough  
189 information included to make a decision, but wanted to note that he did ask  
190 the applicant for a complete site plan. Jacobson asked if there was only going  
191 to be one greenhouse. Hall stated yes just one greenhouse. Jacobson

192 questioned if this is a temporary structure. Hall stated it is a permanent  
193 structure, but could unbolt if needed. It is made of polycarbonate panels.  
194 Jacobson would like to add the condition that the greenhouse will need to be  
195 connected to city sewer. Hall stated the current structure there is connected to  
196 city sewer. This building will be burned down tonight. Once the greenhouse is  
197 built they will reconnect to city sewer. Jacobson noted he would like to have  
198 an updated and complete survey. Jacobson would also like to see a stormwater  
199 plan. Burslie stated the packet included a full scale drawing. The total parcels  
200 will total about 5 acres and he will only be using approximately 10%  
201 impervious coverage. He doesn't believe a stormwater plan is necessary.  
202 Jacobson questioned hours of operation. Hall was thinking 7:30 am – 7:00 pm.  
203

204 Fier questions if Hall would be adding new bituminous at the intersection of  
205 Hazelwood. Hall stated he is currently working with the city for trail location,  
206 and will likely pave after that has been decided. Laufman stated this is an  
207 incomplete application and is missing information; landscape/screening plan,  
208 stormwater plan, site plan, proposed lighting and signs, building dimensions  
209 including height, and impervious coverage calculations including pavement  
210 and sidewalks.  
211

212 **Motion:** Jacobson motioned to approve this Conditional Use application to  
213 construct and operate a commercial greenhouse/retail business at 24730  
214 Hazelwood drive, Parcel ID 28117000015E009, 281170000160009,  
215 280141400G00009, 280141400F00009, 28117000014D009, with the  
216 following condition:

- 217 1. Before a land use permit is issued for the greenhouse/retail store the lot  
218 line adjustment approved by the city involving PIN 281170000160009  
219 shall be recorded at Crow Wing County.
- 220 2. Before a land use permit is issued for the greenhouse/retail store the  
221 applicant shall submit a property consolidation request for all parcels  
222 involved with the conditional use permit request (PINs  
223 281170000160009, 280141400G00009, 280141400F00009,  
224 28117000015E009, and 28117000014D009).
- 225 3. The owner shall be responsible for obtaining appropriate permits as  
226 required from MNDOT for any work in the right-of-way and must  
227 provide the city with a letter from MNDOT approving the work.
- 228 4. The greenhouse/retail business shall be connected to the municipal  
229 sewer system.
- 230 5. The greenhouse/retail business may be open from dawn until dusk.
- 231 6. An updated survey of the entire property (five parcels) shall be  
232 submitted to the city before a land use permit is issued for the  
233 greenhouse/retail business.

234 Findings of Fact:

- 235 1. The subject property consists of five parcels (281170000160009,  
236 280141400G00009, 280141400F00009, 28117000015E009, and  
237 28117000014D009) and is located at  
238 24730 Hazelwood Dr.
- 239 2. The subject property is in the "Highway Business" Zoning District.
- 240 3. to construct and operate a 30' x 72' (2,160 sf) commercial

- 241 greenhouse/retail business  
242 4. The subject property is 5.3 acres  
243 5. Exterior Finish: The proposed structure is consistent with the  
244 requirements in Section 4.8.3 “Exterior Building Finishes –  
245 Commercial Structures.”  
246 6. Impervious Surface Coverage: The property will have a 10.7% percent  
247 impervious surface coverage.  
248 7. Water Supply: The subject property is served by private water well.  
249 8. *Sewage: The proposed building will be served by the municipal sewer*  
250 *system.*  
251 9. The development, with conditions, will not impede the normal and  
252 orderly development and improvement of surrounding property.  
253 10. Adequate utilities, access roads, drainage and other necessary facilities  
254 have been or are being provided for this development.  
255 11. The development will not depreciate property values within the  
256 immediate vicinity of the subject property  
257

258 Seconded by Harris.

259  
260 FURTHER DISCUSSION

261  
262 Laufman would like to see a condition that no landscaping or other equipment  
263 stored on the property without screening from Hazelwood. Hall stated he  
264 needs equipment to move things.  
265

266 All members voting “Aye”, motion carries.  
267

- 268 **c. Conditional Use Permit application 005-19 and Preliminary Plat**  
269 **application 006-19: for a planned unit development and accompanying**  
270 **plat of “Fallen Woods”.**  
271 **Property Location: 5147 Poplar Ave.**  
272 **Applicant/Property Owner: Russell Gibbons, Gibbons Construction of**  
273 **Lakeshore LLC**  
274 **Present at the meeting: Russell Gibbons, and Pat Trottier with**  
275 **Stonemark Land Surveying**  
276

277 Burslie read his staff report and through the 16 conditions in for the record.  
278

279 Gibbons noted that he will be changing the name to Poplar Place instead of  
280 Fallen Woods. He plans on naming the roads in the development Trail Side  
281 Run and Trail Side Loop. These will be documented on the Final Plat.  
282

283 Deb Best (audience) lives off of Poplar Ave had concerns with this  
284 development coming in and staying empty, as there are many vacant lots with  
285 other developments in Nisswa. She questions why we need another  
286 development. How long with this one stay empty? Best also questioned where  
287 the “up north” feel is with all of the trees being removed. She also questioned  
288 how they are going to fit 28 units within this parcel.  
289

290 Marie Thurlow (audience) lives off of Lilac Lane had concerns on the amount  
291 of trees that will be taken down. She noted we have lost so many already due  
292 to the storms. She would like to see more of the trees kept on the property.  
293 She also stated that that the units will be too close together. Thurlow  
294 questioned how wide the streets will be?

