

## Becker County Planning Commission

July 17, 2007

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

Chairman Bruflodt called the meeting to order at 7:05 p.m. Debi Moltzan took the minutes.

Kovala made a motion to approve the Minutes from the June 2007 meeting. McGovern second. All in favor. Motion carried.

Bruflodt explained the protocol of the meeting. Bruflodt stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for a final decision on Tuesday, July 24, 2007. Bruflodt announced that two applications were tabled at the request of the applicants, Don & Judy Rooney and Lee Carlson.

**FIRST ORDER OF BUSINESS: Naterra Land.** Request a change of zone from agricultural to residential and approval of a preliminary plat consisting of 5 lots on Buffalo Lake for the property described as: Pt Govt Lot 11; Section 1, TWP 140, Range 41; Richwood Township. PID Number 24.0009.002. This application was postponed by the applicant at the June 2007 meeting.

Scott Seeley, Naterra Land, explained the application to the Board. Seeley stated that they have met with the DNR, primarily Dave Friedl and Earl Johnson, regarding an aquatic management area. Since this meeting, Bob Merritt, DNR, has written a letter regarding the erodible land in the steep slope area and wanted a strip of land up to the 1460 elevation to be deeded to the DNR. This would not be feasible for Naterra so Naterra came up with two alternative options. Option #1 is to deed a 100 ft strip along the lake to the DNR and have a 40 ft rear yard setback from that line. This would protect most of the area up to the 1460 elevation. Option #2 is for a conservation easement for a 140 ft strip along the lake with no setback from this line. The conservation easement would be given to Becker County. With either option, Naterra would like to be able to prune the trees within the easement to allow a view corridor to the lake. Both options are

generous and will protect the lake. Seeley stated that the DNR would not allow pruning in the management area if the land were deeded to the DNR.

Kovala questioned why the DNR did not want the 100 ft strip along the lake. Seeley stated that the DNR wanted everything up to the elevation of 1460 and would not allow pruning to see the lake. Seeley stated that if the owners cannot see the lake, there are no incentives for development.

Knutson questioned if Naterra has met with the Township regarding the proposed plat. Seeley stated that they have met with the Township.

Skarie asked for clarification as to which area the trees would be trimmed. Seeley stated that the shaded area is the area that the trees would be trimmed and pruned. Moritz questioned who would control the pruning as to when the pruning can be done and how much can be done. Seeley felt that the owner should submit a plan to the Zoning Office showing where the trimming would be done and showing the view corridor.

Thorkildson questioned if the DNR approved Option #2. Seeley stated that the DNR wanted an easement that would go to the elevation of 1460. Knutson wanted clarification as to whether or not the DNR would allow trimming. Seeley stated that if the DNR owned the management area, there would be no trimming allowed, but Naterra is still trying to work with them to get this permission. Johnston questioned what the height limits would be for pruning. Seeley stated that the hill is about 10 to 20 feet high so the trimming would be 20 to 30 feet high.

No one spoke in favor of the application. Speaking in opposition of the application were: Joan Kopperud, who was concerned that no matter what the rules, people do not abide by the rules and that this is marginal lakeshore that needs protecting. Michele Dode, who was concerned that with the lots available on the north side of the bay, this would overdevelop the bay. Robin Turnwall, who was concerned that the canopy of trees would disappear, that damage can be done quickly and that this is really not a lake, but a river channel that needs protecting. Dave Friedl, DNR, he has not seen the new proposals; the DNR has met with the developer a couple of times; the slope is very sensitive due to the soil types, this is the worst type of soil for development; a strip of land can be accepted by the DNR for an aquatic management area; the area that needs protecting ranges from a distance of 105 feet to 150 feet from the lake; to make these lots non-riparian, the strip of land must be deeded to the DNR, a conservation easement would not be sufficient.

McGovern questioned if there would be trouble with the placement of septic systems. Friedl stated that there would be difficulty placing proper septic systems with the type of soil in this area and this is outlined in Merritt's letter. Moritz questioned Friedl that if a proposal was presented with a management area with setbacks at 1460 if the DNR would approve it. Friedl stated that they probably would, but some areas of the slope needed protecting up to 200 feet from the lake.

