

Janna Nemeth
38763 Oklahoma Hill Rd.
Deer River, MN 56636
jannnalee@aol.com

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Itasca County Planning Commission
123 NE 4th St
Grand Rapids, MN 55744

Re; Comments on The Living Word Bible Camp (LWBC) Final Commercial Planned Unit Development

Dear Itasca County Planning Commission,

The following comments are made of behalf of myself and

1. Stephen Nemeth
2. Mary Meland
3. Kerry Glader
4. Virginia Johnston
5. Teresa DeGroh
6. Esta Ratzlaff
7. Michael Woxland
8. Donald Lewin
9. Douglas Widen
10. John Brickley
11. Pamela Brown
12. Douglas Routt
13. J.Milo Meland
14. Anne Skemp
15. Margaret Maxeiner Duxbury
16. David Duxbury
17. Anita Ophoven
18. Jeff Johnston
19. Will Meland
20. The Reverend George Spratt
21. Deborah Ramlow
22. Jeanne Felder
23. Jack Hodgson
24. Lou Ann Hodgson
25. Joan Ratzlaff
26. Jacqueline Johnston
27. Diana Lieftring
28. Barbara Glader
29. Gerry Ratzlaff
30. Elise Widen
31. Tomas Brown
32. Neil Skemp
33. Joseph Meland
34. Jane Routt
35. Jill Woxland
36. Angela Brickley
37. The Reverend Lewis Johnston
38. Mary Spratt
39. Herb Lieftring
40. John Ratzlaff
41. Judith Lewin
42. Thomas Ophoven

There are several massive issues we wish to bring to your attention that individually and collectively require denial of the LWBC's Final Commercial Planned Unit Development. Some of the following issues were not disclosed to the public until after the FPUD hearing began, therefore we submit another comment letter.

The issues described below have to do with

- 1) permitting a new Resort to be developed in a land use district that prohibits Resorts,
- 2) inaccurate, incomplete and conflicting final site plans,
- 3) cherry-picked use of the 1998 ordinance to allow Youth Camp and the current ordinance to allow unlimited numbers of travel trailers,
- 4) deliberate avoidance of ordinance requirements namely through notification from ESD Administrator Dewey to LWBC that it's applications were complete when they were lacking, among other things, wetland delineation, Open Space documents, stormwater plans and grading plans,
- 5) and purposeful avoidance of what the project's "health and safety" issues and requirements will be, to create a condition allowing unlimited future development if necessary for "health and safety". These are just a few more reasons that approval of the final commercial planned unit development should be denied to add to our previous letter dated March 12, 2014, which we also affirm and reinstate now.

1. Resorts are prohibited in the Seasonal Residential Land Use District

Because Article II of the 1998 Ordinance prohibits Resorts in the Seasonal Residential land use district and because there is no condition in the CUP that prohibits the proposed development from being a Resort, the CUP's legal conclusion (E) that the "project" uses conform to the Land Use Classification List of the Ordinance due to restrictive CUP conditions is **a false statement**. There are no restrictive conditions to exclude resort and the development requires a resort license for the adult uses along with the youth camp license for the youth camp uses.

Representations by Itasca County that the resort uses such as unlimited travel trailers, adult weekend retreats, off season programs, weddings and wedding receptions are uses **other than** resort is untrue because there are no other licenses or land uses necessary to a resort that are not part of the proposed development and there are no restrictions to preclude resort, therefore the development could choose to be a resort if it wants to and is actually proposing to be a resort that is called "ancillary" adult and family uses.

Assertions that resort uses are the same as youth camp uses is also **not true**; MN Statute 144.71, Subdivision 3 very clearly says trailer camps, fishing and hunting camps and **resorts** are NOT a youth camp. Furthermore, MN Statute 144.71, Subdivision 2 says the use of a youth camp is offered to minors, there is nothing about ancillary adult youth camp uses.

It is not believable that dormitories designed for children in grades 3-8 should be equipped with full kitchens, fireplace/living rooms and private bed/bath suites. The proposed youth camp dorms are Resort housing units.

Comparisons that this development is the same as an existing Church camp on Deer Lake ARE true because the existing church camp on Deer Lake is a resort, properly situated in the Commercial Recreational land use district. Statements that LWBC should be allowed because the other camp is allowed is not true because LWBC proposes their new resort to be constructed in the Seasonal Residential land use district where resorts are prohibited. Statements that the LWBC should be allowed because a rezone was granted to the existing camp a few years ago is NOT true because the rezone was merely a correction of an error that placed the residential line through the middle of the resort. This error was made when Itasca land zoning originally started many decades ago and was not corrected until recently after more than 50 years as a resort church camp.

