

Becker County Planning Commission
July 16, 2013

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

Chairman Bruflodt called the meeting to order at 7:00 pm. Zoning Technician Julene Hodgson recorded minutes.

Kovala made a motion to approve the minutes for June 18th, 2013. Lien 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 July 23rd, 2013.

Old Business:

FIRST ORDER OF BUSINESS: Thomas & Sally F Nelson PO Box 310 Twin Valley, MN 56584 **Project Location:** 39642 Bald Eagle Haven Rd **LEGAL LAND DESCRIPTION:** 090485000 Eagle View Township Tulaby Lake Lot Ten (10), Block Number One (1), BALD EAGLE HAVEN, Section 02, TWP 142, Range 39 **APPLICATION AND DESCRIPTION OF PROJECT:** Request an after the fact Conditional Use Permit to replace an existing retaining wall with expansion. The request includes proposed mitigation measures to control runoff and erosion. ****This is a tabled application from the March 26th, 2013 County Commissioner Meeting. The owner requested to be referred back to the Planning Commissioners Board with updated/additional information added to the original request.**

Attorney Carl Malmstrom explained the application to the Board on behalf of Thomas and Sally Nelson. The owners previously came before the Board with the same request but now ask reconsideration with mitigation plans proposed for the property. The owners request that the original retaining wall area remain with the new expansion that was added to the side. In 1982 a 26' cutout was created with railroad ties to retain the shoreline. Recent deterioration and erosion problems from ice ridge pushup caused bank erosion. The owner hired an engineer and the construction was implemented according to those plans, but the owner failed to apply to the County regarding permits to do so. A lot of the existing retaining walls are located on the Mahnomen County side, therefore out of Becker County jurisdiction. With the engineered plan, they replaced and expanded the area another 35' but the rest of the frontage (66%) was left natural with some riprap. The wall area gives a safe transition area for docking access. The wall was designed out of the shore impact zone area and high enough to control any ice damage. Due to the nature of the soils and high traffic area, the owners felt it was necessary to expand the wall to this area to help with erosion. Malmstrom continued to state the removal of the retaining wall would cause problems with further erosion and shoreline loss. The owners have contacted and worked with other entities to submit a plan for mitigation improvement and will

implement the plan to control any runoff with deep rooted plants. Malmstrom stated his concern with the Becker County Ordinance regarding retaining wall regulations being highly restrictive. He spoke to other entities that do not have regulations or enforcement regarding retaining walls and feels the County should look at the best alternatives for something that will last and be effective. There was previous comments regarding the Nelsons had placed the wall purely for aesthetic purposes but the Nelsons are willing to do plantings on the lakeside of the wall to reduce visibility from the lake. Malstrom stated the Nelsons wish to keep the retaining wall for a solution to the property problems and access purposes and that taking it out would cause further problems. He stated if the Board will not consider letting them leave the new added wall area, they should at least let the owners keep the retaining wall portion that has been there since 1982 to provide a dock location for safe access. Moritz asked where the dock was located now and Nelson stated there are two docks, one where the original wall area was where they store the pontoon and the other longer one is at the end of where they constructed the new part of the wall.

No one spoke for or against the request. Swenson read a letter of support from neighbor Michael Nelson who stated it was his opinion the retaining wall serves as a vital function of limiting runoff and erosion. Swenson read a letter written by Scott Van Dan on behalf of the Tulaby Lake Association. They support the Becker County Zoning and Planning Boards decision to recommend Mr. Nelson to return his shoreline to the condition required by the Zoning and Planning Board. Their preference would be to restore the shoreline in a manner that is approved and engineered to minimize shore erosion. A written correspondence was read by Swenson from Kevin Ruud, Administrator of the Wild Rice Watershed District. The letter stated there was no violations of the watershed rules with regards to the retaining wall that has been installed. At this time, testimony was closed and further discussion was held.

At this time, Thorkildson recused himself from voting and/or discussion due to conflict of interest.

Lien read the criteria of Chapter 6 Section 8 of the Ordinance. Lien stated there are other methods of control that could be used for erosion with minimal impact such as rip rap. Brufloft stated he did not believe the original area was cut out due to erosion problems but rather the owner cut out the area for convenience in the first place. Brufloft stated he felt the new area was added for aesthetics and beach use and the previous pictures do not show any more erosion on this side versus the other side of the shoreline. He stated the area could be sloped and slightly bermed. Kaiser stated Marsha Watland was at the informational meeting and she voiced the question to the Board of what would do less harm to the lake, the plans to mitigate or tear down the wall and then try to resolve restoration and runoff or future erosion. Moritz stated why go through the proper steps to get a permit if the owners can come before the Board later and are then allowed a permit that let these areas remain. Knutson agreed with the frustration regarding after the fact requests. Kaiser again stated that Marsha Watlands recommendations were to keep what is there now with mitigation as removing the area may cause more problems. Brufloft stated there are plenty of applications that may affect the lake but this area is 15'-20'

