

Becker County Planning Commission
May 17, 2005

Present: Members Waldo Johnson, Harry Johnston, John Lien, Ray Thorkildson, Jim Bruflodt, Jim Kovala, Ken Christianson, Don Skarie, Commissioner Larry Knutson, Zoning Administrator Patricia Johnson and Zoning Staff Debi Moltzan.

Vice Chairman Bruflodt called the meeting to order at 7:00 p.m. Debi Moltzan took the minutes.

Kovala made a motion to approve the minutes from the April 2005 meeting. W. Johnson second. All in favor. Motion carried

Bruflodt explained that the Planning Commission is a recommending Board and the recommendations of the Planning Commission are forwarded to the County Board of Commissioners for final action on Tuesday, May 24, 2005. Bruflodt then explained the procedure that would be followed for the meeting. Bruflodt stated that testimony would be limited to three minutes per person.

FIRST ORDER OF BUSINESS: Q-5 Investments. PID Number 15.0219.000.

P. Johnson explained that this application was tabled by the applicant at the March 2005 meeting. This is an application for a change of zone from agricultural to high density residential and a planned unit development for 17 units. P. Johnson further explained that an EAW was completed on the project and a negative declaration was given. P. Johnson stated that the EAW Committee did forward mitigation considerations to the Planning Commission, which were: eliminating the day dock, limiting shoreline recreation area with DNR rules and permits governing vegetation removal; and conservation easements granted on existing shoreline sensitive areas including the stream corridor and wetlands.

Chris Heyer, surveyor, explained the application to the Board. This project began prior to the change in residential planned unit development standards. Heyer stated that this plan does follow the County Comprehensive Plan for Policy District I, which encourages large lot sizes and cluster developments.. The dock would allow for docking of four boats, there would be no day dock and the boat channel would be marked with buoys. The area with aquatic vegetation would be marked for non-development, all of which do address the concerns of the EAW Committee.

Brant Beeson, Attorney, stated that this project is much smaller than a project recently approved on Big Cormorant Lake. The wetlands would be protected with a conservation easement.

Heyer stated that the second tier of development has been moved back to be 400 feet from the lakeshore. Heyer commented on the aerial photos that were previously submitted to the Planning Commission. Heyer stated that these photos were taken from a side view, which distorts distance.

Bruce Qvammen, developer, stated that this is a beautiful piece of property and conservation easements will be put into place to protect the aquatic vegetation and wetlands.

Knutson questioned the pictures submitted. Heyer stated that the pictures are distorted due to the angle taken; it is hard to put three-dimensional views on two-dimensional paper.

No one spoke in favor of the application. Speaking in opposition to the application were: Bea Purdy, speaking for the lake association; Jim Navara, treasurer for the lake association; John Evans, seasonal resident of a campground; Jeff Andvick, chairman of the lake association.

Written correspondence was received from: John & Doris Evans, in opposition; Brian Sivertson, in opposition; Kevin Erickson, in opposition. At this time, testimony was closed.

Further discussion was held. Kovala questioned if there was a public access on the lake and if the back units would have access to the lake. Qvammen stated that the back units would be able to use the lake for swimming, etc, but could not unload, moor or dock boats. Knutson questioned if there was the potential for 17 boats. Qvammen stated that there would not be more than 4 boat slips, but the rest could use the lake for swimming, etc. Kovala questioned how this would be controlled. Beeson and Qvammen stated that this would be controlled by association charters and covenants; there is more control in this type of a situation than individual lot ownership.

Christianson asked if the covenants could be modified. Beeson stated that there is always that possibility, but strict provisions could be placed on the procedure. Christianson felt that everyone was misled at the time of the first plat, when the developer stated that there were no plans for more development. Beeson stated that there were no plans at that time for further development, but there is a demand for these types of projects, and at the time of the first application, the remainder of the property was in a conservation program. Beeson stated that the motion and decision of the first plat did not restrain this piece from development.

