

Becker County Planning Commission
February 18, 2003

Secretary Jeff Moritz called the meeting to order. Present were Members John McGovern, Larry Knutson, Harry Johnston, Jim Brufloft, Waldo Johnson, Julia Miller, Commissioner Dave Seaberg and Zoning Administrator Patricia Johnson. The Minutes were recorded by Debi Moltzan.

Moritz stated that the Planning Commission is a recommendation Board and the applications would be heard by the County Board of Commissioners for final decision on Tuesday, March 11, 2003.

McGovern made a motion to approve the minutes from the January 21, 2003 meeting. Brufloft second. All in favor. Motion carried. Minutes approved.

FIRST ORDER OF NEW BUSINESS: Donald and Gladys Lebefvre. An application for a preliminary plat consisting of 11 lots in a residential district has been filed by Donald and Gladys Lebefvre for the property described as: Frac SW ¼ N of Hwy 59 Less Tr to Olson, Plats & 18.49 AC in Section 22, TWP 139, Range 41, Detroit Township.

Lebefvre explained the application to the Board. The entire area is residential and this subdivision would compliment the existing lots. When Willow Springs Subdivision was originally platted, these lots were included in the subdivision. For some reason, that plat was never recorded and now the subdivision has been done in stages. Lebefvre stated that this is the best use for the property. The lots are just about two acres in size due to the lots abutting a natural environment lake. Lebefvre stated that he plans to build 1 to 2 houses a year and selling the lots that way.

W. Johnson questioned if there would be individual septic systems or city sewer and water. Lebefvre stated that each lot would have individual sewer and water. Lebefvre also stated that if the County approves the plat, the plat would also have to be approved by the City of Detroit Lakes.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from: Brad Grant, Soil & Water Conservation with concerns about the wetlands; Brad Wentz, Becker County Highway Department with concerns about the road construction; Larry Remmen, City of Detroit Lakes, must also be approved by the City of Detroit Lakes; and Tera Guetter, Pelican River Watershed District with condition that no wetlands be filled and a storm water management plan be submitted before final plat approval. At this time, testimony was closed.

Discussion was held regarding lot size, wetland location and proximity to the City of Detroit Lakes. Johnston questioned if the wetlands was for lots 1 and 6 or 1 through 6 inclusive. P. Johnson stated that it was for lots 1 through 6 inclusive. Brufloft questioned if there was any talk about annexation into the City. P. Johnson stated that

there was not, but all municipalities must be notified of developments within two miles of the city boundaries. Johnston stated that this subdivision does comply with the criteria of the Ordinance. Miller stated that this subdivision was very compatible with surrounding subdivisions.

Brufloft made a motion to approve the preliminary plat of Deerwood Park consisting of 11 lots based on the fact that the preliminary plat does meet the criteria of the Zoning Ordinance and Subdivision Ordinance and is compatible with the surrounding area and with the stipulation that no filling of the wetlands be done on Lots 1 through 6 inclusive and that a storm water management plan be submitted to the Pelican River Watershed District prior to final plat approval. Johnston second. All in favor. Motion carried.

SECOND ORDER OF NEW BUSINESS: Stanley and Ruthmarie Eid. An application for a certificate of survey consisting of four parcels in an agricultural zone. Two lots are to be 4.3 acres in size, one tract being 3.4 acres in size and on tract being 1.6 acres in size, which is to be attached to the adjoining property owner's parcel for property described as: 6.11 Ac Pt of SW ¼ Beg at MC #2 on W Ln of Gov't Lot 3; Th N 487.50 Ft, E 679.83 Ft to Rd, SE Al Rd 283 Ft, NW 275 Ft, SW 148.50 Ft, SW 66 Ft SW and Govt Lot 7 Less 1.80 Ac, Section 36, TWP 140, Range 43, Cuba Township.

Jim Kaiser explained the application to the Board. There is a total of 13 acres on Labelle Lake. Each lot does meet the criteria of the Zoning Ordinance and Subdivision Ordinance.

Johnston questioned the size of the easement. Kaiser stated that the easement is 24 ft.

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.

Discussion was held. McGovern stated that the certificate and lot size does meet the criteria.

McGovern made a motion to approve the certificate of survey for two lots being 4.3 acres in size, one tract being 3.4 acres in size and one tract being 1.6 acres in size, which will be attached to the adjoining existing parcel and not be a separate lot based on the fact that this meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Knutson second. All in favor. Motion carried. Certificate approved.

