

**CITY OF NISSWA  
PLANNING COMMISSION/BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TUESDAY, JANUARY 5, 2021, 6:00 PM**

**Members Present:** Don Jacobson, Josh Young, Gary Harris, Bob Fier, Linda Gettelman  
**Members Absent:** **Others Present:** Mark Hallan, WSN  
**Staff Present:** Brittney Cotner, Maggi Wentler

1. **Call Meeting to Order:** Young calls the meeting to order at 6:00pm.
2. **Meeting Roll Call:**
3. **Onsite Visits: None**
4. **Additions & Deletions from the Agenda:**

**Motion:** Harris motioned to approve the January 5, 2021 agenda as presented Fier seconded. All members voting “Aye”, motion carries.

5. **Approval of Minutes:**

a. **December 1, 2020 Regular Scheduled Meeting Minutes:**

Cotner stated the motion for ETOC’s PDD should be a recommendation to City Council for approval.

**Motion:** Harris motioned to approve the December 1, 2020 minutes as amended, Gettelman seconded. All members voting “Aye”, motion carries.

6. **Open Forum: None**

7. **Public Hearings:**

**Motion:** Harris motioned to open the public hearing at 6:02pm, Harris seconded. All members voting “Aye”, motion carries.

a. **Conditional Use Permit Application 001-21: to construct and operate a retail business.**

**Property Location: 28140662**

**Owner: Stout**

**Applicant: Joe Hall (present)**

Cotner read her staff report in for the record. Cotner noted that she provided 2 updated documents showing the future road, a new entrance location off of Hazelwood, and a changed location in the proposed parking lots. She noted that this change is more in compliance with our city codes.

Harris questioned if the green line is for the future road. Cotner stated yes, but noted that nothing has been officially platted yet for this road. Hallan noted that it is likely that there would be a job or s-curve to allow for right-of-way from his building/parking lots. Gettelman questions what the timeline for the city is to complete this proposed road. Hallan stated there is no timeline that he is aware of at this time, but it has been discussed in the past. Jacobson questioned who the owner of the property is as Joe Hall signed both as the owner of the property. Hall stated he owns the property jointly with Joel. Jacobson stated that the survey does not show the powerline. Hall stated this powerline is in the MN DOT right-a-way. Hallan stated that the powerline does run along Highway 371 that is located in the MN DOT right-a-way. He noted there is an old easement to the Boberg family shown on the south east corner of the property as well.

Harris questioned if Hall will be providing a final certificate of survey to the City with the changed noted on the revision they received tonight. Cotner stated a revised certificate of survey would be required prior to any Land Use Permits being issued.

Jacobson questioned if there is a landscaping plan that was provided as this property is highly visible from Highway 371. Hall stated there will be stone across the front of the building and landscaping on both sides. Cotner showed a visual of what Hall provided on the monitor. Jacobson questioned what Hall would be doing for signage. Hall stated a signage application will come from who will be renting the space. He stated he doesn't have a final lease finalized yet. Cotner noted that any business that is not retail would need to come in for a different Conditional Use Permit (CUP).

Hallan stated that the revised layout will include what we see tonight with bituminous on the east side of the building, along with the parking lot changes. Joe stated he believes he is allowed 40 feet of bituminous. Cotner stated that 40 feet is allowable. Hall stated he would revise his survey to city staff. Jacobson noted that the storm basins will likely need to change with this proposed revision. Hallan noted that Hall has a lot of land for stormwater, but yes the stormwater basins will need to be revised as well on these new proposed changes. Cotner noted that the city engineer will need to approve before any permits are issued. Hall stated he can updated and provide final to staff and city engineer for final approval.

Harris questioned what the rush was on this project. He stated that everything provided in the packet was not complete and/or has changed. He wonders what the hurry is. Hall stated he will be starting to clear the land as soon as this is approved. Harris stated it is hard to approve something that changed today, seems sketchy. Jacobson stated final documents should not be hand drawn. Hall stated he met with staff yesterday and wants to work with the city to allow for the future Hazelwood

extension. Hall stated he can submit a revised final plan to staff before he starts building.