W. Johnson, Knutson, Kovala and Lien felt that there were too many units in the project. Kovala questioned if it would be possible to give only four lots riparian rights. Qvammen stated that would not be feasible. P. Johnson stated that concept would defeat the purpose of a planned unit development. Johnston questioned if the entire project would have been looked at differently had the Planning Commission known about this proposal from the beginning.

Motion: Knutson made a motion to deny the change of zone and planned unit development based on land suitability. Kovala second. All in favor except Johnston and Skarie. Majority in favor. Motion carried.

SECOND ORDER OF BUSINESS: Tea Cracker LLC. Request a change of zone from agricultural to residential and approval of a preliminary plat consisting of 19 lots. PID Number 25.0099.000 & 25.0100.000.

P. Johnson explained that this application was postponed from the April 2005 meeting to allow more members of the Planning Commission to view the property.

Kovala questioned which lot the existing house and garage are located on. Walz stated that the existing structures are on what is known as Lot 4, with Lots 1-3 being to the north and the rest of the lots being to the south. Walz stated that the non-riparian lots would not have lake access. Kovala stated that the bluffs are not as serious as first believed. Kovala questioned the road access. Richard Burns, developer, stated that the road access is being worked on with the Township and DNR. Walz stated that the Township has passed a resolution for the road.

Knutson questioned if the topographic divide issue has been approved. P. Johnson stated that the DNR will not act on that issue until there has been County Board action. P. Johnson stated that the preliminary plat approval can be given with the stipulation that the DNR gives approval for the topographic divide and road issues.

No one spoke in favor of the application. Speaking in opposition to the application was Michael Munson.

Written correspondence was received from White Earth Reservation Tribal Council, Terry & Patricia Kramer, and Brad Wentz, Becker County Highway Engineer. At this time, testimony was closed.

Further discussion was held. Johnston felt that Lot #6 would be too small for building. Lien felt that same way.

Motion: W. Johnson made a motion to approve the change of zone from agricultural to residential and preliminary plat consisting of 19 lots subject to DNR approval and proper road access. Johnston second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Long Shore Development. Request a conditional use permit to allow extractive use (gravel extraction) in an agricultural district for the property described as: Frac NE ¼ & E ½ of E ½ of NW ¼ less Spur Track Less, Section 31, TWP 139, Range 41; Detroit Township. PID Number 08.0549.000.

P. Johnson stated that this application is for a conditional use permit for gravel extraction. This property was connected to another property, for which an EIS had been ordered previously in 2004. Since then, the project has been modified, but the environmental concerns of the EAW Committee still exist.

Gerald Knudsen, engineer for development, explained the application. This project has been modified from the original plan. Since the last application, there has been properties

to the north and to the south of this area that has been annexed into the City of Detroit Lakes. There is a natural resource under this property, which will be removed, and turned into a residential development. Knudsen stated that District Court did not rule on the need for an EIS, just on the procedural process. They are not trying to circumvent procedures. There are no letters in the file concerning the application.

Knudson questioned hours of operation and what daylight hours meant. Knudsen & Mike Brorby stated that hours would be approximately 6:00 am until 6:30 p.m. In the previous years, a double shift operated, this year a single shift will operation. W. Johnson questioned the depth of excavation. Knudsen stated that the depth of excavation would be approximately 20 feet. Christianson questioned if Long Shore Development was involved with more land than the proposed 39-acre excavation site. Knudsen stated that Long Shore Development owned the entire tract, but excavation would be on 39 acres. Kovala questioned what was different from this application than the previous application. Knudsen stated that this application better addresses the concerns brought forward by the past application.

No one spoke in favor of the application. Speaking in opposition to the application were:

Don Maristuen - EIS should be done

Jeff Aafedt – plan responsible development, submitted aerial photos of previous devastation of the gravel operation;

Mike Bartholomy – has a letter from Larry Remmen, City of Detroit Lakes, that the City does not make annexation agreements with private people;

Gary Tunheim – 24-7 operation that is very noisy; how many gravel pits have turned into residential developments in Becker County;

Barry Burchill – applicant either does not know what is going on or does not want to tell the Planning Commission as to what is going on.

