

**Becker County Planning Commission**  
**November 21, 2006**

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

Chairman Bruflodt called the meeting to order. Debi Moltzan took the minutes.

**Minute approval:** Kovala stated that there were a couple of misspelled words. The words sated should be replaced with the word stated. With those corrections, Kovala made a motion to approve the minutes from the October 2006 meeting. Lien second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting and stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final approval on Tuesday, November 28, 2006.

**FIRST ORDER OF BUSINESS: Blue's Valley Campground, Bruce Jacobs developer.** This application was tabled at the October 2006 meeting, at the request of the developer, for both sides to look at the density issues and allow the County to get an opinion from the County Attorney as to which ordinance should apply to the application.

P. Johnson explained that Gretchen Thilmony, Assistant County Attorney, submitted an opinion. Brant Beeson, Attorney for the Jacobs, replied to this letter and requested that Thilmony respond to his letter. Johnson stated that Thilmony had reviewed the letter and affirmed that her opinion letter stands as written. P. Johnson stated that Courts look at case law when making decision. The Planning Commission does not. Some of the issues contained in the letter should be dealt with in Court, not at a Planning Commission public hearing. The Planning Commission is a recommending board. P. Johnson explained that the Board must show facts to support their decision no matter which Ordinance they choose to follow. P. Johnson then referred to Beeson's letter, which outlined the time frame of the Jacob's application. P. Johnson stated that the Jacob's applied for the conditional use permit in May 2004. In September 2004, a moratorium was placed on certain types of development in Becker County. The moratorium was a six-month moratorium and was extended for another six months in March 2005. The types of developments involved in the moratorium were planned unit developments, resort conversions, and subdivisions with common access lots. The moratorium was countywide to allow the County time to analyze the problems within the County and take proper direction. The moratorium was not enacted specifically to stop the Jacob's project. An ordinance cannot be changed to stop a project. There were several projects in review, but the main focus at this time was resort conversions. P. Johnson then cited portions of the Ordinance that was in effect at the time of the application. These included: maximum number of units that may be allowed in the project could be 79 – the Jacob's are asking for 54; the Ordinance says that a conditional use permit "may" be

allowed, not “shall” be allowed; At the time of application, the maximum number allowed is an option, not a given.

Brant Beeson stated that the City of Frazee is in full support of the application and representatives of the City will speak later. Beeson stated that it is unfortunate that there was not a response letter of further explanation from the County Attorney after his follow up letter to the County Attorney. Beeson stated that the Jacob’s may or may not have vested rights, but the County can choose as to which Ordinance they choose to follow in this situation. Becker County has stated that the old Ordinance will apply; there is written documentation from the Zoning Office that the Ordinance in effect at the time of application will apply. Beeson then explained estoppels and how that applied to the Jacobs. The Jacob’s acted in good faith, relying on the information from the County. The Jacob’s could have asked for the maximum number of units but felt that this was a not good steward of the lake. But with the new Ordinance, that was recently passed; there will never be another campground in Becker County. Beeson then referred to a lake study done by the DNR regarding boat usage in Minnesota from 1986 until 2005. This study shows that boat activity has increased from people using public boat accesses. The study also showed that boat activity has decreased from people using commercial places (resorts, etc). Using the example of a 16 unit riparian subdivision, the amount of boats being used on the lake would not increase during the week and on the weekends, would add one boat. Applying this formula to the Jacob’s campground, the number of boats added to the lake during the week would be one and the number of boats added to the lake during the weekend would be three. The campground will be monitored and ran by the Jacobs. This project has gone on for too long and needs to be resolved.

Brufloft stated that, with the number of applications and the number of people attending the meeting, each person choosing to speak would have a three-minute time limit.

Speaking in favor of the application were:

Hank Luedtke, Frazee City Council – a letter of support has been written by the City of Frazee; this addition would be an asset to the City.

Ken Miosek, Frazee City Council – the City passed a resolution in favor of the project. The City has been working on a new comprehensive plan. A decent campground is needed in the area and this project will benefit the community and will compliment the comprehensive plan.

Rod Oswald – he has been working on the comprehensive plan for Frazee and the research he has done indicates that the new trend is for people to watch the water, not use the water. There are more people watching wildlife than football. The people of Frazee want this development. This is not a density issue. The lake can be flooded with the use of the public access.

Dawn King – this is a beautiful lake; we must share our beauty with others; when a campground is not allowed, no one else can enjoy the water and the lake.

