

Becker County Planning Commission
March 15, 2005

Present: Members Waldo Johnson, Harry Johnston, Ray Thorkildson, Ken Christianson, Jim Kovala, Jeff Moritz, John McGovern, John Lien, Jim Bruflo; Commissioner Larry Knutson; Zoning Administrator Patricia Johnson; and Zoning Staff Debi Moltzan

Chairman Kovala called the meeting to order at 7:00 pm. Kovala explained the protocol for the meeting and stated that the Planning Commission is a recommending board. The recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, March 22, 2005.

Minute approval:

P. Johnson stated that a Citizen Petitioner Representative submitted a list of errors to the Planning Commission for consideration in amending the minutes for September 2004, November 2004 and December 2004. Copies of the suggestions were given to each Board Member for consideration. It is the duty of the Planning Commission Secretary to make the corrections. Moritz stated that he did not have a problem making amendments or corrections to unapproved minutes. Moritz stated that he did not think it was appropriate to amend previously approved minutes. Moritz stated that the suggested changes are minimal and would not affect the outcome. The minutes are a summary of what was said. If the Board wanted each word documented, there would be a stenographer and the minutes would be a mile long. Moritz stated that the Board has a capable recording secretary that does a good job on the minutes.

Christianson questioned the reason for changing the minutes from public input and how do we know that those suggestions are any more accurate than what we have. P. Johnson explained how the suggestions were offered by the Citizen Petitioner's and that the changes needed to be acted on, whether the suggestions are denied or if the suggestions are approved and put into the minutes.

Knutson questioned Moritz if the suggestions should be put into the minutes. Moritz restated that any correction should be made before the minutes are approved unless it is an obvious mistake, but not for minimal things. Moritz stated that if allowing past minutes to be amended, then anyone with a special interest in an application started a precedent could amend the minutes.

Christianson asked Gerlach if she wrote everything down. Gerlach stated that she took notes at the meetings and elaborated as to why she took notes.

P. Johnson stated that the Board was presented the suggestions to review. If the Board does not agree with the suggestions then act accordingly. Bruflo felt that if the suggestions don't seriously change what is already documented, then the minutes should stand as approved.

Motion: Knutson made a motion to deny the suggestions and allow the September 21, 2004 and November 16, 2004 minutes to stand as previously approved. Brufloft second. All in favor. Both minutes stand as previously approved.

December 21, 2004 and February 15, 2005 minutes. Christianson stated that there are many individual questions that are not documented. Christianson felt that if the suggested changes came from another legal record, then the corrections should be seriously looked at, but if the suggestions came from someone else's interpretation, their interpretation may not be any more correct. Moritz felt that the omission of written correspondence received should be added but personal statements should be acted upon by the individual person. Kovala stated that he did make the comment about Larsen's comment sounding like a threat. Moritz stated that he could have responded to that comment but does not totally recall what. Christianson stated that he may have said something along the lines of Gerlach's suggestion but does not think he said it as suggested.

Gerlach stated that part of the minutes documenting has been corrected by the secretary changing locations to see and hear the soft spoken members of the Board. Gerlach stated she wanted to be part of the solution and not part of the problem. Gerlach stated that she respects the decisions of the Planning Commission.

Motion: Johnston made a motion to approve the December 21, 2004 minutes with the deletion of Christianson's statement "Why would you suggest something like this unless it was to spite someone?" and to approve the minutes from the February 15, 2005 meeting. All in favor except Brufloft and Christianson. Motion carried.

FIRST ORDER OF BUSINESS: Gary Larsen

P. Johnson explained that the Planning Commission approved the preliminary plat in December 2004 and read the motion as to what was approved. The preliminary plat then forwarded to the County Board of Commissioners for final approval. At the County Board Meeting, Larsen asked that the plat be sent back to the Planning Commission for reconsideration. P. Johnson stated that there is no new information in the file. If new information is presented, then new testimony can be taken.

Kovala asked Larsen if there was any new testimony to be presented. Charles Ramstad, Attorney for Larsen, disagreed that new information had to be presented. Ramstad stated that there are new letters in the file. Ramstad stated that the past meetings have been consensus meetings and Larsen may have been misunderstood. Ramstad requested that the Planning Commission amend the motion and would like to have the opportunity to speak as to why the motion should be amended.

