

**Intent to Amend Ordinance Meeting  
Becker County Planning Commission  
November 17, 2009**

**Present:** Jim Bruflodt, Harry Johnston, John McGovern, Dan Schlauderaff, Jim Kovala, Jeff Moritz, John Lien, Don Skarie, Mary Seaberg, Commissioner Larry Knutson, Zoning Administrator Patricia Swenson, and Zoning Staff Debi Moltzan.

Bruflodt called the meeting to order at 6:00 p.m. Debi Moltzan took minutes.

Bruflodt explained the protocol for the meeting and explained that the recommendation of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, November 24, 2009.

Bruflodt stated that there were five proposed ordinance changes. Three of the proposed changes were related to resorts and two were related to conditional use permits and variances, so the discussion would be divided into two parts.

Swenson stated that the Planning Commission Members received a copy of the moratorium, minutes from the latest Zoning Ordinance Advisory Resort Subcommittee, and a copy of the proposed ordinance changes. Swenson then introduced the proposed amendments for Chapter 8, Section 7, Subd. C: Existing Language: Definition of residential development. Shoreland conservation subdivision developments consisting of sites or units that are sold, leased for periods longer than twenty-eight (28) days, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance. This provision does not apply to existing or operating resorts and campgrounds in existence as of March 23, 2005 until the resort is converted to a multi-unit residential development. Proposed Language: Definition of residential development. Shoreland conservation subdivision developments consisting of sites or units that are sold, leased for purposes of establishing the residence of the occupant, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance.

Chapter 8, Section 9, Subd. C: Existing Language: Definition. Commercial/transient multi-unit developments consist of sites or units that allow transient, short-term lodging spaces, rooms, RV sites or parcels for a period of up to twenty-eight (28) days. Any type of lodging spaces, rooms, RV sites or parcels providing more than twenty-eight (28) days of continued service shall be considered as permanent and must comply with the multi-unit residential development requirements of the Chapter 8, Section 7, of this Ordinance. Proposed Language: Definition. Commercial/transient multi-unit developments consist of sites or units that allow transient occupancy of short-term lodging spaces, rooms, RV sites or parcels. "Transient occupancy" means occupancy when it is the intention of the parties that occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the

occupancy is transient. *The proposed language is consistent with the definition of transient occupancy per MN STAT 327.70 (Hotels, Motels, Resorts, and Manufactured Homes.)* and

Chapter 8, Section 9 Subd. Q: Existing Language: Licensed resort expansion or replacement. The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location. Proposed Language: Licensed resort expansion or replacement. The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location. Expansion to an existing licensed resort involving six (6) or more additional units shall be processed as a conditional use.

Swenson gave a brief explanation of each proposal and why the change was being proposed.

Mark Veronen, Veronen's Resort (64 years), spoke in favor of the application. Veronen stated that their resort has 21 seasonal sites and 9 nightly sites, plus cabins. The 28 day limitation is a negative affect on may resorts. No one has the right to tell a resort owner how long a guest can stay at their establishment. No one regulates who can shop in stores. When the snow birds leave for the winter, are they going to rent their houses to transients? Many of the seasonal guests are good stewards of the lake.

Dick Lesage, Ice Cracking Resort (11 years), stated that there are approximately 800 resorts left in the State of Minnesota out of 4500. Lesage stated that resort owners rent space to make a living, they are not retailers and their sole existence is to bring people into the community. Currently there are 56 resorts left in Becker County. Who cares how long a person stays at a resort, as long as they are not a permanent resident. Resorts are the pioneers of the lakeshore.

Don Tschudi, Bad Medicine Resort (50 years), stated that he has campsites and cabins, with more sites becoming seasonal. With seasonal sites, there is a steady income, which allows them to pay their taxes. There is a lot of expense to set up a seasonal site to make it more rentable and felt that seasonal sites should not be messed with.

Les Schermerhorn stated she has had a seasonal site at Veronen's since the mid 1990's. The renters of the seasonal sites take care of the lake more than transient renters. Resorts have found a way to keep going by renting seasonal sites. Schermerhorn felt that the 28 day regulation needed to go away, stating that many of the elderly people do not have the means of moving an RV every 28 days, nor should they be moving it.

