

Becker County Planning Commission
June 19, 2007

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

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

Minutes: Seaberg made a motion to approve the minutes from the May 2007 meeting. Lien second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting. Bruflodt stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, June 26, 2007.

Bruflodt announced that the applications by Northern Development (Weiglewood Resort) and the Final Plat by Carlson were withdrawn from the agenda the applicants and would not be heard at tonight's meeting.

FIRST ORDER OF BUSINESS: Mark Yozamp. Request a change of zone from Agricultural to High Density Residential and a Multi-Unit Residential Development consisting of 10 Units for the property described as: Pt Lot 4 Beg 680.37 Ft W of NE Cor Th SLY AL CSAH #17, Section 21, TWP 138, Range 41. Lake View Township, Lake Melissa. PID Number 19.0442.001. The property is located at 12176 Co Hwy 17. This application was tabled by the applicant at the Becker County Board of Commissioners' meeting on February 27, 2007.

Swenson explained that the Planning Commission has heard this application twice. In February, the Planning Commission had denied the application and the applicant had tabled the application to allow the applicant to meet with the Technical Review Panel.

Yozamp explained the application to the Board along with Scott Walz. Both explained that the Technical Review Panel did not have a whole lot of concerns with the application and that the units were made smaller. Yozamp stated that the Pelican River Watershed had sent a letter that stated they had no issues with the application. Yozamp also stated that the DNR and Township do not have concerns with the development. The proposed project is not out of scope with the Ordinance. Yozamp further explained that much planning had gone into the project before it was submitted the first time and then it got caught in the moratorium. Yozamp stated that the first application was not opposed, but it was tabled because it was being compared to Sandy Beach Estates. Yozamp further tabled the application until the concerns on Sandy Beach Estates were settled. Yozamp stated that the concerns about the bluff will be addressed through proper agencies. Knutson questioned if there was a letter from Guetter, PRWD, stating this was the best

plan. Yozamp stated that those were her words to Yozamp and probably cannot be put into a letter, but she sent a letter. Yozamp stated that this development will not need a retention plan because the drainage runs away from the lake and has a natural holding area. Knutson stated that Guetter's letter states that a storm water management plan will be required. Knutson felt that the issue with this development is the density.

Yozamp stated that the bluff is not calculated in the lot area, which is misleading in the lot coverage, the bluff area is a huge area that cannot be developed and is green space, which if it could be used in the calculation, there would be a drop in impervious area to about 18%.

Brufloft questioned how much of the bluff would be protected with a conservation easement. Yozamp stated that the conservation easement would be for the shoreline, not the bluff area because Zoning and PRWD would protect the bluff area. Brufloft felt that there should be a conservation easement on the bluff for an added sense of protection. Seaberg questioned why the whole bluff is not added to the conservation easement. Yozamp stated that he will play his cards out, if he needs to add it to the conservation easement he will, otherwise he will not.

Speaking in opposition to the application were:

Clayton Jenson, Ravenswood Beach Improvement Association – the entire 46 owners are in opposition to the application;

Mary Ann Bond – President of Melissa/Sallie Lake Association – opposed to a development requiring a variance;

Walter Gordon – has been opposed through all the meetings, has concerns with run off, traffic on the bluff, he wants firm answers and wants to protect his property;

Tom Koehnlein – object to density, those on the lake bound by the 100 ft of lakeshore frontage, his own parcel is approximately ½ the size of this property, if this is granted he would be able to development his property the same way, this is not the best use of the property;

Bill Sherlin, Lake Maud Association and personally – there is a MURD being done on Lake Maud, a MURD well serves the lake and the developer, but this one does not totally conform to the Ordinance and should not be considered if it does not conform to the Ordinance.

Speaking for Lake View Township was Gail Hahn stating that if the application meets DNR, PRWD and Zoning requirements without a variance, the Township is in favor of the application by a 2:1 vote.

Written correspondence as received from:

In favor of the application: Lake View Township and Pelican River Watershed.

In opposition to the application: Becker County COLA, Valerie Gordon, Amanda Gordon, Patricia Pearson, Bob Bristlin.

At this time, testimony was closed and further discussion was held. Knutson questioned why COLA felt the application did not meet the requirements of the Zoning Ordinance.

Swenson stated that the application was submitted under the old ordinance and that COLA was comparing it to the new ordinance. Swenson stated that some of the discrepancies included: old allows 10 units, new allows 7; old allowed 10 ft side lot setback, new requires 80 ft; old allows 4 mooring sites, new allows 3. Swenson stated that the application was submitted prior to the ordinance change and meets the old ordinance but the Planning Commission does not have to apply the old ordinance.

