

**Becker County Planning Commission
Ordinance Revision Meeting
March 10, 2005**

Planning Commission Members present: Jeff Moritz, John McGovern, Harry Johnston, Ken Christianson, Jim Kovala, Waldo Johnson, Don Skarie, John Lien, Jim Brufloft, and Commissioner Larry Knutson,

Other Commissioners in attendance: Harry Salminen, Barry Nelson, Karen Mulari, and Bob Bristlin.

Zoning Ordinance Review Committee Members in attendance: John Postovit, Dave Barsness, Jerry Schutz, Jerome Flottesch, Ray Stordahl, Dick Hecock and Don Lefebvre,

Zoning Staff in attendance: Patricia Johnson, Administrator and Debi Moltzan, Supervisor of Inspectors.

Chairman Kovala called the meeting to order at 7:00 pm. Kovala explained that each revision to be addressed would be taken one at a time. The County Staff would explain each section addressing the change. Then, the members of the audience wishing to speak either in favor or in opposition to that section would have three minutes to respond to that issue.

P. Johnson and Jerome Flottesch, Zoning Ordinance Review Committee Chairman, explained the concerns presented to the committee and the solutions that arrived at by consensus of the committee. The consensus of ideas was then put into format of an ordinance. Flottesch named the committee members. Flottesch then named the concerns that were brought before the committee, which included:

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| *Lakeshore density vs. non lake shore density | *PUD ownership not defined in ordinance |
| *"Funnel" lots for nonshoreland owners | *Lake protection |
| *Natural Environment Lake density | *Resort conversions |
| *5 acre tract exempted from review | *Pre-planning developments |

Flottesch then explained the solutions, which were arrived at by consensus of the committee.

*Lakeshore density vs. non lakeshore density - use consistent lot area and width requirements for both types of developments

*PUD ownership not defined in ordinance - combine types of ownership into MURD and treat them the same (co-op, CIC, individual, condominium, etc.)

*Funnel lots for non-lakeshore residents – limit residential development with lake access to the shoreland district.

*Lake protection for higher density – Require 70% undisturbed or restored shoreline in project area; limit shore recreation area developed (if suitable) to 30% or 200 feet, whichever is most restrictive; and limit boat slips allowed to lots allowed in riparian tier.

*Natural environment lake density – allow density equal to lot/block subdivision density; restrict development to one tier only.

*Resort conversions – density should meet MURD density requirements; units/sites over density will be removed; nonconforming units/sites must comply within 10 years.

*5-acre tracts exempted from review - require all subdivisions within the shoreland district to be reviewed.

*Preplanning developments – organize an Administrative Technical Advisory Panel to meet with Developers prior to submitting a formal application.

Flottemesch stated that this does two things – the density would equal lot/block development and keep residential sites with lake access within the shoreland district.

Flottemesch further stated that credit is due to the group for arriving at consensus, which was not an easy task. Credit also needs to be given to the County Staff for their time and effort. Once revisions are adopted, the Ordinance will need to be recodified, but the County Staff and Assistant County Attorney feel that any changes that are adopted can be interjected into the present ordinance until the recodification is done. The Zoning Ordinance Review Committee will be meeting on March 16, 2005 to review the comments heard tonight and make any necessary changes.

P. Johnson presented Section 7. Under the current Ordinance, Section 7 addresses both shoreland and non-shoreland planned unit developments. It was consensus of the Committee that planned unit developments would now be referred to as multi-unit-developments (MUD) and that the shoreland requirements should be separate from non-shoreland requirements. Therefore, the current Section 7 would be renamed Non-shoreland Multi Unit Developments. The strike through material is the items that pertain to shoreland. At this time, no changes would be proposed the rest of the non-shoreland requirements.

Public Comments on Section 7 – Non-shoreland Multi-unit Developments: No one spoke in favor of the section. No one spoke against the section. P. Johnson stated that there was written correspondence received from Gretchen Thilmomy regarding all sections, but the comments were clerical or legal wording changes that did not change the content or intent of the proposal. Written correspondence was also received from Jay Carlson, representing the Cormorant lakes Watershed District and the Townships within the Watershed, but Mr. Carlson address these concern in person.

