

## **BECKER COUNTY PLANNING COMMISSION MEETING**

August 16, 2005

Present: Chairman Kovala, Don Skarie, Waldo Johnson, Ray Thorkildson, Commissioner Larry Knutson, Ken Christensen, Harry Johnston, John McGovern, John Lien, and Mary Seaberg. Zoning Administrator Johnson recorded the minutes.

Chairman Kovala called the meeting to order at 7:00 p.m.

Thorkildson made a motion to approve the minutes from the July 19<sup>th</sup>, 2005. Seaberg second. All in favor. Motion carried.

Chairman Kovala explained the procedure for the public hearing. The recommendations of the Planning Commission will be forwarded to the County Board of Commissioners for final approval on Tuesday, August 23, 2005.

**FIRST ORDER OF BUSINESS: Pat Sweeney.** LEGAL LAND DESCRIPTION: 08.0141.003 & 08.1152.505 Detroit Township In Gov't Lot 3 and part of Lot 1 Oakland Acres, Section 9, TWP 139, Range 41. Request a subdivision of 6 lots named Sweeney's Corner & change of zone from Agricultural to Residential.

Scott Walz, Surveyor explained the request of six residential lots on the corner of Cozy Cove and Oakland Beach road. There will be no lake access for the lots.

No one spoke in favor. Patty Johnson read two letter of opposition concerned with traffic, the type of homes allowed and urban development.

Waldo Johnson questioned what type of homes would be allowed. Applicant stated no mobile homes will be allowed only stick built homes; language will be included in covenants. Christensen asked if the Applicant owned any other land in the area. Applicant owns land but it is not contiguous with this parcel.

**MOTION:** Waldo Johnson made a motion to approve as requested based on the fact that it is compatible with the neighborhood and complies with the Zoning & Subdivision Ordinance. Skarie second. All in favor. Motion carried.

**SECOND ORDER OF BUSINESS: Bruce Qvammen** LEGAL LAND DESCRIPTION: 15.0219.000 Height of Land Township Little Toad Lake West Part of 3 & 4 West Shore, Section 23, TWP 139, Range 39. Request a Conditional Use permit for a multi-unit residential development of 12 units and a change of zone from Agricultural to High Density Residential.

Brant Beeson, Attorney-at-Law, explained the application. The unit sizes have been increased to 7000 sq ft per the request by the Planning Commission at the information

meeting. This increased impervious surface to 10% and open space reduced to 90%. The ordinance allows for 25% impervious and 50% open space, therefore the project is within these standards. Beeson further explained that the new project is in compliance with the newly adopted ordinance even though it was filed prior to the moratorium. The project that was denied in May proposed 17 units whereas the ordinance allowed for 19 units. The new ordinance allows 13 units however; the developer is requesting 12 units and 4 boat slips which will be placed out beyond the aquatic vegetation.

Beeson referred the Planning Commission to the revised plat showing a dashed line starting in front of unit 1 and continuing across the entire shoreline except for a 50 foot area. This area will be in a conservation easement, which will protect against adverse effects of the project. Beeson stated the Developer offers to construct a pervious paver stone path, if required, to prevent any erosion from foot traffic to access the lakeshore.

Beeson asked Zoning Administrator Patty Johnson if the request compliance with the new zoning ordinance. Patty Johnson stated that the plat is in complies with the new ordinance.

Beeson stated that the land to the southwest, not included in the plat is for condominium storage. The storage will be for owners within the Common Interest Community but will also be offered to other area property owners. The land located to the north of the plat has already sold to an individual who owns property in Top Brass Estates. Bruce Qvammen, Developer stated that there are restrictions in the deed that prohibit the owner from further development of this land.

Chairman Kovala stated that this same development was reviewed by the Planning Commission 3 months ago. The plat was denied based on excessive vegetation, 30 – 40 feet out into the water. Kovala further stated that nothing has changed except the number of units from 17 to 12. Property is marginal at best. Kovala stated that the Planning Commission had walked the shoreline and sited much vegetation including reeds, lily pads, etc.

Beeson questioned if the Planning Commission had visited in the spring because there is a change in vegetation throughout the seasons. Kovala stated that he has visited the site 4 times throughout this process and nothing has changed with the vegetation. Beeson stated that there is vegetation but the easement offered would protect the sensitive areas from disturbance. Beeson stated most land left to develop throughout the area is marginal.

Harry Johnston asked for clarification on the location of the proposed conservation easement. Surveyor Walz stated that 30% of the shoreline may be used for shoreline recreation facilities per the ordinance. Walz further stated that the Developer is requesting only a 50 foot wide access strip. Patty Johnson stated that Becker County would hold the conservation easement.

