

Becker County Planning Commission
May 16, 2006

Present: Waldo Johnson, Jim Kovala, Ray Thorkildson, John McGovern, John Lien, Ken Christianson, Don Skarie, Jim Brufloft, Larry Knutson, Jeff Moritz, Mary Seaberg, Zoning Administrator Patricia Johnson and Zoning Staff Debi Moltzan.

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

Kovala made a motion to approve the Minutes. McGovern second. All in favor. Motion carried.

Brufloft explained the protocol for the meeting and explained that the recommendations of the Planning Commission would be sent to the County Board of Commissioners for final decision. The County Board of Commissioners will act on the recommendations at their meeting Tuesday, May 23, 2006.

FIRST ORDER OF BUSINESS: Jerome Kahle. Request a Change of Zone from Agricultural to Residential and approval of a Certificate of Survey to allow a 1.66-acre tract of land, property description is Lot 1 Block 2 Pearl Hill First Addition; Section 13, TWP 138, Range 42; Lake Eunice Township. PID Number 17.1049.007. The property is located at 13400 Pearl Lake Drive and within the shoreland district of Pearl Lake.

Chris Heyer, surveyor explained the application to the Board. This is an existing platted lot, which will be divided into two tracts, 3.33 & 1.66 acres. Heyer stated that there is a mobile home on the lot now and this is the area being divided off. Kovala questioned if the lot would be split further. Heyer stated that there were no plans to do further subdivision.

No one spoke in favor of the application. Speaking in opposition to the application was Randy Stone. Written correspondence was received from SWCD, concerned about the potential of wetlands. At this time, testimony was closed. Knutson stated that this application does meet the requirements of the Ordinance.

Discussion was held regarding lot size and Soil & Water Conservation's comments and location. Christianson questioned how the lot size was determined. Heyer stated that the property owner flagged the area he wanted to split off and the survey was created from those markings. Knutson questioned if Heyer found wetlands. Heyer stated that the survey was done last November and he did not see any indication of wetlands. Heyer stated that he did not walk the entire wooded area, but with the amount of mature trees and location of an existing septic system, Heyer felt that there were no wetlands.

Motion: Thorkildson made a motion to approve the change of zone from agricultural to residential and approval of a certificate of survey to allow a 1.66 acre tract of land based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision

Ordinance with the contingency that Soil & Water Conservation view the property to determine the presence of any wetlands and after their determination, the lot sizes still meet the requirements of the appropriate zone. Lien second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: William Parkhouse. Request a Change of Zone from Agricultural to Residential and approval of a Certificate of Survey to allow a 1.16 tract of land, property description is Pt Lot 1 Beg 328.5 ft SE 155 ft W of NE Sec Cor Th NWLY; Section 30, TWP 138, Range 42; Lake Eunice Township. PID Number 17.0342.000. The property is located at 11973 Maple Lodge Road and within the shoreland district of Big Cormorant Lake.

Melody Parkhouse explained the application to the Board. This was her mother's property and her brother has obtained the property. The property would be split into 1.16 acres and 3.58 acres. Parkhouse would obtain one of the tracts and her brother would keep the other parcel. There are no plans for further subdivision.

Christianson questioned who owned the land between this parcel and County Road 11. Parkhouse stated that Zespy owned that parcel.

Owen Benson spoke in favor of the application. No one spoke against the application. Written correspondence was received from Jay Carlson, Attorney for Lake Eunice Township. At this time, testimony was closed.

Discussion was held. Christianson states that the Ordinance allows for one-acre lots, whether riparian or nonriparian. Knutson questioned what Carlson's letter meant. P. Johnson explained the County Ordinance and Comprehensive plan and the Township's policy. P. Johnson stated that the County does not enforce Township policies.

Motion: Kovala made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey to allow a 1.16-acre tract of land based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Lien second. All in favor except Moritz. Motion carried.

