

**Becker County Planning Commission**  
**Tuesday, May 18, 2010**

**Present:** John McGovern, Harry Johnston, John Lien, Dan Schlauderaff, Jim Kovala, Don Skarie, Jim Brufloft, Mary Seaberg, Commissioner Larry Knutson, Zoning Administrator Patricia Swenson, and Zoning Staff Lisa Tufts.

Chairman Brufloft called the meeting to order at 7:00p.m. Lisa Tufts took the minutes.

**Minutes:** Kovala made a motion to approve the Nov 17, 2009 minutes for the Intent to Amend the Ordinance Meeting. McGovern second. All in favor. Motion carried. Seaberg made a motion to approve the April 20, 2010 Planning Commission minutes. Lien second. All in favor. Motion carried.

**New Business:**

**First Application: John King.** Request approval of a certificate of survey for 1 lot consisting of approximately 4.4 acres with a remainder tract of approximately 79.8 acres. This is on the property described as: GOVT LOT 2 LESS 10.90 AC ON E LN; E1/2 OF NW1/4 E OF HWY; & SW1/4 OF NE1/4 LESS 5.67 AC, Section 26, TWP 139, Range 39. R150250000. This property is located at 17925 Co Rd 31.

John King explained the application.

No one spoke in favor of the application. No one spoke in opposition of the application. One letter in file favoring the application.

Knutson stated that this was a straight forward application. Lien stated it meets all the criteria of the zoning ordinance. Kovala made a motion to approve the certificate of survey. Seaberg second. All in favor. Motion carried.

**Second Application: Larry Dietz.** Request a change of zone from agricultural to residential and approval of a certificate of survey to subdivide 4 acres into two lots, being 1.2 and 2.8 acres in size. This property is described as: SUMMER ISLAND OUTLOT A, Section 06, TWP 138, Range 42. R171227000. This property is located at 15304 E Summer Island Rd.

Larry Dietz explained the application. He wishes to subdivide a 4 acre parcel and sell a 1.2 acre parcel. Kovala asked if he owned a lake lot across the road. Dietz stated that he did and his lakeside neighbor would like to buy the parcel.

No one spoke in favor of the application. No one spoke in opposition of the application.

Lien made a motion to approve the change of zone from agricultural to residential and approve the certificate of survey because it meets the criteria of the zoning ordinance. Johnston second. All in favor. Motion carried.

**Third Application: Jim Shaw,** Request approval of a change of zone from agricultural to residential and approval of a certificate of survey to subdivide 3.68 acres into 2 lots (2.4 and 1.28 acres in size). This property is described as: PT GOVT LOTS 2 & 3 BEG 288.05' NW & 69.21' NE OF MOST ELY COR L2 CHARMONY BCH';TH N AL E LN OF RD 145.32',NE 86.58',TH 25' N TO NELY COR L10 CHARMONY BCH TH E 116.69',SE 331.53',TH E 328.08',S 209.10',W 504.63' & NW 215.57' TO POB, Section 28, TWP 138, Range 41. R190533000. This property is located at 11468 Co Hwy 17.

Scott Walz, land surveyor, explained the application. Shaw owns a nonriparian lot near Lake Melissa. He would like to subdivide it into two residential lots that meet the criteria of the zoning ordinance. Kovala asked if this was the same property that Shaw had sought approval of rental storage units on. Walz stated that this is that same property.

Bill Jordan spoke in favor of the application on behalf of Diane and Bob Hillert. Gail Hahn, Lakeview Twp, stated that the township has no objection.

No one spoke in opposition of the application.

One letter in the file in support of the change of zone.

Johnston made a motion to approve the change of zone and certificate of survey to subdivide the property because the proposal meets the criteria of the zoning ordinance. Seaberg second. All in favor. Motion carried.

