

**Becker County Planning Commission
December 18, 2006**

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

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

Moritz made a motion to approve the minutes from the November 21, 2006 meeting. W. Johnson second. All in favor. Motion carried.

Kovala explained the protocol that the meeting would follow. Kovala further explained that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, December 19, 2006.

FIRST 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.

P. Johnson explained that this application had been postponed from the last meeting at the request of the applicant after the Planning Commission strongly suggested cleaning up the property and getting rid of unused items.

Krause explained his request for recreational vehicles and storage. Kovala stated that he felt there was too much dead equipment around the property and that the property needed to be cleaned up. Lien stated that there has been significant clean up.

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.

Motion: Lien made a motion to approve the conditional use permit, as requested based on the fact that it would not be detrimental to the surrounding area, with the stipulation that the property continues to be in a neat and orderly manner. Knutson second. All in favor. Motion carried.

Knutson explained that a conditional permit is conditional and can be revoked if the property is not kept clean, neat and in an orderly fashion.

SECOND ORDER OF BUSINESS: Tea Cracker LLC. Request a Change of Zone from Agricultural to Residential and approval of a Preliminary Plat consisting of 11 lots & 5 outlots for the property described as: PID Number R 25.0099.000; Pt Lots 1,2 &3;

Pt NW 1/4 SW 1/4 & Pt SE 1/4 NW 1/4, Section 30, TWP 141, Range 38; Round Lake Township. The project is located on South Ice Cracking Road on Ice Cracking Lake.

Brant Beeson, Attorney, explained the application to the Board. The request is for 11 lots and 5 outlots. The request meets or exceeds the requirements of a natural environment lake. Outlot E would be donated to the US Fish and Wildlife Service, Tamarac National Wildlife Refuge. There would be shared docking accesses and a 33 ft road corridor to minimize the impact on the land. A conservation easement, 25 ft deep, would be placed along the entire shoreline, except designated docking areas. The Environmental Review Technical Panel has reviewed the proposal. An EAW was done and the County Board of Commissioners felt that an EIS was not necessary. If development is prohibited, it is the same as taking the land.

Kovala questioned if this developer was the same developer as Ice Cracking Cove because it was his understanding at the time that Ice Cracking Cove was developed, that there would not be further development in this area. If this had been known, the Boards would have looked at Ice Cracking Cove in a different manner. Christianson stated that the proposed road did not meet the specifications of the Subdivision Ordinance.

Scott Walz, surveyor, further explained the application to the Board. After the second meeting with the Tech Panel, the developer compromised and made a smaller road to lessen impact. Christianson questioned where the road profile was. Walz stated that the road profile was submitted with the Ice Cracking Cove development.

Larry Nygard, developer, explained the evolution of the plat and the EAW process. The following 7 items have been addressed:

Recommendation	Plat Change
Cluster development on lots 1-5	Reduce road right of way, concentrate lake access points, remove lake access on Lot 1, only one boat launch
Enforceable restrictions	Establish setbacks, no wake zones, non-motorized boat use only, establish boat route near island
Endangered species	Coordinate construction activities to minimize impact
Lake access	Limit access to 5 locations totaling 340 ft on 3949 total ft of shoreline, no lake access on Lot 1
Motorized restrictions	Becker County surface water ordinance, limiting motor use to electric motors only
Landowner awareness	Develop jointly with the US Dept of Interior and Becker County a handout describing the access restrictions on Tea Cracker Lake

Lot conversion from develop-
ment to conservation Lots 10-11

Deed Outlot E to US Dept of Interior along with a
25 ft conservation easement which runs along the
Shoreline

These changes have been drawn on the preliminary plat submitted. There will be a total of 340 ft of docking area on 18,000 feet of shoreline. There will be one boat access for everyone to use for boat launching. Buoys near the island to protect the island.

Speaking in favor of the application:

Thomas Frank, biology teacher, felt this proposal would protect the lake; everyone should enjoy pristine areas; the proposal protects the wild rice areas.