Speaking in opposition of the application were:

Jim Peters, representing the Eagle Lake Group – The group requests denial of the application. Peters stated that the County Attorney gave the opinion, but Beeson stated the Attorney's Office did not review the specific facts of the file. During the EAW process, approval of the project is prohibited so the application could not be acted upon under the "old ordinance". Peter's stated that there is written correspondence showing that Jacobs was told that if he wanted more sites, he would have to make new application. The change in the project does not support estoppels.

Mike Murphy – explained the soil conditions of the area; explained the direction of water flow around Eagle Lake and explained the problems associated with that type of soil.

Christianson questioned if Murphy was opposed to any campground. Murphy stated that he was not opposed to a campground, but felt that everyone must be wise with development and that this development is on the worse type of construction ground.

Ron Jenson – a lot of people are not in favor of this application; we need to look and the future of the children and seniors in the area; money is not everything; the main thing is survival and the future.

Ross Bjorklund – there are two sides to every issue and does not want to see the community segregated; Jacob's does have the right to develop his property but fears for the value of his property; the value of a house is quite different than the value of a campground. Eagle Lake Road cannot handle any more traffic.

Joy Penney – the EAW committee has agreed with the concerns of the soil; the new ordinance addresses environmental concerns and those concerns were pushed aside when the County Board did not require the EIS; the Jacob's should have to apply for a new application with a revised plan to meet the new ordinance.

Jim Landbloom – lake pollution needs to be taken into consideration; the lake has no inlet or outlet; how many years will it take to make the lake poisonous?

There was no new written correspondence either for or against the application. At this time, testimony was closed.

The Board held further discussion. Knutson asked if the engineer could address Murphy's concerns about the soil conditions. Shane Kjellberg, engineer, gave a brief history of how a septic system works and is constructed. Kjellberg stated that Keith Ketter, licensed septic system designer and installer, has dug soil pits on site and designed the system that will work in those conditions. The system will be designed to protect the lake and ground water. The campground will be seasonal and the campground activity and usage will be during the best treatment times.

Christianson stated that the Board must be comfortable with either ordinance that will be followed. Christianson stated that the Board has usually used the ordinance that was in effect at the time of the application. P. Johnson stated that this is the first campground that has been reviewed after being delayed in the ordinance change; Knutson stated that the Board has constantly stated that the ordinance in effect at the time of application would be used. Knutson felt that the new ordinance should not be used. Brufflodt stated that what is right for the property, in relation to soils, site conditions and density, must be done.

Kovala stated that if the application had been able to be acted upon right away under the old ordinance, the Board probably would not have approved 74 units. Kovala felt this number would have been cut in half. Kovala stated that during his discussion with Beeson, Kovala expressed to Beeson that 54 units were too many and that he did not like the boat launching area.

Knutson stated that he would be comfortable with 18 boat slips, 44 sites and no boat ramp. McGovern felt that the 54 units were too many and the boat ramp was too close to the swimming area and should be eliminated. Moritz felt the septic system needed to be engineered and seen up front. Moritz was also concerned about the wetland and sensitive areas and felt a conservation easement should be placed on these areas. Moritz did agree with Knutson's numbers.

Johnston felt there were two issues – density and water activity. Johnston felt that the project should fall under the old ordinance. Johnston stated that the original application requested 46 units, not 54 and asked how the number changed. Johnston stated that he could support 46 but not 54. P. Johnson stated that the EAW was completed using 54 units.

Knutson stated that the EIS reversal had stipulations and asked P. Johnson to read those stipulations which included: approval contingent on the issuance of required permits including, but not limited to the following: conditional use permit issued by Becker County; change of zone issued by Becker County; Wetland Replacement Permit issued by Becker County SWCD, NPDES permit issued by MPCA; SWPPP permit issued by MPCA; Entrance permit and turning lane permit issued by MN DOT; sewage treatment system permit issued by Becker County; land alteration permit issued by Becker County; and site permits issued by Becker County, which the Board felt mitigated the impacts of the proposed project.

Lien stated that it is his opinion that the density is the issue, not which ordinance should be applied. The old ordinance did not guarantee a specific number, just set a maximum limit. Lien stated that he could not support 54 units, but could support no more than 46 units.

**Motion:** Christianson made a motion to approve a change of zone from agricultural to water oriented commercial and approve a conditional use permit for 50 RV sites and the rest of the proposal as present on the revised site plan. Johnston second. A vote was

taken with Christianson and Johnston in favor of the motion. The rest of the members voted against the motion. Motion failed.