Kovala stated that the Board has viewed the property four times. The lake is environmentally sensitive and the setbacks should be moved back. Kovala stated that Larsen may not agree with this, but the best location to build on these lots is on top of the steep slope and asked the rest of the Board what they thought.

Knutson stated that he was not on the Board at that time. W. Johnson felt the structures should be placed on the of the slope at least at 1440 contour line for better lake protection.

Ramstad sated that he was not part of the project from the start and does realize that a lot of thought has gone into the process. Ramstad stated that this lake will not have a lot of recreational use and will be marketed for the view of the lake. The topography is a steep slope, not a bluff and erosion can be controlled during the construction phase. The Zoning Ordinance, not the Subdivision Ordinance, determines setbacks. Ramstad agreed that special considerations should be given to Lots 1, 2 and 3, but an increased setback should not apply to the remainder of the lots. Placing setbacks on plats is setting a bad precedent. Setbacks and appropriate locations are determined at the time site permits are issued. If setbacks are placed on each plat, soon each plat will have their own setbacks and won't follow the Zoning Ordinance. Ramstad stated that the neighbor is upset and wants to be accommodated. But in the big picture, what is different about this plat than other plats with steep slopes – this plat complies with the requirements of the Subdivision Ordinance.

Discussion was held. Christianson stated that the slopes are between 15% and 20% and not suitable for development. Johnston stated that his decision was based on the facts, not the neighbor. Johnston stated that Fox Hill has a 15% grade; these lots are 17% to 21%. P. Johnson stated that the Board is not here to argue or defend the previous motion. P. Johnson further stated that the door has been opened and now testimony must be taken.

Speaking in favor of the application:

Jonathon Anderson, Meadow Land Surveying wanted to clarify some misinformation. Anderson stated that some slopes approach 20%, but do flatten out to 12 – 14%. At this time, it was the consensus of the group that the discussion was repeating previously presented material.

Speaking in opposition to the application:

Jim Ulmer. Larsen's lawyer was out of order, talking when he should not have. There are trees everywhere and if one builds on top of the slope, one would be able to see the lake. There is a flat area, which is a delta from run off, the slope is sugar sand and the lake is sensitive. One new thought– he understands the position of the committee, decisions made are for the good of all not for a few. It is important to make good decisions. When a person decides to develop property, it becomes the responsibility of the community to make sure it is done correctly.

Ann Gerlach, Citizen Petition Representative. She represents 27 petitioners. One of the petitioners, Julie Barker, now deceased, leaves a legacy on the shore. The property owned is left to her minor children; she has fought to save the lake and wetlands. The plat should be denied based on the suitability. Gerlach had four pages of questions and

concerns from her petitioners. Gerlach stated that there are only two opportunities to address the projects, the Planning Commission Meeting and the County Board Meeting. Gerlach stated that the Ordinance has integrity and transparency; restore integrity to the neighborhood and move forward with legitimate players at the table to plan for alternatives. The Board has the right to impose restrictions. Gerlach felt as if they have been left out of the process.

Johnston questioned how many people live on the lake. Gerlach stated that there were three families. W. Johnson questioned if the 27 names on the Citizen's Petition were neighbors. Gerlach stated the petitioners either lived in Becker County or vacationed in Becker County. W. Johnson questioned which ones would be the most affected. Gerlach stated everyone in the Otter Tail River Watershed District.

Knutson questioned how many public hearings have been held on this application. P. Johnson stated that it has come before the Planning Commission five times and she was not sure how many times it was before the County Board. Knutson stated that he took offense on Gerlach's statement on the integrity of this system. Knutson stated that there have been plenty of opportunities to be involved. Gerlach stated that the Board should not allow irreversible damage for the benefit of one person.

Written correspondence was received from Dave Barsness, DNR; Gerlach dated March 14, 2005, which contained the testimony she stated this evening; March 7, 2005 and February 4, 2005; and a letter from Jim Ulmer dated February 2, 2005. The Planning Commission had received copies of these letters prior to tonight's hearing.

At this time, testimony was closed.

Kovala asked P. Johnson to re-read the motion that was approved at the December 21, 2004 meeting.