Darrel Carlson stated he has had a seasonal site at Veronen's for 15 years. The resort owner's have passed onto the seasonal renters how to take care of the lake. Carlson

stated that since he has been renting this spot, his boat has not been on any other lake than Bad Medicine Lake.

John Postovit spoke in opposition to the changes. Postovit stated that he was on the Zoning Ordinance Advisory Committee. Postovit stated that the Zoning Ordinance Advisory Committee came to consensus on every section. There were two Planning Commission Meetings, which were passed unanimously with no opposition to the definition of short term transient lodging. This definition is clear, not ambiguous. There is no reason for the County to expose themselves to conflict by changing these regulations.

Clark Lee, Big Toad Lake Improvement Association, spoke in opposition to the changes. If the changes are approved, there could be a severe economic impact to the community because there would be no short-term rentals. It is not realistic to think people have the money to be seasonal residents. If the proposals are denied, then seasonal sites must be addressed and grandfathering should not be done. According to a letter from Mike Fritz, Becker County Attorney to the County, all Becker County residents are put on notice of the Becker County Zoning Ordinance provisions through recordation, and it is his understanding that this applies to everyone regardless of what they may have been told. Lee felt that seasonal sites in place prior to 3/22/05 could be left in place but seasonal sites implemented after that date are in violation.

Letters were received from John Kubat, End of the Trail Resort, in favor of the proposals; and Ray Vlasak, Bad Medicine Lake Foundation, in opposition to the proposals.

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

Knutson asked Swenson to give a synopsis as to why they were considering these proposals. Swenson stated that in 2005 the County Board directed the formation of the Zoning Ordinance Advisory Committee to work on zoning ordinance changes to tighten up the zoning ordinance. The first proposal was halted because it was too restrictive. A sub-committee was formed to work with resort owners to come up with a reasonable solution. A solution was reached by consensus on a proposal without the 28 day language. There was no discussion of the 28 days with the resort owners or at the Planning Commission level. Existing licensed resorts were to follow the provisions set in the section pertaining to licensed resorts. The 28 days was to apply to multi residential developments.

Knutson asked for an explanation to the State Statutes referred to in one of the letters. Swenson stated that those Statutes refer to replacement of existing structures that are destroyed or removed on either single family lots or resorts.

Johnston stated that he does not remember discussion on the 28 day regulation. Swenson stated that the 28 day terminology was under the MURD and commercial/transient resort conversion and would only apply in those situations.

Lien stated that he remembers the discussion from 2005 and does not remember the 28 day limitation for RVs and voted to approve the changes without the 28 day regulation. At that time, the resort owners were not happy because there were too many restrictions. Lien stated that he does not agree with the 28 day limitation. Bruflodt stated that his intent would be on the side of the resorts.

Kovala asked Postovit that if he was part of the committee in which the consensus was to recommend these changes, then why is he against the changes. Postovit stated that from the beginning, the first paragraph of the section defined the 28 day regulation, which should not have been a surprise. There was a section just for resorts, but that section pertained to replacing, adding onto or adding cabins. The resort owners were happy with this and no one objected to the 28 day verbage.

Swenson stated that Postovit and three resort owners got together in September to discuss this issue and it was the consensus of the group that the 28 day verbage was not discussed with the resort owners at the beginning and the conclusion was that the 28 day verbage had to be removed. Postovit stated that it had not been discussed but they were exposed to the language. Swenson stated that when the language was adopted in 2005, it was her understanding that if there was a licensed resort, the regulations in Sub. Q would be followed and in that subsection, there is no mention of the 28 days, the regulations conflict with each other. Swenson stated that the 28 day regulation cannot be monitored, enforcement would be a nightmare and could not be done. Swenson further stated that if she thought this was the intent from the beginning, she would have said something and the 28 day issue would have been dealt with at that time. Postovit stated that a resort is not a resort when the RV site is rented for the year. There is no room for transients who want to spend time at a resort.

Lien stated, speaking for himself, he does not remember discussion in 2005 on the 28 day limitation and if it had been would have been addressed at that time. Bruflodt stated that he is not convinced that seasonal campgrounds inflict more traffic to the area and feels that the seasonal people are better stewards of the lake. Bruflodt stated that times have changed and resorts have changed. Seaberg felt that regulations need to change as times change. Johnston stated that the Ma & Pa resorts will not survive without seasonal sites and felt that in 2004/2005 maybe a number of seasonal sites (percentage of available sites) should have been discussed. The 28 day restriction will hurt resorts.

