

**BECKER COUNTY PLANNING COMMISSION  
APRIL 17, 2007**

**Present:** Waldo Johnson, John Lien, Don Skarie, Jim Bruflodt, Harry Johnston, Mary Seaberg, John McGovern, Jim Kovala, Larry Knutson, Zoning Administrator Patricia Swenson and Zoning Staff Lisa Tufts.

**Minutes:** Kovala made a motion to approve the minutes from March 2007 with the stipulation of the correction by removing the word 'is' from the last sentence of page four. Knutson second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting. Bruflodt stated that the Planning Commission is a recommending Board and the County Board of Commissioners will act on the recommendations of the Planning Commission on Tuesday, April 24, 2007.

**FIRST ORDER OF BUSINESS: Bruce Danielson.** Request an amendment to the Conditional Use Permit, recorded as Document No. 539264, to sell half of the existing building to be utilized by an electrical business. LEGAL LAND DESCRIPTION: R060380002. PT Lovt Lot 3; Comm NLY Cor Lot 4 Lk Ida Bch, WLY 188.11, Section 27, TWP 138, Range 43, Cormorant Township. The property is located on Lake 605.

Swenson explained the application. A Conditional Use Permit was issued in July 2006 allowing a personal construction business with the following stipulations: Maximum hours of 7:00 a.m to 7:00 p.m, 15 evergreen trees for screening, no outdoor storage, 10 foot maximum sidewalls, directional lighting, one business sign, and a water runoff review.

Danielson stated that he originally asked for strip mall at this location. The board was not looking favorable on this request so he changed his request to a personal construction business. He questioned whether his lot is in the first tier, second tier or third tier for lake shore development. Swenson stated that he was in the first tier of a natural environment lake. Danielson stated that he has met all the conditions of CUP, kept to hours allowed, planted 47 trees, has no outdoor storage, stick built rather than pole barn, dredged holding pond for runoff containment. Meeting all the criteria has caused a big expense and he would like to split the costs by having an electrician buy into the building. He would like to sell half of the building to reduce the costs of operating the business. He is proposing the same stipulations as existing CUP except would like an additional sign near the road and another business in the building. The need for the additional sign is due to the number of trees planted and the building isn't visible from the road. He is proposing one sign for both businesses that would be visible from both sides.

Johnson asked if there would be any retail stores in the building. Danielson stated that there would be no retail sales. Danielson stated that he contacted an attorney regarding incorporating a business with different construction entities thus allowing several businesses in the building under one ownership. He chose not to go ahead with that plan. He prefers to sell half the building in a condo type ownership with common areas. The common property ownership would include yard maintenance with a sprinkler system and directional lighting. McGovern stated that the building and grounds appear to be well cared for. Danielson stated that he built the building with splitting in mind and has already partitioned the building. There are over head doors on both ends.

Kovala questioned what Danielson plans were for outside storage. Danielson stated that he may later request a lean-to for cold storage.

Public testimony included:

Marvin Wright – owns property on Lake Ida approximately 125 yards from Danielson’s property. He stated that the strip mall was rejected because it was too near a Natural Environment lake. Wright stated that in Danielson’s request for the existing CUP, Danielson stated he needed a large building because he buys lumber in wholesale quantities and needs the area for personal storage. He did not build the building with cold storage in mind. Wright believes that Danielson is working toward strip mall concept that Danielson originally requested. Wright also stated that Danielson put in a driveway approach on Natural Environment lake side of the property within 50 yards of the water. Wright believes that Danielson has a hidden agenda and that Danielson never intended the structure for personal use and that Danielson intends to redevelop the property for a use that was previously discouraged by the Planning Commission. Wright is also concerned about excessive traffic in the area.

Al Schaber - Lake Ida Beach. Schaber can’t believe he is going through this again. He brought pictures to show the scale of this development. It is developing into more than is being stated by Danielson. He is concerned about high traffic on a curved road. The additional traffic of four or five electrical trucks will be going in or out all day long. He is once again stating the same concerns he had for the previous CUP request.