Motion: Thorkildson made a motion to leave the December 21, 2004 motion stand as previously approved. W. Johnson second. Brufloft agreed, McGovern agreed, Moritz agreed, Johnston agreed, Christianson agreed, Lien agreed, Knutson stated he does believe in the integrity of the process and the motion should stand. All in favor. Motion carried. Motion stands as approved on December 21, 2004.

SECOND ORDER OF BUSINESS: Bruce Qvammen. Request a change of zone from agricultural to high density residential and approval of a planned unit development consisting of 17 units for the property described as: Pt Govt Lots 3 & 4; Section 23, TWP 139, Range 39, Height of Land Township, Little Toad Lake. PID Number 15.0219.000

Kovala stated that the Board has not had the opportunity to view the property because of the snow on conditions. At the information meeting, it was the consensus of the Board that maybe the application should be tabled until the weather would allow an accurate site visit. Qvammen questioned if the EAW process did not address those concerns. Kovala

stated that the EAW process was complete, but the members of the Planning Commission were not able to view the property. Kovala asked Qvammen to table the application until the site could be viewed by the Planning Commission. At this time, Qvammen agreed to table the application.

Bill Purdy questioned when the application would be placed back on the agenda. Kovala stated it would be placed back on the agenda after the snow was gone, the Planning Commission could view the property, and Qvammen requested the application to be placed on the agenda.

THIRD ORDER OF BUSINESS: John Frank. Request a change of zone from agricultural to residential and approval of a certificate of survey to allow three tracts of land, each parcel being over one acre in size for the property described as: Govt Lots 2 & 3, NW ¼ NW ¼; Section 8, TWP 142, Range 37; Forest Township. Bad Medicine Lake. PID Number 12.0049.000 and 12.0065.000.

Frank explained the application to the Board. The certificate of survey would be for three lots. He would like to market Tracts A & B together and leave the house as is. He did not want to remove the portion of the house until the certificate was approved.

Christianson questioned why the lot line was not adjusted to leave that portion of the house. Jonathon Anderson, Meadow Land Surveying, explained the lot width requirement at the building setback line and the amount of frontage would not allow this.

McGovern questioned the location of the septic system and if it was conforming. P. Johnson stated that the septic system was conforming. Christianson questioned that if it was the intent to sell Tracts A & B together, then why not just create two lots instead of three? Frank stated he wanted the option of three lots. Frank stated he would tear off the portion of the house if he sold the lots separately. P. Johnson explained that the removal of the portion of the house was a condition and was only accepted by the Department because of that statement. Knutson stated that the certificate cannot be approved without a guarantee that the portion of the house be removed; the Board cannot approve the house to be over the lot line. Further discussion was held regarding the setbacks, lot line adjustment, possibility of tabling the application and the topography of the lots.

No one spoke in favor of the application. Ginny Imholte stated she was neither in favor of the application nor against the application, she questioned if one of the lots could be used as a controlled access lot for the remainder of the property. P. Johnson stated that the answer to that question depended upon the regulations at the time that is proposed, at the current time there is no proposal for that and if it were proposed, it would have to come back before the Planning Commission.

Speaking in opposition of the application: Steve Keogh – he felt that the Tract A was an environment detriment to the bluff and lake, there is no beach and has steep access to the road, there is much potential for erosion.

Christianson questioned why contours were not included on the certificate of survey. P. Johnson explained that contours are not required for a certificate of survey. Christianson stated that the Planning Commission has requested them in the past.

Knutson questioned how this lot would differ from the Keogh lot. Keogh stated that his lot has a beach because of the bay but access to the lake is by steps.

Ray Vlasak, Forest Twp Supervisor, stated that the TWP reviewed the application and neither spoke in favor nor against. Vlasak stated that he is speaking up because of an inaccuracy with the setbacks- setbacks were from present water level not the OHW.

Kovala questioned if the Board had been able to view the property with the snow. Johnston stated that some of the members had viewed the property and it was visible.

Written correspondence was received from Don and Carolyn Tschudi. At this time, testimony was closed.

Further discussion was held. Knutson stated that the setbacks would change if the OHW was used, but the other measurements are more restrictive. P. Johnson stated that if there are too many inaccuracies, the certificate should be denied. Frank stated that he would go along with what ever the Board recommended. Jonathon Anderson, surveyor, stated that the setback from the higher reading was more restrictive, not an inaccuracy.