THIRD ORDER OF NEW BUSINESS: Robert Suchon. An application for a commercial activity consisting of a paint ball facility in an agricultural zone has been filed by Robert Suchon, owner of the property described as: 147.89 Ac N ½ of N ½ Less Hwy & 2 Ac, Section 20, TWP 138, Range 37, Spruce Grove Township.

Suchon explained the application to the Board. Suchon has been involved with the paintball games for several years and would like to begin his own facility. Suchon stated that he would be fully licensed and insured through the State of Minnesota.

Moritz questioned what type of equipment is used. Suchon stated that there are paintball markers used for competitive games. Knutson questioned the range of the markers. Suchon stated that the average distance of the 68 mm ball is 70 to 80 ft. Johnston questions the maximum distance. Suchon stated that a marker ball could travel up to 240 ft, but would not be accurate.

McGovern questioned how far the playing field would be from State Highway 87. Suchon stated that the playing field would be approximately ¼ mile #87 and the corn maze, if played, would abut the township road. Suchon stated that the boundaries are marked off with markers. Suchon also stated that no equipment would be sold, except paint. The customers would either bring their own equipment or rent from him. Knutson questioned the road access. Suchon stated that the township road would be used, which is a dead end road. Brufloft questioned what the length of a normal season is. Suchon stated the normal season is from frost out conditions (April-May) to end of September to mid October. Suchon also stated that the corn maze would only be played if the corn grows a minimum of 9 feet high. Moritz questioned if there would be any toxic materials in the paint. Suchon stated that the paint is vegetable oil based, wax soap which is biodegradable. Johnston again questioned the parking location and playing location from #87 and how close the nearest neighbor would be. Suchon stated that the playing area would be ¼ mile from #87 and parking about 500 ft from #87 and that the nearest neighbor is approximately 350 ft away. Suchon stated that he would put up a netting barrier next to the township road for added protection.

Further discussion was held. Moritz questioned the number of people using the facility in a given time. Suchon stated that most people make appointments for this activity and it can range from 7 to 42 people in a 4-hour period. This usually takes place on Fridays, Saturdays and Sundays. Johnston questioned the amount of noise. Suchon stated that each marker would make the noise equivalent to a 22 rifle. Miller questioned if there would be referees. Suchon stated that there would be experienced players policing the area, making sure the rules are adhered to, protective gear worn and enforcing the safe zone.

Miller made a motion to approve a conditional use permit to allow a commercial activity consisting of a paintball facility in an agricultural zone based on the fact that the use would not be detrimental to the surrounding area. Seaberg second.

Further discussion was held. Johnston suggested that a stipulation should be placed on the use permit to that if the corn maze were to be played in, a fence would be erected to protect the township road and parking area.

Miller changed here original motion to read: approve a conditional use permit to allow commercial activity consisting of a paintball facility in an agricultural zone based on the

fact that the use would not be detrimental to the surrounding area and with the stipulation that a fence be erected along the township road and the parking area prior to the use of the corn maze playing area. Seaberg second. All in favor. Motion carried. Application approved.

FOURTH ORDER OF NEW BUSINESS: Cornerstone Land Co. An application for a change of zone from agricultural to residential and a preliminary plat consisting of 17 lots has been filed by Cornerstone Land Co. for the property described as: N ½ NE ½ Lots 9 & 10 less 3 Ac in SE Part of Lot 10 to State, Section 7, TWP 138, Range 41; Lake View Township.

At this time, Seaberg removed himself from the Board due to a conflict of interest.

P. Johnson explained that there was an error made on the road name during the notification process. When this error was discovered, new notices were mailed out. The legal description of the project and description of the project were correct, just the project location description was inaccurate. Johnson stated that she contacted the County Attorney for clarification. Johnson was advised by the County Attorney that notice was valid because the project location description was not a relevant piece of information.

Phil Erb explained the application. A new road with a cul-de-sac would be constructed to service the development. This road would intersect with East Fox Lake Road. Two retention areas would be constructed to handle the run off, erosion control measures would be used during road construction and they will be working closely with Pelican River Watershed District. The lots are about 1.5 acres in size and would be a manageable size. The lots would not have lake access, just a lake view. Covenants would be placed on the lots to make them environmentally compatible with the surrounding area.

McGovern questioned if they had their MPCA permit yet. W. Johnson questioned the flow of the run off and where the retention areas would be. Erb stated that the drainage is north to south and that the ditch would be used as one retention area and the low area in Lot 1 Block 2 would be used as the second retention area.