P. Johnson presented Section 7A – Shoreland Multi Unit Residential Developments. P. Johnson explained that this were the units are owned by individuals but the land owned in common. P. Johnson stated that the unlined words were additions, words that had strike through were deletions and the remaining words were already in the current ordinance.

Public Comments on Section 7A – Shoreland Multi Unit Residential Developments:

Jay Carlson, Cormorant Watershed District – Carlson wanted to thank the committee for their work. This promotes harmony in regulations. The Watershed supports the technical panel, supports density requirements, but would like clarification on what type of development of multiple structures could take place on one lot.

Dave Beulow, Jolly Fisherman Resort – wanted clarification if the applicability applies just to new construction or existing developments. P. Johnson explained that these regulations are for new construction and the conversion section is for the conversion of existing developments.

Beulow wanted to know why the ordinances couldn't be written for laymen to understand. The ordinances are forcing people to do things they don't want to do.

Jay Carlson, Cormorant Watershed – the Watershed would like to be part of the technical panel for projects within their watershed; the Watershed would like to have a signature line on all plats requiring their signature before final approval, which would help correct problems before they begin.

Joy Penny – felt that Subdivision 2 should be clarified or language added to differentiate between a mandatory EAW or a discretionary EAW.

Ann Gerlach – stated that she was an EAW citizen petition volunteer and that the State is in the process of changing EAW thresholds for shoreland developments.

Ray Valask – wanted to recognize the committee's work. Valask stated that some people do not utilize second and third tiers; consideration and modification should be given for bluff areas in the setback requirement of 1.5 times the required setback.

Dave Beulow – there is an assumption that there is overuse of the lakes; lakes are public property and no one can restrict people's access to the lake.

Chris Heyer – there needs to be clarification in Subdivision 6 erosion plans as to whether or not these plans need to be engineered and if the plans need to be engineered, who will review them.

Karen Montgomery – questioned how a MURD would be accessed if there were no access to a road. P. Johnson stated that the MURD would have to meet design standards for road.

Terry Kalil – had several questions: #1- if existing resorts that want to expand, how do they expand? P. Johnson stated that would be addressed under the commercial portion of the proposal; #2 Subdivision 2 A- there is a meeting and then it is referred to a discussion – make language the same; #3 Subdivision 3c- add conservation easements; #4 Subdivision 4 – unit site should be defined; #5 – open space, does that include the space between the buildings?, 80 ft setback is required in a MURD, but on a controlled access lot docks can be 10 ft from lot line, shouldn't the setbacks be consistent?; #6 Subdivision 7B – suitable area should be defined; #7 Subdivision 7F – does the setback include water oriented structures?; #8 Subdivision 11 conversion – does that mean that it must be implemented within 10 years and was is a substantial alteration? Does that need a definition?

Dan Berg, Lakecrest Resort – Subdivision 1B– does that mean that all leased campsites must follow these regulations? P. Johnson stated that they would have to follow these guidelines. Berg questioned if a resort had both leased and transient sites, which guidelines would they follow? P. Johnson explained that they the most restrictive applied.

Flottemesch explained that it did not matter how the site was owned, but how the site was used. Seasonal sites used for stays less than 28 days were considered transient.

Roger Olson – questioned what happened when the Ordinary high water mark was out into the water, where do you measure? P. Johnson stated that measurements are taken from the established ordinary high water mark of the lake. In cases that an ordinary high water mark is not established, then you go by the highest known water elevation.

Sheila Blanford, Tamarac Resort – existing resorts trying to expand would not be allowed to expand under the proposed ordinance. The proposed ordinance is telling the public they have nowhere to go, it is not friendly for the resorts.

At this time, public testimony was closed for Section 7A.

P. Johnson explained Section 7B, Controlled Access Lots. A good portion of this section was already in the present ordinance. A portion was better defined and the environmental review section was added.

Public Comments on Section 7B:

Dave Beulow, Jolly Fisherman Resort – Under the Purpose, it should define what property this addresses.

Jay Carlson, Cormorant Watershed – The Watershed supports controlled access lots, most lakes have public accesses; but this controls public use of a private access.

