

Becker County Planning Commission
July 15, 2003

Present: Julia Miller, Waldo Johnson, Jeff Moritz, Jim Kovala, Jim Bruflodt, Ken Christianson, John McGovern, Harry Johnston, Larry Knutson, Don Skarie, Ray Torkildson, Commissioner Dave Seaberg, Zoning Administrator Patricia Johnson and Debi Moltzan.

Chairman Kovala called the meeting to order at 7:30 p.m. Kovala stated that the Planning Commission was a recommending Board and that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final decision on Tuesday, July 22, 2003.

A request was brought before the Board for clarification regarding the Forest Township Board's position on the Fraser application at the June 17, 2003 meeting. Bruflodt made a motion to change the minutes to state that the Forest Township was not in opposition to the application and approve the amended minutes. Torkildson second. All in favor. Motion carried.

FIRST ORDER OF BUSINESS: Ron Dow A request for a conditional use permit to allow a retaining wall in the shore impact zone for property described as Lot 15, Sherman Shores, Section 33, TWP 139 Range 42; Audubon Township. PID No. 02.0321.000. This is an after the fact permit request.

Dow explained the application to the Board. He did not realize he needed a permit because there was already an existing wall that was deteriorating. He just replaced what was there.

McGovern questioned if Dow did the work himself. Dow stated that he hired a contractor that thought he did not need a permit because they were replacing what was there. Christianson questioned if the wall was in the same location. Dow stated that the wall was pretty much in the same location with the exception of a small curvature on the south side. There was no new fill or sand added. Bruflodt questioned when the sand was placed on the beach. Dow stated that the sand was placed there in 1977. Knutson questioned if there would be any changes to the wall. Dow stated that there may be some landscaping done to hide the wall and cover up some of the sand with grass.

Josh Walters, Landscape Architect, stated that rocks and shrubbery are used to hide part of the wall to make it look more natural and less offensive. With the location of the wall, ice push-up or water action will not be a problem. Seaberg questioned the amount of vegetation that would be re-established. Dow stated that there would be approximately 10 feet of grass and some shrubs.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received in a form of a petition in favor of the application with 20 signatures. At this time, testimony was closed.

Further discussion was held. Christianson stated that it would be ridiculous to remove the wall.

Motion: Christianson made a motion to approve a conditional use permit to allow a retaining wall based on the fact that it replaced an existing retaining wall with the stipulation that ten (10) feet of grass be planted on the sand blanket and some shrubs be planted to camouflage the wall as outlined in the plan submitted to the Zoning Office. Seaberg second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Wesley Lade. Request approval for a certificate of survey consisting of three parcels and a change of zone from agricultural to residential has been filed for the property described as E ½ of SE ¼; & Pt Govt Lot 2 in SE ¼ of NE ¼ Less 3.58 acres and E ½ of SW ¼ less .01 ac in Govt Lot 3; Section 28, TWP 138, Range 42; Lake Eunice Township. PID No. 17.0324.000 & 17.0327.000.

Lade explained the application to the Board. They would like to subdivide three parcels on Lake Maud. One of the parcels would be going to their son to build a new home. There would be a walkway access to allow the owners of the lot to access the lower portion of the lot with lawnmowers for grass and weed control.

Scott Walz, surveyor, stated that the walkway easement started out at 20 feet wide. Later it was found that the strip of land owned by the Lade's is actually 6 feet wide between the Dickey property and the retaining wall.

Christianson stated that although the Ordinance does not require it, it would have been nice to have the Dickey house marked on the survey along with contours because of the delicacy of the property. Walz stated that the top and bottom of the bluff are indicated on the survey.

Further discussion was held on the steepness of the lots, the easement, and potential erosion. Lade stated that he could have asked Disse for an easement from the other side of the lots, but why when they own the property on this side of the lots.

Christianson questioned the buildable area at the bottom of the bluff. Walz stated that they are required to show all buildable area that does not mean that they will get a permit to build there.

P. Johnson stated that there was a question on the owners would access the bottom of their lots and that is where the request for the convenience access came in. There will not be any permits issued to alter the bluff. The Board is here to decide if the lots should be allowed with or without the convenience access.

Christianson stated that this is the subdivision of lots without going through the formal platting process, which is not a good situation. Lack of planning creates bad situations. Brufloft questioned the pile of dirt on the easement road and what is going to be done

with it. Lade stated he did not know. Johnston questioned the liability if the access easement was granted from a driveway that was not accessible. P. Johnson stated that the pile of dirt was a civil issue and not a concern of the Planning Commission.

Speaking in favor of the application was Kyle Lade, who wanted to build a house on one of the lots; and Tom Disse, reminding the Board to stick to the actual application.

