

**Becker County Planning Commission
September 20, 2005**

Present: Members Mary Seaberg, John Lien, John McGovern, Jeff Moritz, Jim Bruflodt, Harry Johnston, Ray Thorkildson, Waldo Johnson, Don Skarie, Commissioner Larry Knutson; Zoning Staff Patty Johnson, Debi Moltzan.

Vice Chairman Bruflodt called the meeting to order at 7:00 p.m.

Johnston made a motion to approve the minutes from the August 16, 2005 meeting. Seaberg second. All in favor. Motion carried.

Bruflodt explained the protocol of the meeting. Bruflodt stated that the County Board of Commissioners would act on the recommendations of the Planning Commission on Tuesday, September 28, 2005.

P. Johnson stated that the ninth order of business, Pinnacle Land Development was withdrawn from the agenda, at the applicant's request.

FIRST ORDER OF BUSINESS: William Purdy. Request a change of zone from commercial to residential and approval of a certificate of survey for one tract of land for the property described as: Lot 3 less 17 x 4 rds & Less Plat; Section 24, TWP 139, Range 39; Height of Land Township. PID Number 15.0229.000.

Steve Langlie, Anderson Land Surveying, explained the application to the Board. The change of zone from commercial to residential would be for one lot. This lot would be a non-riparian lot for their personal home. The lot size meets the criteria of the Zoning Ordinance and Subdivision Ordinance. The rezoning to a residential lot places more restrictions on the lot, as outlined in the Zoning Ordinance, than allowing it to remain commercial.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Dean Whited, in favor of the application. At this time, testimony was closed.

Discussion was held regarding the location of the lot, lot size and surrounding area.

Motion: Knutson made a motion to approve the change of zone from commercial to residential and approve the certificate of survey allowing one tract of land based on the fact that it does meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Moritz second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Gary Goreham. Request a conditional use permit to allow a commercial activity consisting of a Café and store in an agricultural zone for the property described as: Pt Govt Lots 1 & 2; & Pt NE ¼ NW ¼ & Pt SE ¼ NW ¼; Section 19, TWP 138, Range 40; Burlington Township. PID Number 03.0188.002.

Goreham explained the application to the Board. Goreham has a 30-acre farm, which has been developed into an apple orchard with approximately 200 trees. With a minor setback due to deer problems, he should be able to harvest and sell apples in one year. The existing garage on the property would be used to wash, sort and bag the apples; one portion would be used as the kitchen area; and one area will be used as the café and store. The business would be in operation approximately 6 weeks in the fall of the year. The coffee bar is expected to be open from June through the apple season. The estimated amount of traffic would be approximately the same as the present traffic flow in the area.

W. Johnson questioned if the kitchen would meet Federal and State regulations. Goreham stated that he has been in contact with the Department of Health for specifications and will be working with them once the conditional use permit is approved.

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. Brufloft stated that the business plan submitted with the application was very complete.

Motion: Thorikildson made a motion to approve a conditional use permit to allow a commercial operation consisting of a store and café as outlined in the business plan submitted with the permit application based on the fact that it does meet the criteria of the Zoning Ordinance and would not be detrimental to the surrounding area. Seaberg second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Jason Sjostrom. Request a conditional use permit to allow a retaining wall within the shore impact zone for the property described as: Lot 13, Bijou Heights, Section 29, TWP 139, Range 43; Lake Park Township. The property is located on Bijou Lake. PID Number 18.0253.000.

Eugene Hansen explained the application to the Board. The existing retaining wall would be replaced with a block retaining wall. The existing boathouse was removed and the existing steps were removed. A new wall would be constructed and the steps would be reconstructed. The wall would be three blocks high. The replacement of the wall would stop the hillside dirt from washing into the lake; hold the slope in place; and allow the grass to grow on the slope.