Terry Kalil – there should be a definition of suitable in subsection A, such as if suitable as established by the DNR; docks should be further from lot line.

Dave Beulow – resorts have lake accesses, are they regulated by this provision? P. Johnson stated that they are not regulated by this provision.

Chris Heyer – questioned subsection B for clarification as to whether or not an existing residential lot even if the right size could be used for a controlled access lot. P. Johnson stated that if there is an existing residential lot, it could not be converted to a controlled access lot. Heyer then stated that if you had a 100 ft access lot requested the same provisions of a MURD as far as the 80 ft setback would not be feasible because the 80 ft setbacks would overlap.

Byron Ritsche – covenants are controlled by the people, not the County. What assurance is there that the covenants can't be changed and more people use the controlled access lot. P. Johnson stated that once the plat is approved, the plat would state who has the right to use the controlled access lot and that can be enforced by the County.

At this time, public testimony was closed on Section 7B.

P. Johnson explained Section 7C. P. Johnson explained that the resorts that stay the same will not be affected by this, it would only apply to them if they want to expand and do not have an existing conditional use permit. P. Johnson stated that she understands that resorts are concerned about resort conversions, which was also a concern of the County and this committee. P.

Johnson emphasized again that existing resorts operating under a conditional use permit would not be affected by these changes.

Public comments on Section 7C:

Dave Beulow – questioned if an existing cabin burnt down, if it could be rebuilt. P. Johnson stated that the file would have to be reviewed. If there was a CUP, the CUP would apply, if there were no CUP, these regulations would apply.

Kim Scheele, Whaley's Resort – questioned if a resort has been in operation since the 40's and don't have a CUP, then if changes are to be made, then the resort would have to follow the new regulations? P. Johnson stated that if there is no CUP, then whatever regulations are in effect must be followed.

Flottemesch stated that resorts do have the option of going to the Board of Adjustments if they feel there is a hardship that would justify deviating from the requirements of the Ordinance.

Dan Berg, Lakecrest Resort – would like to thank committee for their work but is disappointed that there was not a representative from the resort industry on the committee. Resorts are an economic base for the County. Work should be done to make resorts more valuable as a resort than a lot/block subdivision. The County needs a resort friendly ordinance. Action on 7C should be delayed for 45 days to see what legislative action is taken by the State. If density is decreased, this decreases the value of a resort, which could be a taking and then the County should have to pay the difference. Section 7C needs to be rewritten.

Jay Carlson, Cormorant Watershed District – watershed would like to be involved in the review process and encourages setbacks from wetlands.

Maggie Ritchie, Madsen Grove Resort – recommend that the members of the Planning Commission and Review Committee attend the resort association meetings, which are to be held in Detroit Lakes on March 29th and March 30th.

Jennifer Bateman, Two Inlets Resort – Felt that the Planning Commission should attend the resort association meetings and felt that resorts should not be put into the same classification as a residential development. Bateman felt that Becker County is trying to keep tourism out of the County. Bateman also felt that the stance that the Committee took on resort conversions shows that there is support for resorts. Becker County should try to save the resorts and be more lenient on resorts.

Roger Olson – tonight we have heard from property owners and resort owners; we are here to be concerned for resorts and developers, but we have not heard from the lakes. The lakes need to be protected.

Shelia Blanford, Tamarac Resort – concerned about the 28-day time limit, how could a campsite be permanent? P. Johnson stated that this was intended for the RVs that are parked and never moved, they have the right to be there but the use is not transient.

Flottemesch explained the lengthy discussion that took place with the Review Committee on how to decide what is the difference was if a campsite was rented a week or if the campsite was rented for the whole season; would there be a different effect on the lake.

Sheila Blanford stated that the people that are there for more than 28 days are more consensious about the lake than the transient.

Dan Berg – questioned the 28-day stay limitation.

Dave Beulow – he was not clear on whether or not he could rebuild if one of his cabins was destroyed. P. Johnson stated that if there was an existing conditional use permit, the CUP would override this section and he could comply with the CUP. If no CUP existed, then he would have to come into compliance with this section.