back from the lake and he cannot see what harm it would be to remove and restore the area with a berm and natural deep rooted plantings. Brufloft stated he does not think this is a case were the lake will be harmed and not enough argument to let it remain. Johnston agreed the area is far enough back that it could be restored with a slight slope like the other side of the shoreline and plantings and rip rap could be added to stabilize the area. Watland had commented the soils are sandy so there is not much problem regarding runoff issues. Johnston stated then it would match the south, natural shore and if the application had come before the Board before it was constructed it would not have been permitted. He further stated they could still implement the native plants and it would be a good project for the property. Kovala agreed others will come in for after the fact requests and he does not feel the added mitigation measures are enough to allow it to remain.

There was no further discussion by the Commission.

Motion: Lien made a motion to deny the request as submitted for an after the fact Conditional Use Permit to replace an existing retaining wall with expansion based on the fact the request does not meet the requirements of Chapter 6 Section 8 of the Ordinance. Kovala second. All in favor, except Kaiser. Thorkildson abstained from voting. Majority rules. Motion carried to deny.

New Business:

FIRST ORDER OF BUSINESS: APPLICANT: Leroy & Lavonne Kostrzewski 17473 Highland Drive Detroit Lakes, MN 56501 **Project Location:** 17473 Highland Drive **LEGAL LAND DESCRIPTION:** 080424000 Detroit Township W 10 AC OF NW1/4 OF SW1/4 S OF HWY LESS 7.81 AC, Section 25, TWP 139, Range 41 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Change of Zone from Commercial to Residential.

Lavonne and Leroy Kostrzewski explained the application to the Board. They wanted to construct a detached garage on the property and when they went into the Zoning office to start the application process, it was stated their property was zoned commercial. It was explained if something were to happen to the dwelling, they would not be allowed to replace the dwelling with the property zoned commercial. They wish to change the zone to residential and they will continue to use the existing conditional use permit for the property to run a small engine repair shop.

No one spoke for or against the request. There was no written correspondence either for or against the proposal. At this time, testimony was closed and further discussion was held.

Knutson stated some of the properties that were rezoned due to the original comprehensive plan have requested zone changes to reflect what use is on the property, this will rectify that for this property. Johnston stated owners have problems obtaining loans for dwellings when they find out the property is zoned commercial. Lien agreed the request will benefit the property owners and should be allowed due to the existing dwelling on the property.

There was no further discussion by the Commission.

Motion: Lien made a motion to approve the request for the Change of Zone from Commercial to Residential due to the change will coincide with the use of the property. Seaworth second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: APPLICANT: Dennis Richter 4049 Jagusch Dr Red Wing, MN 55066 **Project Location:** 15982 US Hwy 10 Lake Park Mn 56554 **LEGAL LAND DESCRIPTION:** 180003000 Lake Park Township PT SW1/4 OF SW1/4 BEG 82.83' N OF SW COR SW1/4;TH N 310.46',E 492.77',S 270.45' TO N LN HWY 10,W AL HWY 419.57',S AL HWY 40',& W AL HWY 73.90' TO BEG, Section 01, TWP 139, Range 43 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Conditional Use Permit for a used auto dealership in an Agricultural Zone.

Dennis Richter explained the application to the Board. He has a purchase agreement pending on the property and would make this their personal residence and sell used automobiles. There would be a maximum of 10 cars on the property at one time. The property was used for sales of miscellaneous items and cars in the past but the property was never properly permitted. The right of way area is defined by markers in the ditch area and Richter stated he will not park any of the vehicles in the right of way area. Richter noted the DOT commented they are OK with the request as long as he stays out of the right of way area. Richter stated his cliental will be by appointment only and if traffic becomes an issue, they could propose to place stop signs at the end of the road. The cars proposed are newer models and are all operable. There will be no automotive repair or scrapping out of any vehicles.

No one spoke for or against the request. Swenson read written correspondence from Shelley and Curt Ullrich against the proposal. They stated the property has been an issue for years selling vehicles and junk and they have concerns regarding increased traffic and safety issues. Swenson read written correspondece from Jim Utecht MN DOT Property Management Supervisor who stated they had no objection to the request but nothing is allowed to be parked or left in the right of way area of the road. Any premise signs should also be located out of the right of way. At this time, testimony was closed and further discussion was held.

Seaberg stated a good reason for a conditional use permit is for control on the property. It was the concensus of the Board that the request met the critieria of the Ordinance.