Skarie asked if there would be a permanent dock. Developer Qvammen stated that the dock would be a roll in and removed each fall and that the 4 slips would be used by the owners within the 1<sup>st</sup> tier of the Common Interest Community. Christensen stated that it is unrealistic to think that other owners within the plat would buy lots knowing they could only swim and not have a place to dock. Developer Qvammen stated that he would like to provide a day dock for these owners but the Planning Commission denied this request last time.

Chairman Kovala asked if there is common well and septic. Developer Qvammen stated that there will be two areas within the Common Interest Community for common well and septic.

Seaberg stated that the Township road leading to the development is in tough shape and questioned who maintains the road. Developer Qvammen stated that he has a road maintenance agreement with the Township. However, the Township will not maintain the road until a certain number of lots are built on. Developer Qvammen stated he has ordered gravel to improve the roadway. Beeson stated that the road within the Common Interest Community is private and the Township will not maintain.

Christensen stated that to sell the units it would seem that docking and lake access would be critical. He further stated that the project includes 4 slips with no common dock and no area for other unit owners to access the lake. He questioned who enforces this. Developer Qvammen state the Common Interest Community Association enforces the covenants. Developer Qvammen requested a mooring dock to address this concern.

Harry Johnston stated that the new ordinance allows for a day dock. Christensen stated that a day dock seems logical. Commissioner Knutson stated only logical if the project is approved. Knutson further stated that the previous denial was based on land suitability and that the revised project has not changed the land suitability issue for the project area.

Seaberg asked for clarification on the dock access to open water. Qvammen stated that the mooring area would be on the end of the dock past the vegetation. He further stated that there will be buoys placed to protect the aquatic vegetation. Seaberg asked who would put out the buoys. Qvammen stated the Association.

Christensen asked who would have interest in the covenants. Qvammen stated that the PC could be written into the covenants and that approval is needed by 75% of the Association and the Planning Commission. Attorney Beeson stated that both Ottertail and Becker Counties have not been interested in accepting covenants for enforcement.

Christensen stated that there is currently no control on other lakes limiting the number of docks or watercrafts. Qvammen stated that the buoys would limit the number of boats that currently enter the sensitive area of the shoreline. Qvammen asked the Planning Commission if a residential project isn't suitable, is agricultural. The EAW declaration stated that the Common Interest Community is a better layout, for this particular piece of

property based on land suitability, rather than a lot block subdivision or an agricultural use in relation to runoff to the sensitive areas.

Testimony heard.

No one spoke in favor.

Speaking in opposition:

Bill Purdy statement, 10 Cola Representative and Current Lake President. Only change in project is the unit size. The previous hearing votes for denial are PC 7/2 vote, County Board 4/1 both based on land suitability. Purdy read local newspaper article on project to the Planning Commission. Developer has not addressed access to lake. The roll in dock over 100 feet will cut the vegetation he does not think this is a solution. Covenants on previous subdivision, Top Brass Estates are not working. Bill Purdy shows pictures of violations respectfully requesting developer to restore the violations. Photo 3 dock 125 foot access to the lake, shows damage by one boat accessing lake. Photo 4 emergent vegetation= holding nutrients, phosphorus, algae, filtering system for the lake. Wild rice is also present working on holding the nutrients, if disturbed the nutrients will be let loose and move into the lake. Spawning areas and the DNR protected stream are not suitable for the proposal. This plat is not new. All denials are based on the land suitability and have not been addressed by the developer. The damage to the lake would be devastating no filtering system, stream will not be protected.

Bea Purdy statement, she's lived on the lake for 15 years. Always believed that people of the state own the lakes and have the right to access the lake but this project is not suitable for the land. Shown photo of 1<sup>st</sup> loon family on lake in 5 years. Lake Association has worked hard to educate property owners. Corps of Engineer study shows that to develop lakeshore environmentally, each lake should have 4.5 acre of water per boat. Currently on Little Toad there are approximately 171 watercraft and several jet skis. 1.9 acres per boat vs. 4.5 recommend by Corps. This is not progress. I don't want this to be the last loon family on Little Toad Lake.

Jim Navara, 10 year resident, viewed property by boat and the boat bottomed out at 30-40 feet from shore. The water depth is no more than 1 to 1.5 feet in depth. There is 600 feet of shoreline, 400 feet is wetlands, 100 feet of stream and 50 feet for access. How do you expect to protect with covenants.

Letters submitted were reviewed by Planning Commission. Letters received were from Bill Purdy, Kevin Erickson, Jeff, Andvik, Trudy Anderson, Brian & Laura Sivertson, Paul Carson, James & Margaret Navara, Bea Purdy, COLA. Monaya Brooks and DNR. Commissioner Knutson requested the DNR letter read aloud by Patty Johnson.