295  
296 Harry Lauren (audience) stated he used to own this property and stated that  
297 most of the trees have fallen down from the storm. Not many healthy trees are  
298 standing.

299  
300 John Boberg (audience) lives off of Poplar Ave. stated he is all for the housing  
301 development, but believes the density seems high. He could see 12-14 units.

302  
303 Laufman stated she walked the property and stated that many trees are blown  
304 down and many of the standing trees are broken off at the top. She stated there  
305 will be a 50 foot buffer around the perimeter. This will preserve more trees  
306 than a subdivision would.

307  
308 \*Laufman closes public comment.

309  
310 Gibbons stated he will be preserving a 50 foot buffer around the perimeter of  
311 the parcel. This development is a good for the growth of the city. He will try  
312 to keep good healthy trees when possible. All units are in walking distance to  
313 the Paul Bunyan Trail and are close to downtown Nisswa and the city park.  
314 Trottier stated that lot 29 of the common area/green space is 75% of the  
315 parcel. Fier mentioned that the Comprehensive Plan notes the communities  
316 should be walkable and bikeable. Will there be room to get around by cars,  
317 bikes, and walkers? Fier stated he has lived in a similar community and he  
318 finds that slab on grade houses use the garage for storage and end up parking  
319 in the driveway. He would like to see extra parking stalls around the  
320 development. Harris has concerns with the traffic flow and parking concerns.  
321 He believes there is room to add additional parking stalls on the property. He  
322 agreed that many of the trees on the property are blown down. He believes  
323 that many trees have been saved based on the survey. Harris stated when  
324 looking at the staff recommendations #10 he believes it should be changed to  
325 allow well houses only. Young questioned if Gibbons will be phasing the  
326 clearing or clearing the entire property at one time. Gibbons stated he plans on  
327 clearing in phases. They will start at the loop, then clear north area. He will  
328 likely rough in the roads right away. His plan is to build and work around the  
329 healthy trees to preserve them. He is very particular of where the house  
330 locations are in regards to trees and the sun. Young questioned if there would  
331 be any room for screening after the home goes in. Gibbons stated he will add  
332 if that's what it takes to sell a lot. He would likely add trees as lower brush  
333 doesn't grow well.

334  
335 Jacobson questioned if the commission is ok with a private road or would they  
336 prefer to have it a public road. Burslie noted that the city will require an  
337 easement for sewer if the road is private. Laufman had concerns with the  
338 covered entry being about 15 feet from the street. Does this allow enough

339 room for sewer? Hallan noted that with a 50 foot setback around the perimeter  
340 of the parcel there isn't room left to build if the road would be public as that  
341 would require a 66 foot right of way. He noted that these private roads will  
342 essentially only service the units within the parcel. Laufman questions if there  
343 would be enough room to safely park on the side of these private roads.  
344 Hallan stated there could be some parking in the common space along the  
345 roads. Trottier stated that some of these open areas are designate for  
346 stormwater. Fier suggested that maybe take out every forth home and  
347 designate that for overflow parking.  
348

349 Laufman questioned if there would be a variety of housing, as it looks like the  
350 survey shows split level homes. Gibbons stated they will be a variety. Each  
351 house will be uniquely built based on what is best for the topography of the  
352 land. He does not want them all to be the same. Laufman stated she would like  
353 to see a landscaping plan, possibly adding trees in the front yards. Gibbons  
354 stated it will depend on each home owner. Laufman questioned if we can add  
355 this as a condition. Burslie stated we could require a landscape plan to be  
356 approved by the planning commission before any land use permits are issues.  
357 Laufman questioned if Gibbons will be clearing trees out of the stormwater  
358 basin areas. Hallan stated all vegetation will need to be removed to create the  
359 correct slope and grading. Trottier noted that there is about 100 feet between  
360 the trail and the structures. Gibbons stated this is a significant buffer of trails  
361 along the trail.  
362

363 Laufman questioned if anyone will be reviewing the covenants. Burslie stated  
364 the city attorney is reviewing. Fier stated it will be important that there is a  
365 budget in there for capital replacement. Road replacement costs being his  
366 biggest concern as this require a lot of money. Hallan noted that the road  
367 design proposed is for the PUD layout as selected by the developer. This  
368 means that the road cannot be considered by the City of Nisswa to be a city  
369 street in the future. All parties need to understand this from the start and as  
370 Fier notes it will be important that covenants include a capital fund for  
371 maintaining the private road in the future/forever. Laufman questioned who  
372 will take care of the exteriors of the homes. Gibbons states each homeowner's  
373 responsibility to pay and take care of the exterior of their own homes.  
374