Beth Schupp, Fair Hills Resort questioned if there were going to be more meetings, and what the next course of action would be.

Kovala stated that all the comments have been documented. These comments, along with the recommendation of the Planning Commission, would be reviewed at the March 16th Zoning Ordinance Review Committee Meeting. At this meeting, the Review Committee would take the appropriate action and either rework the section entirely or make the appropriate changes and forward the sections to the County Board of Commissioners for final action. At this point, Kovala stated, personally speaking, that it appears that Section 7, 7A and 7B need only minor modifications and then can go to the County Board for final action and that 7C will need to go back to the Committee to be reworked. A vote will be taken on each section at the end of the meeting. P. Johnson stated that the County Board meeting is also a public hearing, in which the public can attend.

Knutson questioned that if a section was sent back to the committee to be redone, would that section then have to go back to the Planning Commission for another public hearing. P. Johnson stated that if the Planning Commission approved a section with modifications, the modifications can be made by the Committee and then sent to the County Board for final action; but if the section needed to be totally redone, the Committee would rework it and then submit it back to the Planning Commission at another public hearing for action.

Kim Scheele, Whaley's Resort, stated that they bought the resort this last October. Scheele stated that there is an assumption that CUPs exist on existing resorts, but some resorts do not have them. Scheele is currently paying a fortune for replacement insurance and if a cabin were destroyed they would not be able to replace it.

Jennifer Bateman, Two Inlets Resort – some counties are looking into the idea of not having a CUP for resort operation. The Committee should check with other counties as to what they are doing with resorts.

Dan Berg suggested that CUPs should be established for all existing resorts. P. Johnson stated the resorts could apply for a CUP and if they meet the current density regulations, etc., a CUP could be issued. P. Johnson further stated that most of the resorts are over density and would have to comply with the current densities.

Sheila Blanford stated that Section 7C should be reworded to save the resorts.

Terry Kalil stated that a lot of homework has been done on these issues; the 6 month deadline is hear and recommendation to approve the sections not controversial should be approved and get the resorts involved with reworking Section 7C so the whole thing does not get scrapped.

At this time, public comment for Section 7C were closed.

P. Johnson explained the Subdivision Ordinance, 5-acre exemption. P. Johnson explained that there is a loophole in the Ordinance that allows developers to “skirt” around platting or approval procedures by creating tracts of land greater than 5 acres in size. This change could require that all subdivisions requiring a survey and located within the shoreland district to go through the Planning Commission and County Board for approval.

Public Comments on Subdivision Ordinance, Section 1, Subdivision 4:

Terry Kalil questioned if the County Board would inspect each site. Kovala stated that the Planning Commission inspects each site. P. Johnson stated that it is part of the Planning Commission’s job to visit each property before approval.

Scott Walz, Meadowland Surveying – understands the intent behind this, but is concerned as to what this will do to the agenda. Walz stated that their office does over 40 surveys that would have been affected by this change. Walz suggested setting guidelines as to which ones should go through the process and which ones don’t have to go through the process. P. Johnson stated that not all subdivisions would have to go through this process; just the surveys with bearings and distances – those surveys using NW ¼ of NW ¼ or North 150 feet of the South 400 feet will not require going through this process.

At this time, public comments on the Subdivision Ordinance, Section 1, Subdivision 4 were closed.

P. Johnson explained Section 6, Subdivision 1. Currently group care facilities are permitted with no review process. This proposal would allow group care facilities by conditional use permits, which would regulate where they will be located, how they will be operated, and how many residents/borders they will be allowed.

Christianson questioned if this is an issue now. P. Johnson stated that it is not an issue in our County at the present time, but other counties are having issues with these facilities and the County Board felt there was enough of a concern that it needed to be addressed. P. Johnson further stated that this issue is not part of the moratorium, but was initiated by the County Board.

Public comments on Section 6, Subdivision 1:

No one spoke in favor of the proposal. No one spoke against the proposal. At this time, public comments on Section 6, Subdivision 1 were closed.