Further discussion was held on contours, setbacks, house location, and if the entire tract should be rezoned. Christianson questioned how the Township could not take a position on the application. Vlasak stated that the application did not violate any provisions of the Ordinance, which could prevent approval.

Motion: Knutson made a motion to approve a change of zone from agricultural to residential for Tract A, Tract B and the riparian portion of Tract C, east of the present driveway (54,400 +/- sq ft between the lake and driveway) and leave the portion of Tract C west of the driveway as agricultural and approve the certificate of survey for three lots with the stipulation that the portion of the house extending over the new lot line be removed within 30 days from the date of final approval. Johnson second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS. Jim Kaiser. Request a change of zone from agricultural to commercial for the property described as; Pt SW ¼ NW ¼; Section 26, TWP 138, Range 43; Cormorant Township. PID Number 06.0372.000.

Kaiser explained the application to the Board. In 1999, Kaiser wanted to rezone this property to commercial, but because of controversy in the surrounding area, it was suggested that he apply for a conditional use permit to operate his real estate business. A conditional use permit was approved for his real estate business, his personal business signs, personal storage building, rental office and retailing of farm and garden produce. This is a three-acre parcel was located across the road from four previously zoned

commercial properties. Since his conditional use permit, two properties to the west of the Road House have been rezoned to commercial. Currently, he is being taxed as commercial and he feels that if he is to be taxed commercially, the property should be zoned commercially. Kaiser felt that there should be another tax classification for those properties zoned agricultural with a conditional use that would not have as high of a tax base as a commercial zone.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Brad Wentz, Becker County Highway Department. At this time testimony was closed.

Further discussion was held. Christianson stated that conditional use permits are a way to control the use because once the zone is changed there is less control. Moritz questioned if Kaiser owned property on the west side of the road. Kaiser stated that he had sold that portion some time ago.

Motion: Christianson made a motion to approve the change of zone from agricultural to commercial based on the fact that it is compatible with the surrounding area. Bruflodt second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Franz Plattner. Request approval of a change of zone from agricultural to residential and approval of a certificate of survey for two tract of land for the property described as: Pt Govt Lot 1; Section 30, TWP 141, Range 38; Round Lake Township; Ice Cracking Lake. PID Number 25.0100.001.

Leann Levesque, Plattner's representative, explained the application to the Board. The two parcels would be accessed from an easement off Kramer Street. Johnston questioned what guarantee there would be that a new access would be constructed to the properties using the correct easements instead of using the existing trail that accesses the property.

Further discussion was held regarding the location and easements. P. Johnson stated that this property does not have legal access across DNR property or County property and the Township is questioning if the property has legal access to the Township Road. P. Johnson stated the property owners to the south of this property are working with the DNR for an easement to come across the DNR land but nothing has been resolved as of yet.

At this time, Levesque asked to table the application to clarify the road issue and get a new survey if needed.

SIXTH ORDER OF BUSINESS: Final Plat of Pickerel Bay First Addition, Lee Carlson Developer.

The preliminary plat was presented to the Planning Commission November 2004. At this time, the change of zone from agriculture to residential was approved and preliminary

approval was given for five nonriparian lots. The property is located in Section 15 of Erie Township. Everything is in order for final approval of the plat.

Motion: Knutson made a motion to approve the final plat of Pickerel Bay First Addition based on the fact that the plat meets the requirements of the Zoning Ordinance and Subdivision Ordinance. Brufloft second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Final Plat of Saylor's Beach, Ernest Saylor Developer.

The preliminary plat was presented to the Planning Commission July 2004. At this time, the change of zone from agriculture to residential was approved and preliminary approval was given for a maximum of 19 lots, with each lot having a minimum of 80,000 sq ft of lot area. The property is located in Section 27, Lake Park Township and is on Stakke Lake. Everything is in order for final approval of the plat.

Motion: Lien made a motion to approve the final plat of Saylor's Beach based on the fact that the plat meets the requirements of the Zoning Ordinance and Subdivision Ordinance. W. Johnson second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, April 14, 2005 at 8:30 am at the Planning & Zoning Office.

Election of Officers will be held at the April Meeting.

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, Administrator