**Fourth Application: Jeffrey and Susan Trosen.** Request approval of an after-the-fact conditional use permit to install retaining walls in the shore impact zone (app. 18 ft from Ordinary High Water Mark) for erosion control purposes This property is described as, PT LOT 3 A 50' LOT ON TURTLE LAKE KNOWN AS LOT C & PT LOT 3 KNOWN AS NWLY 24' OF LOT D ON TURTLE LAKE, Section 07, TWP 138, Range 43. R060125000. This property is located at 14322 115th Ave.

Charles Ramstad, attorney for Trosen, had Mr. Trosen explained the application. Trosen purchased the property in 1999, and it had erosion problems at that time. In 2008 Trosen applied for a site permit to rebuild his house. As part of that permit he was required to mitigate the reduced lake set back of 87 feet by installing a 15 foot by 50 foot vegetative buffer. Trosen explained that the stormwater from Turtle Lake Heights parcels has always drained through his yard to the lake. He wanted to improve the erosion problem and installed several french drains to help slow the water from running directly into the lake. A retaining wall was installed in the 1960's to curb the runoff, but it was no longer adequately performing. Mr. Trosen was under the impression that building a new retaining wall was approved under his mitigation plan. Ramstad stated that it may look like Trosen was purposely avoiding regulations, but that is not the case. He honestly believed he could proceed with his plans as long as the required buffer was put in place. He didn't realize that there were additional regulations for retaining walls. The vegetative buffer did not get installed last year because they ran out of time. Trosen fully intends to install the vegetative buffer this year and they want to make it look extremely natural. Trosen stated that the area

drained effectively this year. Ramstad stated that the landscaper, Rosing, from Audubon installed the retaining wall and rock garden. French drains were installed on both the north and south sides of the property. Ramstad stated that an engineer has approved the performance potential of the retaining wall. Mr. Trosen stated that prior to this year, the runoff ran quickly across the road, created a ravine, eroded his yard and ran directly into the lake. The new drainage system prevented that from happening this spring. Mr. Ramstad stated that neighbors, Art Carlson and Bob Link, would be speaking on behalf of how well this system has worked.

Lien asked who designed the system. Trosen stated that he designed the system and had talked to several other professionals before finalizing the design including Bruce Albright, Buffalo-Red River Watershed District. Lien stated that there is no mention of retaining walls in the site permit application of 2008. Brufloft clarified that Trosen thought he didn't need a permit. He also stated that the waterfront deck was built in 2000 without a permit. Brufloft asked Trosen approximately how far the OHW was from the silt fence. Brufloft stated that there are pictures in the file that show the old retaining wall. These pictures don't show erosion, but good lawn and the top of the old retaining wall. Kovala asked Trosen what his plans for the waterside deck were. Trosen stated that the deck will be removed. Kovala asked if the old retaining wall was still in place. Trosen stated that it is still in place and it is a single tier and further from the lake than the new retaining wall. Skarie stated that he understands that the drainage system is helping prevent erosion from the channel, but that doesn't explain the purpose of the retaining wall. Trosen stated that by building up the front lawn the water from the road is slowed down and cleaned up before entering the lake. Knutson asked who had assisted Trosen with the stormwater management plan. Trosen restated Bruce Albright, Buffalo-Red River Watershed District. However, Trosen stated he did not discuss retaining walls with Mr. Albright.

Brufloft noted that when looking down the lake shore it appears that neighboring properties are able to prevent erosion with riprap and vegetation, not retaining walls.

Art Carlson, speaking in favor of the application, lives to the south of Trosen and has shared the drainage area with the Trosen property for 35 years. In 1975, there was a large rain storm that should have run into the culvert, but instead it washed out his garden and across the Trosen property. The previous owner of the Trosen property poured a cement wall in the east/west direction to slow down the water. This helped, but occasionally during really big storms the water would hit the wall and go over it because of its volume and force. In 1977, a PVC pipe was buried to carry water underground, heavy rains from Turtle Lake Heights and the hill ran faster than that drainage system could handle and washed out the road. Carlson believes that the new drainage system Trosen has installed is much better for dealing with the neighborhood drainage issues. Carlson stated that it is an asset to the neighborhood and brought two photographs to show previous erosion problems.