Al O’Niel - multiple attempts have been made, this is a way to circumvent the EIS; O’Niel asked the people that were in attendance that were in opposition to stand (majority of the audience stood at this time);

Raymond Scharnorske - closest to the development and never notified. Concerned about hours, water table, run off;

Paul Satrom – Board members should get up in the air to view project, three pilots live on the lake and could take members in the air, proposing to dig very close to the lake.

Written correspondence was received from the Pelican River Watershed District, in opposition to the application. At this time testimony was closed.

Further discussion was held. Knutson asked P. Johnson to clarify the Court ruling. P. Johnson explained that the County took the stance that the first application was connected action and that an EIS needed to be done. The day of court, Strata agreed to do the EIS and the Court ruled that an EIS be done with prejudice. The project has now been downsized and the new application must be acted on. Everything is the same and there are the same environmental concerns.

Motion: Kovala made a motion to recommend to the County Board that the application be denied until an EIS is completed. Christianson second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Jona Baer.

P. Johnson stated that this application was removed from the agenda at the applicant's request.

FIFTH ORDER OF BUSINESS: Naterra Land. Request a change of zone from commercial to residential and approval of a preliminary plat consisting of 21 lots for the property described as: W ½ of NE ¼ less 1 Acre AKA 300ft by 145 ft Tract; Govt Lot 1 East 400 ft of Govt Lot 1; Section 35, TWP 141, Range 36; Two Inlets Township. PID Number 34.0155.000 & 34.0155.001.

Scott Seeley, Naterra Land, explained the application to the Board. There would be 21 lots on Fools Lake and a change of zone is needed. Seeley was informed that the property was zoned agricultural, which then would not require a zone change, which is inaccurate as the property is zoned commercial. There would be 11 lakeshore lots and 10 non-riparian lots. A new survey was submitted due to a change in road location to avoid a wetland and correct the location of the exempt parcel. All lots are 2.5 acres or greater. The road will be built to Class B specifications and 290th Street will be upgraded to a 24 ft driving surface. Two Inlets Township has approved the plat and will take over the roads, once built to specifications. Restrictive covenants will be placed on the lots. The plat is in compliance with current zoning regulations.

Christianson questioned the size of the lake. Seeley stated that the lake was approximately 46 acres in size. Seeley stated that, with the other property being owned by the DNR and tax forfeited property. This will be the only development on the lake. There is no public access on the lake.

W. Johnson questioned if Lots 1 & 2 of Block 2 were buildable with the amount of wetlands. Terry Freeman, surveyor, stated that the lots exceed buildable lot area.

Brufloft questioned if there were any restrictions on the lake regarding watercraft. Seeley stated that there were none. Kovala questioned the depth of the channel. Seeley stated that they did not know the depth of the channel. Kovala questioned if the refuse area on Lots 1 & 2, Block 1, was going to be cleaned up. Seeley stated that there is an agreement with the owner that it must be cleaned up.

No one spoke in favor of the application.

Speaking in opposition of the application were:

Clarence Schmitz, landowner to the north at the beginning of the access road – stated he was not notified of the rezoning, found out about it in the Hubbard County paper.

Tim James – owns property in Osage TWP – deny zone change and preliminary plat because it is not compatible with the surrounding land use. Property lies entirely within the Two Inlets State Forest;

Dean Johannes – concerned about the ATV traffic;

Written correspondence was received from Leslie Black, in opposition; Edie Evarts, DNR, with concerns; and Brad Wentz, County Highway Department with suggestions for road improvement. At this time testimony was closed.

Further discussion was held. Lien questioned the zoning of the parcel. P. Johnson stated that it was thought that the zoning was agricultural, but it was recently discovered that the property is zoned commercial; apparently it was an old resort at one time. Clarence Schmitz stated that this property was an old snowmobile lodge.