375 **Motion:** Laufman motioned to recommend to the city council approval for  
376 this Conditional Use Permit application and Preliminary Plat application for a  
377 planned unit development and accompanying plat of Poplar Place, with the  
378 following condition:

- 379 1. Except as amended by these conditions, the development of the  
380 subdivision and planned unit development shall be in substantial  
381 conformance with the approved preliminary plat, site plan and  
382 elevations that govern the general location of lots, roadways, buffers,  
383 infiltration basins and improvements dated February 26, 2019.
- 384 2. Prior to construction, excavation, grading or other terrain disturbance,  
385 final plans for all infrastructures and grading shall be submitted to and  
386 approved by the City Engineer. The improvements (water, sewer,  
387 roads, etc.) within the development shall be designed by a licensed



- 388 engineer and in accordance with the City of Nisswa design and  
389 construction standards.
- 390 3. The Fire Marshall and/or Fire Chief shall review and approve general  
391 site accessibility.
- 392 4. The developer shall obtain appropriate trail access permits from the  
393 Minnesota Department of Natural Resources (if allowed). Copies of  
394 said permits shall be filed with the city.
- 395 5. The street connection to Hills Crossing may not be constructed until  
396 the owner has legal access to said road.
- 397 6. A 30' wide easement shall be granted to the City of Nisswa for  
398 maintenance of the sanitary sewer system. The 30' wide easement  
399 shall be centered on the sanitary sewer collection system. The  
400 Developers private water distribution system line may be located with  
401 this easement but shall be offset from the sanitary sewer centerline by  
402 a minimum of 12'. All other private utilities to be installed by the  
403 Developer (Electric, Natural Gas, Fiber, Cable, etc.) shall not be  
404 located within the 30' wide easement granted to the City of Nisswa.  
405 Private utility services to lots may cross the 30' wide easement at a  
406 perpendicular angle.
- 407 7. If the development is proposed to be constructed in phases, a phasing  
408 plan shall be submitted to city for review and approval subject to the  
409 following:
- 410 a. The plan shall include the location of proposed infrastructure in  
411 each phase and the general time frame for development of each  
412 phase.
- 413 b. Each phase must be capable of functioning with all the required  
414 improvements in place in the event the future phases are not  
415 completed or completed at a much later time.
- 416 8. The 50 foot buffer (setback) around the perimeter of the planned unit  
417 development shall remain in a natural state in perpetuity (except for  
418 road access areas). The vegetation in the buffer shall not be altered.  
419 Structures may not be constructed in the buffer.
- 420 9. Lots 1-28 may only be developed with single family homes.
- 421 10. Lot 29 (greenspace) may not contain any structures, except two well  
422 houses of 100 square feet maximum size each. Vegetation located in  
423 Lot 29 shall substantially remain in a natural state. Vegetation may be  
424 removed from Lot 29 in order to construct trails, private roads, sewer  
425 system and water system. Reference to these provisions shall be made  
426 in the development covenants.
- 427 11. Ownership and long-term maintenance responsibilities/obligations for  
428 the community water system shall be described in the development  
429 covenants.
- 430 12. Ownership and long-term maintenance responsibilities/obligations for  
431 the sewer system shall be described in the development covenants.
- 432 13. Ownership and long-term maintenance responsibilities/obligations for  
433 the private street shall be described in the development covenants.  
434 Routine maintenance of the proposed private street (mowing along  
435 edges, crack sealing, etc.) shall also be described in the development  
436 covenants.

- 437 14. Municipal sanitary sewage facilities shall be designed by a licensed  
438 Engineer with the State of Minnesota, approved by the City Engineer,  
439 approved by the MPCA, and installed in accordance with City  
440 Engineers Association of Minnesota Standard Specifications 2600 and  
441 2621. Pressure and deflection testing completed per 2621.3 – E and F  
442 shall be witness by City staff. In addition, the sanitary sewer system  
443 shall be televised per 2621.3 – G with video turned over to the City of  
444 Nisswa along with field logs. Televising that shall be completed in  
445 accordance with NASSCO PACP standards.
- 446 15. On-site wells or cluster water systems shall conform to the  
447 Minnesota Department of Health Rules and Regulations MHD 210-  
448 230 “Water Well Construction Code”, and the cluster system shall  
449 receive the approval of the City Engineer.
- 450 16. The developer shall pay a park dedication fee in the amount of  
451 \$26,208 (28 homes x 2.25 avg. household size x \$416) in accordance  
452 with Section 4.11.10(B).
- 453 17. A Landscaping/Vegetation Plan must be previewed and approved by  
454 the Planning Commission before any land use permits will be issued.

455  
456 Findings of Facts:

457  
458 On the conditional use permit and preliminary plat:

- 459
- 460 1. The subject property is located at 5147 Poplar Avenue and is 12.91  
461 acres.
  - 462 2. The subject property is zoned “Urban Residential.”
  - 463 3. The request is for a conditional use permit for a planned unit  
464 development and approval of the corresponding preliminary plat of  
465 “Fallen Woods.”
  - 466 4. The proposed development consists of 28 single-family residential  
467 building sites and one commonly owned lot to be utilized as  
468 “greenspace.”

