

**CITY OF NISSWA  
PLANNING COMMISSION/BOARD OF ADJUSTMENT  
REGULAR MEETING MINUTES  
TUESDAY, JUNE 1, 2021, 4:30 PM**

**Members Present:** Don Jacobson, Josh Young, Kristin Hansen, Gary Harris

**Members Absent: Others Present:** Dave Reese, WSN

**Staff Present:** Brittney Cotner, Maggi Wentler

1. **Call Meeting to Order:** Young calls the meeting to order at 4:30pm.

2. **Meeting Roll Call:**

3. **Onsite Visits:**

- a. **Pinewood Crossing PID 28120690**
- b. **Pine Trail Homes PID 28120565**
- c. **Next Shift Enterprises PID 28020603**
- d. **Ray Lake Townhomes PID 28100668**

4. **Calls Meeting to Order:** Young reconvenes the meeting at 6:00pm.

5. **Meeting Roll Call:**

6. **Additions & Deletions from the Agenda:**

**Motion:** Harris motioned to approve the June 1, 2021 agenda as presented Young seconded. All members voting “Aye”, motion carries.

7. **Approval of Minutes:**

a. **May 4, 2021 Regular Scheduled Meeting Minutes:**

**Motion:** Hansen motioned to approve the May 4, 2021 minutes as presented, Harris seconded. All members voting “Aye”, motion carries.

8. **Open Forum:**

a. **Pine Trail Homes Conditions Change Request, Doug Arndt - present**

Arndt stated his brother purchased this back in 2007 and started this development. His brother passed away and now he is moving forward with this development. In reviewing the documents there is a discrepancy on how the “outlot” to the lake is labeled. On the Preliminary Plat Survey it is listed as “Outlot C” and on the Final Plat it is listed as “Outlot H”. Arndt has been cleaning up the area near the lake and added a dock for the development owners to use for sitting or launching their kayaks. He noted that there is only 1-2 feet of water with muck at the end of the dock. There is

not enough water for a motorized boat even. He said there are and will be no permanent structures or boat slips allowed. Arndt would like to change the current condition to allow for a dock. Current condition states "No dockage, permanent structures, or motorized vehicles allowed on Outlot C".

Cotner believes the labeling of outlot on the two different surveys was a technicality. Harris noted he believes this as well. Young stated the homeowners association will be managed by the homeowners once a certain percentage of the homes are sold. As per the DNR regulations they can add docking to amical water. Arndt stated he can add language to the documents to specify what would be allowed and not allowed. Harris's concern is the additional motorized boats/vehicles in this area. Arndt stated he can post signage that states no motorized boats and no parking allowed at dock. Young questioned if we can even adjust the association documents legally. Cotner stated she would have to check with the City Attorney, but would need to see a draft document. She noted that the covenants are only good for 30 years. Jacobson noted that the City Council would need to approve any recommendation made tonight on this matter.

Jane Ahrens (audience) is the president of the Clark Lake Conservation Association (CLCA) and representing this group tonight. She stated their mission statement, "To preserve and protect the environment of Clark Lake and the surrounding area for the benefit and well-being of the people and wildlife for now and for the future". Ahrens noted they are not in favor of this proposed change. Protecting Clark Lake for the present and the future is their main focus. The CLCA would like to make sure that the DNR has an opportunity to weigh in on this proposed change along with the shoreline damage. Ahrens noted that there is a public access on Clark Lake for everyone to use. Ahrens noted that non-motorized boats can access the lake without a dock. The CLCA believes that this condition was issued with the protection of Clark Lake in mind and would like the commission to uphold this condition.

Harris questioned if weed cutting is still a program used on this lake. Ahrens stated yes and we get a permit and approval from the DNR. Young questioned if this association can cut a channel without a dock. Ahrens stated yes, there is no objection of cutting a channel.

Young stated a wetland delineation was done back in 2006; normally they are good for 10 years. Would we require a new one if we approve this condition? Harris questioned if we have the ability to change conditions from 2006? He would like this verified with the City Attorney.