Written correspondence was received from Michele Dode, in opposition to the application and Bob Merritt, DNR, with concerns about the slope area and soil conditions in this area.

At this time, testimony was closed. Further discussion was held. Moritz questioned Seeley what the acreage difference would be if they deeded over the entire area up to the elevation of 1460. Seeley stated that he did not have the exact figure, but it would be around ¼ acre. Ben Schmidt, Naterra, stated that Naterra is willing to give up the riparian rights but want to allow a view to the lake. Lien was concerned about pruning and what the limitations would be; the only way to control trimming is to deed a strip of land to the DNR. Lien stated that the Planning Commission has a responsibility to protect the lake. Knutson stated, that what he was hearing, the DNR would like to have the strip of land up to the elevation of 1460, but this may not be necessarily the absolute setback.

Brufloft questioned the ownership of the 100 ft strip. Friedl stated that the 100 ft strip is not enough to protect the steep slope; the slope needs protecting from 105 to 150 feet from the lake. Knutson asked how the DNR felt about increasing the setback from the slope. Friedl stated that was a County call and that 40 feet would be acceptable. Johnston stated that the 140 ft setback is pretty close to the 1460 elevation and still concerned about the pruning of the trees. Kovala questioned what would happen if no pruning took place. Seeley stated that this would be an open field with no view to the lake. Kovala felt that trying to control the pruning would be difficult. Schmidt questioned if Naterra could do the pruning before final plat approval. Scott Walz questioned if the pruning could be done prior to final plat approval and once done recorded with no further pruning. Swenson stated that to preserve this area, the area would have to be deeded to the DNR; pruning, trimming and a view corridor are allowed by Ordinance.

Ray Thorkildson felt that the 140 ft deeded strip to DNR looks good, but no one should be able to build up to that line, there should still be a 20 to 40 ft setback from the deeded area, this would place the structure further up the hill and they would naturally have a better view; if deeded to the DNR, the DNR should prune, not the home owner. Moritz questioned if pruning were allowed, are there restrictions or provisions regarding the

view from the lakeside. Seeley and Schmidt stated that there were covenants and included restrictions like requiring earth tone structures. Skarie stated that there are regulations, but some are hard to enforce; once a tree is cut down, it is gone forever. Friedl stated that in the aquatic management area, no cutting of vegetation would be allowed and that the DNR cannot control pruning of trees on private lots. Lien stated that pruning and trimming is not a one-time deal, trees need pruning every year to every other year. Skarie stated that it seems that the proposals are at an impasse and is in favor of deeding a strip to the DNR with a rear yard setback from that line. Lien felt that the information presented to them is not adequate, that nothing has been resolved between the developer and the DNR and felt that if Naterra could not accept a proposal of deeding a strip of land 140 feet to the DNR with a 40 ft setback from this strip, the application would have to be denied.

**Motion:** Lien made a motion to deny the change of zone from agricultural to residential and deny the preliminary plat consisting of 5 lots based on the fact that there would not be enough protection for the steep slope, sensitive soils and aquatic vegetation. Kovala second. All in favor except Knutson. Majority in favor. Motion carried.

**SECOND ORDER OF BUSINESS: NORTHERN RESORT DEVELOPMENT.**

Request for a change of zone from agricultural to high density residential and a conditional use permit for a multi unit residential development consisting of 10 units on the property described as: Pt of Govt Lot 9 in Section 14 and Pt of Govt Lot 1 in Section 23, TWP 141, Range 36, Two Inlets Township. PID Number 34.0094.000 and PID Number 34.0123.001. The property is located on Two Inlets Lake. This application was postponed by the applicant at the June 2007 meeting.

Rand Schaeffer explained the application to the Board. The MURD would be located on the southern end of the peninsula. The previous MURD was proposed for the entire peninsula and without a variance; the MURD could not be accomplished. The existing driveway would be utilized for the new units. The Technical Review Panel has viewed the property. The docking area would be toward the south of the property. The new proposal does meet the criteria of the Zoning Ordinance. A swimming area is not planned for this development. Schaeffer stated that he wanted to continue being a good steward of the land. The existing resort has historic value and he would like to try to preserve that.