Lien felt that whatever ordinance is applied, the number of units is still too dense. Lien was also concerned about the number of mooring sites, and the trail and felt there should be a conservation easement on the entire bluff. Knutson stated that which ordinance to apply is not the issue here because he felt that the application may not have been approved under the old ordinance. Brufloft and Moritz felt there should be a conservation easement on the entire bluff. Moritz also felt that there is still a wall of condos and they should be staggered. McGovern felt that additional traffic would be tear up the bluff. Skarie felt that the property should not be rezoned to high density residential. Seaberg felt that a lot/block subdivision would do more damage to the bluff and lake than the MURD. Kovala felt that there were too many units proposed for this small area.

Yozamp asked if the Board would go on record that they would embrace a four-lot subdivision if the MURD did not pass. Brufloft stated that they could not do that but would consider an application for a lot/block subdivision if it were presented to them.

Motion: Knutson made a motion to deny the change of zone from agricultural to high density residential and deny a residential planned unit development based on the fact that the project is too dense based on the land suitability. McGovern second. All in favor except Seaberg and Johnston. Majority in favor. Motion carried. Application denied.

SECOND ORDER OF BUSINESS: Jon Christianson. Request a Conditional Use Permit to allow storage of trucks and garbage collection equipment on his property for the property described as: PT SE 1/4 of SW 1/4 SW 1/4 of SE 1/4 Beg 2136.08 W of SE Sec Cor N 621.33 W 591.74, Section 07, TWP 139, Range 40; Erie Township. PID Number 10.0071.000. The property is located at 20300 Co Hwy 25.

Christianson explained the application to the board. The garbage trucks, containers and equipment are stored on the property; the business is not conducted on the property. Brufloft stated that the application looks fine but felt the containers should be moved further from the road and out of plain view from the road. Johnson questioned if there are any washing facilities for the trucks or containers. Christianson stated that occasionally they were the outsides of the trucks, but not the containers – the containers are allowed to air dry. Christianson stated that he lives at this site and does not want the smell and odor.

Speaking in opposition to the application were Clint and Vern Danielson, with concerns about the wetlands, illegal brush piles devaluing their property and running a business without a permit.

Written correspondence was received from Donna and Vince root, in opposition to the application.

At this time, testimony was closed and further discussion was held. Brufloft stated that they were out to the property and that this is a tremendous improvement over what was on the property before. Johnston questioned how many trucks Christianson had. Christianson stated that there were three, ideally would like more but does not see an expansion in the near future. Knutson stated that some of the issues brought up by the Danielson's are not concerns of this Board or concern this application. Kovala questioned the brush piles. Christianson stated that occasionally they have a bon fire, but there are no illegal materials.

Motion: Thorkildson made a motion to approve a conditional use permit to allow a commercial operation consisting of storage of garbage trucks and garbage collection equipment on the property based on the fact that the use would not be detrimental to the surrounding area. Seaberg second.

Moritz made a motion to amend the motion to include the stipulation that the containers must be stored out of sight from the public road. Knutson second.

A vote was taken on the amendment, with everyone voting in favor of the amendment. A vote was then taken on the original motion with everyone voting in favor of the application except Kovala. Majority in favor. Motion carried.

THIRD ORDER OF BUSINESS: Bruce and Lorrie Middaugh. Request a conditional use permit to allow replacement of a tiered garden with a pervious paver patio and retaining wall within the shore impact zone. An 8x20 cement patio will also be removed and a natural vegetation buffer installed for the property described as: Lot 8 Globstad Beach 1st Addition, Section 22, TWP 139, Range 43, Cormorant Township, Middle Cormorant Lake. PID Number R 06.0742.000. The property is located at 14326 Globstad Beach Road.

Middaugh explained the application to the Board. The existing rock garden and railroad ties have been removed. It will be replaced with a retaining wall and pervious pavers and a vegetative buffer in front of the patio.

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 and further discussion held.

Brufloft stated that the amount of concrete in front of the cabin acts like a funnel for run off toward the lake. Lien stated that all the work is being done in the shore impact zone and the Board has been tough on retaining walls in the shore impact zone. Lien stated that the Ordinance is clear that retaining walls are to be permitted only if there is no other way to correct an existing erosion problem, not to create patios near the lake. Moritz

stated that the Cormorant Lakes Watershed has been working with the applicant, removing railroad ties has made improvements and creating infiltration areas, there have been trade offs.

Johnston stated that there is an adequate patio under the deck and that the proposal is not consistent or compatible with the neighboring properties.