469 On the conditional use permit (planned unit development):

- 470
- 471 5. The proposed planned unit development is an appropriate use in the  
472 “Urban Residential” Zone. Residential planned unit developments are  
473 allowed in the “UR” Zone with a conditional use permit.
  - 474 6. The proposed density of the development is one unit per 20,000 sf of  
475 land area. One unit per 10,000 sf of land area is allowed.
  - 476 7. Lot 29 consists of 9.47 acres of commonly owned property. The  
477 proposed lot includes greenspace and private roadways.
  - 478 8. The development pattern preserves natural features including trees and  
479 other vegetation by utilizing a 50 foot buffer around the perimeter of  
480 the development. Trees and other vegetation will also be preserved in  
481 Lot 29.
  - 482 9. The planned unit development utilizes an efficient design with one  
483 “looped” street connected to one “through” street. The proposed  
484 layout suits the uniquely shaped parcel well.
  - 485 10. The proposed development pattern is in harmony with the land use

486 density, transportation facilities, and community facilities objectives in  
487 the comprehensive plan. The plan identifies the subject property as  
488 “Downtown Transition” which is, “A designation for property near or  
489 around a Central Business District that is suited for high-density  
490 residential development.”

- 491 11. The proposed residential lots are 62.5' x 80' (5,000 sf).
- 492 12. Setbacks: All proposed residential lots are at least 15 feet from the  
493 perimeter of the planned unit development. Proposed structures are at  
494 least 50 feet from the perimeter of the planned unit development.
- 495 13. Access: The PUD has direct access to Poplar Avenue. The  
496 development intends to connect the development to Hills Crossing  
497 once legal access is established. The streets within the development  
498 will be privately owned and maintained.
- 499 14. Utilities: The PUD will be served by the municipal sewer system.  
500 The development will be served by a privately owned community  
501 water system.
- 502 15. Open Space: Over 50% of the development will remain in permanent  
503 open space communally owned and maintained by the home-owner's  
504 association.
- 505 16. The use and enjoyment of other property in the immediate vicinity of  
506 the subject property will not be impaired. The surrounding uses  
507 include residential development (north and east), Paul Bunyan Trail  
508 (west) and a senior living facility (south). The development includes a  
509 50 foot buffer (no structures) around the perimeter of the subject  
510 property.
- 511 17. The proposed development will not impede the normal and orderly  
512 development of surrounding vacant property.
- 513 18. Adequate plans for utilities, access roads, draining and other necessary  
514 facilities have been submitted. The city engineer will approve final  
515 utility, road and drainage plans.
- 516 19. The development has a sufficient number of off-street parking spaces.  
517 Loading spaces are not necessary since the development does not  
518 include commercial uses.
- 519 20. The development will not generate public nuisances such as offensive  
520 odor, fumes, dust, noise, vibration. The development does not contain  
521 street lights or other lighting that will impact adjacent properties.
- 522 21. The development will not depreciate property values within the  
523 immediate vicinity.
- 524 22. The development will not cause the Local, County and State road  
525 systems to exceed their safe carrying capacity.

526  
527 On the preliminary plat:

- 528
- 529 23. The subject is property zoned for the proposed use of a single-family  
530 residential housing development.
- 531 24. There are no wetlands, bluffs or other sensitive natural features on the  
532 subject property.
- 533 25. There are no non-conforming structures on the subject property.
- 534 26. Each of the proposed lots will be served by the municipal sewer

- 535 system.
- 536 27. The property is not adjacent to a public water body so provisions for
- 537 water based recreation are not necessary.
- 538 28. Lot areas and dimensions are consistent with the zoning ordinance
- 539 with approval of the planned unit development.
- 540 29. Lot layouts are compatible with the existing layout of adjoining
- 541 properties. The development is adjacent to residential development
- 542 located north and east of the subject property. A senior living facility
- 543 is located south of the subject property. The property located west of
- 544 the subject property is vacant (Paul Bunyan Trail).
- 545 30. The planned unit development has 300 foot of frontage along Poplar
- 546 Ave. The development is accessible via Poplar Ave. The developer
- 547 intends to connect the development to Hills Crossing once public
- 548 access is established.
- 549 31. The design of the private streets will be reviewed and approved by the
- 550 city engineer.
- 551 32. Easements for the public sewer system and other infrastructure will be
- 552 required with conditions of approval.
- 553 33. All of the lots may be developed with single family homes without
- 554 requiring variances.
- 555 34. Survey standards: the preliminary plat was prepared by a licensed
- 556 surveyor (Patrick A. Trottier-PLS#41002) and conforms to the
- 557 standards in Minnesota Statutes.
- 558 35. Street improvement standards: The proposed private streets will be
- 559 constructed by the developer and maintained by the developer/home
- 560 owners association.
- 561 36. Sanitary provision standards: The municipal sewer system will be
- 562 extended to the development at the developer's expense.
- 563 37. Water supply standards: The development will be served by a cluster
- 564 water system. The system will be installed by the developer at his
- 565 expense. The system will be maintained by the developer/home
- 566 owners association.
- 567 38. Drainage/grading standards: The total proposed impervious surface
- 568 coverage of the development is 24.9% (25% allowed). An engineered
- 569 stormwater management plan has been submitted which meets the
- 570 minimum requirements of the zoning ordinance.
- 571 39. Dedication to the Public Standards: There are no public dedication
- 572 requirements since there are no public streets and land/parks proposed.
- 573

574 Seconded by Harris, All members voting "Aye", except Jacobson, Young, and

575 Fier voting "Nay", motion fails.

576

577 FURTHER DISCUSSION:

578

579 Jacobson would like to see the applicant come back with all the changes made

580 that were discussed today, as it seems a little confusing. This is his reason for

581 denying. Fier stated he doesn't believe there is a good flow through the

582 community and he would like to see additional parking. Young stated he

583 biggest concern is the density in relation to infrastructure seems too high

584 compared to surrounding lots. Harris stated it fall within allowable criteria.