P. Johnson directed the Planning Commission to take each Section (7, 7A, 7B, 7C, Subdivision Ordinance Section 1, and Section 6) one at a time for discussion and a vote. P. Johnson explained that if the Board agreed with the concept and intent, and only technical changes and verbiage needed to be “tweaked”, the Board should approve accordingly so that the Review Committee could make the changes and forward to the County Board for final action. If the Board felt the section needed to go back to the committee for a “major overhaul”, then give the Review Committee direction as to what to do.

ITEM 1, Section 7, Non-shoreland Multi-unit Developments.

Discussion was held on Section 7, Non-shoreland multi-unit developments.

Motion: Johnston made a motion to recommend approval of the non-shoreland multi-unit development section as presented with the recommendation that any suggestions from the County Attorney’s Office be made. Christianson second. All in favor. Motion carried. Section 7, Non-shoreland Multi-unit developments, will be sent to the County Board of Commissioners for final approval with any technical changes suggested by the County Attorney.

ITEM 2, Section 7A, Shoreland Multi-unit Residential Developments.

Discussion was held on Section 7A. P. Johnson stated that most comments heard were for clarification. Depending on the outcome of Section 7C, Section 7A may have to be amended to reflect changes in Section 7C.

Brufloft referred to Carlson’s, Kalil’s comments and suggested a list of definitions. Brufloft also questioned if the spaces between buildings counted as open space. P. Johnson stated that it did not because anything located within the allowed 10,000 sq ft site was automatically taken out for impervious calculations. P. Johnson further stated that in the erosion plan, the word “Engineered” was taken out and an engineered plan would only be necessary if ordered by another agency.

Christianson questioned if the watersheds would be included in the technical panel. P. Johnson stated that the appropriate watershed would be included in the technical panel. P. Johnson stated that the members of the technical panel have not been chosen yet.

Christianson felt there should have been an informational meeting for input before the Committee began working on these issues. Brufloft felt that a resort owner should be involved in rewriting Section 7C and questioned what will happen with the moratorium issues. P. Johnson stated that if the Planning Commission recommends approval, the sections will be sent to the County Board for final approval and if nothing is resolved, the County Board has the right to extend the moratorium or allow it to expire.

Knutson stated that a lot of testimony was heard tonight that would indicate that Section 7C needs to be revisited.

Further discussion was held. Bruflodt felt that if Section 7A was clarified the concept was ok and that Section 7B was ok, Section 7C needed to be revisited.

Motion: W. Johnson made a motion to approve Section 7A with minor modifications by the Review Committee, as suggested by public comment, and with the following suggestions: remove item B from Subdivision 1, Subdivision 7D-define suitable and add a resort representative to the Review Committee. Bruflodt second. All in favor. Motion carried. The Review Committee will make the minor modifications and remove Item B from Subdivision 1 then forward to the County Board for final approval.

ITEM 3, Section 7B Controlled Access Lots.

Discussion was held on Section 7B. Consensus of the group was that minor “tweaking” could be done to the section for clarity.

Motion: McGovern made a motion to approve Section 7B with minor modifications by the Review Committee. Skarie second. All in favor. Motion carried. The Review Committee will make the minor modifications and then forward to the County Board for final approval.

ITEM 4, Subdivision Ordinance, Section 1 Subdivision 4, 5-acre exemption.

Discussion was held regarding this Section.

Motion: Moritz made a motion to approve Subdivision Ordinance, Section 1, Subdivision 4 as presented. McGovern second. All in favor. Motion carried. This section will be forwarded to the County Board for final approval.

ITEM 5, Section 6, Subdivision 1, Group Care Facilities.

Discussion was held regarding this Section.

Motion: Knutson made a motion to approve Section 6, Subdivision 1, requiring group care facilities to be allowed with a conditional use permit rather than a permitted use, as presented. Christianson second. All in favor. Motion carried. This section will be forwarded to the County Board for final approval.

Questions arose from the audience as to whether or not the Review Committee Meetings were open to the public. Flottesch stated that the meetings are open to the public, but the meetings are working meetings, not a public hearing. Flottesch stated that the public can observe but not participate.

Since there was no further business to come before the Board, Chairman Kovala adjourned the meeting.

Jim Kovala, Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Johnson, Administrator