Speaking against the application:

John Postovit – COLA and ERTTP Panel – EAW sets out basic facts of a development and an EAW is reviewed by experts. However, the changes on the preliminary plat were not on the table during the EAW review process. The conclusion of the committee was that irrevocable damage would be done to the environment. If this project is approved, it will show that the natural resources of Becker County can be exploited. This project is not in harmony with the land use.

Ruth Bergquist – Tamarac Refuge is an economic asset to the community, 11 lake homes will make the lake lose its pristine character. Christianson questioned Bergquist if she was against any development on this lake or just this development. Bergquist felt that no development should take place on this lake; development would make the lake lose its wilderness.

Mike Swan – Director of Land Resources, White Earth Indian Reservation – restricting accesses to the lake will not work; these restrictions do not apply to tribal members; wild rice was not addressed in the EAW, mentioned, but not addressed; State law states that wild rice beds cannot be disturbed or destroyed; White Earth Reservation stocks Tea Cracker Lake with walleyes; The Tribe and County should work together on these issues; the EAW does not address the property which lies within the Indian Reservation.

Barbara Boyle Tamarac Wildlife Refuge manager – Refuge was established in 1938 as a sanctuary for wildlife; Tea Cracker Lake lies partially within the boundaries of the Refuge; this is a wilderness lake and the vegetation does not allow for recreational use; the Refuge has an agreement with the Reservation to preserve the wild rice beds; from her conversations with the Township, the Township is concerned about the proposed road. Christianson questioned if there was limited access to the lake. Boyle stated that there are limited activities in the summer due to the wild rice but open to winter activity.

Leonard Bergquist – when you read about project does it should make sense, this project does not make sense.

Kathryn Warren – White Earth Tribal Office – Becker County has not requested prior Tribal input or interests that the Reservation has with this development; this land is not suitable for development.

Knutson questioned if there were burial grounds in this area. Warren stated that some bone fragments have been found, but no intensive research has been done. Swan stated that there have been battle fields between Lakota and Chippewa in this area, fighting over the wild rice beds, but the exact burial sites are not know. Warren stated that a message must be sent now to keep this area from being swallowed up by development.

Donna Dustin – Izaak Walton League – the County is unwilling to use the comprehensive plan to make decisions and protect the natural resources; approval of the project will destroy integrity of the EAW process; development destroys pristine areas whether it is intended or not.

Kay Grignon – Round/Ice Cracking Lake Association – a pristine lake is in a near wilderness setting; once broken, it cannot be fixed; this area is not suitable to recreation; she then referred to a 12/13/06 letter in the area newspaper which stated that it was the responsibility of County to make sure developments meet the requirements of the Becker County Zoning Ordinance and comprehensive plan.

Henry Van Offlen, Minnesota Center for Environmental Advocacy – questioned why Ice Cracking Cove was not reviewed before hand and felt there were four key reasons for denial: this area of Becker County is unique and contains significant natural resource features; the plat does not meet some of the purposes of the Ordinance, specifically land suitability; the proposed plat is inconsistent with the comprehensive plan; no reasonable or prudent alternatives have been considered for this development.

Wm Henke – Izaak Walton League and private citizen – the purpose of Planning Commission should be proactive not reactive; lakes like Tea Cracker should be protected. Christianson questioned if Henke was opposed to this development on Tea Cracker or all development on Tea Cracker. Henke stated that nothing should be developed on Tea Cracker Lake.

Winona LaDuke – White Earth Land Recovery Project and resident – this is a chance to do something right and not get into a situation that will loose something pristine; our area still has good quality water that must be protected; she is opposed to privatizing natural resources.

