

Becker County Planning Commission
June 15, 2004

Present: Members Waldo Johnson, Harry Johnston, John McGovern, Julia Miller, Jim Bruflodt, Larry Knutson, Ken Christianson, James Kovala, Don Skarie, Jeff Moritz, Commissioner Dave Seaberg, Zoning Administrator Patricia Johnson, and Zoning Staff Debi Moltzan.

Chairman Kovala called the meeting to order at 7:00 p.m. Minutes were recorded by Debi Moltzan.

Seaberg made a motion to approve the minutes from the May 18, 2004 meeting. McGovern second. All in favor. Motion carried. Minutes approved.

Kovala stated that the Planning Commission is a recommendation board. The recommendations of the Planning Commission would be reviewed on June 22, 2004, where a final decision would be made.

FIRST ORDER OF BUSINESS: Gary Schmit. Requests a conditional use permit to allow a commercial use consisting of a taxidermy business in an agricultural zone on the property described as: Pt NW ¼, NE ¼; Section 26, TWP 139, Range 41; Detroit Township. PID Number 08.0446.005.

Mary Lou Schmit explained the application to the Board. To begin, the business would be open Wednesdays and Saturdays or by appointment. Hopefully, the business will grow into full time. This type of business would not have a high volume of traffic. The chemicals used would be mineral spirits and citric acid. The mineral spirits will be put into haz mat containers and disposed of at the Household Hazardous Waste Facility. The citric acid would be neutralized and disposed of in a gray water system. The carcasses will be disposed of at the transfer station. Any signage would be in accordance to the Becker County Zoning Ordinance.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Discussion was held regarding the type of business, the location of the business and fact that it would have minimal impact on the area.

Motion: McGovern made a motion to approve a conditional use permit to allow a commercial use consisting of a taxidermy business according the business plan submitted with the application based on the fact that the use would not be detrimental to the surrounding area. W. Johnson second. All in favor. Motion carried. Application approved.

SECOND ORDER OF BUSINESS: Ronald Beaton. Requests a conditional use permit to exceed height restrictions by six (6) inches on a storage shed for a total of nineteen (19) feet in height for the property described as: A strip 167 feet wide lying North of Lots 5 through 12 and Lot 4 Maughan Beach; Section 35, TWP 140, Range 40; Holmesville Township. PID Number 16.0261.000.

Beaton explained the application to the Board. The storage shed will be 30 ft by 60 feet. The structure will be used for storing of their motor home. The height of the vehicle is 12 ft 3 inches, which requires a 13 ft high door. With a 4/12-pitch roof, the total height of the structure would be 19 feet. The structure would be located on a back lot, across the road from the lake and is shielded by woods.

Johnston questioned if the height of the structure would be reduced if the structure was only 26 or 28 ft wide. Beaton explained that it would not be reduced enough and entrance would be too tight. Christianson questioned how close the nearest neighbor was to the proposed structure. Beaton stated that the nearest neighbor was approximately 500 feet away. Beaton further stated that the height could be reduced with a 3/12-pitch roof, but was not guaranteed for snow load.

Kovala questioned if the structure was going to be metal. Beaton stated that it would be metal. Miller questioned if the structure was one story in height. Beaton stated it would be one story.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held. Christianson stated that some structures similar to this have been approved in the past. P. Johnson stated that none have been approved within the past six months. Miller stated that most of the past requests were for over height and a second story. Miller further stated that this request was for inches and only one story. Skarie felt that this was a reasonable request, the structure is not close to anyone, and is quite different from other requests.

Motion: W. Johnson made a motion to approve a storage shed to exceed the height limitation of 18.5 feet by six inches for a total height of 19 feet based on the fact that the structure is not lakeside, but across the road from the lake; the structure is shielded by woods and the fact that the structure will only be one story in height, not a two story structure; and the height is to accommodate a 4/12 pitch roof for snow. Skarie second. All in favor except Brufloft, McGovern, and Johnston. Majority in favor. Motion carried. Application approved.

THIRD ORDER OF BUSINESS: Wesley Borah. Request approval of a certificate of survey within a shoreland district consisting of two parcels, 3.44 acres and 3.45 acres for the property described as: Pt of SE ¼ of SE ¼; Section 8, TWP 139, Range 43; Lake Park Township. PID Number 18.0058.000.