The proposed land use is prohibited; it is illegal to approve prohibited land uses therefore the Final Commercial Planned Unit Development should be denied.

2. There are two inaccurate, incomplete and conflicting final site plans that are identically named.

There is a lack of consistency between two final site plans with the same exact name and date. They are not the same and could end up causing confusion and considerable expense to the environment and/or to the public.

Both maps are incorrect.

PCBA 04 (map of the final plan) does not identify the open space area AND does not correctly depict the location of the conservation easement, which is significantly misplaced further away from the development area, about 100 feet east of its true location. The final site plan in the open space covenant shows the correct location of the conservation easement but does not represent about 10 acres of the open space area, and is therefore **NOT** an accurate map of the open space. (see *Open Space 10 acres.pdf*)

If either final site plan is relied upon there will be the opportunity for vegetative clearing, topographic alterations, construction of roads and/or other development in areas where such is required by law to be **prohibited**.

Approval of final site plans that are known to be flawed is arbitrary and capricious, therefore the Final Commercial Planned Unit Development should be denied.

3. The cherry-picked use of the 1998 ordinance to allow Youth Camp and the current ordinance to allow unlimited numbers of travel trailers is contrary to the directive of the Court of Appeals.

LWBC states in their PUD application,

While the current zoning ordinance for Itasca County is the 2012 ordinance, the proper ordinance to review this application by is the 1998 ordinance. In its 2008 ruling, the Minnesota Court of Appeals stated: “[w]e agree with the camp that, as in Newton, application of the current ordinance would result in manifest injustice, and the county correctly applied the 1998 ordinance...” In re The Conditional Use Permit and Preliminary Planned Unit Development Applications of Living Word Bible Camp, 2008 WL 2245708 at 4. (Master Exhibit D).

Therefore, a **use of any other ordinance would be contrary to the directive of the Minnesota Court of Appeals.**

It is illegal and unethical to allow LWBC arbitrary application of the favorite parts of two different ordinances to a single project. This was done at the last moment, without prior notice to the public and to add a significant land use that was not addressed in the Environmental Assessment Worksheet and not considered with regard to parking, impervious surface, runoff and erosion control. Approval of cherry picked requirements from two ordinances applied to one project is arbitrary and capricious therefore the Final Commercial Planned Unit Development should be denied.

4. Certification from ESD Administrator Dewey to LWBC that its applications were complete when they were lacking required information.

Deliberate repeated avoidance of Section 9.34 and Section 9.40 that requires open space **documents** and other information to be submitted with the application for a Preliminary plan and before action is taken on the application request is contrary to law.

Janna Nemeth has requested the open space documents and quoted the ordinance provisions no less than 5 times

and also reiterated concerns that the Open Space Covenant would not be made available to the public before the hearing. If that happened there would be no opportunity to review it in advance and compare it to the ordinance. In 2006 the Open Space Covenant was not disclosed until the last moment for Final PUD and accepted by the County for the same proposed project. The Covenant did not comply with the zoning ordinance. A revision of the Covenant occurred during a recess of the hearing after member of the audience noticed it failed to comply and requested a proper document. (See *Re_Missing LWBC item_Open Space.pdf*)

After repeatedly stating the history and repeatedly bringing the ordinance forward, the County willfully allowed non-compliance to the legal open space requirements and non-disclosure of the Open Space Covenant until after the Preliminary PUD was approved---again. And also the County allowed a revised but still contrary to law covenant to be disclosed during the Final PUD hearing.

The revised open space covenant, which was disclosed during the hearing is contrary to law because it;

- does not protect 50% of the total project area (126.8 acres are required)
- allows construction of additional buildings and storage of vehicles, which is prohibited
- allows future Conditional Use Permits for development of the Open Space, which is prohibited
- does not prohibit vegetative alterations other than routine maintenance of the Open Space Area that lies outside 75' of the OHW.
- does not prohibit topographical alterations other than routine maintenance of the Open Space Area.
- does not provide for the continued existence and functioning of the development
- does not prohibit commercial facilities or uses in the Open Space Area
- does not preserve the appearance of open space areas, including topography, vegetation, and allowable uses,
- contains a final plan map that omits ~10 acres of the open space area (see *Open_Space_10_acres.pdf*)
- does not comply with CUP Finding #34

The Open Space **documents** were required with the application for a Preliminary PUD, before the preliminary plan and before action was taken on the application request. The Open Space documents are required to comply with the provisions of the ordinance. The County did not require legal compliance in 2006, or in either of today's documents, the covenant is contrary to law, the county allowed it's non-disclosure until the last minute, the Final Commercial Planned Unit Development should be denied.

