

**MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD TUESDAY,
AUGUST 8, 2006 – 7:00 P.M. – ROCKVILLE CITY HALL**

The meeting was called to order by Chair Jerry Bechtold. Roll call was taken and the following members were found to be present: Chair Bechtold, Commission members: Dan Hansen, Toni Honer, Roger Schmidt, Dale Borgmann, Jerry Tippelt and Vern Ahles liaison. Susan Palmer arrived at 7:02 p.m.

Staff members present were: Administrator/Clerk Rena Weber, Administrative Assistant Judy Neu, Attorney Jim Mogen, and Engineer Scott Hedlund.

Others present were: Kathy & Joyce Hansen, Jack Tamble, Jeff Hagen, Wade Skaja, James Botz, Dan Kron, Herb Schlangen, Ron & Mary Kron, Jode & Gregg Boldt, and Doug & Sharon Hodel.

APPROVAL OF AGENDA & ADDITIONS: *Motion by Member Honer, second by Member Hansen, to approve the agenda and additions as presented. Motion carried unanimously.*

APPROVAL OF MINUTES 07/11/06 –

Motion by Chair Bechtold, second by Member Honer, to dispense with the reading of the minutes. Motion carried unanimously.

Motion by Member Schmidt, second by Member Borgmann, to approve the minutes of 07/11/06 as presented. Motion carried unanimously.

• NEW BUSINESS

PUBLIC HEARING: R & M KRON ADDITION – PRELIMINARY PLAT

Chair Bechtold announced that a public hearing would now be held to consider approval of a preliminary plat to be known as: R & M Kron Addition. Said plat has a legal description of: The N ½ of the SW ¼ of Section 20, Township 123, Range 29, Stearns County, Minnesota, EXCEPT the North 500.00 feet of the West 871.20 feet thereof

AND

The North 10.07 acres of the E of the SW ¼ of the SW ¼ of Section 20, Township 123, Range 29, Stearns County, Minnesota,
Subject to easements of record.

Subject to the rights of the public in 123rd Avenue.

Containing 81.09 acres, more or less

NEW LEGAL DESCRIPTION: LOTS 1 & 2, BLOCK 1, R & M KRON ADDITION

Ron Kron – 22252 123rd Avenue, explained the request is to split the 80 acre lot into two lots having 68.2 acres and 12.29 acres. The Kron's plan to sell the 12.29 acre parcel containing their present home, but to keep the 68.2 acres and rent out for agricultural purposes.

Herbert Schlangen - 23047 County Road 8, indicated that he does not understand what is happening here. Herb Schlangen does not wish to see development in this area.

Jerry Bechtold explained that the remaining acreage will have a declaration of restriction on it.

Member Honer questioned if the road access issue had been resolved. Scott Hedlund reported that it did get resolved.

Member Palmer asked if it is possible to put two buildings on the remaining area.

Member Honer indicated that only one building will be allowed, but they have to show two potential building sites.

Chair Bechtold asked of the 68.2 acres what determines how much land goes with this building site. Jim Mogen indicated that at least 40 acres has to go with the building site. A declaration of restriction is based on the building site they currently have (12.29 acres and the remaining 27.71 = 40 acres). That would be applied to the 68.2 acres minus 27.71 leaves 40.49 acres that can be built upon. They will not be able to subdivide this unless the new owner gets development rights from somewhere else. The City does not allow for subdivisions of less than 40 acres. Further they cannot sell the 27.71 acres,

Herb Schlangen asked how many times this can be split down. Jim Mogen stated that they are going through a platting process and by doing this they are selling off and subdividing that portion identified distinct parcels of land. Jim Mogen further indicated that he is not requiring a development agreement.

Motion by Member Palmer, second by Member Hansen, to close the public hearing at 7:20 p.m. Motion carried unanimously.

Motion by Member Honer, second by Member Palmer, to recommend approval of R & M Kron Preliminary Plat contingent upon a declaration of restriction being drafted. Motion carried unanimously.