Tim Erickson – Danielson’s employee. He stated that the trucks won’t be there all day long and that the traffic is far worse on the weekends than it would be from the additional business vehicles. There is no proposed retail sales so there will not be any customer traffic, other than an occasional person discussing a specific job.

Swenson read an emailed correspondence in opposition received from Rick & Sharon Julian. The email stated that they were disappointed that Danielson hadn’t kept his word regarding the sole business in the building for even 6 months. The Julian’s are wondering if there will be additional business requests in the future.

Testimony closed.

Kovala asked Danielson what the next plan would be. He stated that the original request was for a beauty shop, other retail stores and business. Danielson and the Planning Commission agreed on one business and one sign. The current request is for two businesses and two signs.

Knutson questioned the size of the septic system. Danielson stated it is sized for two bath rooms and that the bathrooms are for personal use only. Swenson verified this from the file and that the septic system was the minimum system sized allowed by the County Ordinance.

Danielson further stated that he has two employees. The electrician that he would like to sell half of the building to also has two employees.

Knutson stated that per photographs there are four electrical meters on the building. Danielson stated there are actually five meters; two electrical meters, two off peak meters for electric heat and one meter for common useage such as irrigation and directional lighting. Danielson reiterated that the building is in excellent repair.

Lien stated his concern was that Danielson built the building to split and did what he wanted to anyway regardless of CUP provisions.

Johnson made a motion to approve with the stipulation of inside storage since both businesses where construction businesses. The motion died for lack of a second.

The Commission members held more discussion. Brufoldt agrees with Lien in that Danielson circumvented the CUP. He understand the economic hardship of the cost of the building, but it was approved as sole ower and that was not Danielson's intent.

Kovala stated that the east end of the building was to be used for cold storage and it was not constructed in that manner.

Johnston recalled that the access was to be off the county road only. Swenson stated that stipulation is not enforceable because it was not part of the CUP motion.

Knutson asked his fellow board members whether they were against the concept or against it because Danielson's intentions were other than he stated when applying for the previous CUP. Brufoldt stated that an additional construction business in the existing building would probably do no more harm, but opposes the current request because of Danielson's maneuvering. Lien stated that the splitting of the building isn't of much concern, but Danielson is amending a CUP within a year. Knutson stated that the decision shouldn't be based on emotion, but on the criteria of the Zoning Ordinance. Lien stated the decision is not based on emotion as there is a existing CUP that there was plenty of oppostion to in the first place.

Johnson stated that if he leased part of the building it would be similar to the mini mall originally requested.

Seaberg stated that the traffic concerned her. She also was curious as to the content of the discussion with the attorney. Did he suggest asking for amending the CUP prior to incorporating the business. Danielson stated the he discussed methods spreading the cost of his building. If he incorporated his construction company, he could have several different construction entities under one corporation and, therefore, it shouldn't matter if someone else bought into the building. Danielson stated he may have to sell the building if he can't run more than one business out of there.

Knutson stated that the CUP goes with the property so the only business that could go in there would be a single construction business.

Lien made a motion to deny the application based on the facts that multiple businesses were specifically not allowed in the existing CUP. McGovern second. Knutson asked Danielson if he would like to table the application. Danielson asked to table the application so he had time to hire an attorney. Lien withdrew the motion based on applicant requesting a tabling. McGovern second. Tabled by applicant.

**SECOND ORDER OF BUSINESS: Larry & Cheryl Lee.** Request a Conditional Use Permit for a business consisting of a Quilting & Scrapbooking Retreat, which would include sale of scrapbook and quilting supplies, and rental of the cabin for quilting and scrapbooking retreats. The property is located in an Agricultural Zone. LEGAL LAND DESCRIPTION: R120125000. 1.44 AC PT Lot 9, Beginning 960.88 ft N of SE Cor, Th NW 366.28 ft N Al Lk 200 ft, Th SE 264.18 ft and S 182 ft to Beg, Section 18, TWP 142, Range 37, Forest Township. The property is located on Bad Medicine Lake.

Swenson brought the application before the board.