THIRD ORDER OF BUSINESS: Jim & Lisa Piche. Request approval of a Certificate of Survey for three tracts of land, each tract being over 2.5 acres in size, property described as: Government Lot 7; Section 4, TWP 139, Range 41; Detroit Township. PID Number 08.0058.002. The property is located on Almquist Road and on Tamarack Lake.

Lisa Piche explained the application to the Board. The 37-acre tract would be divided into three tracts of land, 2 – 11 acre tracts and one 14.7-acre tracts. Each lot would have lakeshore on Tamarack Lake.

Kovala questioned if there would be further subdivision. Piche stated that there would not be as long as she owns the property. Piche stated that she wanted larger lots for families with animals, primarily horses.

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 size and location. Lien stated that this was a nice piece of property and a nice configuration of lots.

Motion: Lien made a motion to approve the certificate of survey for three lots based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision. Seaberg second. All in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Verizon Wireless. Request a Conditional Use Permit for a wireless communications tower for the property described as: 400 ft by 600 ft parcel in the SW ¼ NW ¼; Section 11, TWP 139, Range 43; Lake Park Township. Rural Cellular Corporation currently owns the property. PID Number 18.0069.002. The property is located at 20655 Co Hwy 5.

John Rowe explained the application to the Board. In March, Verizon had received approval to build 5 new towers and co-locate on 5 existing towers. This is one of the locations that they had intended to co-locate the antennae. After the final preparations were being done for the co-location, it was found that the structure is not structurally sound to accommodate the new antennae. The solution would be to construct a new tower next to the existing tower.

Brufloft questioned what was meant by “not structurally sound”. Rowe stated that the tower was overloaded. W. Johnson questioned if the tower would be lit. Rowe stated that there would be consumer friendly lights. The existing tower is also lit. Kovala questioned the time line for using the towers. Rowe stated that once all the towers are constructed and antennas placed, the power will be turned on to all structures at once, this is a requirement of the FCC. Brufloft questioned when a lattice tower is used and when a monopole tower is used. Rowe stated that a monopole is generally used for towers under 200 ft in height with antennae height less than 250 ft. Brufloft questioned how far this tower would be from the existing tower. Rowe stated that this tower would be about 100 ft from the existing tower and could accommodate more antennas.

Harold Carey spoke against the application. No one spoke in favor of the application. Written correspondence was received from Lake Park Township in favor of the application and Harold and Eileen Carey in opposition. At this time, testimony was closed.

Discussion was held regarding co-location, location of existing tower, location of new tower, and distance from neighboring properties. Christianson questioned the distance from adjoining properties. P. Johnson stated that a tower needs to be setback from a structure the distance equal to the height of the tower plus 100 ft. Christianson questioned how far the Carey house was from the tower. Rowe stated the existing tower

is about 400 ft from the Carey property line and the new tower would be to the south of the existing tower (Carey's house is to the northwest of the existing tower).

Motion: Christianson made a motion to approve a conditional use for a wireless communications facility (including a 250 ft self supporting tower and 12 ft by 30 ft equipment shelter) based on the fact that the application meets the requirements of the Zoning Ordinance. McGovern second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Pamela Niemi. Request a Change of Zone from Commercial to Residential and a Conditional Use Permit for a Home Occupation consisting of a beauty shop for the property described as: Lot 4 and Pt Lot 3, Mill Pond Estates; Section 21, TWP 140, Range 36; Osage Township. PID Number 21.0396.204. The property is located at 24105 Co Hwy 48.

Pam Niemi explained the application to the Board. The property is currently zoned commercial and is a beauty shop. Niemi would like to add living quarters to the building and live there, but keep the beauty shop.

Kovala stated that Niemi's former husband had another business in this building. Knutson stated that most of the property in this area is zoned residential.

Diana Buntrock spoke in favor of the application. No one spoke against the application. Written correspondence was received from Grant Bateman in favor of the application. At this time, testimony was closed.