Kovala made a motion to approve the change of zone from agricultural to water oriented commercial and approve a conditional use permit for 46 RV sites, 18 boat slips, a conservation easement buffer around the wetland and bay area on the north end of the property; with the stipulation that the boat ramp be eliminated; and implement remaining EAW and SWPP plan based on the fact that the conditions placed on the project by the Negative Declaration of the EAW and termination of the EIS and Negative Declaration would not be a detriment to the surrounding area and would mitigate any impacts of the proposed project. Knutson second. All in favor except McGovern. Motion carried.

**SECOND ORDER OF BUSINESS: Marie Zander.** Request a Change of Zone from Commercial to Residential and approval of a Certificate of Survey for three tracts of land; 2.23 acres, 2.41 acres and 2.63 acres in size; for the property described as: N 450 ft of govt Lot 3, Section 32, TWP 142, Range 36; Savannah Township. PID Number 27.0178.000. The property is located on County Road 46 and is on Boot Lake.

P. Johson stated that due to a medical emergency, no one would be present to explain the application and suggested that the application be moved to the end of the agenda.

**THIRD ORDER OF BUSINESS: Patricia Potts.** Request a Change of Zone from Commercial to Residential for one tract of land, 4.48 acres in size for the property described as: Pt Govt Lot 5; Section 6, TWP 139, Range 38; Toad Lake Township. PID Number 33.0080.000. The property is located at 21566 Co Hwy 37.

Steve Langlie, Anderson Land Surveying, explained the application. This tract of land has been a problem area for the County for several years. This is an attempt to correct the problem and is probably the best way to settle the issue. This would be a 4-acre tract of land.

Johnston stated that the mobile home does not meet the setbacks. Langlie stated that was correct. Kovala questioned where the mobile home could be relocated without doing major land alteration. Langlie felt that the mobile home could be moved closer to the old roadbed. Langlie felt there were issues that still needed to be resolved with Parcel 209 to make sure MN DOT released the old road and that it reverted back to the Pott's property.

P. Johnson stated that the mobile home is in violation because it was moved onto the property without permits. P. Johnson also stated that the change of zone should not be approved without a buildable area. Langlie stated that there is a large area between contours 1520 and 1530 that should allow enough room for the mobile home to be relocated. P. Johnson stated that the septic system would also have to be certified or updated.

Further discussion was held regarding the ownership of the old roadbed. Thorkildson questioned how the property was accessed. Langlie stated that the property was accessed

from County Hwy 37, not Hwy 34. Christianson questioned if the property could be rezoned agricultural rather than spot zoning to residential. P. Johnson stated that the tract is large enough to be rezoned to agricultural.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against. Testimony closed.

Further discussion was held regarding the size of the lot, buildable area, location of the mobile home, moving the mobile home and the 60-day rule. P. Johnson felt the application should be tabled, define the buildable area, stake out a location for the mobile home and have the Board revisit the site.

At this time, Langlie asked to table the issue. Langlie asked how long they had to table the issue. P. Johnson stated, that because of the violation, the application could be tabled until next month. P. Johnson re-stated that an area needed to be staked out to show where the mobile home would be relocated by the next information meeting. Johnston felt that the status of the old road also needed to be resolved. P. Johnson stated she would check with MN DOT and the County Engineer. Langlie stated that he could get a title opinion for the property.

**FOURTH ORDER OF BUSINESS: Contractor's Leasing.** Request a Conditional Use Permit for Gravel Excavation in an Agricultural Zone for the property described as: NE ¼ SE ¼; NW ¼ SE ¼ & S ½ SE ¼; Section 29, TWP 138, Range 43; Cormorant Township. PID Numbers 06.0403.000 & 06.0407.000. The property is located at 12917 - 115th St.

P. Johnson explained that this project completed an mandatory EAW. The EAW needed a better reclamation plan, which has been received from Nancy Kaeding, Contractor's Leasing.

Mark Aunstad, Houston Engineering, explained the application to the Board. Brufloft questioned if Contractor's Leasing had any photos of areas that have already been reclaimed. Tony Kost, Contractor's Leasing, stated that they were not prepared to answer those types of questions. P. Johnson stated that currently, there were no reclaimed areas within Becker County. Kost stated that, in the mined areas, the top soil would be removed, the gravel taken out, and the top soil replaced to look as natural as possible.

McGovern questioned if US Fish and Wildlife had commented. P. Johnson stated that a letter had been received in response to the public hearing but not in response to the EAW. McGovern questioned if there would be a buffer between the USFW property and the gravel pit. Kost stated that the road separates the two properties.