Evelyn Paulson testified in favor of the application. She lives two houses from Trosen's, she bought the property from her parents 13 years ago. The spring after she bought the property she noticed that the ice was brown during the spring thaw. She determined that it was soil

washing into the lake from erosion in the area. This year, with the new Trosen system in place, there was very little brown ice.

Bob Link testified in favor of the application. He lives south of Trosen's and is the beach director. He monitors the lake and confirmed that the dirt would wash down the hill and into the lake as Evelyn stated. The water quality is much better this year. Each year there would be water that was 30 feet wide and 4 feet deep that would wash out the whole front yard. The former owners repaired this every year. The erosion didn't happen this year because of Trosen's drainage system. The water still ran across the road, but into the buffer area and without erosion. Link believes that when the planting of the vegetative buffer is complete the area will look very natural. Link stated he believes that Trosen's system has improved the area. Brufloft stated that he understand the drainage sytem is an improvement, but what purpose does the retaining wall play in the drainage system? Link stated that the yard has been raised and water is diverted into a buffer zone, rather than washing out the front yard into the lake. The water is filtered before it enters the lake. He believes that with additional planting of trees and shrubs the water quality will be improved even more. Link stated that a French drain collects the roof and walkway runoff, then goes into another French drain.

No one spoke in opposition of the application.

Brufloft stated he doesn't like retaining walls in the shore impact zone, even though the runoff seems to be contained. Knutson asked if the original wall was also in the shore impact zone. Swenson stated it was roughly 30 feet from lake, the shore impact zone on this recreational development lake is 50 feet from the OHW.

Lien read the CUP requirements from the ordinance (Becker County Zoning Ordinance Chapter 6, Sec. 8). He stated that all 4 of the criteria must be met to approve a CUP. The third requirement stating that the wall is to be designed by a registered professional engineer or landscape architect has not been met. Futhermore, had a professional been contacted the problems may have been avoided in the first place. Lien has a real problem with what has been done. Knutson questioned whether the erosion problem could have been taken care of without retaining walls. Brufloft believes that berms and vegetative mitigation would have been preferable. The administive zoning staff couldn't have permitted a retaining wall and if the wall had been mentioned in the site permit, the staff would have scheduled a public hearing prior to construction of the wall. Kovala questioned how much damage would be caused by removal and stated that is asinine that it went this far without any mention of a retaining wall on any permits. Brufloft stated that the stormwater mangement is great throughout the rest of the project, but he is not convinced that the retaining wall prevents any erosion. Brufloft also has a problem with the fact that the deck is still there. He stated that he hates to see people have to tear things out, but he believes that berms and vegetation would slow the water down every bit as well as the retaining wall.

Johnston stated that he believes that some of the rock should be removed and that the deck definitely needs to be removed. He believes that berms should be put in place, but is concerned that removal of the wall at this point may cause more erosion problems.

Seaberg stated she believes that it needs more rock, natural berms and grass growing.

Knutson stated that an after the fact application of this magnitude puts the Board in a difficult position. The Board will be setting precedent with this decision and if we allow the retaining wall to remain, future applicants may be more inclined to build now and ask permission later. Yet, if we make them remove it, it could cause more problems with drainage in the area. Brufloft thinks that other alternatives should have been used rather than the retaining wall. Lien stated he believes the retaining wall is functionally questionable and is not in favor of approving it. Skarie stated that if the proposal would have been denied before the fact there is no point in approving the application after the fact. McGovern stated that this does put the Board between a rock and hard place because we don't want everyone else to do the same. McGovern suggested increasing the fine as a deterrent.