Scott Walz stated that the application states 10 units, but one unit was not subtracted for the shore recreation area, so there will only be 9 units; and with the current regulations, the peninsula is not buildable under MURD concepts; the peninsula area is already disturbed, the back area is undisturbed; this MURD would replace the existing RV sites.

Moritz questioned if the 1200 sq ft site areas included all the impervious material for the site or if decks would be located outside this area. Schaeffer stated that 1200 sq ft site included the decks; the only thing that would be located in the common area would be the trails.

Speaking in regards to the application was Teresa Goodrum, expressing some concerns. Edie Everts, DNR, also expressed concerns about the docking area due to the wild rice and bull rushes. Written correspondence was received from Edie Everts, DNR, expressing the same concerns that she spoke about.

At this time, testimony was closed and further discussion held. Lien questioned the septic system proposal. Schaeffer stated that he is working with a contractor to centralize the new system(s); the new system would not be contiguous to the existing system. Lien stated that the proposal does meet the requirements of the Zoning Ordinance; the only issue would be a swimming area that would need to be addressed.

**Motion:** Lien made a motion to approve the change of zone from agricultural to high density residential and a conditional use permit to allow a Multi Unit Residential Development consisting of nine (9) units based on the fact that the proposal does meet the requirements of the Zoning Ordinance. Johnston second. All in favor. Motion carried.

**THIRD ORDER OF BUSINESS: James Schaefer and Steve Anderson.** Request a change of zone from commercial to residential and conditional use permit for storage condominiums which would consist of two buildings, 40 ft by 120 ft and two buildings 30 ft by 120 ft for the property described as Pt SE ¼ NW ¼ and Pt SW ¼ NE ¼; Comm W Qtr Cor Sec 24; Section 24, TWP 139, Range 42; Audubon Township. PID Number 02.0159.005.

Jim Schaefer and Steve Anderson explained the application to the Board. They plan on building the structures and selling the units, similar to the units on County Highway 17. There would be no water or sewer in the units. Covenants would be implemented, similar to others approved in the County. Anderson stated that the application states four buildings, but in their letter of explanation, it states that the project would be staged and that the land could support up to five units of each size for a total of 10 structures, but they would not be constructed unit one building was completely sold. Swenson stated that ten structures are stated in their business plan.

Moritz asked what type of screening there would be from the highway or adjoining properties. Schaefer stated that they had not thought of any screening and wanted to use the visibility from Highway 10 for marketability.

No one spoke in favor of the application. Speaking in opposition were Glen Stearns with concerns about the condition of the existing road and screening to the east and south. Rick Ellsworth, Audubon TWP Supervisor, felt the property was more valuable as commercial.

Anderson stated that there would be less traffic with a unit that is privately owned rather than one that is rented. Swenson explained why there was the need for the change of zone and the difference between a unit that is rented and a unit that is owned. Johnston questioned how many units would be in each structure. Anderson stated that the 40 ft by 120 ft structure would have four units with four owners.

Written correspondence was received from Jerry Lunde, Audubon Township, with concerns about the project and Robert Spizzo, Forest Hills Golf Resort owner, in opposition to the application.

At this time, testimony was closed and further discussion was held. Kovala questioned the height of the structure. Schaeffer stated that the structures would have 14 ft sidewalls with 12 ft garage doors and would be less than 22 feet in height. Kovala questioned if they would consider screening with trees. Schaeffer stated that they would consider screening. Knutson stated that the zone change would give the County more control of what goes on the property.

**Motion:** Lien made a motion to approve the change of zone from commercial to residential and a conditional use permit for storage condominiums and to build up to ten (10) structures based on the fact that the use would not be detrimental to the surrounding area with the stipulations that there be an adequate screening of trees planted on the south and east side of the structures and the structures are to be constructed within a ten (10) year period. Kovala second. All in favor. Motion carried.