No one spoke in favor of the application. Speaking in opposition to the application were:

Bruce Hentges – opposed to rezoning, wants larger lots

Knute Thorsgard – opposed to rezoning, wants an EAW completed

Lew Lewandowski – opposed to rezoning

Day Heyer – not really opposed, more concerned with storm water run off.

P. Johnson stated that there must be preliminary plat approval before other agencies like Pelican River Watershed or Minnesota Pollution Control will even consider applications for storm water run off.

Also opposed were:

Sue Portilla – opposed, wants area to remain rural
Nathan Fettig – opposed to small lots, keep larger lots and covenants
Deanna Schoons – opposed, wants area to remain rural
Matt Casey – opposed to lot size and questioned if this fit in with the comprehensive plan
George Portilla – opposed, questioned how drainage would improve if developed
Cheryl Flatt – opposed, would cause overuse of the lake
Mark Yozcamp – progress can't be stopped, but concerned with the lot size
Dick Wilson – opposed, would be setting precedent, if one subdivision approved, more would follow
Michelle Paulson – concerned about covenants
Jack Mission – not against development, just wants bigger lots
John Flatt – one-acre lots are too dense
Tom Bozin – wants to keep the lake as close to its current condition as possible
Chris Bergen – opposed to lot size and questioned an easement with the DNR for lake Access
Karen Thorp – likes the peace and quite, wants to keep it that way.

Written correspondence was received from:

Sue Portilla – in opposition
Jack & Kathy Mission – in opposition
Mr. & Mrs. Richard Wilson – in opposition
Brad Wentz, County Highway – contact Hwy Dept for road standards
Tera Guetter – no objection, just submit storm water plan prior to plat approval
Lew Lewandowski, Fox Lake President – concerns about the project
Dave & Barb Heyer – concerns
Bruce Hentges – in opposition
Larry Remmen – City of DL must also approve plat

At this time, testimony was closed.

Discussion was held regarding the lot size, location, missing information on the plat and answering the concerns of the neighborhood. Knutson questioned if there was an easement with the DNR to allow lake access. Erb stated that there was not. Erb stated that the DNR is a landowner and anyone going on that property would be trespassing. Erb also stated that the DNR has “no trespassing” signs posted from the lakeside of their property. Moritz felt that there should be clarification from the DNR on this matter. McGovern felt that there should be a buffer around the wetland and that the road should be realigned with the Hentges' house. Johnston questioned if the plat met the criteria of a residential subdivision. P. Johnson stated, that with the zoning change, the plat met all the criteria of the Ordinance. Johnston stated that if there were going to be covenants, he would like to see a copy. Brufloft stated that what he was hearing, that the people are not concerned about the development, just the size of the lots. Brufloft stated that he would like to see an EAW completed.

McGovern made a motion to table the application to allow the developer to submit the following information: clarification from the DNR as to whether the DNR property would allow access to the lake or be considered private property; distance from the ordinary high water mark to the lots; location of existing driveways in comparison to the proposed road; storm water calculations, and development, and a copy of the covenants. Brufloft second. All in favor, except Seaberg, who abstained from voting. Motion carried. Application tabled.

FIFTH ORDER OF NEW BUSINESS: Lee Carlson. An application for a certificate of survey to allow a certificate of survey to allow two tracts of land, one being 62,800 sq ft in size and the other being 75,500 sq. ft in size has been filed by Lee Carlson for the property described as: Lot 1 Block 1 Pickerel Bay, Section 15, TWP 139, Range 40; Erie Township.

At this time, Seaberg removed himself from the Board due to a conflict of interest.

P. Johnson stated that a letter had been received from the DNR stating that each lot did not have 150 ft of lake frontage and recommended denial.

Brant Beeson explained the application to the Board. Beeson stated that the survey had just submitted a new certificate showing the ordinary high water mark in comparison to the lot and a letter showing that each lot did have 150 ft of lake frontage. With this statement, each lot does meet the criteria of the Zoning Ordinance and Subdivision Ordinance.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from the Department of Natural Resources recommending denial. At this time, testimony was closed.

Discussion was held on the size of the lot, location of the lot and whether or not there was enough lake frontage. P. Johnson stated that there would be enough time between the Planning Commission Meeting and the County Board Meeting to get clarification from the DNR. Knutson questioned if a contingency could be placed on the approval of the certificate. P. Johnson stated that it could be done.