Johnston addressed Swenson and Knutson and stated that the Ordinance should be amended to include the contractor in the penalties so that they check for appropriate permits prior to construction. Brufloft feels similar and asked Swenson if all permits are required to be posted. Swenson stated that all permits are to be posted on the job site and that the applicant has paid a \$450 fine for an after the fact CUP application.

Lien made a motion to deny the request allowing a retaining wall in the shore impact zone as it does not meet the zoning ordinance criteria. Skarie second. Lien, Schlauderaff, McGovern, Seaberg, Skarie, Knutson voted in favor of denying the application. Kovala and Johnston opposed. Motion carried – application denied.

**Fifth Application: BM Transport,** Request a change of zone from Agricultural to Commercial. Currently, the property has a conditional use permit for a business on the agricultural property. This property is described as: PT NE1/4 of NW1/4, Section 20, TWP 138, Range 40. R030193006. This property is located at: 30358 US Hwy 10.

The applicants were not present at the hearing so Swenson explained the application. The applicant has a conditional use permit to park, display, and sell truck and trailer equipment. They are currently putting for sale signs on the trailers. They would like to put up a bill board advertising their company. Per Minnesota Department of Transportation regulations, the property must be zoned commercial to allow the signage. Swenson explained that the County would no longer be able to enforce conditions if the zone is changed to commercial.

No one spoke in favor of the application. No one spoke in opposition of the application.

Brufloft stated that there are currently several signs on that section of the highway corridor. Lien stated that commercial use is typical in the area. Johnston stated that there are two nearby businesses that are in commercial zones.

Seaberg made a motion to approve the change of zone because it is compatible with the use in the area. Kovala second. All in favor. Motion carried.

**Sixth Application: Marty Solmon Construction Inc.** Request a Conditional Use Permit to operate a gravel pit. Hours of operation will be 7 am – 7 pm, Monday – Saturday. This property is described as: PT GOVT LOT 4: COMM E QTR COR TH W 512.29' AL N LN TO WLY LN CSAH #22 & POB; CONT W 819.04' TO NW COR LOT 4, TH S 1319.64' TO SW COR, TH E 129.62', NELY 659.56', ELY 485.88' TO WLY LN CSAH #22, NLY 693.18' AL HWY, NELY 249.28' AL HWY TO POB AKA TRACT A R190170001. This property is located at West Lake Dr / Co Rd 22.

Marty Solmon explained the application. He stated that he is planning on developing this lot into a residential subdivision and has had some preliminary work completed by Meadowland Surveying for the subdivision. He would like to make nice houses, on nice lots, that would have a gentler slope than the existing topography. He got a Land Alteration Permit to cut the ridge to open the site line to Co Hwy 22 and construct a temporary road. Solmon contracted with Hough to cut the road and level the site to the proper elevation. Solmon stated that he spoke to Swenson, the Pelican River Watershed District and Minnesota Pollution Control Agency and thought he got all permits necessary. The Land Alteration Permit stated that it was good until 2019. He received a call last week and was told that a Land Alteration Permit was valid for one year only and told to shut down his operation, which he has done. Solmon stated that this is not a permanent gravel pit, it is temporary to make it the lot suitable for development. He is trying to make the subdivision as desirable as possible. Antler Point will be similar to Lake Forest. Solmon donated 11 acres to the city for parks and green space. He has planted several hundred trees to keep the green space beautiful for development and has walking paths for the residents. The trees he has planted are not seedlings, but eight to ten foot trees. When he has completed the grading of the site in question, he will replant with similar sized trees. He has worked with the Becker County Zoning and Highway Departments to make a proper road and road outlet. He thought he had proper permits. The map submitted to the Zoning Department shows the area to be excavated. There is a 120 foot buffer on the west side of the property and a 400 foot buffer on east side. He has been taking out stumps, he put up silt fence, stripped the topsoil, and is taking all erosion control measures so nothing is washing down the site. He will reinstall the topsoil and reseed when he has the proper grade for a residential subdivision.