**FOURTH ORDER OF BUSINESS: Keith Schwichtenberg.** Request a change of zone from agricultural to residential and approval of a certificate of survey for three lots (6.5, 5.4 and 5.5 acres) for the property described as: Pt Govt Lot 6, Comm SW Cor Sec 36 Th n Al W Ln 663.86 to POB; Section 36, TWP 138, Range 39; Silver Leaf Township. PID Number 29.0228.000. The property is located on Dead Lake.

Schwichtenberg explained the application to the Board. There are presently two lots that he would like to rearrange the lot lines and create three lots. Each lot meets or exceeds the requirements of the Zoning Ordinance and Subdivision Ordinance. Scott Walz further explained the lot configuration and need for rezoning.

Kovala stated that there is a significant amount of reeds along the lake and that there is one dock now and suggested that new docks would have to be placed over the vegetation. Schwichtenberg stated that the DNR has suggested a dock that would go over the vegetation and one section would be placed in the open water; this type of dock can stay in the water all winter long.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Brad Wentz, County Highway Engineer, with concerns about the location of driveway approaches.

At this time, testimony was closed and further discussion was held.

**Motion:** Kovala made a motion to approve the change of zone from agricultural to residential and approve a certificate of survey for three tracts of land (6.5 acres, 5.4 acres and 5.5 acres) based on the fact that the request meets the requirements of the Zoning Ordinance and Subdivision Ordinance. Knutson second. All in favor. Motion carried.

**FIFTH ORDER OF BUSINESS: Barry Wilde.** Request a change of zone from agricultural to residential and approval of a preliminary plat consisting of 4 lots for the property described as: Pt of Govt Lot 2; Section 15, TWP 140, Range 38; Shell Lake Township. PID Number 28.0081.001. The property is located on Shell Lake.

Barry Wilde explained the application to the Board. The lots would be split off from the existing resort, just west of the main resort. There are three existing cabins located in this area and when the split occurs, each of the cabins would be on a separate lot and the fourth lot would be vacant. Scott Walz further explained the lot size and location; each of the lots meets or exceeds the requirement of the Zoning Ordinance and Subdivision Ordinance.

Kovala stated that the area would make nice lots and there are existing docking areas for three of the lots, with existing cabins.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Brad Wentz, County Highway Engineer, with concerns about the cul-de-sac location.

At this time, testimony was closed and further discussion was held. Kovala stated that the lots meet the requirements of the Zoning Ordinance. Knutson felt the cul-de-sac issue needs to be addressed between the developer and Township.

**Motion:** Kovala made a motion to approve the change of zone from agricultural to residential and approve a preliminary plat consisting of four (4) lots based on the fact that the request meets the criteria of the Zoning Ordinance and Subdivision Ordinance. Knutson second. All in favor. Motion carried.

**SIXTH ORDER OF BUSINESS: Bruce Pearson.** Request a conditional use permit to excavate and install a natural boulder retaining wall within 50 feet of the ordinary high water mark of Bad Medicine Lake on the property described as: Lot 6, Block 1, Schiller's Shores; Section 18, TWP 142, Range 37; Forest Township. PID Number 12.0212.000. The property is located on Bad Medicine Lake.

Chad Pearson explained the application to the Board. They would like to excavate and install a boulder wall within the shore impact zone.

Lien questioned if there was an existing erosion problem with this area. Pearson stated that there was not, that it was more for recreational purposes. Kovala questioned why the wall would be necessary. Pearson stated that they would be creating a beach area. Kovala stated that there was an adequate beach area without creating a larger one. Lien then read a portion of Section 12 of the Becker County Zoning Ordinance pertaining to retaining walls. Lien stated that there is no current erosion problem that needs to be corrected. Johnson felt that the plan would make the property worse, not better.

No one spoke in favor of the application. Speaking in opposition to the application was Ray Vlasak, who felt a wall should be denied and a stairway installed; the water is pristine and needs to be preserved. Jim Kaiser questioned if the wall was within the shore impact zone. Brian Huotari, EOR, explained more details on the wall; the trees would be preserved and there would be a swale placed behind the wall; the wall has been designed and signed by a civil engineer. Roger Olson stated that the resources must be preserved and he is speaking for the right of the lake. Written correspondence was

received from Jerry and Lorraine Prah, in opposition of the application and David Hagen, in favor of the application.