Speaking in opposition to the application was Craig Dickey and his attorney Charles Ramstad. Ramstad stated that they were not opposed to the subdivision of three lots but they were opposed to the access easement. There has been much litigation between Dickey and Lade revolving around the damage created by the cutting of the bluff without a permit. This is Lade's attempt to get into the backdoor around the litigation. If the access easement is allowed, new owners will assume that they have legal access. Lade and Disse are using this "walk-way" as a driveway now. Ramstad further explained the litigation and stated that Dickey has complete control of the driveway easement, the driveway easement that Lade's are asking to have the access easement come off of.

Ramstad further stated that the pile of dirt is Class 5, which will be used to fix the Dickey road. Under the settlement, Dickey must maintain the road and has absolute control of the easement. The Lade's have no right to the easement.

Christianson questioned Walz about the survey and if their company researches titles before doing the survey. Walz stated that they check the deeds. Ramstad stated that Walz's company was involved with the litigation and was aware of what was happening on this property with the easement.

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

Further discussion was held. P. Johnson stated that the Board has three options at this point: deny, table until right to easement is proven, or approve without access easement. P. Johnson stated that there was a copy of a certificate of survey in the file showing the three lots without the access easement and since it was in the file and submitted with the original application, the Board could approve that survey. P. Johnson stated that the Board did have to be careful not to get caught with the 60-day rule.

Lade stated that they would be willing to have the survey approved without the access easement. Ramstad stated that this would satisfy him and Dickey as long as the survey was correct and with the correct legal description.

Motion: Seaberg made a motion to approve the certificate of survey for three lots without the access easement and the change of zone to residential based on the fact that the lots meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Torkildson second.

Christianson wanted to verify that this would satisfy both parties, the Lade's and the Dickey's. All parties stated it would.

A vote was taken with everyone voting in favor of the motion. Motion carried.

THIRD ORDER OF BUSINESS: Rebecca Hastad. A request for a change of zone from agricultural to residential and a preliminary plat consisting of five lots for the property described as NE ¼; E ½ of NW ¼; Govt Lot 4; Govt Lot 3 less .97 ac; Section 17, TWP 142, Range 40; Maple Grove Township. PID No. 20.0298.002.

Miller removed herself from the Board for this application.

Hastad explained the application to the Board. There would be five lots on Little White Earth Lake. She plans on having covenants to keep the lots high quality.

Kovala questioned how the lots would access the lake with the vast amount of aquatic vegetation. Hastad stated a boardwalk would have to be constructed. Kovala asked Hastad if she realized that the boardwalk would have to be 200 – 300 ft long. Brufloft questioned if the boardwalk would be a permanent structure. Hastad stated she would have to work with the DNR on that issue. W. Johnson asked where the closest public access was for that lake. Hastad stated that the public access was not near this location.

No one spoke in favor of the application. No one spoke in opposition to the application. Written correspondence was received from DNR Fisheries, in opposition to the application; Soil & Water Conservation with concerns about the wetlands; and Becker County Highway Department with a notation to contact the highway department regarding the road. At this time, testimony was closed.

Further discussion was held. Kovala asked Hastad if she considered setting one lot aside for a common lake access for all lots. Further discussion was held regarding the common access, the wetlands, lake access, aquatic vegetation. Hastad stated that her intentions are to develop this the right way.

Hastad stated she would be willing to table the application if she knew exactly why she was tabling it and what information the Board would like.

After further discussion, it was the consensus of the Board that the following information was needed:

1. Have one lot set aside for a common access for all lots.
2. This lot is to be agreed upon by Soil & Water, the DNR, and the developer.
3. The boundaries of the wetlands should be marked, but need not be delineated.

Once this information has been obtained, Hastad is to contact the Zoning Office to be placed backed on the agenda. Hastad asked to table the application.

FOURTH ORDER OF BUSINESS: David Ewanika. An application for a conditional use permit to exceed height restriction on a detached accessory structure has been filed on the property described as Pt Govt Lot 1 (Frc'l NE ¼ NE ¼) Beg 548 ft N of SW Cor; Th E 400 ft N 653.46 ft to Gebo Lake, SW Al Lk to W Ln L1; Section 27, TWP 138, Range 40; Burlington Township. PID No. 03.0257.003.

At this time, Miller rejoined the Board.

Ewanika explained the application to the Board. He would like to construct a storage shed with 16-ft sidewalls, thus making the shed about 23 - 24 ft to the peak. The shed needs to be this height to get his equipment in it. The shed would be one foot shorter than his house.

Christianson questioned how far this shed would be from neighboring properties. Ewanika stated that the closest neighbor would be about 300 – 400 yards from there and is somewhat screened by trees.