Although required by lawⁱⁱ, there is no Stormwater Management Plan; rather a hydrologic concept based on hydrologic models drawn on a rough computer map and dated 2009. A qualified person did not certify this "Hydrological Summary", which is not a stormwater management planⁱⁱⁱ. Furthermore the "summary" addresses a development layout that does not match the layout of the Final PUD site plan and also does not consider the clearing of additional vegetation necessary for the added "Snow Storage Areas" which lay outside the summary's "Clearing Limits" or the additional volumes of runoff from melting of those added stockpiles of snow.

Itasca County did not adhere to its own ordinance when they approved the PPUD because there is no grading plan and the site plan is incomplete (does not show wetland 2) and inaccurate (see above). Statements that grading plans and a detailed site plan are required after Planning Commission approvals for construction permits are not correct. Sec 5. 58A -The applicant shall submit with the application, a detailed site and grading plan, drawn to scale, showing the proposed project site and surrounding area and showing all relevant topography and elevations of the area to be excavated or filled and any other information the Planning Commission may require, excluding construction of forestry roads.

Approval of the Final Commercial Planned Unit Development without the ordinance required stormwater management plan, grading plans and detailed site plan that is complete and accurate would be arbitrary and capricious. The Final Commercial Planned Unit Development should be denied.

5. Avoidance of “health and safety” requirements to create a condition for unlimited expansion “if necessary for health and safety”.

The purposeful non-investigation of what the project’s “health and safety” code requirements are or what any other health and safety issues are in order to create a condition allowing unlimited future development “if necessary for health and safety” is unethical. The project and Itasca County have been questioned and have known since 2006 that the project might require additional development for reasons of health and safety. Instead of investigating these issues, LWBC and Itasca County inserted a condition into the 2006 and current CUP and Open Space Covenant to allow any future structures required for health and safety.

Approval of the Final Commercial Planned Unit Development without disclosure and planning for any health and safety concerns that would require additional development is arbitrary and capricious. Insertion of a condition that allows unplanned development to remedy the purposeful non-investigated of health and safety reasons or codes is willful, unethical, arbitrary and capricious. The permit should be denied.

We beg you to please carefully consider our concerns, which are respectfully submitted.

Thank you,
Janna Nemeth

ⁱ Sec. 9. 34 – Application for a PUD. The applicant for a PUD must submit the following documents, which must also contain the information in section 9.40, prior to action being taken on the application request.

- 1) The required number of site plans and/or plat for the project (see Sec. 9. 21) showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems, refuse disposal, local utilities, right-of-way easements and topographic contours at 10-foot intervals or less...
- 2) A property owners association agreement...
- 3) Deed restrictions, covenants, permanent easements or other instruments that a) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft...
b) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 9.48 of this ordinance.

Sec. 9. 40 – Data Required for a Preliminary Plan

(9.) Also, Sections 9.34, 9.49, Open Space Requirements; 9.50, Erosion Control/Stormwater Management; and 9.51, Centralization and Design of Facilities must be addressed on plan.

Sec. 9. 48 - Maintenance and Design Criteria. Maintenance and Administration Requirements.

- A. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- B. Open Space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 1. commercial uses prohibited (for residential PUD’s)
 2. vegetation and topographic alterations other than routine maintenance prohibited;
 3. construction of additional buildings or storage of vehicles and other materials prohibited; and
 4. uncontrolled beaching of watercraft prohibited.

Sec. 9. 49 – Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

1. at least 50 percent of the total project area must be preserved as open space;
2. dwelling units or sites, road right-of-way, or land covered by road surfaces, parking area, or structures, except water related accessory structure, are developed areas and shall not be included in the computation of minimum open space;
3. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historical sites...
4. Open space may include outdoor recreation facilities for use by owners of dwelling units or sites, by guest staying in commercial dwelling units or sites, and by the general public;
5. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
6. Open space must not include commercial facilities or uses, but may include a water related accessory structure;
7. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means; &
8. The shore impact zone, based on normal structure setbacks, must be included as open space...For Commercial PUD's, at least 50 percent of the shore impact zone must be preserved in it's natural state.

ⁱⁱ 1998 Ordinance. Sec 5.60 Stormwater Management, B. Specific Standards: 2. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

ⁱⁱⁱ [space for signature is blank under the following sentence] I hereby certify that this plan, specification or report was prepared by me or under my direct supervision, and I am a duly Registered Professional Engineer under the laws of the State of Minnesota. (Master Exhibit j. p. 73.)