



Board of County Commissioners Agenda Request

7A
Agenda Item #

Requested Meeting Date: November 26, 2024

Title of Item: Petition for EAW - Meadow View Lots at Barnacles Resort

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <i>*provide copy of hearing notice that was published</i>
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Submitted by: Andrew Carlstrom	Department: Environmental Services
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Presenter (Name and Title): Andrew Carlstrom, Environmental Services Director	Estimated Time Needed: 5 Minutes
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Summary of Issue:

On November 12 and November 13, 2024, the Aitkin County Planning Commission and County Board both received letters from Attorney Mark Thieroff of Siegel Brill Public Attorneys. Both letters advocated a petition for an Environmental Assessment Worksheet (EAW) to be required for the conditional use application for the proposed commercial planned unit development campground of Meadow View Lots at Barnacles Resort. Both letters argued the proposal triggers a mandatory EAW. The County Attorney has reviewed all documents.

Attached are the memorandum and letters.

Alternatives, Options, Effects on Others/Comments:

Motion to deny Aitkin County Planning Commission decision and approve the EAW petition for the Meadow View Lots at Barnacles Resort.

Recommended Action/Motion:

Motion to approve the Aitkin County Planning Commission decision and deny the petition for an EAW for the Meadow View Lots at Barnacles Resort.

Financial Impact:

Is there a cost associated with this request? Yes No

What is the total cost, with tax and shipping? \$

Is this budgeted? Yes No *Please Explain:*

Aitkin County Environmental Services Planning and Zoning
307 Second Street NW
Room 219
Aitkin, MN 56431
Phone: 218-927-7342
Fax: 218-927-4372



MEMORANDUM TO AITKIN COUNTY BOARD OF COMMISSIONERS

DATE: November 26, 2024

FROM: Andrew Carlstrom, Environmental Services Director – Planning & Zoning Administrator

RE: Conditional Use Permit – Meadow View Lots at Barnacles Resort

The Fish House Park at Barnacles Resort was first constructed and began operations in the early 1990's, and eventually grew into its current 256 individual campsites. Since then and during the course of several owners, the resort has been operating without a conditional use permit. The proposer has been forth-coming and has had several pre-meetings over the past year with Aitkin County Planning and Zoning, desiring to bring the re-designed "Meadow View Lots at Barnacles Resort" into conformity. The proposed plan includes no "intensification" to the property, and includes reducing campsites from 256 to 102, reducing densities, meeting or exceeding current minimum lot size requirements, upgrading utilities such as water, sewer, and electric, and increasing the overall safety and efficiency of park operations. The proposal is consistent with the Aitkin County Comprehensive Land Use Management Plan of promoting tourism and recreation goals.

In Minnesota Administrative Rules (Mandatory EAW Categories) 4410.4300 Subpart 20 it states: "***Campground and RV parks.*** For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by the 50 or more sites, the local governmental unit is the RGU." As the Regulating Governmental Unit (RGU), our staff has determined the proposed plan has no "change of use" and that the proposal is neither "constructing" a new campground, nor "expanding" the existing campground. The Planning & Zoning staff supports the above proposal on property that has been used as a campground for over 30 years, and which reduces campsites by 60%. The staff concludes that this proposal will have no significant environmental effects, and that it meets the intent of Section 12 (Nonconformities) of the Aitkin County Zoning Ordinance which says, "It is the intent of this section to regulate non-conformities to provide for their gradual elimination." The Meadow View Lots at Barnacles Resort proposal would conform to present-day Aitkin County campground requirements. If approved, the anticipated benefits to Aitkin County land use, as well as benefits to the environment include: updated septic for the campground, updated water and electrical, an updated solid waste plan for the resort, increased open space for the campground, and an updated MPCA-approved Stormwater Pollution Prevention Plan (SWPPP).

If you have any questions, please feel free to contact me at 218-927-7342 or by email at andrew.carlstrom@co.aitkin.mn.us.

Aitkin County Environmental Services Planning and Zoning

307 Second Street NW

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November 15, 2024

Via Email: (markthieroff@siegelbrill.com)

Mark Thieroff

100 Washington Avenue South

Minneapolis, MN 55401

RE: Application 2024-002035, Widseth/Chad Conner (RD Holdings)

Dear Mr. Thieroff,

Thank you for your letters to the Aitkin County Planning Commission and Board of Commissioners on November 12 and November 13, 2024, and in reference to the conditional use permit request for a commercial planned unit development by RD Holdings, LLC. Our Planning & Zoning Team has had several meetings and field visits with the applicant, as well as requiring revisions to the site plan survey, in preparation to the application and public hearing before the Planning Commission to be held on November 18, 2024.