**Motion:** Harris motioned to deny the request for changing the condition and keep the condition for dockage as approved back in 2006 "No dockage, permanent structures, or motorized vehicles allowed on Outlot C", Hansen seconded. All members voting "Aye", except Young voting "Nay" motion carries.

## 9. Public Hearings:

**Motion:** Kristen motioned to open the public hearing at 6:22 pm, Young seconded. All members voting “Aye”, motion carries.

- a. **Rezone Application 009-21: to change zoning classification from Open Space Residential (OSR) to Shoreline Residential (SR)**  
**Property Location: PID 28100668**  
**Owner: Genevieve Donovan**  
**Applicant/contracted buyer: Ray Lake Townhomes LLC, Tom Steffens.**  
**Cindy Hidde with Stonemark Land Surveying (present) representing Tom Steffens**

Cotner read her staff report in for the record.

Hidde stated her client is looking at developing a cluster of townhomes fairly far from the lake. They are asking for a rezone for the ability to use a different density calculation.

Hansen questioned if there has been any decision made on where the Bass Lake Road reroute will be? Cotner stated the discussion has been that the road reroute will go on the parcel to the south of this one, no changes to this parcel.

Jacobson questioned is proper to rezone or not rezone this parcel. The sketch plan discussion and approval process is a different discussion. Young questioned to Jacobson why the council overturned the commission’s recommendation on the last rezone. Jacobson stated the council thought it was time to do something with that property.

Audience Comments:

Trish Van Pilsum resident on Bass Lake stated “Once the lakes are gone, Nisswa is gone”. Van Pilsum noted this is a statement directly from Cotner. Van Pilsum stated change will happen and does happen. This request is for too many units that lake can’t handle. She noted that the lake access is on Bass Lake a natural environmental lake, which per the DNR deserves more protection. Van Pilsum stated this is a very emotional issue for many of us that live in this area.

Paul Rasmussen resident on Bass Lake Road is opposed to this rezone. Currently no proper plans have been created for this property. The only reason for rezoning is to increase the density and maximize profits. He believes that the 15 zoning criteria are not being met for why the commission would approve this rezone. Rasmussen argues that none of them have been met. He would be ok with a few homes on this parcel, but not a Planned Unit Development (PUD). Rasmussen stated that wetland takes up a large area of land and nothing is mentioned about this in the staff report, and nothing about the wetland impact. Rasmussen questions what type of plants are there?

He believes if the commission approves this rezone it will increase the density and the increased density will harm the lake. We are here to protect the lakes and our environment and believe this application should be denied.

Scott Baron is a resident on Bass Lake Road noted a few items from the Nisswa 2030 Comprehensive Plan on preserving our natural resources. What land is the city willing to protect if not this parcel? He would like to see that an environment study be complete on the proposed project(s) in this area; completed by a professional that does this type of work. Baron provided a copy of a cease and desist order that Pequot Lakes put on another one of Tom Steffen's developments. He wants the commission to do some research on this developer before granting any approvals.

Ginger Overbye resident on Roy Lane does see a sketch plan and questions if any easements will be granted. Cotner stated there are no easements being discussed at this time, but potentially in future applications. Overbye believes that the commission should not be making a decision on this application without knowing what is being proposed. There is no information about the development. Overbye also has concerns with the safety on the roads with an additional 80 new homes being added to this area.

Brad Birkeland resident on Bass Lake is opposed to this rezone. It is important that we preserve our natural areas. He has concerns that the additional recreational use will over-stress this small shallow natural environmental lake. The rezone could increase the likelihood of rerouting Bass Lake Road which in turn will change the character of the wooded and rural feel. He also has concerns about what the additional septic systems will do to the ground and lake water. When looking at the Future Land Use map in the Comprehensive Plan it designated this area as Rural Preservation, not Shoreland Residential.

Tom Cameron resident on Bass Lake Road noted that while the commission was touring the property today Bass Lake is at its largest size. There are no lily pads or other vegetation growing yet. Once all of the vegetation grows up the lake is very small. He is unsure what the developer is proposing, but would be opposed to the rezone and increased density.