Brufloft stated that current ATV activity does not mean that there will be increased activity. Christianson questioned if there is much development on the smaller lakes. Seeley stated that there is more development being done on smaller lakes because that is all that is left. Knutson questioned how a project could be turned down when they meet the requirements.

Motion: Lien made a motion to approve the change of zone to residential and preliminary plat consisting of 21 lots based on the fact that the project meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Skarie second. All in favor except Kovala. Majority in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Joey Kaiser. Request a change of zone from agricultural to commercial for the property described as: Pt Lot 7 Beg 167.27 ft W of Mndr Cor #46, Th Cont W Appx Beg 455 ft E of MC #59 on Sec Lin Bet Secs 6 & 7 Th E on; Section 6, TWP 138, Range 42; Lake Eunice Township. PID Numbers 17.0071.000 & 17.0074.000.

Kaiser explained the application to the Board. The property has been used commercially for 34 years, but has never been zoned commercial. He would like to rezone the property to bring it into compliance with current regulations so that he can either use the property or sell the property.

P. Johnson explained that this was a nonconforming use, which was grandfathered, but once the operation ceases for one year, it loses the grandfather rights and must conform to current zoning regulations.

Christianson stated that this would be spot zoning because there is nothing else commercial in the area. Christianson stated that commercial activity is usually handled by a conditional use permit. Further discussion was held regarding the difference between a change of zone and a conditional use permit.

Speaking in favor of the application was Jim Kaiser. Kaiser stated that this structure sits alone in this area, separated by the residential area by natural topographic divides.

Speaking in opposition to the application was Stan Thurlow, who felt that a conditional use permit for a specific use should be given rather than rezoning the property.

Written correspondence was received from Brad Wentz, Becker County Highway Engineer. At this time, testimony was closed.

Further discussion was held. Lien felt that a conditional use permit should be given. Bruflodt questioned if the application would be amended. P. Johnson stated that the change of zone could be denied and a conditional use permit issued. Knutson stated that the applicant could table the application and come back with a new plan. Bruflodt questioned the 60-day rule and explained the 60-day rule to the applicant.

At this time, Kaiser asked to table his application. The Board accepted his request for postponement.

SEVENTH ORDER OF BUSINESS: Earl Hemmerich. An application for a change of zone from commercial to residential and a preliminary plat consisting of five lots for the property described as: Lot 4 less N 10 Ac & Lot 5; Section 35, TWP 142, Range 37; Forest Township. PID Number 12.0175.000.

Scott Walz, surveyor, explained the application to the Board. Walz stated that the original plat was done in 1973 for seven lots, but never recorded. The road was constructed at that time. This proposal would be for five lots. Hemmerich does own the property behind the plat, but this is being left out of the project for the time being. Walz stated that the lots meet or exceed zoning specifications.

Kovala stated that the boardwalk was already in place. Hemmerich stated that he obtained the permit last year and constructed it during the winter.

Knutson stated that the driveways were already in. Hemmerich stated that he put in approaches while waiting for the Forest Township moratorium to be lifted. Hemmerich felt that if the developer puts in the approaches, there is more orderly development.

No one spoke in favor of the application. No one spoke in opposition to the application. Written correspondence was received from: Brad Wentz, County Highway Engineer, with suggestions; and Forest Township indicating their position on the road and plat. At this time, testimony was closed.

Further discussion was held. Christianson questioned the road maintenance. P. Johnson explained that the road has to be dedicated to the public, but the Township does not have to maintain the road.

Motion: Kovala made a motion to approve the change of zone and preliminary plat based on the fact that the project meets the criteria of the Zoning Ordinance and Subdivision Ordinance. W. Johnson second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS. Bay Point LLC. Request a change of zone from agricultural to residential and preliminary plat consisting of 7 lots for the property described as: E ½ of NW ¼ of NW ¼; Section 9, TWP 139, Range 41; Detroit Township. PID Number 08.0152.000.