PUBLIC HEARING: BOTZ ESTATES – PRELIMINARY PLAT

Chair Bechtold announced that a public hearing would now be held to consider the preliminary plat of James Botz to be known as **BOTZ ESTATES**. Said plat has a legal description of: The South 249.00 feet of the North 909.00 feet of the East 165.00 feet of the Southwest Quarter of the Northeast Quarter (SW ¼ of NE ¼) of Section Seventeen (17), in Township One Hundred Twenty-three (123) North of Range Twenty-nine (29) West, LESS AND EXCEPT the North 66.00 feet thereof reserved for public road easement, and subject to public road over the East 33.00 feet thereof.

NEW LEGAL DESCRIPTION: LOTS 1 & 2, BLOCK 1, BOTZ ESTATES

Dan Kron, 2638 42nd Ave S – St. Cloud, stated that he is speaking on behalf of James Botz. Mr. Botz has one lot and is proposing a split to allow for one more house. Stearns County Highway department has not submitted their comments as of yet. Scott Heldund's stated that his questions have been addressed.

- Infiltration pond shown on SE corner of Lot 2 satisfied his comments.

Jim Mogen stated this plat will require a minor development agreement and they still need to pay the \$1200.00.

No one appeared before the Planning Commission.

Motion by Member Borgmann, second by Member Honer, to close the public hearing at 7:30 p.m. Motion carried unanimously.

Motion by Member Hansen, second by Member Borgmann, to approve the preliminary plat to be know as Botz Estates contingent upon implementation of Stearns County Highway Department comments and a signed developers agreement. Motion carried unanimously.

PUBLIC HEARING: WADE SKAJA – VARIANCE REQUEST

Chair Bechtold reported that a public hearing would now be held to consider the variance requests of Wade Skaja.

Said plat has a legal description of: That part of Block Six (6) in LAKESIDE PARK, according to the plat thereof, Stearns County, MN described as follows: Beginning at a point on the North line of said Block Six (6) distant 35.5 feet Southwesterly of the northeast corner thereof (said point also being on the Southerly line of Lake Avenue as shown on said plat); thence Southwesterly along the North line of said Block Six (6) a distance of 95.5 feet; thence Southerly at right angle to said North line to point of intersection with the lower water line of Pleasant Lake; thence Northeasterly along said low water line a distance of 95.5 feet; Northwesterly to the point of beginning and there terminating.

AND

Block Six (6), less the Northeasterly 131 feet thereof, in LAKESIDE PARK, according to the recorded plat thereof, being a subdivision adjacent to Pleasant Lake in Section Two (2), Township One Hundred Twenty-three (123), Range Twenty-nine (29) West.

The request is to construct a 2052 square foot single family residence on a lot that will require:

Variance from Front & Rear Yard Setbacks
ALSO Variance from Lot Size requirements for adjoining lot

Dan Kron was present to report on the variance request for Wade Skaja.

Rena Weber read Travis Kent's letter in opposition to the request. (A copy of which is on file in the office of the Administrator/Clerk).

Wade Skaja - 25712 Lake Road, indicated that he filed for a variance one year ago and Travis Kent indicated at that time he had no problem with anything Wade was doing.

Dan Kron stated that in regards to impervious surface they are under the requirements and will provide the calculations to the Zoning Administrator.

Dan Kron stated that the storm water run off plan has been given to Scott Hedlund. The proposal for storing the water is to create an infiltration pond that will meet Scott's requirements. Scott Hedlund reported that his concerns have been addressed such as:

- Storm water infiltration pond meets the requirements
- Proposed grinder station on the new lot has been addressed.

Jim Mogen stated that he is not sure they need a variance from the lake side as according to Anne Nelson's staff letter dated 8/7/06 50' is required and they meet that. Also the county setback from the road was not adopted so the 25' applies. No variance is needed.

Jim Mogen did question Ms. Nelson's analysis figures on there being 40,000 square feet which should be 31,001 square feet.

Jim Mogen stated this request does not meet the hardship requirements though. Jim Mogen went through Anne Nelson's findings of fact and suggested the commission deny the lot size variance.

Motion by Member Palmer, second by Member Hansen, to close the public hearing at 7:47 p.m. Motion carried unanimously.