McGovern questioned how the property would be landscaped to keep the water from running onto the neighboring property. Hansen stated that it would run over the wall. McGovern questioned if the retaining wall along the shoreline would be replaced. Hansen stated that he was not aware of a second wall on the property, each time he visited the property, the water was high enough that this wall was not visible. McGovern stated that this would be the time to address the run off to the neighboring property and the project should be done correctly. Moritz questioned the size of the swale, which

would be located behind the wall. Hansen stated that the swale would be 3 to 6 inches in height; just enough to slow the water down and hold the dirt back.

No one spoke in favor of the application. No one spoke against the application. There was written correspondence from Lake Park TWP in favor of the application. At this time, testimony was closed.

Further discussion was held. McGovern suggested that the application be tabled to allow the owner to properly address the drainage problems and the second retaining wall in the water. Moritz stated that he had the same concerns; there should be a plan that addresses the existing concerns and be an overall solution. Hansen stated that no one has changed the drainage; the drainage problem has existed forever and that the new retaining wall would slow down the drainage.

Brufloft questioned the 60-day rule and explained the 60-day rule to Hansen. P. Johnson stated that, due to the 60-day rule the Board would have to act on the application, unless the applicant postponed the application. At this time, Hansen asked for a postponement of the application on behalf of the applicant. The Board will revisit the property during the next informational meeting.

FOURTH ORDER OF BUSINESS: Scott Carey. Request a certificate of survey allowing for two tracts of land for the property described as: Northerly ½ of Lot 2 and Lot 3, Block 2, Birch Shores; Section 12, TWP 142, Range 39; Eagle View Township. The property is located on Elbow Lake. PID Number 09.0485.306.

Carey explained the application to the Board. The current lot would be divided into two lots. Each lot would meet the criteria of the Zoning Ordinance and Subdivision Ordinance. A revised survey has been submitted showing the contours of the lot.

W. Johnson questioned the access to the second lot. Carey stated that the present easement would serve both lots. In the future, a new driveway may be constructed to serve Tract B. This driveway would come in from the southerly portion of Tract B. If this is done, corrective action would be taken to eliminate the easement.

Discussion was held regarding the topography of the lot, the location of the easement and lot sizes. Knutson questioned the location of the approach. P. Johnson stated that the applicant would have to contact the County Highway Department for information and approval for an approach. Johnston stated that the application could be acted upon as presented and if anything would change in the future; a new application would have to be submitted.

Mark Vanyo, co-owner of the property, stated that the access is not an issue at this time because construction of the second cabin is not scheduled for a couple of years and that issue can be addressed in the future. Vanyo stated that the main objective is to divide the lot so he and Carey could own their own lot instead of joint ownership in one large lot.

Moritz questioned the setback of the existing cabin and how much the cabin encroaches into the required setback. Carey stated that the existing cabin encroaches into the required setback approximately three feet. Johnston questioned if the existing easement is a recorded easement. Carey stated that the existing easement is recorded.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from George and Carol Engstrom, opposed to the application. At this time, testimony was closed.

Further discussion was held regarding the lot size, topography, lot access and location.

Motion: Thorkildson made a motion to approve the certificate of survey to allow one tract of land to be subdivided into two tracts of land based on the fact that the survey meets the criteria of the Zoning Ordinance and Subdivision Ordinance. W. Johnson second. Johnston questioned if the all criteria was met except for the infringement of the existing cabin. P. Johnson stated that the survey did meet the all criteria of the Ordinance and Subdivision Ordinance. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: George Wynn. Request a change of zone from agricultural to high density residential and a conditional use permit to allow a multi-unit residential development consisting of five units for the property described as: Part of Govt Lot 6; Section 5, TWP 138, Range 42; Lake Eunice Township. The property is located on Leif Lake. PID Number 17.0052.000.

Scott Walz, Meadowland Surveying, explained the application to the Board on behalf of the developer, George Wynn. Walz stated that the bay area is marginal shoreland. The area could be developed into 5 traditional lots, but with the marginal shoreline, a planned unit development would allow the development and preserve the bay area. The proposal is for five dwelling units, five storage units, and development of 200 feet of lakeshore for a common docking area. After further review of the plan, the unit location may be switched (the 4 plex being on the northerly portion of the lot and the single home on the southerly portion).