585  
586 **Motion:** Jacobson motioned for reconsideration of the motion, motions does  
587 not move forward due to not having a second.

588  
589  
590 **Final Motion:** Harris motioned to recommend to the city council approval for  
591 this Conditional Use Permit application and Preliminary Plat application for a  
592 planned unit development and accompanying plat of Poplar Place, with the  
593 following condition:

- 594 1. Except as amended by these conditions, the development of the
- 595 subdivision and planned unit development shall be in substantial
- 596 conformance with the approved preliminary plat, site plan and
- 597 elevations that govern the general location of lots, roadways, buffers,
- 598 infiltration basins and improvements dated February 26, 2019.
- 599 2. Prior to construction, excavation, grading or other terrain disturbance,
- 600 final plans for all infrastructures and grading shall be submitted to and
- 601 approved by the City Engineer. The improvements (water, sewer,
- 602 roads, etc.) within the development shall be designed by a licensed
- 603 engineer and in accordance with the City of Nisswa design and
- 604 construction standards.
- 605 3. The Fire Marshall and/or Fire Chief shall review and approve general
- 606 site accessibility.
- 607 4. The developer shall obtain appropriate trail access permits from the
- 608 Minnesota Department of Natural Resources (if allowed). Copies of
- 609 said permits shall be filed with the city.
- 610 5. The street connection to Hills Crossing may not be constructed until
- 611 the owner has legal access to said road.
- 612 6. A 30' wide easement shall be granted to the City of Nisswa for
- 613 maintenance of the sanitary sewer system. The 30' wide easement
- 614 shall be centered on the sanitary sewer collection system. The
- 615 Developers private water distribution system line may be located with
- 616 this easement but shall be offset from the sanitary sewer centerline by
- 617 a minimum of 12'. All other private utilities to be installed by the
- 618 Developer (Electric, Natural Gas, Fiber, Cable, etc.) shall not be
- 619 located within the 30' wide easement granted to the City of Nisswa.
- 620 Private utility services to lots may cross the 30' wide easement at a
- 621 perpendicular angle.
- 622 7. If the development is proposed to be constructed in phases, a phasing
- 623 plan shall be submitted to city for review and approval subject to the
- 624 following:
  - 625 a. The plan shall include the location of proposed infrastructure in
  - 626 each phase and the general time frame for development of each
  - 627 phase.
  - 628 b. Each phase must be capable of functioning with all the required
  - 629 improvements in place in the event the future phases are not
  - 630 completed or completed at a much later time.
- 631 8. The 50 foot buffer (setback) around the perimeter of the planned unit
- 632 development shall remain in a natural state in perpetuity (except for

- 633 road access areas). The vegetation in the buffer shall not be altered.  
634 Structures may not be constructed in the buffer.
- 635 9. Lots 1-28 may only be developed with single family homes.
- 636 10. Lot 29 (greenspace) may not contain any structures, except two well  
637 houses of 100 square feet maximum size each. Vegetation located in  
638 Lot 29 shall substantially remain in a natural state. Vegetation may be  
639 removed from Lot 29 in order to construct trails, private roads, sewer  
640 system and water system. Reference to these provisions shall be made  
641 in the development covenants. Lot 29 may contain two well houses up  
642 to 100 sq ft. each.
- 643 11. Ownership and long-term maintenance responsibilities/obligations for  
644 the community water system shall be described in the development  
645 covenants.
- 646 12. Ownership and long-term maintenance responsibilities/obligations for  
647 the sewer system shall be described in the development covenants.
- 648 13. Ownership and long-term maintenance responsibilities/obligations for  
649 the private street shall be described in the development covenants.  
650 Routine maintenance of the proposed private street (mowing along  
651 edges, crack sealing, etc.) shall also be described in the development  
652 covenants.
- 653 14. Municipal sanitary sewage facilities shall be designed by a licensed  
654 Engineer with the State of Minnesota, approved by the City Engineer,  
655 approved by the MPCA, and installed in accordance with City  
656 Engineers Association of Minnesota Standard Specifications 2600 and  
657 2621. Pressure and deflection testing completed per 2621.3 – E and F  
658 shall be witness by City staff. In addition, the sanitary sewer system  
659 shall be televised per 2621.3 – G with video turned over to the City of  
660 Nisswa along with field logs. Televising that shall be completed in  
661 accordance with NASSCO PACP standards.
- 662 15. On-site wells or cluster water systems shall conform to the  
663 Minnesota Department of Health Rules and Regulations MHD 210-  
664 230 “Water Well Construction Code”, and the cluster system shall  
665 receive the approval of the City Engineer.
- 666 16. The developer shall pay a park dedication fee in the amount of  
667 \$26,208 (28 homes x 2.25 avg. household size x \$416) in accordance  
668 with Section 4.11.10(B).
- 669 17. A Landscaping/Vegetation Plan must be reviewed and approved by  
670 the Planning Commission before any land use permits will be issued.