Motion: Lien made a motion to deny the application for the replacement of a tiered garden with a paver patio and retaining wall with the shore impact zone based on the fact that the retaining wall does not meet the criteria of Section 12 of the Becker County Zoning Ordinance. Johnston second. All in favor except Moritz and Johnson. Majority in favor. Motion carried.

FOURTH ORDER OF BUSINESS: Jody Beaudine. Request a conditional use permit to allow a commercial use consisting of a convenience / liquor store in an Industrial Zone on the property described as: R060248000, W 1/2 SW 1/4 Less 1/2 Ac, Section 17, TWP 138, Range 13; Cormorant Township. PID Number 06.0248.000. The property is located at 12034 Co Hwy 4.

Beaudine explained the application to the Board. The property was originally zoned as commercial in 1997. In 2005, a portion of the property was rezoned to industrial. Now, Beaudine would like to implement his original plan of the convenience store and put it into the existing structure.

Knutson questioned if the concerns of the County Highway Engineer during the last meeting have been addressed. Beaudine stated that he has worked with the Highway Department and stated that they have worked out the issues. McGovern questioned if the convenience store would include a gas station. Beaudine stated that there would not be a gas station right now.

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 and further discussion was held. Lien felt that the site was suitable and a well kept area.

Motion: Lien made a motion to approve a conditional use permit to allow a convenience/liquor store in an industrial zone based on the fact that the use would not be detrimental to the surrounding area. Kovala second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Charles Burlingame. Request a change of zone from agricultural to residential and approval of a Certificate of Survey to allow 2 tracts of land (1.9 acres and 2.8 acres) for the property described as: Pt of Lot 7 Beg 1647.45 N and 577.15 W of E 1/4 Cor, Section 07, TWP 140, Range 40; Homesville Township, Buffalo Lake. PID Number R 16.0034.002. The proepryt is located at 29850 Co Hwy 26.

Burlingame and Chris Heyer explained the application to the Board. Heyer explained that they have met with the Technical Review Panel and have addressed their concerns. Heyer stated that there is an existing approach that can be utilized and if another permit cannot be obtained to put in another approach, an easement for access to the second lot will have to be created. McGovern questioned if there were plans to protect the wetlands. Burlingame stated that he would consider an easement.

Speaking in opposition to the application was Terry Wagner. Written correspondence was received from Brad Wentz, Becker County Highway Department with concerns about the approach location. At this time testimony was closed and further discussion held.

Brufloft stated that most of the members had walked the property and they could walk out quite a distance before the ground became soggy. Lien felt that the shoreline should have a conservation easement and that the DNR, Technical Review Panel and Planning & Zoning should approve any future docking areas. Moritz felt there should be a conservation easement.

Motion: Lien made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey for two tracts of land (1.9 acres and 2.8 acres) based on the fact that it would be compatible with the surrounding area with the stipulation that there be a 50 ft wide conservation easement running parallel to the shoreline and that any docking areas be approved by the DNR, Technical Review Panel and Planning & Zoning. Moritz second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Naterra Land Company. Request a change of zone from agricultural to residential and approval of a Preliminary Plat consisting of 5 lots for the proeprty described as: Part of Govt Lot 11, Section 01, TWP 140, Range 41; Richwood Township, Buffalo Lake. PID Number 24.0009.002.

Scott Seeley and Scott Walz explained the application to the Board. This would be a lot/block subdivision consisting of five single-family lots. The lots exceed what is required for a recreational development lake. To utilize the existing approaches, Lots 1 and 2 will share a driveway and Lots 3, 4 & 5 will share a driveway approach. There will be a conservation easement on the shoreline with a common lake access for all lots. They have met with the Township, who has also approved the application.

Knutson questioned how long the dock would suspend over the vegetation. Seeley stated that the dock would be approximately 100 feet long. Kovala questioned how deep the water was in the bay area. Walz stated that the water was 3 to 6 feet deep. Kovala stated that a dock 100 feet in length will still be in the vegetation during the summer months. Seeley stated that no one will get a boat in the bay during the summer months. Kovala stated that there should be a stipulation that there be no dock. Seeley felt that there should be some way for a person to launch a canoe. McGovern felt that the dock should be eliminated. Seeley stated that the dock could be eliminated but there should still be a

way to launch a boat. Knutson felt that this area should be limited to non-motorized boats.

Speaking in opposition to the application were:

Robin Turnwall – this area is unique and delicate and should remain untouched.

Susan Johnson – has a dispute as to where the lot line is, the bay is solid wild rice, and the lake bottom is muck.