Finding of fact – lot size requirement:

- | | | |
|----|------|-------|
| 1. | 6 No | 1 Yes |
| 2. | 7 No | |
| 3. | 5 No | 2 Yes |
| 4. | | 7 Yes |
| 5. | 7 No | |
| 6. | 7 No | |

Motion by Member Borgmann, second by Member Schmidt, to recommend this be forwarded to the council without comment. Motion passed on a 4 to 3 vote.

Member Borgmann stated that being a lake resident he knows there are other lots like this. He may be biased, but Wade is a good steward of the lake and he does not see this as a problem.

Member Palmer asked what the basis for which we would deny a variance request is the next time we have such a request.

Jim Mogen asked the Planning Commission to deny the variance from the lake as it is not necessary.

Rena Weber voiced concern that she has information showing that the ordinance requires a 100' setback from the lake.

Dan Kron asked to withdraw it and asked the commission forward this without comment as well.

Findings of fact – variance from Lake Setback

- | | | |
|----|------|-------|
| 1. | 3 No | 4 Yes |
| 2. | 7 No | |
| 3. | 5 No | 2 Yes |
| 4. | | 7 Yes |
| 5. | 7 No | |
| 6. | 7 No | |

Motion by Member Palmer, second by Member Hansen, to deny the request for a variance from Lake Setback requirements. Motion passed on a 6 to 1 vote.

OLD BUSINESS

DAN HANSEN – INTERIM USE PERMIT – Chair Bechtold announced that a continued public hearing would now be held to consider the request of Daniel & Kathy Hansen for a Conditional Use Permit. The address of the property is: near Highway 23 and Rausch Lake Road with a legal description of: That part of the Southwest Quarter of the Southeast Quarter and that part of the Southeast Quarter of the Southwest Quarter, both in Section 16, Township 123 North, Range 29 West, Stearns County, Minnesota lying southerly of the south line of MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-47 and MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 73-48, according to the recorded plats thereof, said Stearns County.

A CONDITIONAL USE PERMIT IS BEING REQUESTED AND IS GOVERNED BY THE FOLLOWING ZONING ORDINANCE REQUIREMENTS:

SECTION 9: GENERAL REQUIREMENTS: SUBDIVISION 13. MINING/EXTRACTIVE USES

SECTION 27: CONDITIONAL USE PERMITS

SECTION 28: INTERIM USE PERMITS

The request is to operate a temporary mining/extraction use in order to construct a wetland bank.

Dan Hansen stepped down from the dais.

Dan Hansen introduced Joyce Hansen and Jack Tamble who is running his mother's estate.

Dan Hansen stated that during the course of the week he has addressed the concerns of the attorney and engineer.

Jim Mogen reported that approval of an Interim Use permit is required and recommended the permit be granted subject to 17 conditions:

1. The interim use permit will expire one (1) year after the date executed below.
2. No gravel washing occur on this or any site in Rockville without an interim use permit.
3. A letter of credit approved by the City Attorney is provided, and remains in effect for the entire term of this permit, in the amount of \$75,000.
4. Compliance with all conditions of the Sec. 9, Subd. 13 of the Zoning Code, and all other City Ordinances.
5. Compliance with all County, state and federal laws and regulations, including, but not limited to, those governing public health and welfare, public and worker safety, water quality, air quality, noise pollution and waste disposal.
6. Right-of-entry is provided to the City of Rockville, and its agents, to inspect the site and determine compliance with all conditions imposed on the operation.
7. A copy of the restoration plan submitted to Stearns County to be provided.
8. Operation is limited to the hours of 7:00 a.m. to 9:00 p.m. with an allowance to warm up vehicles beginning at 6:00 a.m. The City reserves the right to amend the hours of operation to eliminate the allowance to warm-up, at any time, with two weeks notice.
9. All setbacks are observed, as identified in Exhibit 1B, with the additional requirement that no mining occur within 30 ft. of the right-of-way of any road, street or highway.
10. Silt fences are installed as described in Exhibit 5, with the additional requirement to install run-off prevention measure to the ditches which empty into wetlands.
11. Excavated material hauling is limited to that portion of 230th St. 3,200 feet east of the County Rd. No. 8, and truck hauling signs are utilized.
12. Prior to the termination of the interim use permit, 230th Street is restored to its condition immediately prior to the effective date of this permit, or either a new interim use permit is requested or the City has agreed to a plan to restore the road, and this condition is waived.
13. Prior to the termination of the of the interim use permit, the site is reclaimed by, either: (a) grading the site to remove any slope greater than 10:1, replacing the topsoil to an adequate depth, planting a mix of seeds and plants appropriate to the area and taking all action necessary to prevent surface water infiltration in the mining pit area.; (b) performing the proposed improvements to establish the site as a wetland, as approved by Stearns County; or (c) an alternative plan is agreed to with the City and this condition is waived.