Bob Merritt – Department of Natural Resources, area hydrologist – EAW missed several important aspects; the lake is mostly a wild rice bed; a migration area for several types of wildlife; development would destroy the wild rice bed and stop the animal migration; there is very little development in this area, being surrounded by tree farming and logging, forests and important waterfowl areas; Becker County has lost 90% of the Western wetlands and now the woodlands are being attached; the DNR asked for an EIS; there are alternatives to this project without completely destroying the area; the DNR strongly suggested a MURD; a MURD may not give the developers the money they want, but it is not our jobs; MN law, Environmental Policy Act provides guidelines for making decisions; this is not an issue of “not in my back yard” there are justifiable

issues that need to be looked at; the first thing that needs to be acted upon is the change of zone; if there is no change of zone, the plat does not meet the criteria of the Ordinance; the request is not compatible with residential and does not meet residential standards; this is an agricultural area.

Willis Mattson – County Resident, Ecology major and MPCA employee – members of planning commission usually have hands tied with State and County regulations; the developers have made a subtle threat here tonight by saying that if the plan is not approved, it is a taking; this is not a small threat, the courts have upheld cases pertaining to this issue; the zone change should be strong enough case to deny because it is not compatible with the surrounding area; a legal opinion should be obtained as to whether or not the two developments should have been evaluated together or independently.

Richard Hecock – citizen of Becker County – wanted to reaffirm no formal review has taken place on anything but the lot/block proposal, no alternatives have been reviewed; the EAW process should be reviewed again because the plan presented tonight has been significantly altered from the first proposal reviewed by the EAW; Tea Cracker Lake has a rare eco system and should be protected.

Written correspondence was received from:

Bob Merritt. DNR – against the application;

Dave Barsness – against the application;

Katherine Warren, White Earth Reservation Zoning Office – against the application;

Ed Clem – BCSW – against the application;

William Henke – Izaak Walton League, Prairie Woods Chapter – against the application;

Sharon Kemp Round/Ice Cracking Lakes – against the application;

Don andCarolynn Blanding – against the application;

Mary Ulmer – Cola – against the application;

Ruth Bergquist, Resource Stewardship Association of Becker County – against the application;

Collin Peterson against the application;

Henry Van Offlen – Minnesota Senate of advocacy – against the application;

Ron Jenson, Tamarac Interpretive Association – against the application;

Barbara Boyle, US Dept of Interior, Fish & Wildlife Service – against the application;

Ruth Bergquist – against the application;

Ken Franek – against the application;

Richard Hecock – against the application;

Michael Swan, Director of Natural Resources, White Earth Indian Reservation – against the application;

Jim Bruflo, Planning Commission – against the application;

Donna Dustin – against the application;

Cheryl Volkman – against the application;

Brad Wentz, Becker County Highway Department – right of way of road is to be 66 ft.

At this time testimony was closed. Further discussion was held regarding location, general character of area, wild life, plants, roads, and concerns of the people.

Johnston stated that he has never seen this much opposition to a project, especially agencies. Johnston stated that area has not changed in 30 years. Johnston felt that this project could be denied because of the land suitability section of Ordinance and change of zone does not fit the general character of the area. There is an abundance of emergent vegetation and migrating waterfowl.

Moritz stated that the lot/block proposal is not the best plan for this shallow lake and with the amount of wild rice, is not suitable for development. Knutson agreed with Moritz. Christianson felt that the proposal did not meet the requirements of the Zoning Ordinance due to lack of legal description, no road profiles and size of road corridor. W. Johnson agreed. Thorkildson stated that the proposal did not make any sense. Thorkildson felt that if the developer was so concerned about the environmental impacts, the entire area should be deeded to the Department of Interior. Lien felt that, if the Board had known about phase II before hand, the Ice Cracking Cove development would have been looked at differently.

Johnston make a motion to deny the change of zone based on the fact that the area is predominately an agricultural area; land suitability, primarily the near shore aquatic conditions, emergent vegetation and wild rice, make the lake unsuitable for water-based recreations; the habitat is important for wildlife species, migrating waterfowl and wildlife migration and with the denial of the change of zone, the preliminary plat would have to be denied because it does not meet the size requirements of an agricultural zone. Knutson second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Michael Cossette. Request a Change of Zone from Agricultural to Residential and approval of a preliminary plat consisting of 6 lots for the property described as: PID Number R 06.0002.000; Pt Govt Lot 6 & Pt Govt Lot 1, Section 1, TWP 138, Range 43; Cormorant Township. The project is located on North Leaf Lake Road on Leaf Lake.