At this time, testimony was closed and further discussion was held. Johnston stated that the ordinary high water level and the current water level was only a four-foot difference. Knutson stated that Lien spelled out when retaining walls are permitted and walls may be permitted for the replacement of old, deteriorating or poorly constructed walls; there is no reason for a wall here, the bank is well protected.

**Motion:** Johnson made a motion to deny a retaining wall within the shore impact zone based on the fact that the proposal does not meet the criteria of Section 12 of the Becker County Zoning Ordinance. Skarie second. All in favor. Motion carried.

**SEVENTH ORDER OF BUSINESS: Daniel & Jacqueline Weiss.** Request a conditional use for the replacement of an existing retaining wall within the shore impact zone for the property described as: Lot 2 Block 1, Oak Knolls Acres; Section 17, TWP 140, Range 36. PID Number 21.0398.000. The property is located on Straight Lake. This is an after the fact permit.

Brian Huotari, EOR, explained the application to the Board. Huotari inspected the wall after it had been constructed. The wall that was constructed is well constructed and protects the boathouse. It was his understanding that the new wall replaced a failing wood wall.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Osage Environmental, in favor of the application.

At this time, testimony was closed and further discussion was held. Johnson felt that there were no other alternatives that could have been done to correct the erosion problem. Knutson felt that more damage would be done to the shoreline if it were to be restored.

**Motion:** Kovala made a motion to approve an after the fact conditional use permit for the replacement of an existing retaining wall within the shore impact zone based on the fact that the wall does meet the criteria of Section 12 of the Becker County Zoning Ordinance. Waldo second. All in favor. Motion carried.

**EIGHTH ORDER OF BUSINESS: Patricia Anderson.** Request a conditional use permit to repair an existing retaining wall, which has partially collapsed, within the shore impact zone on the property described as: Lot 1 Block 1, Sandy Ridge First Addition; Section 23, TWP 138, Range 43; Cormorant Township. PID Number 06.1000.951. The property is located on Big Cormorant Lake.

Dick Anderson explained the application to the Board. The purpose of the project is to repair an existing retaining wall. Cormorant Watershed has looked at the plan, but would not approve the plan until the Watershed's engineer looked at the plan. The new wall would be approximately 5 to 6 feet further from the lake. Anderson stated that they looked at three wall options, boulder, block and cedar. After careful consideration, they chose the cedar wall.

Kovala felt that the boulder wall would be a better fit of the area rather than a wooden wall. Brufloft stated that something needs to be done with the wall and felt that a rock wall would be more appealing near the lake. Johnson felt a rock wall would be better than wood.

Anderson stated that the cedar would weather to a gray color and they are planning on planting chokecherry bushes in front of the wall, this would hide some of the wall.

Speaking in favor of the application was Jeff Moritz who stated that the Watershed had a concern about erosion and safety and that Houston Engineering has reviewed and approved the plan, stating the wall would not fail. No one spoke in opposition of the application. Written correspondence was received from Barry Shaw in favor of the application.

At this time, testimony was closed and further discussion was held. Brufloft and Lien both agreed that something needed to be done with the existing wall. Lien stated that he would rather see a boulder wall but the engineer designed a wood wall.

**Motion:** Lien made a motion to approve a conditional use permit to repair an existing retaining wall, which has partially collapsed, within the shore impact zone based on the fact that it does meet the criteria of Section 12 of the Becker County Zoning Ordinance. Moritz second. All in favor except Kovala. Majority in favor. Motion carried.

**NINTH ORDER OF BUSINESS: Informational meeting.** The next informational meeting is scheduled for Thursday, August 16, 2007 at 8:00 am at the Planning & Zoning office.

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

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Jim Bruflo dt, Chairman

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Jeff Moritz, Secretary

ATTEST

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Patricia L. Swenson, Administrator