Scott Walz, surveyor, and Pat Sweeney explained the application to the Board. Walz explained that there is wetland in the SW corner of the property that connects to Floyd Lake, but due to the elevation difference, it is not part of the lake, so these lots are non-riparian. Each lot exceeds size requirements. Outlot A has been sued by the neighbor and was thought to be his, so it will be deeded to the neighbor to the east. The Sweeney's own 10 acres to the south of the proposed development, but do not have plans on developing that 10 acres at this time. The road corridor will be dedicated to allow for further for development.

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

Further discussion was held regarding location, lot size, and road specifications.

Motion: Christianson made a motion to approve the change of zone and preliminary plat consisting of 7 lots based on the fact that the project meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Johnston second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Donald Tollefson. Request a change of zone from commercial to residential for one tract of land described as: Pt SE ¼ NW ¼ and PT SW ¼ NE ¼; Comm W Qtr Cor Sec 24; Section 24, TWP 139, Range 42; Audubon Township. PID Number 02.0159.003.

Tollefson explained the application to the Board. He owns 10 acres of land. Originally it was rezoned to commercial and a preliminary plat was done to make 7 lots. The plat was never finalized. He would like to simplify this into three lots. The residential lot would be used by them to build a new house.

Christianson questioned if there were any other residential lots in the area. Tollefson stated that Graff had just done a new plat to the west of this property. Tollefson stated that there is commercial property to the east, and there is a natural tree barrier for protection.

No one spoke in favor of the application. Speaking in opposition to the application was Rick Ellsworth, Audubon Township.

Written correspondence was received from Jay Carlson, attorney for Audubon Township. At this time, testimony was closed.

Further discussion was held. Christianson questioned the Township's objection. Ellsworth explained the road agreement that the Township had with Tollefson, which would now be null and void. Johnston stated that a bank will not lend money for a home in a commercial zone.

Motion: Christianson made a motion to approve the change of zone from commercial to residential due to the fact that there is a residential subdivision directly west of this parcel. Thorkildson second. All in favor except W. Johnson. Majority in favor. Motion carried.

TENTH ORDER OF BUSINESS: Jason Ekholm. Request a conditional use permit to allow commercial activity consisting of a sandblasting business in an agricultural zone for the property described as: Beg 14.46 ft N 1321.54 ft E 66.02 ft N, 80.83 ft E & 538.06 ft; Section 35, TWP 139, Range 40; Erie Township. PID Number 10.0552.001.

Ekholm explained the application to the Board. The sand blasting business would be located in an existing building, 40 ft by 60 ft in size. This would be a part time business. The sand would be sifted and reused. The paint chips would go to Safe Clean, Fargo, ND. The work would be done inside the building. The compressor would be outside the building. The noise of the compressor would be equivalent to a tractor running. The compressor is portable and can be taken off site for larger jobs. Work would be done from 8:00 am to 8:00 pm.

Johnston questioned if the compressor could be put inside the building. Ekholm stated that there would be room for the compressor inside the building. Discussion was held on the type of projects to be worked on. Ekholm stated that all work would be done inside the building.

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 regarding location and noise.

Motion: Kovala made a motion to approve a conditional use permit to allow commercial activity consisting of a sand blasting business based on the fact that the use would not be detrimental to the surrounding area with the stipulation that the compressor must be located inside a building. Thorkildson second. All in favor. Motion carried.

ELEVENTH ORDER OF BUSINESS: Final Plat of Abundant Life Acres, Thomas Cummings, developer.

P. Johnson explained that the preliminary plat and change of zone was approved in August 2004 for five lots. The property is located near Buffalo Lake, Richwood Township. Everything is in order for final approval.

Motion: Thorkildson made a motion to approve the final plat of Abundant Life Acres based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Lien second. All in favor. Motion carried.

TWELVTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, June 16, 2005 at 8:30 am at the Planning & Zoning Office.

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

Jim Bruflo, Vice Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Johnson, Zoning Administrator