Cheryl Lee, owner of the property, stated that she is the owner of the property and is requesting a CUP allowing a maximum of ten people to rent the cabin as a retreat for quilting and scrapbooking on the east side of Bad Medicine. The cabin is very secluded and not visible due to the many trees on the property. The cabin has four bedrooms, three baths, two family rooms and a kitchen. Most of the time the renters would be inside quilting or working on quiet projects. This will not harm the use or enjoyment of neighboring property. The events would be less intrusive than a family weekend when several family members are outside and on the lake. The use will not impede the use and enjoyment of any surrounding land. The cabin is approximately 150 feet from the rear property line. The electrical service, water and new septic system are sized appropriately for the proposed use. The road leading into the cabin is tarred, as is the driveway, there will be no dust problems. The view from the lake is very natural. Brush has been removed only for the septic system. They will use the existing lighting, so that should not affect the neighbors as it is not currently visible to them. There will be no environmental hazards. There will be no retail sales other than a few supplies made available to the guests attending a retreat. This is for convenience so they don't to have to drive to get thread or tape. The proposed use is less intensive than family residential

use and proposal meets all the criteria of the zoning ordinance. She understands that there is a letter in opposition to the proposal and addressed the concern raised in the letter. There is at least 150 feet between the cabin for the proposed retreat and the neighboring cabin. The driveway is on the Lee's property and the Anderson's have an easement to access their property. There are more vehicles on the driveway and parking areas when the family and their guests are at the cabin than there would be with the retreat attendees. The Anderson's driveway splits off of the Lee's driveway and goes in the opposite direction. The Lee's have never had any problems accessing their property in the winter, they have a contract to have the road plowed in the winter. She acknowledged that the Anderson's are concerned with people sliding into the ditch in the winter. Lee states there is no ditch. She will prevent retreat attendees from entering the Anderson's property with signs and maps. The Lee's will be at the cabin to check in their guests. Lee stated the the guests will be responsible adults. And the Lee's will be staying at their other cabin four driveways down in case of an emergency.

Brufloft questioned exactly how a quilting retreat works. Lee stated that they would lease the cabin to one person and they would be allowed to bring 9 guests. They would typically stay from two to four days.

Johnston questioned the age of the house and how it is that it is only 90 feet from the lake. Swenson explained that the lake level is currently over the OHW, so the house does conform to the OHW setback.

Kovala stated that it is a large cabin, but the cars would be visible to the neighbors based on the location of the parking area. The proposal calls for parking near the driveway and Lee stated that Anderson parking on Lee's lot when the Anderson's have company.

Public testimony included:

Morry Kershner spoke on behalf of the Anderson's since they are out of the area. The Anderson's are the neighbor nearest to Lee's cabin in this proposal. The Anderson's also own property on Cotton Lake. They recently purchased the Bad Medicine property for a retirement home. They would not have purchased a home near a business. They purchased on Bad Medicine because it is a very pristine lake. They enjoy the wilderness of the area also. The Anderson's are very concerned about the Lee's proposal. The Anderson's have a legal easement across Lee's property and those rights can not be taken away and should not be infringed upon. The driveway is fairly steep and only ten feet wide with thin pavement and soft shoulders. It is not reasonable that the retreat attendees could park on the driveway without impeding the flow of traffic on the driveway. There is not enough parking space for the attendees and people that are not familiar with the property lines may trespass onto Anderson's property. There are ruts in the soft shoulder of recent entries into the property. Anderson's park on their own property behind their home. They feel that the peace and enjoyment of there property will be impacted. During the winter it is difficult to get up the driveway due to ice and the slope. Often times someone must stand on the Township road to make sure no one is coming, thereby allowing the car exiting the driveway to gain enough speed to make it up the hill. It would not be wise to have no additional lighting with a person that is unfamiliar with

the property. Kershner reminded the Commission that the Ordinance states that recreational development lakes are intended for mainly residential use. In order to grant an CUP the commission must make specific findings. According to the Becker County Zoning Ordinance they must find that:

A. the conditional use will not harm the use and enjoyment of other property in the immediate vicinity nor substantially diminish or impair property values.