Scott Walz, land surveyor, stated he has done preliminary work on this project and it has always been a part of the plan to lower the hill. Walz stated that if the soil had been black dirt, a land alteration permit was all that would be necessary to prepare the site. However, Solmon was blessed or cursed with gravel and then the permit requirements changed.

Gene Maluski stated that he has recently moved to the area and didn't know that there would be a gravel conveyor running 12 hours a day, 6 days a week. He is upset by the noise and the dust that blows down the hill. He stated that he didn't believe that gravel stock piles, conveyors and front end loaders are typically necessary for site development and that this project is more than site preparation. The length of the project is excessive.

Donna Bursik stated that there is too much traffic in a residential area to allow gravel trucks to haul. There is too much dust and noise and this reduces the property values. Bursik is very much against the application.

Gail Hahn, Lakeview Twp, stated that the residents presented a petition in opposition to the application with 107 signatures on it. Solmon was present at the most recent township board meeting. A very lively discussion ensued as there were many Lakeview township residents in attendance. Hahn was under the assumption that Mr. Solmon was either going to revise his plan or table it. Lakeview Twp opposes the plan as presented. The revisions that came from Hough are very similar to original proposal. She believes the project should be done within a few months, not a few years. No other sand pits are located in a residential area.

Jay Schurman stated that he understands the investment rights of Solmon, but is concerned about the noise. He stated it sounded like a rock crusher was on site. If quieter method could be used he wouldn't mind the project.

Betty Larson stated that she is totally opposed to the proposal regardless of hours or days or years. She is concerned about the noise, dust, and lessening of property values.

Mr. Boeke stated he is strongly opposed to the gravel operation. He understands that a new development requires dirt movement, but 5 years is an excessive time period. He moved to the area to enjoy the peace.

Mike Hough, Hough Inc., stated he was contracted to remove gravel to get the development ready. He built the approach for the road and worked with the Becker County Highway Department and the County Weed Inspector. He has paid gravel tax to Becker County on this site for the last two quarters of 2009. Due to the abrupt need for the public hearing he created the 1<sup>st</sup> plan incorrectly. It is a grading plan, not a gravel pit plan. Five years is a reasonable time frame to grade such a subdivision. They tried to be in compliance with all of the various agencies involved with a project of this scope.

Since the complaints, they have ceased the screening operation and see no need to continue it. He anticipates that the remaining grading can be accomplished with front end loaders and trucks operation.

Kovala asked how many days it would take to move the stockpile of gravel that is currently on site. Hough stated approximately three weeks. Hough estimated that the stockpile contains 3,000 yards of gravel. Kovala asked where the remain 47,000 yards would be coming from. Hough stated that the plan is to level the hilltop and get the gravel off site to be used on other projects. Kovala asked if Hough planned to truck it off for five years. Hough explained that it is not economically feasible to go in, grade all 50,000 yards and move it offsite. He has no place to store it.

Brufloft asked how much could be done this summer. Hough stated that 10,000 yards per year would be reasonable.

Seaberg stated that she understands that it may not be financial feasible to move it all offsite, but stated that it was possible.

Twyla Thompson testified that she enjoys her summer with guests and grandchildren and to have to listen to noise and deal with the dust several hours a day, 5 days a week would be terrible.

Maureen Story spoke in favor of growth and prosperity for the City of Detroit Lakes, but thinks that five years is too long.

Wayne Leopold stated his home is approximately 100 feet from the driveway entrance. The dust and noise devalues homes. A realtor told him it would be very difficult to sell a home next to a gravel pit. Mr. Leopold recommends 90 days to complete the project.

Rick Nelson from Hough, Inc. stated that The Chesterfield subdivision used to be a gravel pit and that he worked that pit for several years prior to the development of The Chesterfield. Nelson stated that the elevation was thirty feet high, not the flat plateau it is today.