**Motion:** Gettelman motions to approve of this Conditional Use application 001-21 to construct and operate a retail business at PID# 28140662, with the following conditions:

1. The proposed structures may not contain living quarters and may not be utilized for human habitation.
2. A landscaping plan must be approved by the Planning & Zoning Administrator prior to the issuance of a Land Use Permit.
3. The parking and loading area is to be fully screened from State Highway 371 per section **4.9.16 Parking and Loading** of the City Code.
4. Approval from MN DOT and Public Works Director for the access point off of Hazelwood Dr. is to be provided prior to the issuance of a Land Use Permit.
5. All lighting must be downcast within compliance of section **4.8.7 Exterior Lighting**.
6. The City Engineer and Public Works must approve final grading, utility, and stormwater management plans prior to the issuance of a Land Use Permit.
7. All buildings are to be on City Sewer with meters installed. The property owner is to work with the Public Works Director for the purchase and install of said meters.
8. All structures are to be in substantial conformance with the provided plans. Any changes require subsequent approvals from the Planning Commission.
9. Any garbage receptacles must be fully enclosed.
10. No exterior storage is permitted.
11. All signs must be permitted and within compliance of section **4.9.1 Signs** of the City Code.
12. Proof of ownership must be provided prior to a Land Use Permit being issued.
13. All other state and federal codes must be met.
14. An updated certificate of survey is to be submitted prior to the issuance of a Land Use Permit.

Findings of Fact:

1. The subject property is located at the corner of Hazelwood Dr. and Commons Dr. PID 28140662.
2. The subject property is in the “Highway Business” Zoning District.
3. The conditional use permit request is to construct and operate a retail business of brick and stone sales.
4. The subject property is 9.25-acres.
5. Impervious Surface Coverage: The property will have a 12% impervious surface coverage.
6. Water Supply: The subject property is served by a private water well.
7. Sewage: The proposed buildings will be required to connect to city sewer service.
8. The proposed use, with conditions, will not create a public nuisance.

9. The proposed use will not depreciate property values within the immediate vicinity of the subject property.  
Harris seconded. All members voting “Aye”, motion carries.

**Motion:** Harris motioned to close the public hearing at 6:29pm, Jacobson seconded. All members voting “Aye”, except Fier voting “Nay”, motion carries.

## 8. New Business:

### a. Final Plat Application 016-20

**Property location: 28150598 & 28150597**

**Property Owner/Applicant: ETOC, Mark Ronnei (present)**

Cotner read her staff report in for the record.

Ronnei stated no material differences on this proposed Final Plat, mostly just labeling differences.

Young questioned what will be done for grading for the trail access. Ronnei stated we are going to build the grade around the 2 entrances to account for the trail. They will be flexible as the trail engineering has not been completed yet. They will work with the city on this. Jacobson questioned if the trail will need an easement or ownership of the land? Cotner spoke with the Parks & Recreation Director and they could go either way and will work with ETOC. Hallan stated we could anticipate and easement line of 50-60 feet off the current road right-of-way from the south to the north end of this property.

Cotner noted that the city attorney suggested that we add a condition that we require a developer’s agreement. Ronnei stated that wasn’t a problem and they have provided this document to the city in the past.

Jacobson questioned if Public Works has seen this and is ok with the 2 pages of conditions? Tom Blomer, Public Works Director (audience) stated they have seen this application and are ok with the proposal. He has not seen the conditions. Cotner noted these have been included in the packet and the conditions can be listed as a part of the approval motion.

Ronnei stated they have applied for a permit from the MPCA already, so nothing with change moving forward. Young questioned what the timeline for this project is. Ronnei stated they will start taking down some trees after approval and will likely start one (1) home at the end of February.