Glen Howe, Anderson Land Surveying, explained the application to the Board. The development would consist of six lots with a conservation easement. The lots exceed size requirements. The ERTTP met on site. There was discussion of a MURD, but a MURD would allow for 15 units on this property. This particular property would make sense to develop in a lot/block concept. A supplemental sheet was handed out showing the proposed location of a walkway easement, which was discussed on site. There would be centralized docking. The conservation easement would be placed along the entire bluff and steep slope area. The violations are being corrected. An access to the lake would be constructed on Lot 3, in the natural swale, where the damage has already been done, and minimizing further damage to the area. Christianson questioned the type of walkway that would be constructed. Howe felt that an elevated walkway would have to be constructed with erosion control measures placed under the walkway. Christianson questioned the driveway accesses. Howe stated that it might be necessary to share driveway accesses. Moritz questioned who would have control of the conservation easement and questioned why the watershed did not have formal review of the

application. P. Johnson stated that the watershed usually accepts the conservation easement and that the watershed can require site-specific drainage plans on each lot.

No one spoke in favor of the application. Speaking in opposition to the application was John Postovit, COLA – stated that the design of the project has been changed in front of the Planning Commission and should be tabled to review the altered plan. Postovit did not like the concept of the property line going to the lake and felt that the lot line should end where the conservation easement begins.

Howe stated that the only thing that has been changed from the original plan is the location of the walkway and walkway easement has been defined, at a suggestion from the tour meeting and that lot lines up to the lake are addressed in the conservation easement.

Barry Nelson questioned if there was access to the existing public road. Howe stated that land had been purchased from the Jacobson's to gain access to the public road.

Written correspondence was received from Mary Ulmer, COLA, in opposition to the application and a comment about the road access from Brad Wentz, Becker County Highway Engineer. At this time, testimony was closed.

Further discussion was held regarding the lot size, dock placement, conservation easements, and access issues. Lien felt that if there was the opportunity to table the issue, it should be done to take a closer look at the issues.

Motion: Lien made a motion to table the application until the January 2007 meeting to allow the Board to review the supplemental information provided at this meeting. Thorkildson second. All in favor. Motion carried. Application will be reviewed at the January 2007 meeting.

FOURTH ORDER OF BUSINESS: Ryan Conley. Request Approval of a Certificate of Survey for four (4) lots in an Agricultural Zone for the property described as: PID Number R 17.0039.000; W 19 Ac of SE 1/4 SW 1/4, Section 4, TWP 138, Range 42; Lake Eunice Township. The project is located on County Road 6 on Bullhead Lake.

Chris Heyer, surveyor, explained the application to the Board. This is a four-lot subdivision with three lots having lake access and one non-riparian lot. Two of the lots would have road frontage and two lots would be served by an easement for ingress and egress. The lots meet the size requirement for an agricultural zone; therefore a zone change would not be required.

Kovala questioned whether or not Tract D would be buildable. Heyer stated that there is a building site on Tract D.

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 lot size, location and access to the lots.

Motion: Christianson made a motion to approve the certificate of survey for four tracts of land based on the fact that the request was compatible with the surrounding area. Seaberg second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Final Plat of Cormorant Cove, Pinnacle Land Development, Inc., Developers.

P. Johnson stated that the change of zone and preliminary plat was approved in June 2006 with stipulations outlined in the special protection easement. The special protection easement is being reviewed and everything else is in order for recording.

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

SIXTH ORDER OF BUSINESS: Informational Meeting. The next informational meeting is scheduled for Thursday, January 11, 2007 at 7:00 a.m. at the Planning and Zoning Office.

Christianson stated that the Planning Commission should recommend to County Board to take aggressive action on pristine lakes. At this time, no action was taken on the recommendation.

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

Jim Kovala, Vice Chairman

Jeff Moritz, Secretary

ATTEST _____
Patricia Johnson, Zoning Administrator