D. adequate measures have been or will be taken to provide off- street parking and loading spaces to serve the proposed use.

Roger Olson, resident on Bad Medicine Lake questioned if this proposal is approved would the property be taxed as commercial. Swenson stated that property is typically taxed by use.

Swenson read the Anderson's correspondence from the file. Anderson are requesting denial of the application based on the same information that Kershner presented on their behalf as noted above.

Testimony closed.

Lien questioned which direction the driveway diverted to access the Anderson property.

Knutson asked whether either the Anderson's or the Lee's property abutted a public road. He also question who paid for the maintenance of the driveway. Mr. Lee replied that they share the cost with the Anderson's for the plowing, but there has been no other maintenance since the Anderson's purchased the property. Prior to the Anderson's purchase the other maintenance cost were shared with the previous owner.

Ray Vlasak, Forest Township resident and Township Board member, stated that the township board hasn't reviewed the application. He personally was unaware of any maintenance agreement. He has no opinion either for or against the proposal.

Brufloft stated that his only concern was regarding the parking. Driving abilities can't be controlled by property owners.

Kovala also expressed concern regarding the parking. Stating that there was parking area available on the grassy area, as well as the east side of the cabin. Kovala also questioned why have a quilting retreat on the lake if they will not be using the lake. He questioned why a retreat couldn't just as well be held elsewhere.

Seaberg stated that sewing inside a cabin would be much less intrusive to the neighbors than would be having kids screaming at the lake.

Brufloft asked how often Mrs. Lee anticipated hosting a retreat. She stated that she is hoping for every weekend, but doesn't think that will happen immediately.

Seaberg question what type of advertising she planned to do. Mrs. Lee stated that she will advertise over the internet and through her daughter's Creative Memories business.

Johnston stated that the proposed use will affect the enjoyment of the neighboring property and the he believes the parking plan is inadequate. The area is residential in character and a rental cabin would be a commercial use. Johnston is not in favor of the proposal.

Skarie stated that the problem is with the shared driveway. Lien agreed with Skarie in that the use isn't harmful but the driveway and parking plan poses a problem.

Knutson admits that when he went to complete a site inspection for the application that he inadvertently entered the Anderson's property. There is not adequate parking and the driveway is not adequate.

Johnston made a motion to deny the application based on the inadequacy of the parking and driveway. Skarie second. Johnson, Lien, Skarie, Brufloft, Johnston, McGovern, Kovala, and Knutson voted in favor of the denial of the application. Seaberg voted in opposition. Motion carried.

**THIRD ORDER OF BUSINESS: Rusty Moose Investments, Steve Stenerson.** Request a Change of Zone from Agricultural to Residential and approval of a certificate of survey for two tracts of land. The tracts of land will be 54,768 sq ft and 65,639 sq ft in size. LEGAL LAND DESCRIPTION: R120123000. Pt Lots 5 & 6, Section 18, TWP 142, Range 37, Forest Township. The property is located on Bad Medicine Lake.

Steve Stenerson, owner of Rusty Moose Investments, dba Red Top Resort, stated that the resort consists of four cabin and two RV spaces on 499 feet of lakeshore and an area on approximately 24 acres. There is an easement road cutting through the property. He proposes to subdivide the southerly 302 feet of the lake shore into two lots each with 151 feet of lakeshore and adequate area in accordance with the Becker County Zoning Ordinance. There are three old nonconforming cabins approximately thirty to forty feet from the lake that will be removed. He is asking permission to leave the existing cabin until the new owners completed the building of new dwellings. He states that this will be an improvement to the area, that the lake level is receding and there are no erosion issues.

Kovala asked if the main house to the north would remain. Stenerson stated that it would. Kovala asked how the proposed lots would be accessed off of Red Top Rd. Stenerson stated that it would be beneficial to share one driveway between the two lots.

Skarie asked what a dotted line drawn on the Certificate of Survey was intended to mean. Stenerson stated it was the road setback marking. Skarie stated concern regarding the limited buildable area of approximately thirty to forty feet between the lake setback and the road setback.