**Motion:** Lien stated that he does not recollect the 28 day limitation being discussed for resorts and because of this made a motion to approve the proposal as presented, which are: Chapter 8, Section 7, Subd. C: Existing Language: Definition of residential development. Shoreland conservation subdivision developments consisting of sites or units that are sold, leased for periods longer than twenty-eight (28) days, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance. This provision does not apply to existing or operating resorts and campgrounds in existence as of March 23, 2005 until the resort is converted to a multi-unit residential development; being changed to Proposed Language: Definition of

residential development. Shoreland conservation subdivision developments consisting of sites or units that are sold, leased for purposes of establishing the residence of the occupant, or any other method of transferring long term rights to lodging spaces, rooms, recreational vehicle sites, or parcels shall be considered residential and must comply with this section of the Ordinance;

Chapter 8, Section 9, Subd. C: Existing Language: Definition. Commercial/transient multi-unit developments consist of sites or units that allow transient, short-term lodging spaces, rooms, RV sites or parcels for a period of up to twenty-eight (28) days. Any type of lodging spaces, rooms, RV sites or parcels providing more than twenty-eight (28) days of continued service shall be considered as permanent and must comply with the multi-unit residential development requirements of the Chapter 8, Section 7, of this Ordinance being changed to: Proposed Language: Definition. Commercial/transient multi-unit developments consist of sites or units that allow transient occupancy of short-term lodging spaces, rooms, RV sites or parcels. "Transient occupancy" means occupancy when it is the intention of the parties that occupancy will be temporary. There is a rebuttable presumption that, if the unit occupied is the sole residence of the guest, the occupancy is not transient. There is a rebuttable presumption that, if the unit occupied is not the sole residence of the guest, the occupancy is transient. *The proposed language is consistent with the definition of transient occupancy per MN STAT 327.70 (Hotels, Motels, Resorts, and Manufactured Homes.)* and

Chapter 8, Section 9 Subd. Q: Existing Language: Licensed resort expansion or replacement. The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location being changed to: Proposed Language: Licensed resort expansion or replacement. The provisions in this subsection are applicable only to proposed unit or area expansion or replacement for existing licensed resorts (Minnesota Department of Health license list as of April 26, 2005) so long as they continue to maintain licensed status and continue to operate as a resort at their present location. Expansion to an existing licensed resort involving six (6) or more additional units shall be processed as a conditional use. Kovala second. All in favor. Motion carried.

At this time, Swenson explained the next set of proposed amendments pertaining to conditional use permits and variances. In the Becker County Zoning Ordinance Chapter 8, Section 10, there currently there are no expiration dates. The CUP stays with the property whether or not is it being used. Proposal: Add Subd. I Expiration - If two years after the date that the conditional use permit is granted and the use has not been implemented, the conditional use permit shall be null and void. If the permitted use was implemented, but the use has been discontinued for a period of two years, the conditional use permit shall also be null and void. In Chapter 8, Section 10, there Currently there are no expiration dates. The Variance stays with the property whether or not the variance has been executed. Proposal: Add Subd. M Expiration - If two years after the date of the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which

to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance.

Bill Sherlin, Member of the Board of Adjustments, strongly urged the Planning Commission to consider the changes. There are many old conditional use permits/variances on the books that have not been utilized and in many cases the regulations have drastically changed so those types of variances/uses would not have been allowed today.

Jim Kaiser questioned if this would affect existing variances/conditional uses or just the new ones. Consensus of the Commission was that it would be for those permits issued after the approval of the amendment, should it pass.

At this time, testimony was closed and discussion was held. Bruflodt and Johnston both stated that a limit should be placed on variances and conditional use permits that have not been utilized and this should have been done a long time ago.

**Motion:** Johnston made a motion to approve the proposed amendments as presented, which are: Becker County Zoning Ordinance Chapter 8, Section 10 - Currently there are no expiration dates. The CUP stays with the property whether or not is it being used to be changed to: Proposal: Add Subd. I Expiration - If two years after the date that the conditional use permit is granted and the use has not been implemented, the conditional use permit shall be null and void. If the permitted use was implemented, but the use has been discontinued for a period of two years, the conditional use permit shall also be null and void, and

Becker County Zoning Ordinance Chapter 8, Section 10 - Currently there are no expiration dates. The Variance stays with the property whether or not the variance has been executed to be changed to: Proposal: Add Subd. M Expiration - If two years after the date of the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance. Skarie second. All in favor. Motion carried.

