

Becker County Planning Commission
November 20, 2007

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

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

Johnston made a motion to approve the October 2007 minutes. Seaberg second. All in favor. Motion carried.

Brufloft explained the protocol for the meeting. The recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, November 27, 2007.

P Swenson explained that the December meeting will be held on Tuesday, December 11, 2007, due to the rescheduling of the County Board Meeting. The informational meeting will be held on December 6, 2007.

FIRST ORDER OF BUSINESS: Old Business: Bruce and Barb Jacobs. As result of litigation, the MN Court of Appeals has remanded the 46-unit site plan back to the Planning Commission for approval for the property described as: Lot 5 Less Pt N of Hwy 10 and 2.66 acres for gravel pit & Lot 6 Less Hwy W of NE ¼ SW ¼ & Lot 7 less 5.59 Ac; Section 28, TWP 138, Range 40, Burlington Township. PID Number 03.0282.001. The property is located on Eagle Lake.

Swenson gave a brief history of the process the original application has gone through to get to this point, including: the filing of the application; EAW, need for an EIS; amended EAW; and action by the Planning Commission on the plan after the amended EAW. The Planning Commission has received a full record and a copy of the Court of Appeals decision. Swenson then read the decision of the Court of Appeals. Swenson stated that the Conditional Use Permit was upheld, but remanded back to the Planning Commission to act on a site plan for 46 units. The plan before the Planning Commission is the same plan submitted previously, with a reduction in sites and removal of the boat ramp. Scott Anderson, Attorney for the County, has stated that testimony is to be limited to the site plan, not whether or not the previous approval was right or wrong.

Robin Schmidt, attorney for the Jacobs, stated that the explanation that Swenson gave is the same understanding that they had regarding the Court of Appeals Decision. The Jacobs were present to answer any questions.

Speaking in opposition was Joy Penney, spokesperson for the Lake Association. Penny stated that Swenson affirmed what the County's attorney stated, but the Court of Appeals did not direct the Planning Commission on how to take testimony. Penney stated that

there is only one Ordinance that should be referred to and that is the Ordinance that is now in effect. This Ordinance does not allow the Planning Commission to approve a plan that does not meet the Ordinance; if something is approved, the SWPP should be followed; a conservation easement should be included in a recorded document; the wetlands have not been delineated; The City of Detroit Lakes had trouble with a RV park because full information was not on the site plan; the Planning Commission should take the full 60 days to review the plan before a decision is made.

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

Discussion was held. Brufloft reiterated that the purpose of this hearing was to clarify what was approved before, by approving a site plan corresponding to the decision. Kovala read the motion approved in November 2006.

Motion: Kovala made a motion to approve a RV campground consisting of 46 RV sites, 18 boat slips, with 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 the remaining EAW and SWPP plans 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 on the proposed project. Knutson second.

Knutson questioned what really needed to be approved, according to the direction of the Court of Appeals. Swenson re-read the Court of Appeals Decision.

Kovala then amended his motion to read: Approve a site plan for a 46-site project based on the fact that the plan coincides with the conditional use permit and stipulations approved in November 2006. Knutson second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Contractor's Leasing. Request a conditional use permit for a gravel mine operation for the property described as: Northern most 120 acres of NE ¼; Section 32, TWP 138, Range 43; Cormorant Township. PID Number 06.0419.000.

Nancy Kaeding explained the application to the Board. The property is currently used for pasture and hay ground. The site would be opened in 40-acre plots, the black dirt would be stripped and stock piled and the area would be reclaimed when the work is done. Brufloft questioned if there were any pictures showing how other properties looked after the reclamation. Kaeding stated that nothing has been reclaimed yet; most of the properties have not yet begun excavation. Brufloft stated that there are very few sites where gravel pits look nice after reclamation. Tony Kost further explained the reclamation process. Kost stated that they own the land rather than lease the land, so it is in their best interest to make sure the property is farmable when finished.

Moritz questioned how the road would be accessed. Kost stated that they own the property to the north, so they would exit through the property to the north. Moritz questioned how much traffic would be added to the roads, because this road is already heavily traveled. Kost stated that they have been in contact with the County Engineer regarding the traffic. Kost stated that the average number of trucks traveling from a pit is about 10 to 15 per hour; however, the trucks are usually using one pit at a time, not multiple pits. Johnston questioned when excavation would begin in this area. Kost stated that they plan to begin within the next two years and stated that this is the end of the gravel in that region.

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. Seaberg questioned if there were any correspondence from the Township. Swenson stated that Cormorant Township did not respond.

Motion: Lien made a motion to approve a conditional use permit for a gravel mine operation following the reclamation outlined in the EAW. Kovala second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Michael Bullock. Request a conditional use permit to establish a Vineyard and Farm Winery in an agricultural zone for the property described as: Govt Lots 4 & 5; Section 1, TWP 140, Range 41; Richwood Township. PID Number 24.0004.000.

Bullock explained the application to the Board. Farm wineries are governed by MN State Statute 340A.315, which does state that a conditional use permit is required from the local unit of government.