John Ledy resident on Upper Roy Lake Road owns parcels adjacent to the parcel. He believes that his parcels could become a buffer zone and his property values would plummet if this development comes.

Rob Haberkorn a resident on Bass Lake Road is trying to learn and understand what the long term impacts will be on some of these discussions. He believes that developments have a negative impact on lakes in general. He hasn't heard any good reason for why there is a need to increase the density. He is opposed to this rezone and any density increases. This is a fragile shoreline and we need to protect it. The Nisswa 2030 Comprehensive Plant notes that we need to preserve our natural resources. He believes the current zoning is adequate for Bass Lake.

David Anderson resident on Bass Lake Road stated the commission should be focusing on what is in the city's comprehensive plan in regards to natural resources and the health and wellbeing of the water and environment. Many of the natural resource policies are the city's top priority; water clarity, protect wetlands, provide a wildlife habitat and migration. Anderson stated he is not opposed to development but we need to consider protect of our natural resources. He believes there are better options for development of this property.

Jacobson stated there are 3 options to consider with this application, approve, deny or request an environmental study to be completed and look at the environmental issues.

Harris stated that in looking at the site the eastern half is the only developable area. The boardwalk across the wetland is his main stumbling block to harming the area. He is trying to figure how homes on the bluff will affect the wetland area. The runoff from these homes is a great distance from the wetland and septic drainage is a stretch if it were going to affect the lake and water quality, and it really isn't different than any other property. Harris questioned how many units maximum could be built with current zoning. Cotner stated the survey hasn't been done to say for sure, but minimum site size in OSR is 100,000 sq. feet and SR has a requirement of 80,000 sq. feet. Harris noted that we can't rezone or not based on why someone might come in for. He is struggling to find issues that could negatively impact the wetland. These homes will be built on top of the hill and it is a hike to get down to the lake.

Young references the letter submitted from Ann Beaver; referencing paragraph 3 in regards to cluster home sites. He questioned how many developments have been approved using this new ordinance created for Fawn Ridge. Cotner didn't have a definite amount, but many rural designs have been rezoned to Shoreland Residential. Young is apprehensive to approve the rezone simply for density. He isn't sure that is a good enough reason.

Hidde wanted to mentions that the first plan that came in before were based on using OSR with the density chart. The second time they reduced the units to 13 with no density increase. Rough estimates show that OSR would allow 9 units and SR would allow additional 1-2 units with the tier unit limits. Depending on what happens with Bass Lake Road there have been discussions about keeping it as a walkable easement for all too still enjoy. Hidde noted before they spend the time and money into presenting a plan they want to make sure it is a plan that will work. That is why they have been in here 3 times with different proposals.

Harris noted that the property owner has the right to develop whatever is sensible to develop. There are benefits to a development as well. Hansen believes the zoning should stay as OSR as there are environmental qualities that need to be presented. Young has concerns about a property owners rights. Development does cost a lot of money and we as a commission need to provide guidance. He also references Ann Beaver's letter and noting there is an appropriate time for rezoning if it suites.

**Motion:** Hansen motioned to recommend to City Council denial of rezoning parcel 28100668 from “Open Space Residential” to “Shoreland Residential” as it isn’t consistent with section 3.7 of the zoning ordinance, specifically items A, D, G, H, K, M and O, with the following Findings of Fact:

3.7 CRITERIA FOR LAND USE CATEGORIES:

1. *Preservation of natural sensitive areas:* A wetland delineation has not been completed on the property; however, FEMA does indicate large wetlands on the west side of the parcel.



2. *Present ownership and development:* The current owner of the parcel is Genevieve L. Donovan Trust. Ray Lake Townhomes is the contract buyer.
3. *Shoreland soil types and their engineering capabilities:* The soils types according to websoilsurvey.sc.egov.usda.gov are:

D68A-Uskabwanka-Rifle-Lougee complex, 0 to 1 percent slopes  
 D83D-Eutrudepts-Graycalm-Rollins complex, pitted, 10 to 20 percent slopes  
 D84D- Eutrudepts-Graycalm-Rollins complex, 10 to 20 percent slopes



4. *Topographic characteristic:* The topography of the property is variable. The west side of the parcel has a large topographic change. The east side of the parcel has less dramatic changes.