At this time, Bruflodt called for a short recess before the regular monthly meeting of the Becker County Planning Commission began.

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Jim Bruflodt, Chairman

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Jeff Moritz, Secretary

ATTEST

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Patricia Swenson, Zoning Administrator

**Becker County Planning Commission**  
**November 17, 2009**

Chairman Bruflodt called the monthly Planning Commission meeting to order at 7:00 p.m., after a short recess from the Intent to Amend Ordinance meeting.

Lien made a motion to approve the minutes from the October 20, 2009 meeting. Seaberg second. All in favor. Motion carried.

Bruflodt explained the protocol for the meeting and explained that the recommendation of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, November 24, 2009.

**FIRST ORDER OF BUSINESS: BM Transport, Robin Vogt/Brad Mack.** Requests a Conditional Use Permit to park, display and sell truck and trailer equipment. Future plans include building on the property in 1-3 years and operating a trucking company with truck sales and service from this location for the property described as: PT NE1/4 of NW1/4 & PT SE1/4 of NW1/4: Section 20, TWP 138, Range 40, Burlington Township. The property is located on HWY 10 (Across from Maple Hills Golf). PID 03.0193.006.

No one was present to explain the application so Bruflodt moved the application to the end of the agenda.

**SECOND ORDER OF BUSINESS: Janice Bauer.** Request a Conditional Use Permit for a home business consisting of a hair salon. The salon would be open Monday - Thursday between 8 am and 5 pm. There would be no other employees for the property described as: Lot 1 Block 1 Sunny Shores, Section 11, TWP 138, Range 42, Lake Euncie Township. PID Number 17.1229.501. The property is located on Pearl Lake at 21795 N Pearl Lake Rd.

Bauer explained the application to the Board. This would be a salon in her home, with no employees other than herself.

Seaberg questioned if her facility has been inspected by the State of MN. Bauer stated that it has not because she needed to get the conditional use permit before the State would begin the licensing process.

No one spoke in favor of the application. No one spoke in opposition of the application. There was no written correspondence either for or against the application. At this time, testimony was closed and discussion held.

**Motion:** Kovala made a motion to approve a conditional use permit to allow a home business consisting of a hair salon on the above described property based on the fact that the use would not be detrimental to the surrounding area. Mortiz second. All in favor. Motion carried.

**THIRD ORDER OF BUSINESS: Carl Kavolak.** Request approval of a certificate of survey to subdivide a 26 acre parcel into 2 lots (4.34 and 4.65 acres) with a remainder tract of 16.25 acres for the property described as: Lot 2 Less South 535', Section 05, TWP 143, Range 36, Two Inlets Township. PID Number 34.0029.002. The property is located on Boot Lake at 33750 535th Ave.

No one was present to explain the application to the Board, so Bruflodt placed this application at the end of the agenda.

**FOURTH ORDER OF BUSINESS: Don Kaiser.** Request approval of a certificate of survey to subdivide 238 acres into two tracts of land - a 5 acre parcel with a remainder tract of app. 233 acres for the property described as: Govt Lots 4 -6, Section 01, TWP 141, Range 41, Callaway Township. PID Number 04.0001.000. The property is located on Birch Lake at 33427 Co Hwy 21.

Jim Kaiser began explaining the application to the Board. This is part of the Bullert estate. Chad Englehardt, surveyor, explained that Don Kaiser is a relative of Bullert and will be acquiring this five acres. Shoreline is aquatic vegetation except for the southeast 150 feet. Last year, a 3.9 acre tract was split from this acreage to separate two dwellings, which were located on one tract.

Lien questioned the amount and location of aquatic vegetation. Englehardt stated that the only suitable access to the lake is an area that has been used for many years, located on the southeast side. Englehardt further stated that the easement to this parcel would be shared with the 3.9 acre tract.

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 and discussion held.

Johnston stated that he had a problem with the application because the applicant is not the owner of the property. J Kaiser stated that, in the past, the agent was able to sign the application for the applicant. Swenson stated that a purchase agreement is required as part of the application if the applicant is purchasing the property and making the application instead of the owner and this was an oversight.