Brufloft stated that he understood the wine tasting, but questioned what type of entertainment would take place. Bullock stated that some of the possible entertainment would include flea markets, musicals, art fairs and concerts. Knutson questioned the hours. Bullock stated that he is looking at being open 11 am to 11 pm Thursday and Friday and 12 noon to 8 pm on Sunday, which should cater of the lake people. Kovala questioned the parking for 40 cars. Bullock stated that it would be nice if there were 40 cars there, but does not expect that many, however, there is enough room to park 40 cars. Kovala questioned how big the building is. Bullock stated that the current structure is a two-story building that will be renovated and opened up more for a retail area.

Discussion was held regarding the hours of operation. Bullock stated that the hours are flexible. Johnston stated that the statute includes on and off sale, and he is concerned that there will be a liquor store with loud bands. Moritz questioned how much wine an acre of grapes would produce. Bullock stated that it depended upon the grape and the year,

but an average would be 600 gallons of wine from an acre of grapes. Bullock also stated that it takes about four years to get the grapes established.

Johnston questioned if the conditional use permit was not followed if it could be terminated. Swenson stated that if the conditional use permit has enforceable stipulations, it could be. Lien stated that he was still concerned about what type of entertainment would take place.

Brufloft stated that the 60-day rule would require the Board to act on the application tonight or the applicant would have to postpone it. Further discussion was held regarding what information the Board was looking for to answer their questions. Knutson explained to Bullock that even if a new plan were presented, it did not mean that there would be automatic approval. Knutson stated that this location may be a suitable location to grow grapes, but may not be the appropriate location for entertainment. Seaberg questioned if the County Engineer commented about the traffic and access to the road. Swenson stated that there was no comment from the County Highway Engineer.

Speaking in favor of the application was Penny Aguirre, partner. Aguirre stated that they are good stewards of the land; they want to establish a reputable establishment; will be limiting the chemicals; and would be replacing much of the turf with natural plantings.

Speaking in opposition to the application were Doug Koenig, concerned about the traffic; and Mark Potter, concerned about the traffic and nearby church.

Written correspondence was received from Tony Scheving, in opposition to the application; Michelle Doty, in opposition to the application and Allan and Robbie Schoenberger, in opposition to the application. At this time, testimony was closed.

Further discussion was held regarding the location of the business, traffic concerns, and entertainment concerns. Kovala stated that the conditional use permit could be approved without entertainment. Moritz stated that he was concerned about the traffic.

Motion: Moritz made a motion to approve a conditional use permit to allow the establishment and operation of a vineyard and farm winery based on the fact that it would not be detrimental to the surrounding area with the stipulation that there be no entertainment on the premises. Kovala second. All in favor except Knutson and Johnston. Majority in favor. Motion carried.

Further discussion explained that Bullock could submit another application in the future to address entertainment possibilities or table (postpone) the application at the County Board level.

FOURTH ORDER OF BUSINESS: Greg Hapka. Request an after the fact conditional use permit to construct a retaining wall within the shore impact zone for the property described as: Lot 5 Bergquist Beach First Addition; Section 27, TWP 138,

Range 42; Lake Eunice Township. PID Number 17.0445.000. The property is located on Lake Eunice.

Hapka explained the application to the Board. The wall was constructed to stop the erosion of the bank.

No one spoke in favor of the application. No one spoke in opposition of the application. Written correspondence was received from Rick and Allison Newman, in favor of the application and Barry and Jana Bowers, in favor of the application. At this time, testimony was closed.

Further discussion was held. Brufloft explained that the Board did view the property and found that the wall was about three feet in height. Brufloft questioned why riprap was not used. Brufloft also stated that the hot tub was found to be located within the shore impact zone. Hapka stated that there was not enough room for riprap to get the proper slope. Seaberg questioned what the shoreline regulations say about retaining walls. Swenson stated that it is preferred to have native plantings or riprap and that a retaining wall can be permitted by a conditional use permit, provided there is no alternative to correct an existing erosion problem.

Lien stated that many retaining walls have been denied because they do not meet the criteria of the Zoning Ordinance. Lien stated that the purpose of a retaining wall is to correct an erosion problem that cannot be corrected any other way, not make the front yard larger or more even. Lien stated that if this application came before the Board before the work was done, the wall probably would not have been permitted.

Skarie stated that the Board cannot allow the public to do what they want and then come in for forgiveness. Moritz stated that the Board should not permit anything after the fact that would not have been permitted prior to the work. Johnston felt that riprap could have been placed in this area and felt the hot tub should be moved out of the shore impact zone.

Motion: Skarie made a motion to deny the after the fact permit for a retaining wall based on the fact that the wall does not meet the criteria of the Zoning Ordinance. Lien second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Fair Hills. Request a conditional use permit to operate a restaurant that would serve both the Wildflower Golf Course and the public, for the property described as: 250 by 250 lying 33 ft N of SW Cor of SE ¼ of SE ¼; Section 33 and SE ¼ SE ¼ less 1.43 ac in SW Cor & 6.84 Ac in SE Cor; Section 33, TWP 138, Range 42; Lake Eunice Township. PID Numbers 17.0384.000 & 17.0383.000.