Kovala reiterated that all three cabins were to be removed. Stenerson stated that the nonconforming cabins would be removed, but would like to keep them at least until the lots sell.

Skarie questioned whether we could approve the lots with a cabin encroaching on both proposed lots by sitting on the proposed lot line.

Bruflo dt question whether the cabins could be moved. Stenerson felt they were not worth moving.

Knutson stated that there does not appear to be a purpose to leave the cabins. Stenerson explained that he has rented them for the season.

Johnston stated concern over current lake level versus the ordinary high water mark. The Certificate of Survey shows the setback line to the OHW, which would be only 75 feet from the current lake level. Stenerson stated that the OHW is only about fourteen feet from the current water level.

Public testimony included:

Chuck Church, neighbor, testified in favor of the proposal.

Jim Noonan, resident on Bad Medicine Lake, stated he is not really opposed or in favor of the proposal. He is asking the road not be moved, but maintained the way it is currently.

Ray Vlasak, Forest Twp resident and member of Forest Twp Board, representing himself, as the Board has not acted on this application. This proposal does not fall under the Forest Township Zoning Ordinance. Vlasak stated that Stenerson has discussed the proposal with the Town Board previously. Vlasak stated that the only way the lots meet the area requirement is by including area on both sides of Red Top Rd. The impervious surface and the nearness to the lake of the road concerns Vlasak. The Becker County Zoning Ordinance states that the lot must be 150 feet at the lake as well as at the building line. These proposed lots are not 150 feet in width at the building line. There is a triangular remnant that is not of an acceptable size. He also stated that the existing water level has been over the OHW for 20 out of the past 22 years. He believes road should be moved further back to meet the lot area requirement and setback the impervious surface coverage from the lake. He feels that the lots could be price to meet the cost of moving the road.

Knutson asked Vlasak who maintains the road. Vlasak stated that the Township maintains it, but the cost of moving the road would be assigned to the developer.

Stenerson stated that the adjoining neighbor has expressed interest in purchasing the remnant.

Swenson read a letter from the file from the Coalition of Lake Associations (COLA) stating that they believe the ordinance is being circumvented by allowing the area in a lot to be considered on both sides of a public road. Approval of this Certificate of Survey would be allowing new nonconforming sized lots.

Testimony closed.

Kovala stated that it appears that the applicant is trying to get approval for two lots where only one should be allowed by using area from both sides of the road. He also stated that the current lake level is within four steps of the nonconforming cabins.

Lien stated concerns with limited buildable area of Tract A.

Knutson asked for clarification on road setback. Swenson stated that the road setback requirement is 78 feet from the centerline of a township road.

Kovala stated that, given the high lake level of Bad Medicine Lake the buildable area is actually only 14 feet in depth.

Lien disagrees with the idea of achieving adequate lot area by including land across a public road. He thinks the building area is too small. He agrees that there are two lots where only one should be.

Johnston agrees with Lien.

Johnson stated that the road could be moved back. The curve in the road could be taken out and that would give more buildable area.

Lien stated that would be possible, but can't support the proposal based on the existing survey.

The Commission held more discussion regarding moving the road and gaining buildable area. Swenson stated that according to the Becker County Zoning Ordinance the new lots could be setback according to the string line so the buildable area is actually larger than it is shown on the survey. Knutson suggested that they make a stipulation that the stringline may not be applied. Lien doesn't agree with using the string line language on a newly created lot.

Knutson asked if Stenerson would consider moving the road. Stenerson would consider it but not until the sale of the lots.

Stenerson stated that the Environmental Technical Panel approved up to eight units in a Multi- Unit Residential District. The proposed use of two parcels is a less intensive use. He also stated that the road is a public easement road, not a public dedicated road. The septic system could go on the back portion of the lots. This proposal does meet the criteria of the Becker County Zoning Ordinance. Moving the road would improve the lots to the south.

Knutson asked Stenerson if he would like to table the application to allow for time to resolve the concerns regarding the road and time to address the townships concerns. Stenerson did not want to table the application as he has a buyer interested in one of the lots and is afraid he may lose the sale.

Lien motion to approve the application with the stipulation that the road be moved to allow for more buildable area on the lots. Johnson second.