5. *Vegetative cover:* The subject property is heavily wooded.



6. *In-water physical characteristics:* According to the DNR's Aquatic Vegetation of Upper Gull Lake Chain Report Ray lake around the subject property has a mix of muck and silt, marl soils with a mix of floating and emergent vegetation including but not limited to Northern Watermilfoil, Coontail, Bladderwort, Broad-leaf pondweed, and Flat-stem Pond Weed.

7. *Recreational use of surface water:* Ray Lake has been designated by the Department of Natural Resources as a “Natural Environment Lake” Section 6120.3000 of the Minnesota Revised Statutes defines “Natural Environment Lake” as the following:

*“Natural environment lakes are generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.”*

8. *Road and service center accessibility:* The subject property has approximately 1,565 linear feet of frontage on Bass Lake Road which will serve the property.
9. *Socio economic development needs of the public:* The subject property zone change to “Shoreline Residential” does not align with the Natural Resources and Land Use Policies identified in the Comprehensive Plan. The policies that are most applicable are provided below:
- Ensure that development and redevelopment of shoreline properties does not detract and, where possible, improves the water quality of the lake.
  - Protect wetlands as important components of the total environmental health of the community.
  - Development and redevelopment need to happen in a manner and scale that are sensitive to the character of existing neighborhoods.
10. *Availability of public sewer:* The property is not within a reasonable distance to the existing sewer line in order for the applicant to connect. The parcel will be served by a private communal septic system.
11. *The necessity to preserve and restore certain areas having significant historical or ecological value:* According to the 1985 Cultural Resources Survey of the Nisswa Lakes Area completed by Douglas A. Birk, Principle Investigator, the shovel tests performed in this area uncovered: rocks, sand, silty sand, gravel, light gravel, moderate gravel, dense gravel, and charcoal bits. No known historical sites or ecological value are known.
12. *Conflicts between land uses and impacts of commercial uses or higher densities on adjacent properties:* The surrounding properties are “Open Space

Residential” (OSR) and “Shoreland Residential” (SR). No changes are expected to the neighboring properties as the use is consistently residential in the surrounding areas.

13. *Alternatives available for desired land use:* According to our comprehensive plan this areas future use is identified as rural preservation on the future land use map.
14. *Prevention of spot zoning:* The surrounding properties are “Open Space Residential” (OSR) and “Shoreland Residential” (SR). Approval of the request does not constitute “spot zoning” due to surrounding area having similar zoning classifications.
15. *Conformance to the City of Nisswa Land Use Plan.:* The Future Land Use Map indicates the subject property to be “Rural Preservation”. This map has not been updated for many years, thus is an outdated document. The areas indicated on the Future Land Use Map as rural preservation have vastly been rezoned to “Shoreland Residential” since the documents inception. The zone change request is in conformance with the shoreland residential classification due to its low impact and large amounts of greenspace.

Young seconded. All members voting “Aye”, except Harris voting “Nay” motion carries

**Motion:** Harris motioned to close the public hearing at 7:42pm, Hansen seconded. All members voting “Aye”, motion carries.

#### **10. New Business:**

##### **a. Sketch Plan Review PID 28020603: Next Shift Enterprises (none present)**

Jacobson stated if they move forward with the nine homes as presented they will pretty much clear cut the entire property. He also has concerns with the property that goes to the east side of the trail. These small lots on the lake could cause potential problems down the road. Harris would like the City Attorney to comment on the lot size for these riparian lots. Young questioned the right-of-way ownership from the State. Cotner noted there is a public beach listed halfway through lot 9.

##### **b. Sketch Plan Review PID 28240558: Alluring Pines West - Patrick Trottier with Stonemark Land Surveying (present) representing Tom Steffens**

Cotner read her staff report in for the record.

Trottier stated there are looking to split into 4 oversized lots. Lots 3 & 4 would have access off of Camp Lincoln Road and Lots 1 & 2 would have access on to Garden Circle and or Red Pine Lane.