Discussion was held regarding the location, current zoning, zoning of the surrounding area.

Motion: Kovala made a motion to approve the change of zone from commercial to residential and approve a conditional use permit for a home occupation consisting of a beauty shop based on the fact that it does meet the criteria of the Zoning Ordinance and is compatible with the surrounding area. Moritz second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Jody Beaudine. Request a Change of Zone from Commercial to Industrial for a 6.64 acre tract of land, property description is Pt W ½ SW ¼ Less ½ Ac in NW ¼ SW ¼; Govt Lot 4; Section 17, TWP 138, Range 43; Cormorant Township. PID Number 06.0248.000. The property is located at 12034 Co Hwy 4.

Jody Beaudine and Brant Beeson explained the application to the Board. In 1997, 10 acres was zoned commercial for a convenience store and commercial storage sheds. Beaudine leased out the building to a company that is making ductwork and environmental control parts, thinking this was a commercial operation. Beaudine later learned that this falls into the manufacturing classification. Beaudine would like to rezone 6 acres to industrial and leave the remaining acreage as commercial.

Knutson asked how long the lease was for. Beaudine stated that the lease was for two years with an option to buy. Knutson questioned if Beaudine received permission to change the driveway. Beaudine stated that he is working with the highway department on that issue.

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

Discussion was held regarding location, access to the property and the type of industrial uses that would take place on the property.

Motion: Kovala made a motion to approve the change of zone from commercial to industrial. Seaberg second.

Lien questioned the type of industrial uses that could be done on the property and felt there should be some type of limitation. P. Johnson explained that in an industrial zone, the different types of uses needed a conditional use permit along with the change of zone. At this time, Beeson asked if there could be a short recess so that he and Beaudine could discuss this, since they were unaware of the conditional use. Brufloft recessed the meeting for five minutes.

When the meeting reconvened, further discussion was held regarding the different types of industrial uses.

Kovala made a motion to amend his to read: approve the change of zone from commercial to industrial for a 6.64 acre tract and a conditional use permit to allow fabrication of metal products, food and kindred products, and furniture and fixtures. Seaberg second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Richard Lesage. Request a Conditional Use Permit to expand an existing seasonal RV park by 5 units for a total of 49 units for the property described as: W ½ SW ¼; Govt Lot 1 Ex N 10 Ac, 1.74 Ac & Less 6.42 in Govt Lot 1 & 2; Section 20, TWP 141, Range 38; Round Lake Township. PID Number 25.0074.000. The property is located at 30388 Co Hwy 35 and on Ice Cracking Lake.

Richard Lesage explained the application to the Board. Lesage would like to expand the existing RV park by 5 sites.

Kovala questioned if there would be more expansion in the future. Lesage stated that there may be a possibility, but further expansion would require an EAW. Kovala questioned why Lesage did not do the EAW and further expansion now. Lesage stated that with the time constraints, it is not feasible right now. The way the current facilities are situated, the expansion of five sites would be quite simple.

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. Lien stated that the density meets criteria of the Ordinance and could only be denied based on suitability, but the site is quite suitable for development.

Motion: Lien made a motion to approve a conditional use permit to expand an existing seasonal RV park by five sites based on the fact that the application meets the criteria of the Zoning Ordinance. Skarie second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Pinnacle Land Development, Inc. Request a Change of Zone from Agricultural to Residential and approval of a preliminary plat consisting of 10 lots for the property described as: Pt Govt Lot 7; Section 31, TWP 139, Range 42; Audubon Township. PID Number 02.0216.005. The property is located on Little Cormorant Lake.

Patty explained that the EAW process has been completed and there was a negative declaration with the stipulation that there be a conservation easement on the steep slope and bluff area with a 30 ft access area allowed on the lot lines of 2 & 3 and 4 & 5 for a stairway and dock location; grass swales and drainage ditch restoration and maintenance be done on Lot 1.