Moritz questioned the traffic pattern and the direction of the traffic. Moritz also questioned if provisions have been taken to handle traffic hazards. Kost stated that it would be difficult to answer those types of questions because the traffic flow would depend on the direction and size of project needing the gravel. Kost stated that

everything to the West of this property is already zoned for gravel mining. This is the furthest east that the gravel goes. The traffic will go west, then either north or south. The traffic will not go east.

Speaking in favor of the application was Everett Paulson. Paulson stated that he is surrounded by gravel pits and likes it.

Speaking in opposition to the application was Roger Haugen. Haugen is concerned about the trucks, dust and noise. Haugen lives 2 ¾ miles from the pit and can hear the noise. He is also concerned about the wildlife.

Written correspondence was received from:

Brad Wentz, Becker County Highway Engineer stating that the County will require help with blading and dust control for any work in excess of typical operations.

Larry Kinder – concerned about the traffic and large trucks being used on 115<sup>th</sup> St, the nesting area of the prairie chicken and the property values.

Scot Kahan, Wetland District Manager – with concerns about the wetland production areas in close proximity of the project.

At this time, testimony was closed. The Board held further discussion regarding the number of residents along 115<sup>th</sup> St, the traffic on Co Rd 145, the activities in the surrounding properties and truck safety. Brufloft felt that Contractor's Leasing should meet with the County Highway Engineer to address his concerns. Christianson questioned if Contractor's Leasing had a safety director. Kost stated that their safety director was the State.

**Motion:** W. Johnson made a motion to approve the conditional use permit for gravel excavation in an agricultural zone based on the fact that it is compatible with the surrounding area with the stipulation that Contractor's Leasing meet with the County Highway Engineer to come up with a plan to address the County Highway Engineer's road concerns. Thorkildson second. All in favor except Moritz and McGovern. Motion carried. Moritz stated that he was opposed to the project because of lack of travel plans.

**FIFTH ORDER OF BUSINESS: Matt Krause.** Request a Conditional Use Permit for a commercial business consisting of recreational equipment repair and storage shed in an Agricultural Zone for the property described as: NE ¼ of Lot 9; Section 33, TWP 138, Range 40; Burlington Township. PID Number 03.0351.000. The project is located at 31683 Eagle Lake Road. THIS IS AN AFTER THE FACT PERMIT.

Krause explained the application to the Board. Krause would like a conditional use permit for shop on his property and storage shed.

Kovala stated the he considered this property as a junkyard and cannot support a conditional use permit with the condition of the property. If the property were cleaned up, he would reconsider. Krause stated that he has been working all week and has made considerable improvements.

W. Johnson asked if Krause plans to store everything outside. Krause stated that some things could be parked below the hill, which would be out of sight from the road. Thorkildson questioned if the business was repair or storage. Krause stated that the business is mostly a repair business with winter storage. McGovern referred to the letter sent to Krause on 10/16/06 and what he has done to comply with the letter. Krause stated that he submitted the applications. P. Johnson stated that a site permit was not issued prior to construction. A site permit has been submitted, but has not been approved pending the outcome of the conditional use permit. P. Johnson further stated that this is an after the fact request and fines will be imposed.

Speaking in favor of the application was Scott Viste. Viste stated that the property has been cleaned up considerably and that Krause is only trying to make a living.

No one spoke in opposition to the application. Written correspondence was received from Kay Furey and Darrell Bauder with concerns and in opposition. At this time, testimony was closed.

The Board held discussion. Knutson felt that Krause needed to improve the condition of the property before a conditional use permit is considered. Knutson asked P. Johnson if Krause could finish the structure. P. Johnson stated that the structure is already in violation because a permit was not obtained before construction. P. Johnson stated that the structure could be finished with the understanding that there will be fines imposed on the final approval of the permit and that if the conditional use permit is not granted the structure cannot be used for a business and can only be used for personal storage.

Discussion was held regarding the need for fencing or screening. Discussion was also held regarding the application being tabled to allow applicant to clean up the property and once the property is cleaned up it will have to stay that way and will be made a condition of the conditional use permit, if granted. This would have to be done by the next informational meeting, which would be December 14, 2006.

At this time, Krause requested that his application be tabled until the December meeting.

**SIXTH ORDER OF BUSINESS: Carol Graham.** Request a Change of Zone from Agricultural to Residential and approval of a certificate of survey for 2 tracts of land; 3.1 acres and 2.0 acres for the proeprty described as Pt of Govt Lot 3; Section 20, TWP 138, Range 40, Burlington Township. The property is located at 13128 Frazee Road.