Kovala felt that the application should be tabled until a purchase agreement could be received. Englehardt stated that he is the agent of both the personal representative of the estate and D Kaiser. Knutson felt the application could be acted upon contingent on a letter being received before the County Board meeting.

**Motion:** Lien made a motion to approve the certificate of survey to allow a five (5) acre tract based on the fact that it meets the criteria of the Zoning Ordinance with the stipulation that some type of document is received prior to the County Board meeting giving D Kaiser authority to make the application (document could be proof of personal



representative, transfer of ownership, purchase agreement, etc.). Seaberg second. All in favor. Motion carried.

**Application Three-Carl Kavolak.** Request approval of a certificate of survey to subdivide a 26 acre parcel into 2 lots (4.34 and 4.65 acres) with a remainder tract of 16.25 acres for the property described as: Lot 2 Less South 535', Section 05, TWP 143, Range 36, Two Inlets Township. PID Number 34.0029.002. The property is located on Boot Lake at 33750 535th Ave.

At this time, Tom Miller, Arro Surveying, was present to explain the Kovalak application. Kovalak stated that he visited the property and found more wetlands than shown on the survey and asked Miller to provide a new survey. Miller stated that he was asked to create a tract south of the tract created a few years ago, so they only surveyed Tract B. Since then, they found out that Tract A had never been recorded. The survey crew went back to the property to locate the wetlands on Tract A and submitted a new survey. Kovalak stated that there are no bluff concerns but the property is low. Kovalak stated that the ERTTP recommended one lake access for the two lots.

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 and discussion held.

Discussion included the aquatic vegetation, location and amount of wetlands, and possible lake access.

**Motion:** Kovalak made a motion to approve the certificate of survey to allow two tracts of land (4.34 acres and 4.65 acres) based on the fact that it meets the criteria of the Zoning Ordinance with the stipulation that the wetlands be crossed by a boardwalk and there is a shared access between Tracts A and B with one dock. Lien second. All in favor. Motion carried.

**Application 1 - BM Transport, Robin Vogt/Brad Mack.** Requests a Conditional Use Permit to park, display and sell truck and trailer equipment. Future plans include building on the property in 1-3 years and operating a trucking company with truck sales and service from this location for the property described as: PT NE1/4 of NW1/4 & PT SE1/4 of NW1/4: Section 20, TWP 138, Range 40, Burlington Township. The property is located on HWY 10 (Across from Maple Hills Golf). PID 03.0193.006.

Swenson explained the application to the Board.

No one spoke in favor of the application. No one spoke against the application. Written correspondence was received from Guy Fischer, Becker County Housing and Economic Development Authority, with concerns about the location in reference to the proposed Heartland Trail. At this time, testimony was closed and discussion held.

Knutson questioned setbacks. Swenson stated that there are setbacks for structures but not for parking, as long as parking is off the right of way. Seaberg stated that this would be consistent with the surrounding commercial properties and uses in the area. Lien agreed with Seaberg. Bruflodt felt that application should be tabled to allow the applicant to further explain the application. Knutson stated that it is not a requirement that the applicant need be present. Seaberg stated that she knows of the applicant and that he does keep his property neat and orderly. Johnston questioned the 70 ft setback from the proposed trail and that could limit the use on the property. Discussion was held regarding recommending approval of the application and allowing the County Board to deal with any setback issues from the trail and that the Zoning Office should contact the applicant so that they are aware of the letter.

**Motion:** Lien made a motion to approve the conditional use permit to allow a commercial business to park, display and sell truck and trailer equipment based on the fact that the use is consistent with the surrounding area. Johnston second. All in favor. Motion carried.

**FIFTH ORDER OF BUSINESS: Tentative Date for informational meeting.**

Swenson stated that she was only aware of a final plat on next month's agenda and due to the season, the weather may not be favorable for viewing properties.

Kovala made a motion to not meet during the winter months, beginning in December and that the final plat of Wabaunaquat First Addition be approved, since there were no changes to the plat from the preliminary plat, allowing the final plat to go directly to the County Board for final approval. Skarie second. All in favor. Motion carried.

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

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Jim Bruflodt, Chairman

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Jeff Moritz, Secretary

ATTEST

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Patricia Swenson, Zoning Administrator