Glen Freeland explained the application to the Board. Freeland stated that they would like to have 30 feet on each lot (on Lots 2, 3, 4, & 5) for their own dock and stairway rather than having a shared stairway and dock. Freeland stated that he does not know how two neighbors would get along to build and maintain this and his attorney does not agree with this.

McGovern asked Freeland if he has talked to the Township about the size of the cul-de-sac. Freeland stated that he would be in favor of connecting the two roads, but he does not own the land to the north (portion that is dedicated to the public but not yet built) and would not have the jurisdiction to build a road on land they do not own.

Knutson stated that if Freeland did not agree with the stipulations connected to the negative declaration, the County Board could change their mind on the negative declaration, requiring an EIS. Further discussion was held on the EAW, negative declaration and potential EIS.

Freeland questioned how the shared facilities would work, who would build and maintain. P. Johnson stated that the developer and his lawyer would have to come up with the proper documentation to govern that and that maybe the developer may have to have the stairway and dock in place prior to sales.

Further discussion was held regarding the road issues, the north access, the south access and the large amount of water coming off the back lots. Chris McConn, surveyor, stated that there is a gravel vein on the back portion of the property and a wetland. The water from the wetland is actually following the vein and coming out the side of the slope. Kovala questioned the curve in the road. McConn stated that road profiles have been done for the road, which would be built to specifications.

No one spoke in favor of the application. Speaking in opposition to the application were Joe Upton, Michelle Donarski, Clint Ambers, Murial Saign, Michael Saign, Mark Lessin, Pat Coscoes and Vern Amlie. Concerns included concern for joint maintenance on the road, not wanting a through road, not wanting the road to come in from the south, not wanting the road to come in from the north, the existing road not being able to handle more traffic pressure, water problems on the proposed lots, and the project got off on the wrong foot with the neighborhood.

Rick Ellsworth, Audubon Township – stated that the landowners have a valid complaint, the landowners have paid for the black topping of the road; he would like to see the same type of road in the development as what is leading into the development; the Township would like a chance to work on the road issue; water issues need to be addressed; in the present state, it would not be proper to pass this subdivision.

Written correspondence was received from: Joe Upton, against the application; LaVonna Coquette, in opposition; Brad Wentz, Becker County Highway Department, with concerns about the road; Leon Schlitz and Pat Cascaes, against the application. At this time, testimony was closed.

Further discussion was held regarding the road, water issues, steep slope, bluff area, cul-de-sacs and road traffics. Moritz questioned if the developer has met with the Township regarding the road issues. Ellsworth stated that they received a phone call from the developer, but the developer has not attended a Board meeting. Further discussion was held regarding the approach put into the property and the road already constructed. Christianson stated that you cannot prevent a property owner access to their property and at this point, that is what it is. P. Johnson stated that some of the activity that has occurred on the property is a result of the EAW process. Lien stated that he would like someone to investigate the 66 ft corridor to the east and south of the development and if that could be the access to the property. Moritz felt that Lake Eunice Township, Audubon Township and the developer should get together. Lien felt that West Little Cormorant Road would not handle the added traffic pressure. Knutson agreed with Moritz and felt that the developer should meet with both townships.

Brufloft questioned the 60-day rule, explaining that the Planning Commission must act on an application within 60 days of receipt of the application unless the applicant tables the request. P. Johnson stated that the Board would have to act on the application unless the applicant tabled the application.

Brufloft asked Freeland if he would like to table the application in order to work with the Townships regarding the road. At this time, Freeland asked to table the application. The Board accepted the applicant's request.

NINTH ORDER OF BUSINESS: Les Heimark. Request a Change of Zone from Agricultural to Residential and approval of a preliminary plat consisting of 22 lots for the property described as: NE ¼ SW ¼ Except the NW ¼ NE ¼ SW ¼; Section 25, TWP 138, Range 43; Cormorant Township. PID Number 06.0368.000. The property is located at 16245 South Big Cormorant Road and is located on Spring Creek.

