

## STAFF REPORT

**Application:** Subdivision and Conversion of a Resort to a Residential Planned Unit Development (PUD).

**Applicant:** Ken Moe, Captain's Resort LLC/Moe & Gerdes Properties, LLC

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### Background Information:

) **Proposal:** *This application was tabled at the March 8 meeting of the City Council for additional information. Specifically, the items that needed to be addressed were (and the results of our research) were:*

- Verify that all owners of the relevant properties have signed the application.
  - *Result: Mr. Moe has presented documentation that he is the sole owner of the properties involved and he has signed the application.*
- Verify whether the well serving the 4 cabins is considered a public or a private well.
  - *Result: Staff contacted the MN Department of Health and received a response that it would be considered a private well.*
- Determine whether the DNR has any new comments that are different from the previous comments it had submitted on a different version of this application.
  - *Result: Staff has spoke with Emily Siira, Regional Hydrologist from the DNR, several times. The initial response was that the previous comments still applied. However, we are expecting some updated comments that have not yet been received. We expect them to be submitted prior to the April 12 meeting.*
- A general consensus from the Council was given that there should be no net increase in impervious coverage from what existed on the property in 2014 when Mr. Moe purchased the property.
  - *Result: Staff has been working with DNR and Mr. Moe on this matter – as well as reviewing older air photos and documentation from Mr. Moe as to what previously existed and has since been converted to grass. Mr. Moe's latest drawing of the proposed PUD also indicates that he would be converting two additional areas from gravel to grass. Given all of this research, Staff is comfortable concluding that there would not be a net increase in impervious provided that the areas shown are converted back to grass.*
- Information, provided by Mr. Moe, indicating how the shared sewer line that currently serves the 4 cabins and part of the bar/grill building would be maintained and who would be responsible for such maintenance.

- *Result: Mr. Moe has indicated his attorney is working on this. Mr. Moe is also exploring costs to just separate the four cabins from the bar/grill entirely. The draft agreements have not yet been submitted, but are expected prior to the April 12 meeting.*

The applicant is proposing to create a planned unit development on a property that is currently developed with a bar/grill and what has historically been four cabins (one of which was recently torn down). The four cabins have been rented out on a monthly basis. The Applicant’s intent is to reconfigure the property (via a “minor subdivision”) so that the bar/grill remains on its own parcel (not part of the PUD) and so that each cabin can be sold to separate landowners as a planned unit development.

The property has been developed for many years and does not meet a number of today’s zoning standards. As such, it is considered a “legal nonconformity” and Section 28.08 of the City’s Ordinance (based on minimum DNR standards for local shoreland ordinances) addresses how such “conversions” of existing resorts to a “residential planned unit development” is to be reviewed and processed.

**) Location:**

- Property address: 23597 N LAKESHORE DRIVE
- Sec/Twp/Range: 11-125-38
- Parcel number(s): 24-0280-000, 24-0281-000, 24-0282-000

**) Zoning:** RC - Residential & Commercial Transition District

**) Lake Designation:** General Development (Lake Minnewaska)

**) Parcel size:** Approximately 1.2 acre

**Applicable Statutes/Ordinances:**

**City of Long Beach Subdivision Ordinance**

3.08 MINOR SUBDIVISIONS.

A. This Section shall apply to the following applications.

1. In the case of a request to divide a portion of a lot where the division is to permit the adding of a parcel of land to an abutting lot so that no additional lots are created and both new lots conform to zoning ordinance lot size minimum standards.

C. Procedure.

5. The City shall forward the request on to the Planning Commission for review and the Planning Commission shall make a recommendation to the City Council.

6. Upon receiving the report and recommendation of the Planning Commission and City staff, the City Council shall act upon the minor subdivision within sixty (60) days from the date of submission of a complete application, unless an

extension has been provided by the applicant, pursuant to Minnesota Statutes 15.99.

- a. The City Council may approve the minor subdivision with conditions that must be met to ensure the minor subdivision is compliant with the regulations of this Subdivision Ordinance and zoning ordinance, as may be amended, and other applicable requirements.
- b. The City Council shall prepare findings and deny a minor subdivision if it is found to be premature or fails to comply with regulations of this Subdivision Ordinance and the zoning ordinance, as may be amended, or other applicable requirements.

D. Recording. If the minor subdivision is approved by the City Council, the applicant shall record the deed and the accompanying certificate of survey, in the office of the Pope County Recorder within ninety (90) days after the date of approval, otherwise the approval of the minor subdivision shall be considered void.

### **City of Long Beach Zoning Ordinance**

#### **Section 28, Shoreland Management Overlay District**

##### **28.08: PLANNED UNIT DEVELOPMENTS (PUD'S).**

G. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

- 1. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.
- 2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- 3. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following.
  - a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones.
  - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
  - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial

alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

4. Existing dwelling unit or dwelling site densities that exceed standards in Section 28.05 Letter E of this Chapter may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