14. Landscaping is installed to the outer rim of the mining area so there is no outside drainage entering the mine pit.
15. All fueling, fuel storage, maintenance, and storage of the mining equipment is limited to an area outside of the mine pit, and on an area which has secondary containment for any spill or leak.
16. No bituminous hot-mix operations on site, or nearby.
17. No use of explosives which leaves nitrate residue nor any residue which is a drinking water contaminant.

Jim Mogen stated cited the following as reasons for the requirements:

- \$75,000 was obtained from the city engineer to address two items required in the ordinance - condition of road and reclamation. The engineer determined that the road potentially could require \$50,000 of repair as the worst case scenario - \$25,000 for reclamation – minimal grading.
Scott Hedlund that there is 3200 feet of road and this is a reasonable cost for 2" overlay and does not include cost of reconstruction.
The ordinance does require they bring the road up to a certain standards, but it is okay for hauling.
- The Letter of Credit is a line of credit and does not take it out of cash flow. This does have some cost. Jack Tamble argued that it does affect cash flow.

Jack Tamble questioned the length of permit being 1 year when the wetland plan is a 5 year process. Member Schmidt asked how long has it been since you got it back. Dan Hansen indicated June and since then they took out two loads. They did crush 10,000 tons.

Scott Hedlund stated that he is concerned with the gravel pit being adjacent to a city road that is not up to the highest standard. The City wants the security and as to the length of time he has seen shorter periods of time.

Member Palmer asked about a longer period of time for the permit is approved contingent upon review of the water quality issue and roadway status.

Jim Mogen stated that changes the property right assumption and makes it the responsibility of the city to ensure the standards are being met.

Jack Tamble estimates they will remove 100,000 tons or just enough to get it down to create a wetland. This is not a typical gravel pit.

Jim Mogen indicated the city cannot deny future permits on an arbitrary basis and suggested this permit be renewed yearly. The Hansen's are:

- Mining and extracting materials for sale
- Creating a wetland for sale

Nobody but the city is overseeing the mining.

Scott Hedlund stated that if they are disturbing more that 1 acre of land NPDES permit is required and is inspected by Stearns County.

Dan Hansen indicated that one of the ideas as to why they wanted to create the wetlands was to sell the gravel for 230th Street.

Jack Tamble asked how you determine how much they ruined the road. Scott Hedlund stated that they will do a study of the road and make a movie of the condition of the road. We could contract with MNDOT to do this, but an analysis needs to be done.

Jim Mogen indicated the amount of the letter of credit would more than likely not be enough to repair the road.

Dan Hansen reported that Bauerly's had a 50,000 letter of credit. Could we lower this?

Jerry Bechtold stated there should be a more simple renewal process than to re-apply.

Discussion was held regarding a longer period of time:

Jerry Tippelt – 2 year,

Jerry Bechtold – 5 year with a renewal process annually and certification per the

ordinance

Susan Palmer - 5 year – but concerned about the letter of credit.

Jack Tamble asked what happens if after 5 years there is still a pile of gravel. Jim Mogen stated the city would reclaim it.

Jack Tamble voiced concern on the road and who will determine who pays for what. Scott Hedlund stated that if they have the loads done to the proper axle weight it should be okay. Roads are designed to carry certain easel and distribution of traffic.

Jack Tamble stated that 9, 10 & 13 contradict the wetland such as slopes and what needs to be done. Jim Mogen stated these were agreed to be Matt Vollbrecht.