671  
672 Findings of Facts:

673 On the conditional use permit and preliminary plat:

- 674
- 675 1. The subject property is located at 5147 Poplar Avenue and is 12.91  
676 acres.
  - 677 2. The subject property is zoned “Urban Residential.”
  - 678 3. The request is for a conditional use permit for a planned unit  
679 development and approval of the corresponding preliminary plat of  
680 “Fallen Woods.”
  - 681 4. The proposed development consists of 28 single-family residential

682 building sites and one commonly owned lot to be utilized as  
683 “greenspace.”

684  
685 On the conditional use permit (planned unit development):

- 686
- 687 5. The proposed planned unit development is an appropriate use in the  
688 “Urban Residential” Zone. Residential planned unit developments are  
689 allowed in the “UR” Zone with a conditional use permit.
  - 690 6. The proposed density of the development is one unit per 20,000 sf of  
691 land area. One unit per 10,000 sf of land area is allowed.
  - 692 7. Lot 29 consists of 9.47 acres of commonly owned property. The  
693 proposed lot includes greenspace and private roadways.
  - 694 8. The development pattern preserves natural features including trees and  
695 other vegetation by utilizing a 50 foot buffer around the perimeter of  
696 the development. Trees and other vegetation will also be preserved in  
697 Lot 29.
  - 698 9. The planned unit development utilizes an efficient design with one  
699 “looped” street connected to one “through” street. The proposed  
700 layout suits the uniquely shaped parcel well.
  - 701 10. The proposed development pattern is in harmony with the land use  
702 density, transportation facilities, and community facilities objectives in  
703 the comprehensive plan. The plan identifies the subject property as  
704 “Downtown Transition” which is, “A designation for property near or  
705 around a Central Business District that is suited for high-density  
706 residential development.”
  - 707 11. The proposed residential lots are 62.5’ x 80’ (5,000 sf).
  - 708 12. Setbacks: All proposed residential lots are at least 15 feet from the  
709 perimeter of the planned unit development. Proposed structures are at  
710 least 50 feet from the perimeter of the planned unit development.
  - 711 13. Access: The PUD has direct access to Poplar Avenue. The  
712 development intends to connect the development to Hills Crossing  
713 once legal access is established. The streets within the development  
714 will be privately owned and maintained.
  - 715 14. Utilities: The PUD will be served by the municipal sewer system.  
716 The development will be served by a privately owned community  
717 water system.
  - 718 15. Open Space: Over 50% of the development will remain in permanent  
719 open space communally owned and maintained by the home-owner’s  
720 association.
  - 721 16. The use and enjoyment of other property in the immediate vicinity of  
722 the subject property will not be impaired. The surrounding uses  
723 include residential development (north and east), Paul Bunyan Trail  
724 (west) and a senior living facility (south). The development includes a  
725 50 foot buffer (no structures) around the perimeter of the subject  
726 property.
  - 727 17. The proposed development will not impede the normal and orderly  
728 development of surrounding vacant property.
  - 729 18. Adequate plans for utilities, access roads, draining and other necessary  
730 facilities have been submitted. The city engineer will approve final

- 731 utility, road and drainage plans.  
732 19. The development has a sufficient number of off-street parking spaces.  
733 Loading spaces are not necessary since the development does not  
734 include commercial uses.  
735 20. The development will not generate public nuisances such as offensive  
736 odor, fumes, dust, noise, vibration. The development does not contain  
737 street lights or other lighting that will impact adjacent properties.  
738 21. The development will not depreciate property values within the  
739 immediate vicinity.  
740 22. The development will not cause the Local, County and State road  
741 systems to exceed their safe carrying capacity.  
742

743 On the preliminary plat:  
744

- 745 23. The subject is property zoned for the proposed use of a single-family  
746 residential housing development.  
747 24. There are no wetlands, bluffs or other sensitive natural features on the  
748 subject property.  
749 25. There are no non-conforming structures on the subject property.  
750 26. Each of the proposed lots will be served by the municipal sewer  
751 system.  
752 27. The property is not adjacent to a public water body so provisions for  
753 water based recreation are not necessary.  
754 28. Lot areas and dimensions are consistent with the zoning ordinance  
755 with approval of the planned unit development.  
756 29. Lot layouts are compatible with the existing layout of adjoining  
757 properties. The development is adjacent to residential development  
758 located north and east of the subject property. A senior living facility  
759 is located south of the subject property. The property located west of  
760 the subject property is vacant (Paul Bunyan Trail).  
761 30. The planned unit development has 300 foot of frontage along Poplar  
762 Ave. The development is accessible via Poplar Ave. The developer  
763 intends to connect the development to Hills Crossing once public  
764 access is established.  
765 31. The design of the private streets will be reviewed and approved by the  
766 city engineer.  
767 32. Easements for the public sewer system and other infrastructure will be  
768 required with conditions of approval.  
769 33. All of the lots may be developed with single family homes without  
770 requiring variances.  
771 34. Survey standards: the preliminary plat was prepared by a licensed  
772 surveyor (Patrick A. Trottier-PLS#41002) and conforms to the  
773 standards in Minnesota Statutes.  
774 35. Street improvement standards: The proposed private streets will be  
775 constructed by the developer and maintained by the developer/home  
776 owners association.  
777 36. Sanitary provision standards: The municipal sewer system will be  
778 extended to the development at the developer's expense.  
779 37. Water supply standards: The development will be served by a cluster