Carl Oberholter stated that Solmon does a wonderful job on his developments but having a gravel pit right next to a residential community cannot be endorsed by the county.

Thirteen letters in the file from nearby residents all concerned with traffic, dust, noise, and property values. Letter from Larry Remmen, Detroit Lake City Planner, requesting parameters that should be imposed if the application is approved, including 1) limiting noise and dust control, 2) limiting hours of operation from 8am -7pm with no weekend work 3) term should be as short as possible, no longer than 3-4 years until completion, 4) restoration plan and a significant bond to ensure the restoration and 5) they should be required to clean the road daily. Brad Wentz, Co Hwy Engineer, submitted a letter stating safety concerns due to the steep slope of the driveway and minimal site distance, as well as a concern for road deterioration.

McGovern stated that the existing large stockpile of gravel creates many hazards in a residential area and should be removed as soon as possible. The time frame for completion should be less than 5 years. Lien stated the requirement for issuing a CUP from the ordinance. (Chapter 8, Section 10(F)). He stated that obviously the fifth requirement has not been met because it is a nuisance to the neighboring properties. Lien doesn't like the location, and thinks the driveway is too steep for heavy trucks to stop at the bottom of the hill. Brufloft stated that Solmon has right to develop the property, but maybe fewer lots would be preferable so that not as much gravel removal is necessary. He stated that most of the gravel mines approved are located in a desolate part of the county where there is not as much traffic. He thinks that Solmon should be able to remove whatever he can this summer and then be done. Skarie asked Hough to estimate the time necessary to complete the removal if there was no stock pile and they just trucked it out. Hough stated 5 years for 5000 dumptruck loads. Skarie asked how many loads could be taken in a day, Hough stated 1000 yards per day. Skarie said that he would then take take 50 days, not five years. Skarie would support with shorter hours, fewer days and a time frame shortened to two seasons. Knutson discussed a borrow pit, Hough has no ready market for all the gravel this year and would like permission to remove it on an as needed basis over the next five years. Skarie stated that it had to be decided whether Solmon wants to grade for a development or have a gravel pit.

Kovala stated that he felt 60 days was an adequate time frame and that there is a cost of doing business. Seaberg stated that she believed a shorter time frame was necessary and pointed out that a new quality development would actually raise property values in the area, and stated that this area is used for WeFest traffic, so traffic shouldn't be a new issue. Swenson explained that the city has jurisdiction over subdivisions within two mile of the municipal boundary and that approval of a subdivision has not yet been applied for. If the application was presented to the City, it would be up to them as to acceptable elevation and road grade standards would need to be met. Seaberg asked if the City approved the plan would the County still have a gravel pit problem? Swenson stated the the County would still have jurisdiction over use. Schlauderhaff again questioned the final grade of the proposed project. Solmon explained that the area on the map submitted to the Board would be leveled and he is aware that the road is quite steep at this time, but as more grading is done the elevation and slope of the road will be in reduced. Solmon also stated that the area will not be mined every day, just as Hough needs the gravel.

Johnston stated he has never seen it take over 30 days to grade a development's road. The application in front of them is to mine 75,000 -100,000 yards of gravel.

Kovala made motion to deny the application for a gravel mine because is to too close to the residential area of The Chesterfield and too close to city of Detroit Lakes. Johnston second. Kovala, Johnston, Knutson, McGovern, Lien voted in favor of denying the application. Schaluderhaff, Seaberg and Skarie opposed. Motion carried - application denied.

**Seventh Application:FINAL PLAT: CIC #47, Oxbow Beach Club, Dan Finn Developer.** Lien made a motion to approve the Final Plat of Oxbow Beach Club. Kovala second. All in favor. Motion carried.

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

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Jim Bruflo, Chairman

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Jeff Moritz, Secretary

ATTEST

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Patricia Swenson,  
Zoning Administrator