Duane Gillette read a letter of opposition from Don Blanding.

Michelle Doty – concerned about the wild rice.

John Postovit, COLA – a conservation easement will protect the land but will not protect the water body.

Knutson questioned why have a conservation easement if it does not protect what it needs to protect. Postovit stated that indicating a conservation easement on the plat is not the same as the written document that spells out exactly what is protected and usually a conservation easement is for the land not the water. Postovit felt that these lots should be nonriparian and not touch the water.

Earl Johnson, DNR Wildlife Department – was the co-signer of the letter in the file. The bay may be 6 ft deep, but there is only 1- 2 feet of water above the muck; the wild rice species is given high respect and legal protection this property does not have access to the lake as a whole and it would require a dock 490 feet to access open water; need to recognize this unique area; people do things to their lake lots that are not appropriate and this area needs to be protected.

Dave Friedl, DNR Fisheries – this area is highly sensitive and a significant habitat area; the lots should not have access to the lake; this area is not suitable in its natural state for development.

Written correspondence in opposition to the application was received from: Joan and Kevin Kopperud; Brad and Laurie Fleener; Mark Hughes; Marilyn Cummings; Willis Cummings; DNR Hydrologist, DNR fisheries, DNR Wildlife; COLA; and Buffalo rice Rock Lake Association. Written correspondence in favor of the application was Richwood Township. At this time, testimony was closed and further discussion was held.

Brufloft stated that he did not recall seeing any water in the bay at the time of the tour due to the canopy of cover and agreed that the lots should not be riparian. Skarie felt that a strip of land should be deeded to the DNR so that the lots would not have access to the lake. Moritz stated that the plat is confusing because it shows lake access but in reality the lots do not have access to the lake. Lien stated that the land is not suitable for lake lots. Seeley stated that they are willing to do a conservation easement. Knutson stated

that even with the conservation easement, the lots would be riparian and could damage the lake. Earl Johnson stated that they would have to check into the process of accepting land as a gift and may need access for State employees for maintenance of the property and that no decisions could be made tonight at the meeting.

Turnwall felt that even if a strip of land was deeded to the DNR, this area is so sensitive that development would cause a slow death of this area.

Lien felt that nothing could be resolved here tonight so either a motion needed to be called or the developer could table the application to work out a solution. Knutson felt that a motion could be made allowing for a strip of land to be deeded to the DNR so that the lots would not be riparian and made this a motion. Kovala questioned what the setback for building would be on the lakeside. Swenson stated that the property line toward the lake would be considered a rear lot line and would require a 40 ft setback. Knutson stated that the setback could be made 50 feet due to the sensitivity of the lake, wetlands, and slope.

Kovala felt that there were too many unanswered questions and felt that Knutson should withdraw his motion and have the applicant table the application. Knutson withdrew his motion. Brufloft asked Seeley if he would table the application. Seeley asked that the application be table to work on the mentioned issues.

SEVENTH ORDER OF BUSINESS: Richard Swenson. Request a Preliminary Plat for ten lots and a Change of Zone from Agricultural to Residential for the property described as: W 1/2 of SE 1/4 and Pt of Govt Lots 1 & 2, Section 12, TWP 139, Range 36; Green Valley Township, Brush Lake. PID Number 13.0062.000.

R. Swenson, along with Anthony Swenson, Shane Kjellberg and Scott Walz explained the application to the Board. This development would be for 10 lots. An EAW was done with a negative declaration found.

Speaking in opposition to the application were Kay and Vic Rudek.

Doug Kingsly, DNR had concerns about lake access and would like to see one common access by the riparian owners instead of individual accesses to the lake and stated that a Class C road was agreed upon by the DNR.

Shane Kjellberg read the stipulations on the permit for the road construction and stated that the County Highway Engineer is the one that wanted the Class B road, not a Class C road.

John Postovit, COLA – stated that the lake is a shallow natural environment lake that needs to be protected, other subdivisions on natural environment lakes have been denied and the owners have still been able to subdivide into larger lots.

Written correspondence was received from COLA and Becker County Highway Department. At this time, testimony was closed and further discussion held.

Johnston stated that there are some proposed regulation changes that have not been approved and asked Postovit how many lots could be developed if those regulations were in effect. Postovit stated that five lots with 500 feet of lakeshore would be permitted and under a MURD, 10 units would be allowed. Skarie questioned the DNR's and R. Swensons's comments about the current lake access. R. Swenson stated that the Township maintains the access. Kingsly stated that the Township maintains the access but the road to the access crosses school trust land, which the school could deny access at any time.