Johnston stated concern about the lot width at the setback line and the extreme difference in the OHW and the current lake level. Bruflodt called for a vote. McGovern abstaining. Johnson, Lien, Skarie, Bruflodt, Seaberg, Knutson in favor. Kovala and Johnston opposed. Motion carried.

**FOURTH ORDER OF BUSINESS: James & Jane Hokenson.** Request a Change of Zone from Commercial to Agricultural. LEGAL LAND DESCRIPTION: R080355000. .64 acres, 200 ft E & W by 140 ft N & S in NE Cor SW ¼ of NE ¼ of NE ¼; Section 21, TWP 139, Range 41, Detroit Township.

Jim Hokenson stated that many years ago the property was zoned commercial for a marine repair business. That business has been off the property for over 20 years and has since been used as a single family dwelling. He stated that he would like the property zoned either as agricultural or residential. The property will not be used agriculturally.

Public testimony included:

David Hjermstad of 18901 Frontage Rd. stated that his property adjoins the Hokenson property. He does not want to see it zoned agricultural because even though the Hokenson's don't intend to use it as agricultural property, he doesn't want any subsequent owners to use it as such.

Testimony closed.

Kovala made a motion to change the zone from Commercial to Residential. Knutson second. All in favor. Motion carried.

**FIFTH ORDER OF BUSINESS: St Cloud Wireless St Cloud Wireless.** Request a Conditional Use Permit to construct a communication tower, which would exceed 100 ft in height with a maximum height of 175 ft. LEGAL LAND DESCRIPTION: R190153002. 98.95 Ac E 1/2 of SW 1/4 and W 1/2 of SE 1/4 Lying W of RWY and E of Hwy 59, Section 09, TWP 138, Range 41, Lake View Township.

Paul Vershure presented the application for St. Cloud Wireless. He stated that at the time of the application he had not received a copy of the FAA study relating to the maximum height allowable for the tower. The FAA has since approved a tower up to 190 feet in height. The applicant intends to build the tower 175 feet in height. He stated that there are no existing towers within two miles of the proposed tower, that the location is within one half mile of several lakes, but there is a need for service in this area. The tower can

accommodate up to five carriers and meets all of the engineering requirements. They have a land lease signed with the property owners. And most of the property within a half mile radius surrounding the proposed tower site is also owned by Soo Pass Ranch. There is a temporary tower on the site currently. It is 75 feet in height. It was put up as a private communications tower on the WE Fest site for employee communication during events. The proposed tower would go in the same location as the existing temporary tower. The nearest public tower is four miles away.

Brufloft stated that there appeared to be building area for several carriers to place their equipment.

Seaberg questioned whether a variance request from the Board of Adjustment would be needed to allow lake setback of less than one-half mile. Swenson stated that the location of the tower is to be decided wholly by the Planning Commission and that a variance is not required.

Public testimony included:

Don Beck, owner of property east of tower, stated he built a new home a year ago and doesn't want to look out his picture window at a tower. But if the proposed tower is going in the location of the existing temporary tower that would be no problem.

Chris Heyer, surveyor, stated that there is a gas line approximately 310 feet from the proposed tower site.

Gail Hahn, Lake View Township Board Member, stated that the Township Board has approved the location of the tower and look forward to the service.

Swenson read a letter from the file from the City of Detroit Lakes/ Becker County Airport Commission requesting that an application be filed with the FAA. Swenson stated that this has been done and the FAA has approved.

Kovala motion to approve the application as submitted. Seaberg second. All in favor. Motion carried.

**SIXTH ORDER OF BUSINESS: Final Plat of The Woods on Lake Maud, Brad Solheim, Developer.**

Swenson stated that all requirements for a final plat have been met.

Kovala made a motion to approve the final plat of The Woods on Lake Maud. Lien second. All in favor. Motion carried.

Swenson stated that the next informational meeting of the Planning Commission is scheduled for Thursday May 10, 2007 at 8:00 a.m.

Knutson made a motion to adjourn. Seaberg second. All in favor. Motion carried.