Heimark and Carl Malmstrom explained the application to the Board. Heimark currently owns 40 acres. Heimark would retain 10 acres and divide the other 30 acres into 22 residential lots. Two of the lots would border along Spring Creek. On the west side of the plat, there is an existing fence line, which had been assumed to be the property line. There will be corrective title work done on that lot line before finalization of the plat. Heimark stated that he met with the Technical Review Panel and they had no concerns with the proposed plat.

Thorkildson questioned if Heimark had considered a park or added green space. Heimark stated that the lots area large enough that there will be plenty of green space. Heimark stated that he had met with Cormorant Twp before going to the tech panel and the Township had no objections to the proposal.

Moritz felt that there should be conservation easements placed on Lots 16 & 17 since they border a delicate creek. Scott Walz, surveyor, stated that the technical panel did not have an issue or concern about the creek. Malmstrom stated that the creek is not an asset to the property, that the residential use would be more restrictive than the current agricultural use, and that due to the wetlands and depth of the creek it more than likely would not be used for recreational purposes.

No one spoke in favor of the application. No one spoke against the application. Bruce Qvammen questioned if there was any dispute on the easterly lot line. Walz stated that there were no lot line problems on the east side of the property. Written correspondence was received from Jay Carlson, Attorney for the Cormorant Lakes Watershed District, who wanted conservation easements on Lots 15 – 18. At this time, testimony was closed.

Further discussion was held regarding the location, lot size, conservation easements versus restrictions on covenants and the use of the creek.

Motion: Kovala made a motion to approve the change of zone from agricultural to residential and approve a preliminary plat consisting of 22 lots based on the fact that it does meet the criteria of the Zoning Ordinance with the restrictions of the Cormorant Lakes Watershed District on Lots 16, 17, & 18. W. Johnson second.

Malmstrom asked for clarification of what "restrictions of the Cormorant Lakes Watershed District" meant. Malmstrom stated that there is legal difference between restrictions and conditions and a conservation easement. Knutson agreed that there

should be clarification. Moritz stated that the creek is very sensitive. Moritz stated that this creek runs from Big Cormorant Lake to Pelican Lake. Commercialized boat traffic would be disastrous, there should be a buffer strip between the useable lot and the wetlands. Heimark stated that he could put something in the covenants. Malmstrom agreed with the goal but felt that the approach imposes restrictions that should be imposed on everyone, not just this developer. Moritz suggested a 10 ft buffer strip. Skarie agreed there should be a buffer strip.

Kovala made a motion to amend the original motion to read: approve a change of zone from agricultural to residential and approve a preliminary plat consisting of 22 lots with the stipulation that a conservation easement be placed on Lots 16, 17 & 18, with the conservation easement being 10 ft upland of the wetland as defined on preliminary plat survey. W. Johnson second. All in favor. Motion carried.

TENTH ORDER OF BUSINESS: William Jordon. Request a Change of Zone from agricultural to residential; approval of a certificate of survey; and a conditional use permit to allow residential storage condominiums for the property described as: Beg 100.45 ft E of NELY Cor Lot 5, Block 2, Dacotah Beach 5th Addition; Secton 28, TWP 138, Range 41; Lake View Township. PID Number 19.0526.000. The property is located at 11295 Co Hwy 17.

Jordan and Chris Heyer explained the application to the Board. The request would be for the change of zone, approval of a certificate of survey and conditional use permit for storage condominiums. Jordan stated that the use of the property will not change, only the change of ownership. There is an existing storage shed on the property, which is used for commercial storage. Jordan stated that he could elect to put up another storage building but he would like to put up condominiums. Jordan felt that the people around Lake Melissa and Lake Sallie would jump on the chance to own their own unit rather than rent it. Jordon also stated that there would be a wash bay outside the storage unit to allow people to wash their boats and pontoons before putting them into storage.