Moritz questioned what would be done with the balance of the land. A. Swenson stated that they would like to develop it. Lien felt that the proposed lots were all right, but had a concern about the culvert area and individual launching of boats and felt that there should be a clear answer as to whether or not there is a legal public access on the lake or if a common access should be made.

Motion: Seaberg made a motion to approve the change of zone from agricultural to residential and approve a preliminary plat consisting of 10 lots based on the fact that the lots are suitable for development with the stipulation that a common lake access be created on Lot 1, Block 2 near the culvert. Lien second. All in favor except Kovala and Thorkildson. Majority in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Gene May. Request a change of zone from agricultural to residential and approval of a preliminary plat consisting of 22 lots for the property described as: Pt of Govt Lot 7, Section 14, TWP 141, Range 36, Two Inlets Township. PID Numbers 34.0102.000 & 34.0103.000.

May and Scott Walz explained the application to the Board. Walz stated that the plat is very busy due to the amount of things that need to take place to make the plat work, which includes relocating public road easements, rearranging lot lines when adjacent lots are acquired, eliminating private easements, etc.

Kovala stated that the recommendations of the Technical Review Panel were for the lots to share lake accesses due to the amount of aquatic vegetations. Walz stated that it was a recommendation but logically, people will not share a dock, it would be better to have two docks located within a certain distance from the lot line.

Speaking in opposition to the application were: Theresa Goodrum; David Major; Mary Jane Keller and Roxanne Eischens. Doug Kingsly, DNR had concerns that the wetlands may actually be part of the lakebed and should be clarified.

Written correspondence in opposition of the application were: Tim & Renee Wilmes; Barry Bray and Jeff Kjellberg. Written correspondence, with concerns were received from David Anderson and Becker County Highway Department. Written correspondence

in favor of the application was received from Two Inlets Township. At this time, testimony was closed and further discussion held.

Kovala stated that 22 lots are being proposed but only 11 of the lots have access to the lake, the others have no lake access. Lien concurred that the plat is very busy and felt that density was an issue. Kovala felt that Lot 2 was too small to build on. Knutson was concerned about the density and the wetlands. Walz stated that there is very little datum on Two Inlets Lake and there is no established ordinary high water level and by using the highest level on record, the wetlands are not part of the lake. Lien stated that the application does meet the criteria of the Ordinance. Knutson questioned how many of the lots do not meet agricultural standards. Walz stated that there were two or three lots that do not meet agricultural lot size. Kovala stated that the lots meet the criteria of the Ordinance but felt there should be shared docking areas.

Motion: Kovala made a motion to approve the change of zone from agricultural to residential and approve a preliminary plat consisting of 22 lots with 11 of the lots having lake access and 11 lots having no access to the lake with the stipulation that Lots 4 & 5; Lots 6 & 7; Lots 8 & 9 having shared docking areas as close to the common lot line as possible, separate docks will be allowed on Lots 10 & 11 and no riparian lot can be reserved for lake access for the nonriparian lots. Skarie second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Richard Sherbrooke. Request a Change of Zone from agricultural to residential and approval of a Certificate of Survey for 3 tracts of land (1.97 ac, 1.99 ac, 3.21 ac). This will include a conservation easement for land abutting Spring Creek for the property described as: Pt of the SW 1/4 SW 1/4 SE 1/4 SW 1/4, Section 25, TWP 138, Range 43. Spring Creek; Cormorant Township. PID Number 06.0367.000.

Sherbrooke and Scott Walz explained the application to the Board. Three lots would be created by certificate of survey, meeting the criteria of the Ordinance and allowing for a conservation easement along Spring Creek. Two lots would have a shared access from an existing approach and one new approach would be created.

Speaking in favor of the application was Jeff Moritz on behalf of the Cormorant Lakes Watershed District. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Moritz stated that the conservation easement was a plus. Walz stated that a similar conservation easement was done on the Heimark property also located on Spring Creek.

Motion: Moritz made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey for three tracts of land (1.97 acres, 1.99 acres and 3.21 acres) based on the fact that the application meets the criteria of the Zoning Ordinance and Subdivision Ordinance with the stipulation that there is a

conservation easement for the land abutting Spring Creek as presented on the certificate of survey. Knutson second. All in favor. Motion carried.

TENTH ORDER OF BUSINESS: Tentative Date for Informational Meeting.

The next information meeting is scheduled for Thursday, July 12, 2007 at 8:00 am at the Planning and Zoning Office. Swenson stated that an informational meeting will be scheduled for 6:00 pm to present the proposed ordinance changes.

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

Jim Brufloft, Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Swenson, Administrator