Kim Borah explained the application to the Board. They would like to divide their 6.9 acres into two tracts, which each lot would be less than 5 acres in the shoreland district. Their intent is to keep one tract and sell one tract to their son.

Christianson questioned if the property abutted County Highway 1. Borah stated that the property did not abut County Highway 1, but it did abut Sand Lake Road.

No one spoke in favor of the application. Speaking in opposition to the application was Dan Bradford, who was against mobile homes being put onto the property. Written correspondence against the application was received from Dan Bradford. At this time, testimony was closed.

Christianson asked Bradford if he was against any manufactured homes. Bradford stated he was against anything that did not have skirting or a foundation. Christianson stated that the Board cannot deny any application on speculation. Knutson stated that the Board is acting on the certificate of survey, not any obligation of what type structure is placed on the property.

Motion: Knutson made a motion approve the certificate of survey to allow two tracts of land, one being 3.44 acres in size and the other being 3.45 acres in size based on the fact that the certificate of survey meets the criteria of the Zoning Ordinance and Subdivision Ordinance. McGovern second. All in favor. Motion carried. Certificate of Survey approved.

FOURTH ORDER OF BUSINESS: Don Dronnen. Requests approval of a Certificate of Survey within a shoreland district for three parcels of land, 3.33 acres, 2.51 acres, and 2.51 acres, for the property described as: Pt SE ¼ NE ¼; Section 10, TWP 139, Range 40; Erie Township. PID Number 10.0108.003.

Dronnen explained the application to the Board. He would like to split his 8 acres into three parcels, with the intent that each of his children would get a parcel. This is close to the lake, without owning lakeshore. There are no intentions of building any houses in the near future. There may be a possibility of constructing a storage shed.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Christianson questioned if Dronnen owned additional land. Dronnen stated that he owned a lake home about ¾ mile away from this property, but no other land adjacent to this property.

Motion: Brufloft made a motion to approve the certificate of survey for three parcels of land, 3.33 acres, 2.51 acres and 2.51 acres, in the shoreland district based on the fact that

the certificate of survey does meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Johnston second. All in favor. Certificate of Survey approved.

FIFTH ORDER OF BUSINESS: Bruce Fujan and Bob Webb. Request a change of zone from agricultural to residential and approval of a certificate of survey for two tracts of land, 3.04 acres and 2.78 acres, for the property described as: Pt of Gov't Lot 2; Section 23, TWP 141, Range 36, Two Inlets Township. PID Number 34.0121.000.

Glen Howe, surveyor, explained the application to the Board. The lots are large lots, but because of the wetlands, the lots cannot meet the criteria of an agricultural lot. The change of zone is compatible with the adjacent residential subdivisions. The change of zone would be on these two lots and not the remainder of the property. A wetlands advisory statement has been placed on the survey to try to protect the wetlands.

No one spoke in favor of the application. No one spoke against the application. At this time, testimony was closed.

Further discussion was held.

Motion: Christianson made a motion to approve the change of zone from agricultural to residential and approve a certificate of survey for two tracts of land, one being 3.04 acres and the other being 2.78 acres in size, based on the fact that the request is compatible with the surrounding area and meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Miller second. All in favor. Motion carried. Change of Zone and Certificate of Survey approved.

SIXTH ORDER OF BUSINESS: Cormorant Inn and Suites, Kevin Karel. Requests to amend Conditional Use Permit #480714 to upgrade from a small establishment to a medium establishment for the property described as Pt SW ¼ of NW ¼; Section 36, TWP 138, Range 43, Cormorant Township. PID Number 06.0498.001.

Carl Malmstrom, attorney, explained the application to the Board. The request is to upgrade from a small establishment to a medium establishment. This change would increase the seating above 50 people; no other aspect of the existing conditional use permit will be changed. The property is zoned commercial and would allow any type of business. Only the motel requires a conditional use permit. The existing building would not be changed; the only change would be to utilize the existing seating area.

Brufloft questioned if there was a written business plan for the next 5 to 10 years. Karel stated that the business plan is to expand or grow the existing business. Kovala questioned if P. Johnson had requested a written plan. P. Johnson stated that she had. Karel stated that there is no written plan, just a verbal plan.