Scott Walz, surveyor, explained the application to the Board. A year ago, the property was split into two tracts. Now, the request is to further subdivide the one tract into two

smaller tracts. Little Acorn Lake is not recognized as a lake, but as a wetland. The proposed tracts meet the criteria fo the Zoning Ordinance and Subdivision Ordinance.

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. Ron Royer stated that his property is south of the Graham property and has used the present access, which crosses the Graham property for 30 years. Currently there are no easements documents and is concerned about what will happen to the access.

Walz stated that the Grahams will provide an easement. Johnston questioned if the access could be moved. Walz stated that the access could be moved, but the Grahams are willing to give easement and that can be a condition of approval.

At this time, testimony was closed. Further discussion was held regarding location, easement and size of the lots.

**Motion:** Christianson made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey subject to the driveway easement being granted to the property owner to the South based on the fact that the application is compatible with the surrounding area. Knutson second. All in favor except Moritz. Motion carried.

**SEVENTH ORDER OF BUSINESS: Jeff Baker.** Request a Conditional Use Permit for a wood shop for manufacturing furniture in an Agricultural Zone for the property described as: SE ¼ SE ¼; Section 26, TWP 139, Range 37; Wolf Lake Township. PID Number 37.0102.000. The property is located at 51835 - 170th St.

The application was explained by Baker. Baker owns and operates Smokey Hills Furniture, which the store is located in Osage. Baker and his son make the furniture for the store and are the only employees. They would like to make the furniture at this site.

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.

The Board held discussion. Kovala stated that the closest neighbor to the project was about two miles away and that this is a very remote area.

**Motion:** Kovala made a motion to approve a conditional use permit to allow a commercial operation consisting of a wood shop for manufacturing furniture in an agricultural zone based on the fact that the project would not be detrimental to the surrounding area. Moritz second. All in favor. Motion carried.

**EIGHTH ORDER OF BUSINESS: Marie Zander.** Request a Change of Zone from Commercial to Residential and approval of a Certificate of Survey for three tracts of land; 2.23 acres, 2.41 acres and 2.63 acres in size; for the property described as: N 450 ft of

govt Lot 3, Section 32, TWP 142, Range 36; Savannah Township. PID Number 27.0178.000. The property is located on County Road 46 and is on Boot Lake.

P. Johnson explained the application to the Board. The request is for a change of zone from commercial to residential and approval of a certificate of survey for three tracts of land. The certificate does meet the criteria of the Zoning Ordinance.

No one in favor of the application. No one spoke in opposition to the application. There was one letter from Brad Wentz, Becker County Highway Engineer. Wentz stated that new access are not allowed within 500 feet of a road intersection and other arrangements will need to be made to provide access to Co Hwy 46 for Tracts B & C. At this time, testimony was closed.

The Board held discussion. Kovala stated that this property was an old resort and was zoned commercial in the original comprehensive plan. Currently there is no evidence of a resort. P. Johnson stated that an easement would have to be provided for Tracts B & C to access Co Hwy 46 through Tract A and the current access.

**Motion:** Kovala made a motion to approve the change of zone from commercial to residential and approve the certificate of survey for three tracts of land with the stipulation that an easement be provided for Tracts B & C to access Co Hwy 46 through the current access on Tract A based on the fact that the application meets the criteria of the Zoning Ordinance. W. Johnson second. All in favor. Motion carried.

**NINTH ORDER OF BUSINESS: Final Plat of Ice Cracking Cove, Tea Cracker LLC, Developer.**

P. Johnson explained that the preliminary plat was approved in May 2005 for 19 lots with the a change of zone from agricultural to residential with the stipulation that approval must be given by the DNR regarding the natural topographic divide between lakes, and that the plat have proper road access.

P. Johnson explained that the DNR did approve the topographic divide between the lakes and that the lots are the appropriate size for each lake. One road has been bonded, but is waiting for final paperwork from County Attorney.

Larry Nygard, developer, stated that the final plat is the same as the preliminary plat.

No one spoke in favor of the application. No one spoke against the application. At this time, testimony was closed.

**Motion:** Johnston made a motion to approve the final plat of Ice Cracking Cove for 19 lots based on the fact that the final plat meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Moritz second. All in favor. Motion carried.

**TENTH ORDER OF BUSINESS: Informational meeting.**

The next informational meeting is scheduled for Thursday, December 14, 2006 at 7:00 am at the Planning & Zoning Office.

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

_____	ATTEST	_____
Jim Brufloft, Chairman		Jeff Moritz, Secretary
		_____
		Patricia L. Johnson, Administrator