No one spoke in favor of the application. Speaking in opposition to the application were: Gary Munn, Pam Stevenson, and Chris Pierce. All were concerned about the bay and number of units.

P. Johnson explained that the maximum number of units for this project would be five units. P. Johnson further explained that the project was reviewed by the Technical Review Panel. This panel consists of Soil and Water Conservation, Department of Natural Resources, COLA and other agencies. The property is not suitable for the traditional lot/block subdivision and the Technical Panel recommended the multi-unit development to preserve the marginal lakeshore. There would be one area for common use of the lake, one dock with five boat slips; which would be located on the lake, not in the bay area.

Knutson questioned if the access area could be limited. P. Johnson stated that the Ordinance allows 200 feet of lakeshore development, but the Planning Commission could limit this area.

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

Further discussion was held. Lien felt that there was only 100 feet of suitable shoreline that could be developed as the common access. Johnston questioned if there was room to switch the location of the units. Walz stated that the units may have to be re-designed to fit, but there is adequate space. Johnston stated that he would like to see a revised plan before approval. Johnston also agreed with limited the common access to 100 feet. Moritz questioned if the common access would include boat launching. Walz stated that there would not be any boat loading or unloading; the owners would have to use the public access. Lien questioned if the project could be approved without knowing the exact location of the units. P. Johnson stated that the Zoning Ordinance would dictate the location of the structures; the Planning Commission would be setting the number of units.

Motion: Lien made a motion to approve the change of zone from agricultural to high density residential and approve a conditional use permit to allow a residential multi-unit development consisting of five units based on the fact that it does meet the criteria of the Zoning Ordinance with the stipulation that the common access area be limited to the most northerly 100 feet of the project. W. Johnson second. All in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Juergen Byers. Requests a change of zone from agricultural to residential and a certificate of survey to allow three lots for the property described as: Pt Govt Lot 1 in 32/139/42 & Pt Govt Lot 2 in 5/138/42; Sections 32 & 5; TWP 139, Range 42; Audubon Township. PID Number 02.0221.000.

Scott Walz, Meadowland Surveying, explained the application to the Board. The proposal is for three non-riparian lots with no lake access. The lots would be for single-family development. Each of the lots is large, meeting the criteria of the Ordinance and Subdivision Ordinance.

No one spoke in favor of the application. Speaking in opposition to the application were Joe Upton and Clinton Ambers. There was no written correspondence either for or against the application. At this time, testimony was closed.

Further discussion was held regarding the lot size, location, wetlands and drainage. Knutson questioned the drainage. Walz stated that the wetlands have been shown on the survey. Walz also stated that the topography is higher in elevation on the north portion of the property than the south portion of the property.

Johnston stated that members of the Board was at the property, but did not walk the property. W. Johnson stated that the lots are large lots and the wetlands have been

indicated on the survey. Knutson stated that the buildable area is wooded and that the wetlands could be seen from the road.

Alice Byers stated that the large wetland is not located within this project. The large wetland is a catch basin for all the developments in the area. The Township not installing correctly sized culverts created the drainage concerns. Hardwoods are growing on the property and hardwoods do not grow in wet conditions.

Further discussion was held regarding the wetlands, topography, drainage and lot sizes. The 60-day rule was also discussed. P. Johnson stated that there is a water problem and cannot answer what the Township has done with the water and drainage but the Ordinance states that land owners cannot intentionally drain their water toward the wetland, the property owners must maintain their run off on their own property. Johnston stated that the Board could walk the property during the next informational meeting.

Alice Beyers requested a postponement of the application.

SEVENTH ORDER OF BUSINESS: Jason Benson. Request approval of a preliminary plat consisting of 14 lots for the property described as: NW ¼ NE ¼ of Section 31; SW ¼ SE ¼ of Section 30 lying S of the Road; Section 31; TWP 138, Range 42; Lake Eunice Township. PID Numbers 17.0368.003, 17.0368.009, 17.0354.006, 17.0368.044.