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.

Motion: Christianson made a motion to approve a detached storage shed 24 ft in height based on the fact that although the structure is in the shoreland district, the structure is also in an agricultural district and the shed would not be detrimental to the surrounding area. Miller second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Milton Erickson. A request for a conditional use permit to allow extractive use (gravel mining) has been filed for the property described as E ½ of SW ¼ Ex 9 Ac in SW Cor, Section 13, TWP 139, Range 42; Audubon Township. PID No. 02.0076.000.

Erickson, along with Mike Hough, explained the application to the Board. This would be a simple mining operation.

Miller asked if gravel had been taken out of this pit before and if one phase would be carried out and restored before the next phase began. Erickson stated that gravel had been taken out of the pit before. Hough stated that erosion is easier to control in smaller areas than one large area. Kovala asked how long the operation would last. Hough stated that operation would last between 7 and 10 years. Seaberg questioned if each phase would be restored before the next began. Hough stated that was the intentions.

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. Christianson questioned if the railroad had a problem with this much traffic. P. Johnson stated that the railroad had been notified and did not respond.

Motion: W. Johnson made a motion to approve a conditional use permit to allow gravel extraction as outlined in the business plan submitted with the application based on the fact that the use would not be detrimental to the surrounding area. McGovern second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: MMCDC. An application for a change of zone from residential to commercial for the property described as N ½ of NE ¼ of NE ¼ less 7.25 ac; Section 10, TWP 141, Range 40; Sugar Bush Township. PID No. 32.0102.001.

Tom Klyve, MMCDC, explained the application to the Board. There is a small business that would like to start up in this building and one of the job's of MMCDC is get small businesses going. The property had been commercial and was recently changed to residential and now they would like to change back to commercial.

Christianson questioned what type of business was going in the building. Klyve stated that it was a small retail business that raised and shipped organic merchandise. Brufloft questioned the plan. Klyve stated that it was a three-phase plan over about four years and then the business would buy the property from MMCDC.

Knutson asked what MMCDC stood for. Klyve stated that MMCDC stood for Midwest Minnesota Community Development Corporation. This corporation helps small businesses get started and develops affordable housing.

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.

Motion: Moritz made a motion to approve the change of zone from residential to commercial based on the fact that there is other commercial property adjacent to this property and this property was commercial in the past. Brufloft second. All in favor. Motion carried.

SEVENTH ORDER OF BUSINESS: Mark Bothum. A request for a conditional use permit to allow a fence exceeding height on the property described as Pt Govt Lot 3 Beg 3605.85 ft S of NW Cor Sec 21, Th E 135 ft N 17 ft E 87.13 ft to Rd, S Al Rd 89.5 ft W 215 ft to Lk NW Al Lk 75 ft & N 8 ft to POB; Section 21, TWP 138, Range 41; Lake View Township. PID No. 19.0438.000.

Bothum explained the application to the Board. This property is next to a busy public access and they would like a fence 7 ½ feet high to shield their property from the access. The fence would be a double-sided cedar fence.

Christianson asked if the fence would be the entire length of the property line. Johnson questioned how far the house was from the lake. Bothum stated that they would like to start at the high water mark of the lake with the fence and run the entire length of the property. Bothum stated that the house is approximately 75 feet from the lake.

Speaking in favor of the application were: Brad Malmstrom and Walter Gordon. They would rather look at the fence than the public access.

Speaking in opposition of the application was Gail Hahn, Lake View Township Supervisor, who would like to see it shorter.

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

Further discussion was held regarding the shore impact zone, the height of the fence, location of the access, and other similar requests. Christianson stated that there were some fences granted with excessive heights, but just because one was granted does not mean that all have to be granted, each case must be looked at separately. Christianson stated that the application should be tabled until the Board could come up with a policy for fences along public accesses. Seaberg felt that the owner had the right to protect his property and family from the elements of the access. Brufloft stated that the access was there when Bothum bought the property and should have realized the consequences. Moritz stated that the shore impact zone needs to be protected.

Motion: Torkildson made a motion to approve a fence four feet high in the shore impact zone (from the ordinary high water mark to 37.5 feet back) and the remainder of the fence could be 7.5 feet high. W. Johnson second.

Further discussion was held. Johnston stated that there should not be any reason that the 6-ft high regulation needs to be exceeded.

Torkildson then amended his motion to read allow a fence four feet high in the shore impact zone (from the ohw to 37.5 feet back) and the remainder of the fence to be 6 feet high. Johnston second.

A vote was taken with everyone voting in favor of the motion except Seaberg.