In Minnesota Administrative Rules (Mandatory EAW Categories) 4410.4300 Subpart 20 it states: “**Campground and RV parks.** For construction of a seasonal or permanent recreational development, accessible by vehicle, consisting of 50 or more sites, or the expansion of such a facility by the 50 or more sites, the local governmental unit is the RGU.” As the Regulating Governmental Unit (RGU), Aitkin County has determined the proposed plan has no “change of use” and that the proposal is neither “constructing” a new campground, nor “expanding” the existing campground, which has been in operation since the early 1990’s. We understand this proposal of a reduced and redesigned campground, as aiding our environment by: decreasing campsite densities by 60% from 256 to 102, offering more “green space” by exceeding current minimum lot size requirements, upgrading utilities such as water, sewer, and electric, and increasing overall safety and efficiency of campground operations.

In Minnesota Administrative Rules (Petition Process) 4410.1100 Subpart 1 it states: “**Petition.** Any person may request the preparation of an EAW on a project by filing a petition that contains the signatures and mailing addresses of at least 100 individuals who reside or own property in the state.”

At this time the Minnesota EQB (Environmental Quality Board), has not received the above said submittal, nor assigned a petition to Aitkin County.

If you have any questions, please feel free to contact me.

Respectfully,

Andrew Carlstrom

Environmental Services Director/Planning & Zoning Administrator

307 2nd Street NW Room 219

Aitkin, MN 56431

Phone: 218-927-7342

Cc: James Ratz, County Attorney

November 12, 2024

Via Email (aitkinpz@co.aitkin.mn.us)

Aitkin County Planning Commission
307 2nd Street NW, Room 219
Aitkin, MN 56431

Re: App. 2024-002035
Our File No. 31667

Dear Commissioners:

I represent Aitkin County resident J. Anne Hennessey and I write today regarding the pending conditional-use permit application of RD Holdings LLC (“the Applicant”) for a conditional use permit to allow the redevelopment of a “fish house park” (“the Application”) that currently exists in the northeast quarter of the northwest quarter of Section 22, Township 45, Range 26 (“the Property”). The Application has two fundamental flaws and should not be approved in its current form.

- I. The proposed project triggers a mandatory Environmental Assessment Worksheet (EAW) and cannot be approved until an EAW is completed and the County makes a negative determination on the need for an Environmental Impact Statement (EIS) or an EIS has been determined to be adequate.**

The proposed use constitutes a “recreational development” under State environmental review rules. See Minn. R. 4410.0200, Subp. 71 (defining “recreational development” to mean “facilities for temporary residence while in pursuit of leisure activities,” including recreational vehicle parks and campgrounds). When a property owner seeks to construct a recreational development, accessible by vehicle, consisting of 50 or more sites, an EAW is required. See 4410.4300, Subp. 20.

Although the overall site count in the existing recreational development will decrease as a result of the proposed development, what the applicant is proposing is the replacement of the existing 256 sites with 102 newly developed sites. Those 102 sites will replace the pre-existing smaller sites, they will have upgraded electrical service and they will have new water and sewer connections. This is not a case where the proponent is seeking to add new sites to an existing recreational development. Instead, this is essentially the replacement of one recreational development with a new one. In any event, the establishment of the 102 new sites is subject to mandatory environmental review in the form of an EAW.

By state statute and rule, Aitkin County is prohibited from granting final approval of the Application until the mandatory environmental review is completed. See Minn. Stat. § 116D.04, subd. 2b; Minn. R. 4410.3100, Subp. 1.

II. The proposed project requires not only a conditional use permit approved by the Planning Commission but also planned-unit-development (PUD) approval from the Board of Commissioners.

As described in the Application, the Applicant is seeking the following:

Requesting a Conditional Use Permit for a commercial planned unit development to operate a fish house park/campground in an area zoned Open. The applicant proposes to redesign the existing fish house park, upgrade water and sewer utilities, and increase size of individual sites, therefore reducing the current 256 sites to 102 sites. NE NW, SECTION TWENTY-TWO (22), TOWNSHIP FORTY-FIVE (45), RANGE TWENTY-SIX (26).

However, the Aitkin County Zoning Ordinance (“the Ordinance”) does not provide for a “conditional use permit for a planned unit development to operate a fish house park/campground.” Instead, the Ordinance requires both a conditional use permit and PUD approval for the proposed use.

A. A conditional use permit is required.

The proposed use is a “campground” under the Ordinance, see Sec. 3.09, and the Classification List included in Exhibit A to the Ordinance lists campground as a conditionally permitted use in the Open zoning district, which includes the Property. That means that a conditional use permit is required, and the Applicant must demonstrate:

1. That the proposed use will not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity, nor impair property values within the surrounding neighborhood;
2. That the proposed use will not increase local or state expenditures in relation to costs of servicing or maintaining neighboring properties;
3. That the location and character of the proposed use are considered to be consistent with a desirable pattern of development for the locality in general;
4. That the proposed use conforms to the comprehensive land use for the County;
5. That adjoining property owners, and others required to be given notice pursuant to Minnesota Statutes, Chapter 394, have been given written notice of the proposed use and of the hearing before the Planning Commission;
6. That other applicable requirements of this ordinance, or other ordinances of the County have been met[; and]
7. [That t]he proposed use is not injurious to the public health, safety, and general welfare.