- 780 water system. The system will be installed by the developer at his  
781 expense. The system will be maintained by the developer/home  
782 owners association.
- 783 38. Drainage/grading standards: The total proposed impervious surface  
784 coverage of the development is 24.9% (25% allowed). An engineered  
785 stormwater management plan has been submitted which meets the  
786 minimum requirements of the zoning ordinance.
- 787 39. Dedication to the Public Standards: There are no public dedication  
788 requirements since there are no public streets and land/parks proposed.  
789

790 Seconded by Jacobson, All members voting “Aye”, except Young, and Fier  
791 voting “Nay”, motion carries.  
792  
793

- 794 **d. Variance application 007-19: to construct an addition to a pre-existing**  
795 **dwelling**  
796 **Property Location: 4117 Sunset View Rd.**  
797 **Applicant/Property Owner: Mike Thelen**  
798 **Present at the meeting was Floyd with Nor-son Construction**  
799

800 Burslie read his staff report in for the record.  
801

802 **Motion:** Jacobson motioned to approve this variance application 007-19 to  
803 construct a 1,200 sf addition to a pre-existing dwelling located at 4117 Sunset  
804 View Rd, Parcel ID 28133000014A0009, with the following condition:

- 805 1. The proposed dwelling addition shall have gutters and downspout(s)  
806 located on the south side of the structure. Stormwater shall be directed  
807 to a French drain or swale and not be allowed to drain to the adjacent  
808 property.  
809

810 Findings of Fact:

- 811 1. The subject property is located at structure located at 4117 Sunset  
812 View Rd. (PIN 28133000014A009).
- 813 2. The subject property is adjacent to Gull Lake and is zoned “Shoreland  
814 Residential – General Development”.
- 815 3. The variance request is to construct a 28’-8” x 40’ (1,146 sf) garage  
816 addition to a pre-existing single family dwelling. The dwelling is  
817 located 10’ from the side property line while 15’ is required. The  
818 proposed garage addition is located on the southeast corner of the  
819 dwelling and is 10’ from the south property line.
- 820 4. The existing and proposed impervious surface coverage of the  
821 property is approximately 25% (maximum allowed). The proposed  
822 addition is being constructed on an existing impervious surface.
- 823 5. The proposed garage addition is one story and does not exceed the 25’  
824 maximum building height requirement.
- 825 6. Practical difficulties, as defined by ordinance, have been established.
- 826 a. The property owner proposes to use the property in a  
827 reasonable manner not permitted by an official control.  
828 ii. Yes, the request to make a modest garage addition to

- 829 the pre-existing dwelling is reasonable but not  
830 permitted under the current ordinance because the  
831 addition is located 10' from the side property line (15'  
832 required).  
833  
834 b. The plight of the landowner is due to circumstances unique to  
835 the property not created by the landowner.  
836 i. Yes, the plight of the land owner (location and  
837 configuration of dwelling on the property) is due to  
838 circumstances unique to the property and not created by  
839 the landowner. The pre-existing dwelling was created  
840 by a previous landowner and under a different  
841 ordinance.  
842  
843 c. The variance, if granted, will not alter the essential character  
844 of locality. Economic considerations alone do not constitute  
845 practical difficulties. Practical difficulties include, but are not  
846 limited to, inadequate access to direct sunlight for solar energy  
847 systems.  
848 i. The essential character of the locality will not be altered  
849 with approval of the variance request. Other single  
850 family dwellings in the vicinity of the subject property  
851 have similar sized attached garages. The request is not  
852 being made based on economic considerations.  
853 7. The request is in harmony with the general purposes and intent of the  
854 land use ordinance and the comprehensive plan.  
855 8. The variance will not create a land use not permitted in the "Shoreland  
856 Residential" Zone. Single family dwellings (and attached garages) are  
857 allowed in the Shoreland Residential District.  
858

859 Seconded by Laufman, All members voting "Aye", motion carries.  
860  
861

- 862 **e. Conditional Use Permit application 008-19; to operate a Recreational**  
863 **Equipment Rental Business**  
864 **Property Location: 4871 County road 77**  
865 **Applicant: Adventure to Go MN LLC**  
866 **Property Owner: Brainerd Baxter Corp.**  
867 **Present at the meeting: Tad Erickson**  
868

869 Burslie read his staff report in for the record. Burslie noted that they amended  
870 the original application from and IUP to a CUP, as they are now going to use  
871 the current structure on the property.  
872

873 Erickson stated he will be renting out non-motorized equipment such as bikes,  
874 kayaks, paddle boards and inflatables. Laufman questioned hours of operation.  
875 Erickson stated he will likely have the same hours as the waterpark. Jacobson  
876 questioned what timeframe his lease is with the property owner. Erickson  
877 stated he and the owner agreed to one season to start out with. Jacobson

878 questioned if there would be a chain fence in the storage area in the NW  
879 corner. Erickson stated there would be a trailer with a lock, no fenced in area.  
880 Jacobson questioned if this storage area would meet the 15 foot setback.  
881 Erickson stated he can meet that, but his plan is to keep the trailer on the  
882 pavement. Jacobson questioned what type of storage would be on the back  
883 side of the waterpark. Erickson though perhaps a trailer with kayaks would be  
884 in this area if needed.