Knutson made a motion to approve the certificate of survey to allow Lot 1 Block 1 Pickerel Bay to be divided into two lots based on the fact that the certificate meets the criteria of the Zoning Ordinance and Subdivision Ordinance with the stipulation that the Department of Natural Resources verify that each lot does have the required 150 ft of lake frontage. Miller second. All in favor, except Seaberg, who abstained from voting. Application, with contingency, approved.

SIXTH ORDER OF NEW BUSINESS: Charles Benner. An application for a change of zone from agricultural to residential and approval of a preliminary plat consisting of 6 lots has been filed by Charles Benner for the property described as: 16.29 Ac in N part of Lot 2 and Lot 2 Less 16.29 Ac, Lot 1 Less N 5.95 Ac & E 2 Rds & SW ¼ of NE ¼ &

Lots 5 & 6 & NE ¼ of SW ¼ of NW ¼; Section 18, TWP 142, Range 40; Maple Grove Township.

Benner explained the application to the Board. This development would be on Fish Hook Lake, a natural environment lake. The lots are larger than required and a 66 ft road easement would be dedicated. Run off would flow in the pasture and some of the run off would flow into the field.

Johnston questioned where the run off from Lot 4 would flow. Benner stated that part of it would flow to the lake and the rest would flow toward the field. Moritz questioned if there was a bluff on Lots 5 & 6. Benner stated that there was a bluff on Lot 6. Lot 5 was a steep slope.

Speaking in favor of the application was Bud Jirava. No one spoke against the application. Written correspondence was received from Brad Wentz, Becker County Highway Department, to contact the Highway Department for road standards. At this time, testimony was closed.

Discussion was held. P. Johnson stated that there was a large amount of aquatic vegetation in front of lots 1 & 2 and that the buyers would have to contact the DNR if they wished to try to remove any of the vegetation. W. Johnson questioned if each lot had enough buildable area. Chris Heyer, surveyor, stated that each lot had ample building area meeting required setbacks. Seaberg stated that the low area (aquatic area) would have to be left there forever. Heyer stated that a boardwalk could be constructed over the top to allow access to the lake. Moritz questioned if a statement could be placed on the plat protecting the aquatic area. Heyer stated, that by State Law, they could not place such statements on the plat. Scott Walz, surveyor, questioned if this is a requirement above and beyond what is in the Ordinance. P. Johnson stated that it is more of a buyer beware type situation.

W. Johnson made a motion to approve the change of zone and preliminary plat consisting of 6 lots based on the fact that it is consistent with lakeshore development. Brufloft second. All in favor. Motion carried.

SEVENTH ORDER OF NEW BUSINESS: Wakanda Resort. An application for a change of zone from commercial to residential and a conversion to a residential planned unit development has been filed by Bill Haggerty for the property described as Pt Govt Lot 5 Beg at MC #23 on S Ln Sec 19; Th W 269 Ft NW 295.24 Ft, W 195.15 Ft, th NE 258 Ft to Lk Th Sely Al Lk 715 Ft to POB; Section 19, TWP 140, Range 38; Shell Lake Township. This property is the current Wakanda Resort.

P. Johnson read a letter from the Department of Natural Resources with their stand on the conversion. The DNR is not opposed to the conversion but the resort is extremely over density and units should be eliminated to bring the development into compliance with the allowable units.

Bill Hagerty and Tom Pueuringer explained the application to the Board. Hagerty explained that he understands the neighbor's concerns, but the resort can remain as is or be converted to residential. The number of units would remain the same, but would be sold to individuals. This would create less usage of the property and lake. There would be less traffic in and out and less sewage because there would no longer be any bar or restaurant. Hagerty explained that they have done two of these conversions in Todd County and in 1993; the State of Minnesota passed a provision to allow this.

Moritz questioned the number of docks and the docking of boats. Hagerty stated that there would be one dock for two cabins and that number could not be increased. Each cabin, except #5, has an existing deck that is already grandfathered in. Moritz questioned the total acreage of the project. Hagerty stated that there is approximately 3.5 to 4 acres of land.

Speaking in favor of the application was Ed Thiesen, which stated that this would be beneficial. Jim Kaiser stated that there was another conversion done on Middle Cormorant Lake a few years ago, which proved less usage. Speaking in opposition were:

Christine Shipper – stated she was not notified correctly and is concerned about the operation and enforcement of the by-laws.