W. Johnson questioned the access to the property. Jordan stated that the access would come off of #17 and a new approach would be put in. Bruflodt questioned if there would be plumbing in the building. Jordan stated that there would be no plumbing inside the building, just the wash bay outside. Christianson questioned the size of the building. Jordan stated that the overall size would be 60 ft by 192 ft, 17 ft in height.

Speaking in favor of the application was Gail Hahn, Lake View Township. No one spoke against the application. Written correspondence was received from: Margaret Frankburg, in favor of the application; Jim Duncan, in favor of the application; Romaine Johnson, in favor of the application. At this time testimony was closed.

Further discussion was held regarding the location of the structure and uses in the surrounding area.

Motion: Christianson made a motion to approve the change of zone from agricultural to residential; approve the certificate of survey to allow two tracts of land; and approve a conditional use permit to allow residential storage condominiums based on the fact that the application does meet the requirements of the Zoning Ordinance. Moritz second. All in favor. Motion carried.

ELEVETH ORDER OF BUSINESS: Raymond Anderson. Request a conditional use permit for mining activity for the property described as: N 5 acres portion of W 309 ft of S ½; Section 28, TWP 139, Range 41; Detroit Township. PID Number 08.0499.000. The property is located at 25538 Anderson Road.

Mike Hough and Don Anderson explained the application to the Board. The gravel will be used for other than public road purposes. The area to be mined will be approximately 5 acres. Days of operation will be Monday through Friday. Strata have a pit just to the north of the proposed pit. They will not be using Anderson Road; they have permission to go through Strata property to Hough property to the north.

No one spoke in favor of the application. Julie Eginton questioned how close the trucks would be coming to her house. Anderson stated that her property was to the south and the mining would be on the north end of the property and the trucks would be exiting to the north, which would be about ¼ mile from her property. There was no written correspondence either for or against the application. At this time, testimony was closed.

Motion: Lien made a motion to approve a conditional use permit for a mining activity based on the fact that the application complies with the Zoning Ordinance and the use would not be detrimental to the surrounding area. Thorkildson second. All in favor. Motion carried.

TWELVETH ORDER OF BUSINESS: Ed Kava Jr. Request a Change of Zone from Agricultural to Residential and approval of a certificate of survey for one tract of land, property described as: Pt NE ¼ SE ¼; Section 28, TWP 138, Range 43; Cormorant Township. PID Number 06.0401.001. The property is located at the intersection of 115th St and West Lake Ida Lane.

Kava explained the application to the Board. Kava would like to split off 1.65 acres. There is an existing storage shed on the parcel and would be used for private storage. Kava stated that if the storage shed would be split off, it would not be taxed commercial because it would be for personal storage.

Knutson stated that if the property would be zoned residential, the storage building would be in violation with the Zoning Ordinance because it would be too tall. Further discussion was held regarding the reason for the zone change request, location of the structures and land and taxation of the property.

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

Further discussion was held regarding lot sizes, spot zoning, and if the lot would be large enough to place a dwelling. Christianson felt that the application should be tabled for further investigation. P. Johnson stated that the change of zone may not be what Kava wanted and felt that the change of zone would not solve Kava's issues.

At this time, Kava asked to table the application. The Board accepted Kava's request.

THIRTEENTH ORDER OF BUSINESS: Final Plat of Agassiz Ridge, Jason Fischer, Developer.

P. Johnson explained that the preliminary plat was approved in July 2005. 17 lots were approved of which 3 lots would be nonriparian, with no lake access, and 14 riparian lots and the Conservation Easements are in place. All the paperwork is in order for final approval.

Motion: Lien made a motion to approve the final plat of Agassiz Ridge based on the fact that the final plat meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Thorkildson second. All in favor. Motion carried.

FOURTEENTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, June 15, 2006 at 8:30 am at the Planning and Zoning Office.

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

Jim Bruflodt, Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Johnson, Administrator