Moritz asked if the plan shows 88 seats and if the business would ever expand the seating. Karel stated that 88 seats are shown and the seating would never expand over that. Malmstrom reiterated that the seating would not be increased; just utilizing what

was there. W. Johnson requested if the septic system was large enough and if the Department of Health had approved everything. Karel stated that the septic was large enough and was being monitored by a water meter and that the Department of Health had approved everything. Johnston questioned if a steak house could operate under a small establishment. Malmstrom stated that it could under the definition of a medium establishment as long as the seating was fewer than 50 people. W. Johnson questioned if there was enough parking. Karel stated that the asphalt parking area could accommodate 50 cars and the other parking lot could accommodate 30 to 40 cars.

Johnston questioned who gave the approval of the deli. P. Johnson stated that the County Board of Commissioners overturned the Planning Commission's recommendations and added the deli. Malmstrom stated that commercial businesses are permitted in a commercial zone; the only thing that needed a conditional use was the motel.

Christianson stated that he was part of the original Planning Commission that approved the motel. At the time that the motel was approved, the acreage that was changed to commercial was just enough for the motel and nothing else. Christianson stated that it seems that this is being approached backwards.

Moritz stated that, at the original hearing, the plan was presented stating that this motel would not be a Holiday Inn, no pool, no theme park and no restaurant. No business plan was presented for the present or the future. Moritz stated that without a complete plan, he cannot support this.

Malmstrom stated that flexibility was needed to allow a business to grab opportunities as they arose.

Kovala stated that if the request would have come in as one complete plan, the situation would have been looked at differently. Karel was asked to furnish a business plan, which he has not done.

Brufloft stated that he could not see where the small establishment came in. The Planning Commission did not approve the small establishment. Brufloft stated that this Board approved the deli and never had the opportunity to review the small establishment. Discussion was held regarding the Department of Health's food definitions.

No one spoke in favor of the application. Speaking in opposition to the application was Pat Kenney, representing Brian and Patricia Maloney. Kenney stated that the conditional use permit was needed for the motel and that the other uses are ancillary uses. The intent of the statute is to control commercial planned unit developments. The Planning Commission denied the deli and then the County Board approved the deli, meeting room and laundry facilities for the motel. Kenney stated that the Chairman of the County Board changed the deli to a small establishment without a public hearing, stating that it was the intent of the County Board. Kenney stated that there are procedures that need to be followed, the changes made prior are not valid; someone has to stand up and follow

the Planning Commission guidelines. Kenney recommends denial of the application and that the Planning Commission demand the County Board to rescind their former actions.

Knutson questioned Kenney as to what he expects to accomplish by this. Kenney stated that he expects that the rules should be followed. Knutson questioned if that meant that the conditional use be rescinded and granted properly. Kenney stated no, that if the plan had been properly presented at the beginning, the outcome may have changed.

Barry Nelson spoke against the application. Nelson stated that the first request was for a motel and nothing else, then he keeps coming back to add things. The motel was constructed with all this in mind. Karel even applied for a liquor license before the motel was open.

Seaberg stated that a deli, Laundromat, and meeting room were approved; but Karel wanted to serve breakfast because no one else in the area served breakfast, that is where the small establishment came in. Seaberg further stated that now a steak house is wanted, which is wrong.

There was no written correspondence either for or against the application. At this time, testimony was closed.

Christianson questioned what options the Board had. P. Johnson stated that the Board could table the application as long as there was a list of information that is needed by the Board; the application could be denied with findings or approved with findings.

Knutson questioned what the Planning Commission had approved at the last hearing and what the County Board had approved. P. Johnson stated that the Planning Commission had denied the application and that the County Board had approved a deli, Laundromat and meeting room, and then it was expanded to a small establishment.

W. Johnson felt that the Board needed guidance from the County Attorney's office. Discussion was held on what information would be needed and felt a special meeting should be held to discuss this with the County Attorney and come up with the list of information needed. This information would be put into writing and sent to both attorneys and Karel.

Malmstrom stated that his client would be willing to table the issued if the information requested would be put into writing.

Motion: W. Johnson made a motion to table the application until the Planning Commission could meet with the County Attorney's Office to come up with a list of information that is needed to either clear up the confusion; explain in detail what is taking place on the premise and receive a five year business plan. Skarie second.

Voting in favor of the motion were: Christianson, Seaberg, W. Johnson, Skarie and Miller.

Voting in opposition of the motion were: Moritz, McGovern, Johnston, Brufloft and Knutson.