	<b>Proposed</b>	<b>Required standard</b>
<b>Setback from lake</b>	Cabins 1-3: Less than 75 ft Cabin 4: 75 ft+	75 feet
<b>Impervious Coverage (for proposed Lots 2-6)</b>	Tier 1 of proposed PUD: 42.2% Tier 2 of proposed PUD: 47.9%	Tier 1 of proposed PUD: 25% Tier 2 of proposed PUD: 25%
<b>Open Space (for proposed Lots 2-6)</b>	42.7% (all non-impervious surfaces)	50% minimum
<b>Lot size</b>	Lot 1 - 55,700 sq ft Lot 2 - 20,808 sq ft Lot 3 - 7,357 sq ft Lot 4 - 7,720 sq ft Lot 5 - 6,717 sq ft Lot 6 - 11,370 sq ft	--For proposed Lot 1 and Lots 2-6 if not part of a PUD: 15,000 square feet --For proposed Lots 2-6: no specific minimum as part of a PUD --For residential PUDs (overall lot size): 3 acres
<b>Lot width</b>	Lot 1 - 400+ ft Lot 2 - 22 ft Lot 3 - 62 ft Lot 4 - 59 ft Lot 5 - 49 ft Lot 6 - 84 ft	Lot 1 (commercial uses) - 100 feet Lots 2-6 (single family residential uses): 75 feet when not part of a PUD Lots 2-6: no specific minimum (when part of a PUD)
<b>Number of Units (for proposed Lots 2-6)</b>	1 <sup>st</sup> tier = 4 cabins	1 <sup>st</sup> tier (base density) = 3 cabins
<b>Form of Ownership of open space (for proposed Lots 2-6)</b>	Individual Owners	Homeowners Association

**Staff Findings:** The following findings of fact are presented by Staff for consideration by the Planning Commission:

1. Proposed Lot 1 (with the bar/ grill) meets the minimum standards for lot size and width for a Commercial lot in the RC Residential & Commercial Transition District and can be approved as a minor subdivision *provided that the Residential PUD lot is approved.*
2. Proposed lots 2-6 are proposed as a residential PUD. According to the City's zoning ordinance, this would be processed as a "conversion" of what amounts to an existing commercial planned unit development (resort). Conversions are allowed provided that the inconsistencies between the proposed characteristics of the development and the requirements of the ordinance for new PUDs are identified.
3. Where deficiencies exist as identified in #2 above, those "involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit."
  - a) Staff is not aware of any deficiencies with water supply and sewage treatment as they are both provided publicly.
  - b) There are no deficiencies with structure color
  - c) There are deficiencies with impervious coverage. These will either need to be corrected or as otherwise allowed by the City Council.
  - d) There are deficiencies with open space. These will either need to be corrected or as otherwise allowed by the City Council.
  - e) There are deficiencies with shore recreation facilities (not centralized docking). These will either need to be corrected or as otherwise allowed by the City Council.
4. Where deficiencies exist with shore and bluff impact zones, these "must be evaluated and reasonable improvements made as part of the conversion".
  - a) There are no bluff impact zones on the property.
  - b) There are deficiencies in the shore impact zone; it is not identified as common open space or preserved in its natural state (which has been the situation for many decades, as far as Staff is aware). These will either need to be corrected or as otherwise allowed by the City Council.

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**Planning Commission/City Council Direction:** The Planning Commission/City Council may approve the request, deny the request, or table the request if it should need additional information from the applicant. If the Commission/Council should approve or deny the request, it should state the findings which support either of these actions.

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**Staff Recommendation:** The primary issues with this application relate to the deficiencies with impervious coverage, open space and the shore impact zone.

1. Staff notes that it would appear to be impractical to correct the open space requirements given the nature of the property and how long it has been developed as such.
2. Staff recommends that a requirement of any approval be that the two additional areas noted on the PUD drawing to be converted to grass are converted to grass no later than September 15, 2017.
3. Staff recommends that the Council address future expansions of the cabins – whether these would be allowed given that the site is already exceeding its impervious coverage limits and is not meeting open space requirements. Additions to the cabins that increase their height, but do not increase their footprint and are at least 75 feet back from the lake, could be allowed without affecting impervious coverage, but the Council should be specific in what it would allow (i.e. the units can have height increases, but must not increase the number of dwelling units on the property).
4. Staff recommends that the Council discuss whether there is benefit to requiring that the shore impact zone (or some other area) should be converted to a more natural state and whether docking/swimming areas should be centralized. Doing so would require modification of the layout of Lots 2-6 so as to create a common area for these purposes and may not be practical.
  - i) Shoreline buffer: A shoreline buffer serves several purposes, including providing additional wildlife habitat, preventing shoreline erosion, improving filtration of stormwater runoff before it enters the lake, and creating a more natural look to the shoreline. The applicant would prefer to not plant these areas given that the shoreline is already rip-rapped (and protected some from erosion) and because the area has not had natural vegetation for at least several decades as far as he is aware. Instead, he has suggested that the large area behind the cabin on Lot 3 that would be converted to grass could be made as a small depression that would allow water to infiltrate before entering the lake. The same could be done for the area behind Lot 6.
  - ii) Centralized docking: Staff’s understanding is that there has not been centralized docking for this site for some time and that according to DNR it is not a fish spawning area. It also does not appear to support much aquatic vegetation. As such, the benefits of centralized docking are somewhat reduced. The Council could either allow separate docks for all 4 units or possibly require two shared docks – one that Lots 3 and 4 would share and one that Lots 5 and 6 would share.
5. Staff recommends the Council discuss the relatively narrow road frontage for Lot 2 to N. Lakeshore Drive. While there is not a specific requirement for the width of a lot along a public road, the proposed 22 feet is fairly narrow (although it matches essentially what has historically been used for access to the cabin sites).
6. If the Council needs additional information, or would like to see modifications to the layout, it may table the application and any final decisions until that information has been provided.