Jacobson believes there has been a lot line adjustment recently and they can't get approved again unless it has been over 3 years. Cotner wasn't sure, but can check into this.

Trottier questioned if the tennis court needs to meet any setbacks. Cotner stated it would require a 5 foot setback. Trottier noted all lots will have their own septic and well.

Young stated his major concern was access to each proposed lot. Hansen questioned what the shaded area was for on the drawing. Trottier stated it notes steep slope areas. Harris stated he had no concerns at this time.

Reese questioned if they would have road access to Garden Circle. Trottier stated this is yet to be decided. An easement may be required. Trottier also noted that Lots 3 and 4 would have a dedicated right-of-way on Camp Lincoln Road.

**c. Sketch Plan Review PID 28120690: Pinewood Crossing – Doug Arndt (Terra Vista Developers) and Chad Conner (WSN) both present**

Cotner read her staff report in for the record.

Arndt has this 15 acre area of raw land that he is looking to develop similar to Pine Trail Homes across county road 18. These units will be more uniformed and geared towards retirement, workforce housing. Priced at around \$350,000 they are thinking. It will have a Homeowners Association (HOA) that the association will do all the mowing, plowing and outside home maintenance. He would be looking at homes around 2000 sq. ft. with 2-3 bedroom homes with a 2-car garage. Arndt is looking at a tree survey that was done in 2006-2007 and will be trying to preserve as many trees as possible. There timeline is to finalize this development in August, get roads and sewer in yet this year, and breaking ground next year. Conner noted that they would be looking to have Public Street, except the cul-de-sacs would be private. Utility easements would be filed for sewer. Conner also noted that a wetland delineation has been completed and is accurate as shown on the drawing.

Cotner questioned what the small building in the southwest corner by unit 4 is. Conner stated it is an encroaching shed from a different property. Jacobson questioned the flow of the road onto Pine Haven Road; noting it is a sharp curve. Conner stated they are thinking it would be a "T" intersection. Jacobson questioned what the zoning is currently. Cotner stated Urban Residential she believed. Young questions what the recommendation for the turnaround area setback from the wetland on the north end of the property. Conner stated it would be a 50 foot radius. Reese stated it could be potentially smaller if no school busses needed to turnaround. Harris noted we need to ensure there is enough room for a fire truck to get in there. Hansen believes this is a great use of this area, but would like to see as many trees saved.

## 11. Old Business: None

## 12. Planning & Zoning Administrator's Report

### a. Permits

Cotner stated we had 12 new permits this past month, with 4 being new dwellings.

### b. Violations List

Cotner stated there were 4 new violations this month. 2 have applied for an after-the-fact permit and 1 we talked about this meeting.

Young questioned the issue with Traxler selling cars at this location. It doesn't seem fair that other places in the area can sell boats, docks and other items. Jacobson stated there were concerns when the application came through that it would turn into a used car lot. Young stated it is in a commercial zoning. Cotner stated is CUP is not for used car lot. Cotner stated the cars out front vary from 2 cars one day to 14 cars the next day. Young stated this is the nature of the detailing business with people dropping off and picking up vehicles to get detailed. He noted that the business doesn't look in disrepair. Young questioned what the next steps are if the owner doesn't respond to the letters. Cotner noted it could go as far to revoke his CUP.

## 13. Commissioners' Questions/Comments:

Jacobson questioned if we have received any applications for commission members. Cotner stated she had one applicant scheduled for an interview but cancelled as he didn't believe it was going to be a good fit. Cotner has reached out to a few people, but hasn't had any luck.

Jacobson questioned how the shouse ordinance is going. Cotner stated she believes the ordinance is a little lenient and has some concerns with the height. Cotner stated that many are coming in for permits, but some have decided not to move forward. Cotner will work on tracking so we can review this fall or winter.

## 14. Adjourn

**Motion:** Harris motioned to adjourn the June 1, 2021 meeting at 8:21 pm, seconded by Hansen. All members voting "Aye", motion carries.

Respectfully submitted,

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Maggi Wentler, Finance Specialist