Christensen stated to the Lake Association that only 12 additional boats are being proposed and asked if this is of great concern. Bill Purdy stated that his resort has the 2<sup>nd</sup> biggest impact on the lake in regards to docks and boats. However, the other resort on

the lake has 60 slips. Purdy stated that anytime you let more boats on lake it damages the lake. Bea Purdy commented that they spend a lot of time on boat water safety and aquatic plant management education.

Christensen further stated that only 4 more docks are being proposed. Christensen stated that he has viewed the property 4 times. He concluded that the revised plat and plan is for a narrow access to lake and conservation easements on the sensitive areas of the project.

Qvammen stated that the DNR should be contacted for the aquatic violations on the lots to the south. He further stated that there was a DNR permit issued and the DNR needs to do enforcement. Once those lots were sold, enforcement is up to the agency or by the owners.

Commissioner Knutson stated that he does not agree that the project has not changed since the denial. Knutson quoted the DNR letter stating that shoreline of this nature would not be used for residential development do to its valuable natural resource attributes. He further stated that the near shore aquatic conditions are unsuitable for water based recreation or residential. Knutson stated that the land should remain agricultural as this is the best use of the property.

Skarie stated that he had not visited the site prior to this hearing. He voted for the project last time without a site visit. After being on the site he is concerned with the vegetation being well over 100 feet from the shoreline.

Thorkildson stated he agrees with Knutson's statement.

Seaberg stated that there is shallow shoreline and the development may add too much traffic and a lot of development for that sensitive area.

Lien stated that at the last hearing he voted against the project based on suitability. The project now has been reduced to 12 units, buoys to mark and protect the aquatic vegetation, and the dock will extend out past the vegetation. Lien stated that those are the changes since the last hearing.

McGovern agreed with the DNR letter and that this type of development is not a good idea.

Johnston stated that the revised plat does meet the current ordinance requirements. The concerns raised by the audience are being addressed by conservation easements, and the extension of the boat dock and the buoys.

Christensen stated that the DNR letter does state if development must occur then limiting activity to a single shoreline location preserves the greatest amount of habitat and that is what the Developer is proposing in the revision. If you are to approve something allow for a dock to access and the ability to swim.

Beeson stated that the EAW Committee does include experts on land suitability and that their concerns have been addressed and included on the plat.

MOTION: Knutson made motion to deny the application as requested based on Section 1, Subdivision 8 of the Subdivision Ordinance, definition of land suitability. McGovern second.

Knutson further stated that nothing has changed to address the fact that the land is not suitable for this type of development and once the filtering system and aquatic vegetation are disturbed there is no restoring these sensitive areas.

Chairman Kovala called the question. Members in favor of the motion: 4 Knutson, McGovern, Seaberg Members Opposed to the motion: 5 Skarie, Lien, Johnston, Christensen, Johnson. MOTION FAILED.

MOTION: Lien made a motion to approve with the following restrictions:

1. Written approval to put dock out past vegetation from the Department of Natural Resources.
2. 50 foot access area on upland shoreline.
3. Buoys marking and protecting the aquatic vegetation on the entire shoreline except for the 50 foot access area.
4. A Day dock is provided for nonriparian owners to protect boats the aquatic vegetation from boats beaching on the shoreline.
5. Conservation easement on the stream bank, wetlands, entire shoreline (except the 50 access strip) to extend 50 foot landward.

Based on the findings that the project with these restrictions has addressed the land suitability by protecting the sensitive areas of the project area from use by the owners.

Johnston further suggested that the Developer Qvammen consider a floating dock instead of one with wheels.

Johnston asked Lien to amend the motion to include No. 6 No Jet Skis allowed on the docking system of the development be included in the covenants. John AMENDED THE MOTION TO INCLUDE THIS PROVISION. Johnston second.

Further Discussion by the Planning Commission. Seaberg asked if there is a minimum size of home. Qvammen stated no minimum size homes but covenants state no mobile homes, no campers, and must have an attached garage.

Commissioner Knutson stated, for clarity of all members, that the motion allows for 12 boats to access the project area.

Chairman Kovala called the question. Members in favor of the motion: 6 Johnston, Skarie, Christensen, Johnston, Lien, Seaberg. Members opposed to the motion: 4 Knutson, Thorkildson, McGovern. Motion carried.

**THIRD ORDER OF BUSINESS: Informational Meeting.**

The next information meeting is scheduled for Thursday, September 15<sup>th</sup>, 2005 at 8:30 a.m. in the Planning & Zoning Office.

Since there was no further business to come before the Board, Thorkildson made a motion to adjourn the meeting. Lien second. Motion carried. Meeting adjourned.

---

James Kovala, Chairman

---

Jeff Moritz, Secretary

ATTEST

---

Patricia Johnson, Administrator  
Planning & Zoning