885  
886 Jacobson believes this should have been in IUP instead of a CUP. Erickson  
887 preferred a CUP, as his plan is to come back each year. He noted that city staff  
888 recommended a CUP. Burslie stated the application should be a CUP as it is a  
889 permanent structure.

890  
891 **Motion:** Laufman motioned to approve the CUP application 008-19, to  
892 operate a recreational equipment rental business located at 4871 County Road  
893 77, Parcel ID# 280232100AC0009 with the following Findings of Fact:

- 894  
895 1. The subject property is located at 4871 County Road 77. PIN  
896 280232100AC0009.  
897 2. The subject property is in the “Highway Business” Zone District  
898 3. The conditional use permit request is to operate a recreational  
899 equipment business in an existing structure on the subject property.  
900 The proposed business will also utilize secured exterior storage areas.  
901 4. The subject property is 2.7 acres.  
902 5. Impervious Surface Coverage: The existing and proposed impervious  
903 surface coverage of the subject property is 36%.  
904 6. Water Supply: The subject property is served by a private water  
905 supply.  
906 7. Sewage: The subject property is served by a conforming SSTS.  
907 8. The development, with conditions, will not impede the normal and  
908 orderly development and improvement of surrounding property.  
909 9. Adequate utilities, access roads, drainage and other necessary facilities  
910 have been or are being provided for this development.  
911 10. The development will not depreciate property values within the  
912 immediate vicinity of the subject property.

913  
914 Seconded by Harris. All members voting “Aye”, except Jacobson voting  
915 “Nay”, motion carries

916  
917

## 918 **8. New Business**

919  
920  
921

### 922 **a. Grand View Replacement Structures, Discussion**

923 Burslie is looking for some guidance. Grand View Lodge is looking to replace  
924 2 – 3 of their single family rental units within Tier 1. They would be moving  
925 these units back away from the lake, reducing the size, and would now be  
926 located in Tier 2. Burslie understands that the past practice may have been for  
Grand View to come in for a Conditional Use Permit (CUP). Burslie state that

927 the normal practice in other cities he works for is to do these applications  
928 administratively. Burslie believes that the ordinance does not require this to be  
929 a CUP, as it is not an expansion; they are replacing units within the same  
930 parcel.

931  
932 Jacobson stated due to some of the politics with the neighbors he would be  
933 cautious when Grand View is applying for any applications. Hallan stated that  
934 the city would need to keep track of what is happening within Grand View.  
935 What happens if Tier 2 is at its limit? Laufman stated that the Density  
936 Calculation document should be a living document and updated each time  
937 Grand View does any alterations. Harris stated he had faith in Burslie's ability  
938 to take care of these administratively.

939  
940 The majority of the planning commission agrees that these can be done  
941 administratively.

942  
943  
944 **9. Old Business – None**

945  
946  
947 **10. Planning & Zoning Administrator's Report**

- 948  
949 **a. Permits**  
950 **b. Violations**

951  
952 Burslie stated he hasn't updated these lists yet due to his limited hours.

953  
954 **c. Status of Architectural Materials and Subcommittee**

955  
956 Laufman believes that there are some missing updates on this document from  
957 the last meeting the subcommittee had. She believes that the subcommittee  
958 could reconvene one more time they could wrap this up. Wentler stated she  
959 would send out an email to the committee to schedule a meeting.

960  
961  
962 **11. Commission Discussion Items - None**

963  
964  
965 **12. Future Commission Discussion Items**

966  
967 There was no discussion on these items 12a – 12l at the meeting.

- 968  
969 a. Zoning Violation/Conditions Enforcement  
970 b. Residential Structure Size Maximums  
971 c. Open/Clear Cutting /Tree & Brush Management  
972 d. VRBO  
973 e. Housing  
974 f. Highway 371 Corridor Development (Section 4.8.3)  
975 g. Central Business District Development

- 976 h. Housekeeping Ordinance Corrections / Editing
- 977 i. Central Business District Impervious Coverage Allowances
- 978 j. Shoreland Planned Unit Development (Section 4.10.1)
- 979 k. Mobile/Temporary Concession Vendors
- 980 l. Land Use Chart/Storage Building Regulations

981

982

983 **13. Adjourn**

984

985 **Motion:** Laufman motioned to adjourn the April 2, 2019 meeting at 9:06 pm,  
986 seconded by Young. All members voting “Aye”, motion carries

987

988

989

990 Respectfully submitted,

991

992

993 \_\_\_\_\_  
Maggi Wentler, Deputy City Clerk