Scott Walz, Meadowland Surveying, explained the application to the Board. The proposal is for 14 lots with all lots exceed 2.5 acres in size. The road would be constructed with a cul-de-sac, with a dedicated corridor for future expansion and future elimination of the cul-de-sac. This expansion corridor was at the request of the Township.

Johnston questioned if the power line easement was included in the useable area. Walz stated that the power line easement was excluded on all lots except Lot 1.

No one spoke in favor. No one spoke against the application. There was written correspondence from David Kaldahl in favor of the application. At this time, testimony was closed.

Further discussion was held regarding lot size, location and topography.

Motion: Moritz made a motion to approve the preliminary plat consisting of 14 lots based on the fact that the preliminary plat meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Knutson second. All in favor. Motion carried.

EIGHTH ORDER OF BUSINESS: Gary Kittelson. Request a change of zone from agricultural to residential and approval of a preliminary plat consisting of 9 lots for the property described as: N 660 feet of SE ¼ of NE ¼ Section 1, TWP 139, Range 36; Green Valley Township. PID Number 13.0005.011.

Steve Langlie, Anderson Land Surveying, explained the application to the Board. The proposal is for 9 lots. 8 of the lots do not have river access. One lot does border the river, but because of the wetlands does not have access to the river. The road would be built to a Class B road with a cul-de-sac. A new approach would be constructed into the Potlatch property. Once the new approach is constructed to Class B specifications, the existing approach off the County road will be removed.

W. Johnson questioned the retention pond. Langlie stated that the pond would catch run off and filter the run off.

No one spoke in favor of the application. Bert Hill, Green Valley Township Supervisor, stated that the developer has not been in contact with the Township and the Township was unaware of any type of development until they received notice from the County.

Knutson questioned if it was a requirement of the County that the developers were to meet with the Township. P. Johnson stated that is a recommendation but not a requirement.

Langlie stated that he had spoken with Skoog, another Township Supervisor. Langlie stated that Skoog stated that the Township required a Class B road. Langlie stated that he made the attempt to contact the Township and maybe it should be written into the Ordinance as a requirement.

Kathy Froehlich, Burlington Township, made the comment that their Township acts as a whole, not a single supervisor making a decision for the entire Board and that discussion with one supervisor is not the action of the entire board.

Written correspondence was received from Paul & Catherine Neumayer and Cindy Keen in opposition to the application. At this time, testimony was closed.

Further discussion was held. Knutson questioned what stance the Township has on the project. Hills stated that the Township has no objection to development; but the Township has found that the developer comes in develops and runs after the development is finished, leaving the Township with the maintenance and expense of the road. Hill stated that the Township should be involved with the project from the beginning.

Lien stated that this was a nice area for development. Brufloft questioned why there were three smaller lots rather than having all the lots 2.5 acres or greater in size. Langlie stated that the developers wanted various sizes for better marketability. Lien stated that the project does meet the criteria of the Ordinance and Subdivision Ordinance and that the lots are suitable; without suitability issues there are no reasons to deny the application.

Motion: Lien made a motion to approve the Change of Zone from agricultural to residential and approve the preliminary plat consisting of nine lots based on the fact that

it does meet the criteria of the Zoning Ordinance and Subdivision Ordinance. Skarie second. All in favor. Motion carried.

NINTH ORDER OF BUSINESS: Final Plat of The Woods on East Cozy Cove, Baypoint LLC, Developer.

P. Johnson explained that the change of zone and preliminary plat were approved in May 2005. The road has not been constructed but has been bonded. Everything is in order for final plat approval.

Motion: Knutson made a motion to approve the final plat of The Woods on East Cozy Cove based on the fact that it does meet the criteria of the Subdivision Ordinance. Johnston second. All in favor. Motion carried.

TENTH ORDER OF BUSINESS: Informational meeting.

The next informational meeting is tentatively scheduled for Thursday, October 13, 2005 at 8:30 a.m. at the Planning & Zoning Office.

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

James Brufloft, Vice Chairman

ATTEST

Jeff Moritz, Secretary

Patricia Johnson, Zoning Administrator