No one was present to explain the application. It was the consensus of the Board to move this item to the end of the agenda.

SIXTH ORDER OF BUSINESS: Kris Smith. Request the expansion of a preliminary plat consisting of two units – one unit proposed per ordinance change and one unit proposed due to the acquisition of additional land for the property described as: Pt of Govt Lot 1 and 2, Section 10, TWP 139, Range 41; Detroit Township. PID Number 08.0170.002. The property is located on Little Floyd Lake.

Scott Walz and Bruce Qvammen explained the application to the Board. Preliminary approval has already been given for 21 units. With the acquisition of more land and the recent ordinance change, there is room for two more units. The remaining property to the north would be cleaned up.

Knutson questioned if the property, to the north, which contained the house, was also acquired. Qvammen stated that the house portion of the property had not been acquired.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from John Postovit, Floyd Shores Association, in favor of the application; and Chad Carr, in opposition to the application. At this time, testimony was closed.

Further discussion was held regarding the ordinance changes and acquisition of land.

Motion: Moritz made a motion to approve the expansion of two units to the preliminary plat of Sunrise on Little Floyd based on the fact that it does meet the criteria of the Zoning Ordinance. Seaberg second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Kai Hebranson. Request approval of a certificate of survey for one lot in an agricultural zone for the property described as: Part of Govt Lot 1; Section 13, TWP 139, Range 39; Height of Land Township. The property is located on South Twin Lake.

Scott Walz, surveyor, explained the application to the Board. The purpose of the survey was to divide the shoreline from the back land. The certificate meets the criteria of the Zoning Ordinance and Subdivision Ordinance.

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

Further discussion was held regarding the lot sizes and location.

Motion: Johnston made a motion to approve the certificate of survey for one 7.5-acre tract of land based on the fact that it meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Kovala second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Chad Baker. Request a change of zone from agricultural to residential and approval of a certificate of survey to create two lots (1.9

acres and 1.55 acres) with the remaining 23.77 acres to remain an agricultural zone for the property described as: Pt Govt Lot 12 and Pt SE ¼ SE ¼; Section 3, TWP 138, Range 43; Cormorant Township. PID Number 06.0046.000. The property is located on Rossman Lake.

Steve Langlie, surveyor, explained the application to the Board. The intent is to subdivide the lakeshore from the remaining portion of land and since there are two houses on the property, the lakeshore needs to be divided into two lots. Each lot meets the criteria of the Zoning Ordinance and Subdivision Ordinance, but because of the age of the structures, the dwellings do not meet the required lake setback.

Johnston questioned if the size of the lots included the road right of way. Langlie stated that the right of way and wetlands have been subtracted out of the lot area.

No one spoke in favor of the application. Speaking in opposition to the application was Hans Heinrich, who was speaking for the lake association and did not want these lots to become funnel lots for back lots, and submitted a letter written by Sherwood Olson. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held regarding the zone change, lot sizes and the ordinance not allowing lake lots to be used as lake accesses for back lots.

Langlie stated that the application was for two – single-family lots.

Motion: Lien made a motion to approve the change of zone from agricultural to residential for two lots (1.9 acres and 1.55 acres) based on the fact that the lots meet the criteria of the Zoning Ordinance and Subdivision Ordinance. McGovern second. All in favor. Motion carried.

At this time, the Board returned to the Fair Hills application. Discussion was held regarding if the Board should act on the application or postpone action until the December 2007 meeting. Lien stated that he would feel more comfortable if someone from Fair Hills was present to answer any questions that might arise.

Motion: Lien made a motion to postpone the application to December 2007 and send a letter to Fair Hills explaining this to them. Kovala second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Final Plat of Wheeler Lake Estates.

Swenson explained that preliminary approval was granted for five riparian and four non-riparian lots in September 2006. Everything is in order for final approval.

Motion: Johnston made a motion to approve the final plat of Wheeler Lake Estates based on the fact that it meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Seaberg second. All in favor. Motion carried.

TENTH ORDER OF BUSINESS: Final Plat of Wild Shores.

Swenson explained that preliminary approval was granted for the change of zone from agricultural to residential and approval of four lots. Everything is in order for final approval.

Motion: Kovala made a motion to approve the final plat of Wild Shores based on the fact that it meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Knutson second. All in favor. Motion carried.

ELEVENTH ORDER OF BUSINESS: Final Plat of Priewe Evergreen Terrace.

Swenson explained that preliminary approval was given for 26 lots in April 2006. Everything is in order for final approval.

Motion: Moritz made a motion to approve the final plat of Priewe Evergreen Terrace based on the fact that it meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Thorkildson second. All in favor. Motion carried.

TWELFTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting will be held on December 6, 2007 at 8:00 a.m. at the Zoning Office. The December Planning Commission meeting will be held on Tuesday, December 11, 2007 due to the rescheduling of the County Board Meeting.

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

Jim Bruflodt, Chairman

Jeff Moritz, Secretary

ATTEST

Patricia Swenson, Administrator