Chairman Kovala broke the tie by voting in favor of the motion. Majority in favor. Motion carried. Application tabled until further information is obtained. The information to be required will be determined at a special meeting.

SEVENTH ORDER OF BUSINESS: Aggregate Industries. Request a conditional use permit for sand and gravel mining for the property described as: SE ¼ in Section 31 and Pt SW ¼ NE ¼ of Section 32, TWP 138, Range 43; Cormorant Township. PID Number 06.0420.001.

Bob Bieraugel explained the application to the Board. This is an extension of the Rollag Pit and would like to expand the area of excavation. The processing would remain in the same location, just the excavation area expanded. The material would be brought across the road either by belt or by trucks, most likely by trucks. Kost Brothers owned the property. Nothing else in the operation would change. There is one discrepancy in the operations plan – the South area would be the first to be mined, from West to East. Then the North area would be mined, West to East.

Mike Rose stated that Aggregate would be crossing the road from one location to the other approximately 630 feet from the County's stop sign. This is ample distance for visibility and for their own traffic signs.

W. Johnson questioned if the topsoil would remain on site. Rose stated that it would and would be used for reclamation.

McGovern questioned the size of the buffer between the pit and the US F & W property. Aggregate stated that an EAW has been completed and both the USF&W and the DNR had the opportunity to respond and it appeared that they did not have any concerns with the proposed plan. There is a 50 ft setback from the silt fence to the wetland.

Discussion was held regarding the roads in the area and the routes that the trucks would be traveling.

Speaking in favor of the application were Tim Fox and Dale Ringsdorf. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held.

Motion: Seaberg made a motion to approve a conditional use permit to allow gravel and sand excavation as per plan submitted with the application based on the fact that this entire area is already gravel mining and the application complies with the Zoning Ordinance and is compatible with the area. Moritz second. All in favor. Motion carried. Application approved.

EIGHTH ORDER OF BUSINESS: Jeff Christlieb. Request a change of zone from commercial to residential for the property described as: W 54 ft of N ½ of Lot 4; & S 57 ft of N 209 ft of Lot 12; Section 29, TWP 140, Range 36; Osage Township. PID Number 21.0339.000.

Christlieb explained the application to the Board. He bought the property, fixed up the house and sold the property. During the selling process, the buyer's financing found that the property was zoned commercial. The bank will not loan money for a house in a commercial zone. After further checking, Christlieb found that a blanket rezone was done for the "Village of Osage". This property has never been used for commercial and has always had a residential house on it.

Christianson questioned if this request was just for one house, because there were more houses along this stretch of highway. Christlieb stated that the request is just for his house. P. Johnson stated that it was up to the individual owners to rezone their own property. Christianson stated that there was another instance like this where several owners changed the zone. P. Johnson stated that those owners went together for the public hearing; it was not a blanket hearing. Knutson stated that the Ordinance does not allow a house in a commercial zone. Brufloft questioned which house this application was for. Christlieb stated that it was the house closest to the Bait and Tackle. Seaberg questioned if the potential buyer is still interested. Christlieb stated that he was, in fact he is renting until this is resolved.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held. Johnston stated that this is another case of finding a wrongly zoned property during financing; there is no reason to deny the change when the property is obviously residential.

Motion: Johnston made a motion to approve the change of zone from commercial to residential based on the fact that the property has always been residential in use and is compatible with the mixture of residential and commercial uses in the area. Christianson second. All in favor. Motion carried. Change of Zone approved.

NINTH ORDER OF BUSINESS: Final Plat of Cotton Lake Estates, Gary Heitkamp Developer.

P. Johnson explained that the preliminary plat was approved for 6 lots and an access lot and a change of zone from agricultural to residential in June 2002. Everything is in order and the final plat has been presented for final approval.

Motion: Brufloft made a motion to approve the final plat of Cotton Lake Estates as presented based on the fact that the plat does meet the criteria of the Zoning Ordinance

and Subdivision Ordinance. McGovern second. All in favor. Motion carried. Final plat approved.

TENTH ORDER OF BUSINESS: Informational Meeting. The tentative date for the next informational meeting is scheduled for Thursday, July 10, 2004 at 8:30 a.m.

Since there was no further business to come before the Board, Brufloft made a motion to adjourn the meeting. McGovern second. All in favor. Motion carried. Meeting adjourned.

James Kovala, Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Johnson, Zoning Administrator