See Sec. 11.03.

Instead of attempting to demonstrate compliance with these seven requirements, the Application merely asserts that it meets each of them. In response to the question, "Is the proposal meeting the Findings of Fact," the Application states simply, "yes." It does not explain how it satisfies the requirements of the Ordinance or offer any supporting evidence or argument.

Once the mandatory environmental review is completed and the County receives a final application from the Applicant that includes any required mitigation identified in the environmental review process, the Planning Commission should consider each of the required findings carefully. The requested conditional use permit should be approved only if each of those findings can be made, based on an appropriate evidentiary record.

B. PUD approval is also required.

In addition to a conditional use permit, under Sections 15 and 16 of the Ordinance the proposed use constitutes a "travel trailer park and campground" that requires PUD approval from the Board of Commissioners.

PUD approval requires the applicant to meet the dimensional, layout and setback requirements described in Section 16 of the Ordinance, and to provide disposal and sanitary systems that satisfy all applicable state or country requirements.

Significantly, approval of a CUP by the Planning Commission would not, and cannot, serve as a substitute for the required approval by the Board of Commissioners of the PUD needed for the proposed use.

In conclusion, the Planning Commission should decline to consider the Application and the requested conditional use permit until the Applicant completes the required environmental review process. If and when the Applicant satisfies all environmental review requirements, the Planning Commission must not only evaluate the required findings for the issuance of a conditional use permit but also make a separate recommendation to the Board of Commissioners as to whether approval of a planned unit development would be appropriate by that body.

Very truly yours,



Mark Thieroff

612-337-6102 | Direct
markthieroff@siegelbrill.com

cc: Client (via email)

November 13, 2024

Via U.S. Mail and Email

Board of Commissioners
Aitkin County
307 2nd Street NW, Room 219
Aitkin, MN 56431

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Re: Petition for Mandatory Environmental Assessment Worksheet for
Redevelopment of Fish House Park at Barnacles Resort
Our File No. 31667

Dear Commissioners:

I represent Aitkin County resident J. Anne Hennessey and I write today regarding the pending conditional-use permit application of RD Holdings LLC (“the Applicant”) for a conditional use permit (“the Application”) to allow the redevelopment of Fish House Park at Barnacles Resort (“the Project”) on property legally described as the Northeast Quarter of the Northwest Quarter of Section 22, Township 45, Range 26, Aitkin County.

The Applicant is currently seeking a conditional use permit for the Project, which is scheduled for public hearing on November 18, 2024.¹ The Project has been assigned Application No. 2024-002035, and the published staff report for the Project is incorporated in this letter by reference.

This letter constitutes my client’s petition to Aitkin County, as the Responsible Government Unit, for a mandatory environmental assessment worksheet (EAW) for the Project. The Project proposes a “recreational development” under State environmental review rules, and the construction of a recreational development, accessible by vehicle, that consists of 50 or more sites triggers a mandatory EAW. See Minn. R. 4410.0200, Subp. 71 (defining “recreational development” to mean “facilities for temporary residence while in pursuit of leisure activities,” including recreational vehicle parks and campgrounds); 4410.4300, Subp. 20 (listing recreational developments as subject to mandatory EAW).

¹ Although the Applicant has applied only for a conditional use permit, the Project also requires planned unit development approval from the Board of Commissioners. See Aitkin County Zoning Ordinance, Secs. 15, 16.

November 13, 2024

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Although the overall site count in the existing recreational development will decrease as a result of the proposed project, what the applicant is proposing is the replacement of the existing 256 sites with 102 newly developed sites. Those 102 sites will be newly configured and replace the pre-existing smaller sites, they will have upgraded electrical service and they will have new water and sewer connections. This is not a case where the proponent is seeking to add new sites to an existing recreational development. Instead, this is essentially the replacement of one recreational development with a new one. Under the applicable rules, it is the construction of a recreational development with 50 or more sites that triggers an EAW, and the Applicant here is proposing to do just that.

Because the Project is subject to a mandatory EAW, Aitkin County is prohibited by state statute and rule from granting final approval of the Application until the mandatory environmental review is completed. See Minn. Stat. § 116D.04, subd. 2b; Minn. R. 4410.3100, Subp. 1.

For the foregoing reasons, my client respectfully requests that the Board of Commissioners order the completion all necessary environmental review for the Project, beginning with an EAW, before any final action on the Application is taken.

Very truly yours,



Mark Thieroff

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markthieroff@siegelbrill.com

cc. Jessica Seibert, County Administrator (jessica.seibert@co.aitkin.mn.us)
Jim Ratz, County Attorney (coatty@co.aitkin.mn.us)
Client (j.anne.hennessey@gmail.com)