**Motion:** Harris motioned to recommend to the City Council approval of this Final Plat application 016-20 to construct and operate a 27-unit common interest residential community with private roads located at PID# 28150598 & 28150597 with the following conditions:

1. Except as amended by these conditions, the development of the subdivision and planned unit development shall be in substantial conformance with the approved preliminary plat, site plan and elevations that govern the general location of lots, roadways, buffers, infiltration basins and improvements dated December 28, 2020. Any alterations to the final plat will require approvals from the Planning Commission and subsequent parties.
2. Prior to construction, excavation, grading or other terrain disturbance, final plans for all infrastructure and grading shall be submitted to and approved by the City Engineer. The improvements (water, sewer, roads, etc.) within the development shall be designed by a licensed engineer and in accordance with the City of Nisswa design and construction standards.
3. The Fire Marshall and/or Fire Chief shall review and approve general site accessibility and placement/ design of all fire hydrants (if required).
4. The developer shall provide a legal easement for the trail on the subject property.
5. A 30 ft. wide easement shall be granted to the City of Nisswa for maintenance and replacement of the main sanitary sewer line. The city shall not be responsible for the repair and replacement of individual sewer services connected to the main sewer line.
6. If the development is proposed to be constructed in phases, a phasing plan shall be submitted to city for review and approval subject to the following:
  - a. The plan shall include the location of proposed infrastructure in each phase and the general time frame for development of each phase.
  - b. Each phase must be capable of functioning with all the required improvements in place in the even the future phases are not completed or completed at a much later time.
7. The 50 ft. buffer (setback) around the perimeter of the planned unit development shall remain in a natural state in perpetuity (except for road access areas). The vegetation in the buffer shall not be altered with the exception of the location of the trail in correlation with the Parks Department. Structures may not be constructed in the buffer besides water retention ponds.
8. Lots 1-27 may only be developed with single family homes.
9. Lots dedicated as greenspace (Outlots A-D) may not contain any structures. Vegetation located in the described lots shall substantially remain in a natural state. Vegetation may be removed in order to construct trails, private roads, sewer system and water system. Reference to these provisions shall be made in the development covenants.
10. Ownership and long-term maintenance responsibilities/obligations for the individual wells shall be described in the development covenants.
11. Ownership and long-term maintenance responsibilities/obligations for the sewer system shall be described in the development covenants.
12. Ownership and long-term maintenance responsibilities/obligations for the private street shall be described in the development covenants. Routine maintenance of the proposed private street (mowing along edges, crack sealing, etc.) shall also be described in the development covenants.
13. Municipal sewage facilities shall be designed by a Registered Engineer,

approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to “Standard Utilities Specifications”, City Engineer’s Association of Minnesota.

14. On-site wells shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 “Water Well Construction Code”, and shall receive the approval of the City Engineer.
15. The developer shall pay a park dedication fee in the amount of \$27,968 (27 homes x 2.49 avg. household size x \$416) in accordance with Section 4.11.10(B).
16. The necessary bond must be secured by the city before the City Council approval of the Final Plat.
17. A developer’s agreement must be reviewed by the city attorney and signed before the City Council approval of the Final Plat.
18. Water meters are to be installed on all buildings.
19. There is to be NO on street parking.
20. Easement for golf cart trail located between lots 8 and 9 are to be legally filled.
21. All landscaping is to be in compliance with the landscaping plan provided.
22. All units are to be free standing with no shared walls.
23. There is to be no exterior storage including but not limited to golf carts, boats, and RV.
24. The look of the units is to be very similar in color and exterior appearance to the Fairway Pines Development units.
25. All units are to include garages and paved driveways.
26. An engineered stormwater management plan is to be submitted and approved by the City Engineer and Public Works Committee.
27. Adequate plans for utilities, access roads, draining and other necessary facilities are to be submitted. The City Engineer and Public Works Committee will recommend approval of final utility, road and drainage plans.
28. Golf Cart signs are to be clearly placed for directional and safety needs.
29. Traffic Counts are to be submitted to the Crow Wing County Engineering Department for comments on the CSAH 77 intersection.
30. Prior to Land Use Permits being issued, the trail dedicated land easement must be legally filled.
31. The developer allows access to the development for monitoring of infrastructure instillation.