EIGHTH ORDER OF BUSINESS: Curtis Johnson. A request for a change of zone from agricultural to residential and approval of a certificate of survey for a rearrangement of two lots on the property described as Pt of Govt Lot 3; Section 8, TWP 138, Range 41; Lake View Township. PID NO. 19.0785.000.

Johnson explained the application to the Board. He has acquired two side by side properties that have a total of three dwellings on them. He would like to reconfigure the lot lines to allow on dwelling on each lot. The road naturally separates the one lot into two lots. Each lot has the required square footage and lake frontage, but does not have adequate buildable area. Johnson stated that these lots would be larger than the lots to the West.

Speaking in favor of the application was Jacqueline Reinke and Dan Holzgrove. Hans Gilsdorf was neutral but had concerns for the lake. No one spoke in opposition. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held. Johnston stated that he lived in that area for many years and always thought this property was already two separate parcels. Further discussion was held regarding lot size, required setbacks, existing structures and similar lots in the area.

Motion: Johnston made a motion to approve the certificate of survey to allow two lots and the change of zone based on the fact the lots have adequate size and lake frontage and are larger than most lots in the area with the stipulation that any new structure would have to remain in the footprint of the present cabin. Seaberg second. All in favor except Christianson, Knutson, and Moritz. Majority in favor. Motion carried.

NINTH ORDER OF BUSINESS: Lynette Bouton. A request for a change of zone from agricultural to residential and approval of a certificate of survey for one lot for the property described as Govt Lot 2 less 23.53 Acres, Section 25, TWP 138, Range 43; Cormorant Township. PID No. 06.0192.000.

Bouton and Curt Lundeen explained the application to the Board. There is a road that naturally splits this lot from the rest of the property. The road would be corrected to become a public road, not an ingress and egress road. The lot does meet the requirements for size.

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 size of the lot, the easement, the dedicated road and correction of the road.

Motion: Christianson made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey for one lot based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision Ordinance and the road issue will be corrected. Moritz second. All in favor. Motion carried.

TENTH ORDER OF BUSINESS: Final Plat of Cone Cove Shores.

P. Johnson presented the final plat to the Board. The change of zone and preliminary plat was approved March 2003. This plat is for five lots non-riparian to Two Inlets Lake. Everything is in order for the final plat.

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

ELEVENTH ORDER OF BUSINESS: Final Plat of the Planned Unit Development of Wakanda Resort.

P. Johnson presented the final plat to the Board. This was a planned unit development of nine units approved.

Bill Haggarty had a question for the Board. He stated that all cabins except for one had a deck. He was asking the Board to allow a deck for this one cabin. As the PUD was approved, a deck could not be allowed. Haggarty also stated that he wanted storage for the units, but resolved that problem by putting storage lockers in the existing garage.

Discussion was held regarding the location of this cabin, deck sizes and the PUD in general.

Motion: Seaberg made a motion to allow an amendment to be made to the By-laws to allow a deck not to exceed 144 sq. ft in size to be constructed on Cabin #2. Knutson second. All in favor. Motion carried.

Skarie made a motion to approve the final plat of the planned unit development of Wakanda Resort with the amendment just passed for the deck addition to Cabin #2 based on the fact that the final plat is in order according to the Zoning Ordinance and Subdivision Ordinance. Brufloft second. All in favor. Motion carried.

TWELVTH ORDER OF BUSINESS: Comprehensive Plan Map.

P. Johnson presented the map to the Board. P. Johnson stated that this map is in conjunction with the newly adopted comprehensive plan. The comprehensive plan had a vision but did not help Zoning. This map was made following the plan, which would guide the Zoning Office and Planning Commission with future decisions. P. Johnson explained some of the areas and what they meant.

Brufloft suggested that larger maps or CDs be given to each member to study and aid them in their decision making. Further discussion was held regarding how this would help the Planning Commission and Zoning Office.

Motion: W. Johnson made a motion to approve the comprehensive plan map based on the fact that the map is in conjunction with the newly adopted comprehensive plan and will aid the Zoning Department and Planning Commission with future decisions. Moritz second. All in favor. Motion carried.

THIRTEENTH ORDER OF BUSINESS: Change of Meeting Time.

Johnston explained that other Boards have opted to change their meeting time to 7:00 p.m., which would allow for an earlier start and earlier ending time.

Discussion was held about possible starting times, pros for changing the times and cons for changing the times.

Motion: Johnston made a motion to officially change the starting time of all Planning Commission Meetings to 7:00 p.m. Miller second. All in favor. Motion carried.

FOURTEENTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, August 14, 2003 at the Planning and Zoning Office.

Since there was no further business to come before the Board, Chairman Kovala adjourned the meeting.

James Kovala, Chairman

Jeff Moritz, Secretary

ATTEST _____

Patricia L. Johnson, Administrator