

Becker County Planning Commission
September 20, 2011

Members Present: Harry Johnston, Chairman Jim Bruflodt, Commissioner Larry Knutson, Jim Kovala, John McGovern, Ray Thorkildson, Mary Seaberg, David Blomseth, Jeff Moritz, Zoning Administrator Patty Swenson and Zoning Technician Julene Hodgson. Dan Schlauderaff and John Lien were absent.

Chairman Bruflodt called the meeting to order. Zoning Technician Julene Hodgson recorded minutes.

Kovala made a motion to approve the minutes from August 16th, 2011. McGovern second. All in favor. Motion carried.

Chairman Bruflodt explained the protocol for the meeting and stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on September 27th, 2011.

FIRST ORDER OF BUSINESS: David Nickolay 8500 Tigua Circle Chanhassen, MN 55317 **Project Location:** Straight Lake Easement Rd off of Bog Lake Trail Rd **LEGAL LAND DESCRIPTION:** 210110000 Osage Township Straight Lake Pt Govt Lot 2: comm NE Cor TH S AL E LN 610.50' to POB...Section 17, TWP 140, Range 36 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Certificate of Survey to allow 2 tracts (Tract One) consisting of 4.5 acres and (Tract Two) consisting of 7.5 acres and a change of zone from Commercial to Agricultural for residential use.

Attorney Carl Malmstrom explained the application to the Board on behalf of David Nickolay. The property is in ownership of three parties. The certificate of survey presented to the Board would allow 2 tracts of land. The original Zoning map and records indicate the property listed as zoned commercial. The single tract has been used for residential use with a cabin and has never been used as commercial so the request includes a change of zone to rectify the past records. Kovala questioned the transition that took place in 2008 between Nickolay and Foster and why the easment was not awarded to use the existing trail versus creating a new easement going to the north. Malmstrom stated Foster would not negotiate this point at that time. Kovala stated if the easement proposal would have come in front of the Board in 2008 it would not have been allowed due to the proximity being so close to an existing dwelling. Kovala stated now there are two long described easements in an environmentally poor location. Malmstrom stated the described easement area will not be "built" by his clients, they will continue to use the road from the north that goes through the resort. Kovala noted both lots have extensive lakeshore property and in all practicality could be proposed to subdivided in the future. Malmstrom stated the easement from the north serves the 7.5 acre tract proposed and this cannot be subdivided any further being it is served by an easement only. Knutson noted the Board is assuming something will be done with a future subdivision proposal as the two easements created could service four properties. Malmstrom stated again the clients will most likely continue to use the resort road from the north. Knutson stated that if the

clients use the resort road to the north, they are circumventing the Ordinance due to the Variance denial of 2002 prohibiting more properties to use the easement than what is allowed. Malmstrom stated that Foster has given permission to use the trail to Bog Trail Rd to access their property also.

Kevin Dierks spoke against the application on behalf of R & D Resort. He stated his family gave an easement to the entire “point” area with the verbal agreement the property would never be subdivided in the future. The easement was given to the one property as a whole and he did not agree with the request. Knutson stated the Board cannot deny the request based on a verbal agreement, they must look at the entire application to assure it meets the criteria of the Ordinance. Del Carver spoke regarding concerns with the application. He went over some points that are in the letter that is on file from several property owners. He noted the 2002 denial of an extended easement to more properties. Carver stated they felt the 2008 easement recorded went around proper channels. Knutson stated the Ordinance does not require the easement road to be built. Carver stated the neighbors felt if the road was built it would be a safety issue. Knutson noted the County cannot grant, control, enforce or discontinue an easement due to easements being solely between property owners. Malmstrom stated the property will still have the same amount of owners using the same access to the property and he does not predict an increase in traffic. No one spoke in favor of the application. There was a written letter of opposition and concern from residents: Sherry Brakefield, Kathy Lofy, Robert Prichard, Brian Pollock, Lisa Pollock, Mike Carver, Bill Christlieb, Harlow Janssen, Del Carver, and Joann Christlieb. There was no written correspondence in favor of the application. At this time, testimony was closed and further discussion was held.

Knutson stated the application was cut and dry as far as dealing with one lot being split into two. They cannot look at what may be proposed in the future and the use of the current road is circumventing the Ordinance but the application in front of the Board is allowed. Kovala stated Foster pulled a fast one on the Board and there is not a lot to go back on with the easement recorded and already done, they have to look at what can be allowed. Thorkildson asked what jurisdiction creates an easement to which Brufloft stated it is always between private parties. Swenson affirmed that private easements can only service two tracts of land. Thorkildson agreed the issue at hand is the application that meets the criteria. Seaberg stated the Board cannot see what will happen in the future but what is in front of the Board can be allowed. Blomseth noted they could subdivide the one property one more time to make a total of four lots.