Motion by Member Palmer, second by Member Honer, to close the public hearing at 9:13 p.m. Motion carried unanimously.

Motion by Chair Bechtold, second by Member Honer, to instruct the city attorney redraft the interim use permit to:

- a) Allow for a 5 year permit***
- b) Address the financial security anticipating changes over 5 years***
- c) Address language containing outs for the city.***

Motion carried unanimously.

Motion by Member Borgmann, second by Member Palmer, to table action until the revised IUP comes back to the Planning Commission for approval. Motion carried unanimously.

Jeff Hagen stated that since the Planning Commission is a recommending body and more expenses are to be incurred and might be to no avail suggested the Planning Commission make recommendations to the council to save time and expense. Jim Mogen stated that is a policy question and he present a final version to the council. We get into trouble when we rush the process.

JODE BOLDT – ADMINISTRATIVE PLAT

Rena Weber that it has come to her attention that Jode Boldt does not have two lots of record. When she and her husband Barry built their house in 1992 they had to get a variance from Stearns County for “mortgage purposes” only and not for resale. This told her that this is in fact for zoning purposes still one lot of record.

In her research for the legal descriptions she was told by Stearns County Surveyor that yes this was two lots and subsequently received legal descriptions for both lots. Lloyd Lommel received a complaint from one the neighbors that this was not right and he took it upon himself to investigate the matter. This was discovered and further it is reported that there are more lots like this in the city (actually the former township).

My question to the Planning Commission is “How far or in how much depth” you want staff to research applications. We do not do title searches. I was told that this was two lots. No, the deed was never recorded with having a restriction such as this on it.

The City attorney has determined that staff did in fact do what we were supposed to do and in addition to calling Stearns County could have asked that the applicant submit two actual deeds with legal descriptions on. It was reported by Jerry Bechtold that there may be as many as 40 such parcels throughout the city.

Discussion was held regarding what could happen to make this happen. Jode Boldt would have to obtain restriction on 40 acres somewhere in Rockville.

There was no action by the Planning Commission.

ONE PLANNING COMMISSION MEETING PER MONTH – Chair Bechtold brought up discussion on changing to one meeting per month. This would give staff more time to prepare for meetings and we would be more effective.

Motion by Member Palmer, second by Member Hansen, to recommend the Planning Commission have one meeting per month with other meetings as necessary.

Motion passed on a 5 to 2 vote.

RE-SCHEDULE THE MEETINGS FOR SEPT. & NOV. DUE TO ELECTIONS

Rena Weber requested approval to schedule meetings for 9/19 & 11/14.

Motion by Member Borgmann, second by Member Schmidt, to re-schedule the September and November meetings to 9/19/06 and 11/14/06 due to elections. Motion carried unanimously.

CLARENCE BLOCH – Rena Weber clarified that Clarence Bloch’s proposed house ran into a snag and setbacks will need to be changed. He will not be closer than 50’ from the lake and 28’ from the roadway.

QUESTION ON SETBACKS FROM ROAD ON NEW HOMES AND OR NEW ACCESSORY BUILDINGS/GARAGES

– Judy Neu reported that a question has come up from a resident recently regarding what is considered the front side for lake lots. Is it the rear or front? A resident wants to construct a storage building and the ordinance indicates it can’t be located in the front yard. Jim Mogen indicated that if they are rebuilding a structure in the same location and same size it is permissible. No action was taken.
Lake side – not determined if this is front or rear yard.

STEARNS COUNTY COMPREHENSIVE PLAN MEETING – Chair Bechtold reported that an upcoming meeting will be held on 8/14 in Paynesville to consider Stearns County Com Plan.

Dan Hansen stated he would like to see 10 acre lots in the city and asked for discussion on this subject. Rena Weber suggested that he bring this up at the joint meeting on 9/16/06.

ADJOURNMENT – Motion by Member Bechtold, second by Member Schmidt, to adjourn the meeting at 10:19 p.m. Motion carried unanimously.

**VERENA M. WEBER-CMC
ZONING ADMINISTRATOR**

**JERRY BECHTOLD
CHAIR**