Terry Kalil – had a long list of unanswered questions. Under today's regulations, these cabins would not be able to be replaced.

Tom Keenan – laws have changed to bring standards to the area. This plan is trying to legitimize mistakes that were made in the past. He would like to hear what the neighbors of the other developments have to say now.

Marietta Keenan – the road is dangerous, objects to the way they are making a profit and feels the number of units should be reduced.

Chris Daly – not opposed to change but very concerned about the density

Scott Sonstegard – the DNR letter should be taken very seriously and the other developments should be checked out to make sure they are working as proposed

Joyce Warner – opposed

Ray Heino – opposed, would like to encourage individual lots

Shawn Shipper – opposed to the traffic

Written correspondence was received from:

Terry Kalil – list of unanswered questions

Thomas Hatfield – felt too many unanswered questions to make a decision

Bob Merritt, DNR – over density, should reduce number of units

Paul & Katie Oppgard – in opposition contravention of both the letter and spirit of the Becker County Zoning Ordinance

Gary Lehman – in favor of the application

Tom Keenan – in opposition because of density

Duane Meyer – in opposition because of density

At this time, testimony was closed.

Discussion was held. Johnston questioned how many RV sites there were. Hagerty stated that there were 6 full time units and 2 daily sites. Moritz questioned if these sites were granted by a conditional use permit. P. Johnson stated that they were not granted by a CUP that they were grand fathered in. Johnston asked Hagerty to further explain the common interest ownership. Hagerty further explained and stated that Section 7 of the Ordinance allows for the conversion.

P. Johnson stated that if the Board had too many unanswered questions, they could table the application for more information to address the concerns that have come up.

Moritz stated that the proposal is asking for more units than what is there now. The bar/restaurant would be turned into living quarters and the two daily sites would be turned into permanent sites. Brufloft stated that a decision on this application would impact other resorts. Brufloft felt that there was not enough information to make a sound decision. Brufloft would like to see feedback from the area where the other developments were done. Brufloft stated that the concerns that he has heard tonight are not in objection to the conversion but the density, congestion and over population. Johnston stated that there were 3 other resorts that were converted, but they were done back in the 70's. Moritz questioned the septic systems. P. Johnson stated that a septic system inventory was conducted of the lake in 1994. At that time, Wakanda upgraded. There have been no complaints in the file regarding any septic problems. The water is in the control of the MN Dept of Health. W. Johnson questioned how you sell a travel trailer site. Hagerty stated that usually the people that have their RV parked their now will buy that site. Hagerty stated that their area will be two feet all the way around the existing RV. Johnston questioned the number of docks. Hagerty stated that there would be eight. P. Johnson stated that, under Ordinance, they would be allowed six. P. Johnson stated that only the riparian sites are allowed centralized docking.

Further discussion was held as to whether or not the resort abutted a township road, docking, expansion of the number of units, number of units existing and what further information should be required.

Brufloft made a motion to table the application to allow the developer to furnish the following information to allow the Board to make a sound decision:

1. Planning Commission and County Board Minutes from the two Common Interest Community projects in Todd County along with a copy of both plats of what was applied for and what was approved;
2. Letters from neighbors of the above CIC's providing feedback on the project's impact;
3. On-site sewage treatment systems and water supply locations should be included on the preliminary plat;
4. Topographic contours should be located on preliminary plat;

5. Shore recreation areas, docks, watercraft mooring areas and launching ramps should be located on the preliminary plat;
6. Road status serving the resort should be defined with supporting documentation.

McGovern second. All in favor. Motion carried. Application tabled for more information.

EIGHTH ORDER OF NEW BUSINESS: Adult Use and Sexually Oriented Ordinance.

P. Johnson explained that this is a clerical and grammatical revision of the Ordinance approved in November 2002. After the review of the County Attorney's Office, it was found that there were several clerical and grammatical mistakes made along with a couple of definitions that were omitted. This warranted a revision and a new public hearing. P. Johnson stated that the content is the same as the Ordinance passed in November.

McGovern made a motion to approve the revised Adult Use and Sexually Oriented Ordinance based on the fact that the content has not changed just clerical and grammatical revisions. Knutson second. All in favor. Motion carried. Ordinance approved.

NINTH ORDER OF NEW BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, March 13, 2003 at 8:30 a.m. at the Planning and Zoning Office.

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

Jeff Moritz, Secretary

ATTEST

Patricia Johnson, Zoning Administrator