Motion: Thorkildson made a motion to approve a Certificate of Survey (as submitted) to allow 2 tracts (Tract One) consisting of 4.5 acres and (Tract Two) consisting of 7.5 acres and a change of zone from Commercial to Agricultural for residential use due to the request meets the criteria of the Ordinance. Seaberg second. All in favor, except Kovala and McGovern opposed. Majority ruled. Motion carried to approve.

SECOND ORDER OF BUSINESS: Larry D Rasmussen 16041 Co Hwy 6 Lake Park, MN 56554 Project Location: Co Rd 6 LEGAL LAND DESCRIPTION: 060170000

Cormorant Township Big Cormorant Lake PT GOVT LOT 2: BEG 562.58' S & 474.07' SE OF NW SEC COR TO POB... Section 12, TWP 138, Range 43 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Certificate of Survey to allow 2 tracts (Tract A) consisting of 88,200 sq ft useable area and (Tract C) consisting of 54,400 sq ft useable area and a change of zone from Agricultural to Residential for residential use.

Scott Walz explained the application to the Board on behalf of the Rasmussen's. The request is to subdivide the property with both parcels having public road access. Part of the proposal includes a land swap between neighboring properties (lot line adjustment) due to some large trees. Walz stated the proposed lots will be buildable lots with a zone change request for both tract A & C.

No one spoke in favor of the application. No one spoke against the application. There was written correspondence on file from Cormorant Township with no objection to the request. There was no written correspondence against the application. At this time, testimony was closed and further discussion was held.

The Board stated the request meets the criteria of the Ordinance. There were no further questions or concerns from the Board.

Motion: Kovala made a motion to approve a Certificate of Survey (as submitted) to allow 2 tracts (Tract A) consisting of 88,200 sq ft useable area and (Tract C) consisting of 54,400 sq ft useable area and a change of zone from Agricultural to Residential for residential use due to the request meets the criteria of the Ordinance. Blomseth second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Richard & Shirley Stearns 2905 88th Ave S Fargo, ND 58104 **Project Location:** North Cotton Lake Rd **LEGAL LAND DESCRIPTION:** 160276000 Holmesville Township Cotton Lake PT GOVT LOT 1 & PT NW1/4 NW1/4: COMM NW COR SEC 35 S 820' TO POB...Section 35, TWP 140, Range 40 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Certificate of Survey to allow 1 tract (Tract B) consisting of 1.02 acres useable area and a change of zone from Agricultural to Residential for Tract B only, for residential use.

Scott Walz explained the application to the Board on behalf of the Stearns. The son wants to purchase tract A and the owners would keep Tract B. There are wetlands indicated. Tract B has two easements conveyed within the property description. Both parcels have legal road frontage.

Cotton Lake Association President Kevin Swan spoke against the application. He outlined a letter that was submitted. The main concern was that the association members felt the proposal does not meet the criteria of Chapter 5 and the owners are creating a nonconforming lake tract. Swans understanding is any new lots created should meet the criteria of 150' of lakeshore. Swenson stated they are not creating a new lake parcel, the 10' lake access has been a part of the original tract since it was created as a lot of record, they are not creating anything new, it is already there. Swan stated he thought the request

should have gone in front of the Board of Adjustment group for review. Swan noted that even though the lake frontage exists, it is creating a second parcel of record, new lot of record. Walz reaffirmed this is an existing lake lot, the owners are not creating new lakeshore property, just breaking off the larger tract to the rear. There was written correspondence from the Cotton Lake Association, Carol and William Strache, Dave and Shari Yardley and Lois and Lonny Brantner against the application. At this time, testimony was closed and further discussion was held.

Thorkildson and Knutson stated they wanted clarification regarding the concerns. Swenson again clarified it is a legal lot of record the way it stands now, there is no more access being added or taken away, there is not any new lakeshore tract being added. Brufloft stated if the proposal is granted, the rear property cannot have legal access to the lake per the Ordinance, so they are not adding any “use” to the lake. Johnston noted if the proposed property line was moved to the north further, it would have been over 1000ft from the shore and the left over piece of 5 acres or more could have been exempt from coming in front of this Board. Blomseth reaffirmed the lake lot won’t change. There were no further questions or concern from the Board.

Motion: Seaberg made a motion for the approval of a Certificate of Survey (as submitted) to allow 1 tract (Tract B) consisting of 1.02 acres useable area and a change of zone from Agricultural to Residential for Tract B only, for residential use due to the request meets the criteria of the Ordinance. Thorkildson second. All in favor. Motion carried.

FORTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, October 13th, 2011 at 8:00 am in the third Floor Meeting Room of the Original Courthouse.

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

Jim Brufloft, Chairman

Jeff Moritz, Secretary

ATTEST _____
Patricia Swenson, Zoning Administrator