There was no further discussion by the Commission.

MOTION: Blomseth made the motion to approve a Conditional Use Permit for a used auto dealership due to the request meets the criteria of the Ordinance and is not detrimental to the surrounding area. Seaberg second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: APPLICANT: Rollag Hills Aggregate C/O James Elliott 7991 3rd St S Moorhead, MN 56560 **Project Location:** 110th Ave **LEGAL LAND DESCRIPTION:** 060411000 Cormorant Township Lot 4 & SE 1/4 of SW 1/4, Section 30, TWP 138, Range 43 **APPLICATION AND DESCRIPTION OF**

PROJECT: Request to amend an existing Conditional Use Permit document #559074 to include operation of a portable ready-mix plant to the existing Jim Elliot Pit.

Dean Engebretson on behalf of Knife River Materials explained the application to the Board. They lease the property from James Elliott and would like to amend the existing conditional use permit to include operation of a portable ready-mix plant. The company has obtained the bid for the wind turbine project coming soon to that area. The request is for two seasons, the rest of this season and next year. The operating hours would remain consistent with the permit in place and comparable to the surrounding pits. Kaiser asked if the gravel pit is a lifetime pit to which Engebretson stated yes, but the request for the temporary portable ready mix plant is for this two year project only and then will be removed. Brufloft stated then they would have to get started on the project and Swenson reminded the Board if the request is approved but they do not get started on the project within two years of the approval the conditional use permit will become null and void. Moritz asked Swenson if the property was currently in compliance with trees planted to which Swenson stated the plan was put in place, installed but not maintained so many of them died. The property must be rechecked to see if any have been added.

Everette Paulson spoke against the application. He stated he is surrounded by gravel pits and each time he has been in approval but he would not have been in favor of the Elliot pit if he would have known how it was going to be run. He stated it was approved in 2008 and the request was granted for aggregate removal. They brought in black dirt screening machine and started stripping and hauling dirt off the premises not keeping any for reclamation. Paulson stated he spoke to Richard Sherbrooke who said they did not care about the black dirt removal and they had no plans for reclamation. Paulson stated they were supposed to plant trees for a barrier and dust control and there are still no trees. He further stated they let the thistles grow and the County weed inspector called Sherbrooke regarding the thistles and weeds. Paulson stated Aggregate, Strata and Knife River do good jobs and when they do stripping they keep enough black dirt of the premises to eventually do reclamation work, but he does not feel the Elliot pit itself is in compliance of their existing conditional use permit. The Board asked Engebretson to clarify what their lease consists of to which Engebretson stated they lease a certain area of the site/property and they strictly strip the black dirt, take the rock, use the aggregate for projects which consists of approximately 9-10 tons of rock and 30 tons of sand. No one spoke in favor of the application. There was no written correspondence either for or against the proposal. At this time, testimony was closed and further discussion was held.

Lien noted that Elliot would gain if this amendment was approved and Elliot should comply with his conditions before anything further is allowed. The noncompliance happened before Knife River obtained their lease, but Elliot should still be held accountable for the entire property being in compliance. Brufloft agreed this is a situation where the landlord is in violation of the original conditional use permit granted. Lien asked if they could table the application, but Elliot was not present, therefore Knife River did not have the authority to table the request. Knutson suggested they deny the request and give the applicant the capability to go before the County Board of Commissioners next week to request to table the decision until he can show effort and proof the property is in compliance. Kaiser noted Paulson stated he has repeatedly been in contact with the Zoning office and the Elliot property continues to be noncompliant. Moritz stated if the trees had been planted and replaced over the years there would have been years of growth by now that

would be a perfect noise and dust controller. The weeds are an ongoing this that needs to be continually addressed each season. Bruflo dt suggested acting on the application currently in front of the Board and let the County Commissioners act on the recommendation. Kaiser suggested a cease and desist order be placed on the property due to the black dirt being hauled off with nothing left for reclamation, no tree barrier planted and no weed control.

There was no further discussion by the Commission.

Motion: Seaberg made the motion to deny the request as submitted to amend an existing Conditional Use Permit document #559074 to include operation of a portable ready-mix plant to the existing Jim Elliot Pit based on the fact that Mr. Elliot was not at the public hearing to represent the application and address the concerns of the Board regarding the original Conditional Use Permit stipulations. Lien second. All in favor to deny. Motion carried to deny.

FORTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, August 15th, 2013 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, Kovala made a motion to adjourn. Seaberg second. All in favor. Motion carried. Meeting adjourned.

Jim Bruflo dt, Chairman

Jeff Moritz, Secretary

ATTEST _____
Patricia Swenson, Zoning Administrator