Findings of Fact:

1. The subject property is located at PIN 28150598 and 28150697 and is 206.9 acres.
2. The subject property is zoned “Planned Development District.”
3. The proposed development consists of 27 single-family residential building sites and four commonly owned lots to be utilized as “greenspace.”
4. The proposed road serving the units will be private, maintained, plowed, repaired and replaced as needed by the homeowner’s association.
5. The Final Plat for North Pines is in substantial compliance with the Conditional

Use Permit and Preliminary Plat approved by the Planning Commission at a Public Hearing held on December 1<sup>st</sup>, 2020.

6. The subject property is properly zoned for the proposed use of a single-family residential housing development with rental options.
7. There are no wetlands, bluffs or other sensitive natural features on the subject property.
8. There are no non-conforming structures on the subject property.
9. Each of the proposed lots will be served by the municipal sewer system.
10. The property is not adjacent to a public water body so provisions for water based recreation are not necessary.
11. Lot layouts are compatible with the existing layout of adjoining properties to the south of the proposed development. The development is adjacent to residential districts located to the north and west of the subject property. The property to the east is owned by The City of Nisswa. The property to the south is a Grandview Resort commercial development.
12. The planned unit development has 476 ft. of frontage along Lower Roy Lake Rd. The development is accessible via Lower Roy Lake Rd through two private roads.
13. The design of the private streets will be reviewed and approved by the city attorney, city engineer, and the Public Works Department.
14. Easements for the public sewer system and other infrastructure will be required with conditions of approval.
15. All of the lots may be developed with single family homes without requiring variances.
16. Survey standards: the preliminary plat was prepared by a licensed surveyor (John S. Blenker-PLS#54832) and conforms to the standards in Minnesota Statutes.
17. Street improvement standards: The proposed private streets will be constructed by the developer and maintained by the developer/homeowners association.
18. Sanitary provision standards: The municipal sewer system will be extended to the development at the developer's expense.
19. Water supply standards: The development will be served by shared wells. The system will be installed by the developer their expense. The system will be maintained by the developer/home owners association.
20. Drainage/grading standards: The total proposed impervious surface coverage of the development is 5%. An engineered stormwater management plan has been submitted which meets the minimum requirements of the zoning ordinance.
21. Dedication to the Public Standards: The park dedication fee will be \$27,968 to be paid prior to Land Use Permits being issued. Easements will be legally recorded for the trail and utilities located on the subject property.

Gettelman seconded. All members voting "Aye", motion carries.

## **9. Old Business - None**

## 10. Planning & Zoning Administrator's Report

### a. Permits

Cotner stated that permitting has slowed down a bit. We had 5 Land Use Permits last month. 4 of them were for additions and 1 was for a new dwelling.

### b. Violations List

Cotner stated there was one new violation this month and an application has been applied for to come in for approval at a future meeting.

## 11. Commissioners' Questions/Comments:

Young questioned how long his term was for Chair of the commission. Cotner stated there will be a vote at the February meeting.

Gettelman questioned if we are looking for 2 new commission members. Cotner stated yes we are looking for 2 new members. One to fill Fier's seat as his term is up and one to fill Jacobson's voting seat due to the change in the liaison structure. Cotner noted we have 2 applications at this time. Young asked the commission to send any interview questions that they would like asked.

## 12. Adjourn

**Motion:** Harris motioned to adjourn the January 5, 2021 meeting at 6:46 pm, seconded by Gettelman. All members voting "Aye", motion carries.

Respectfully submitted,

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Maggi Wentler, Finance Specialist