

CLAY COUNTY PLANNING COMMISSION MINUTES
6:00 PM TUESDAY, JANUARY 24, 2023
THIRD FLOOR BOARD ROOM, CLAY COUNTY COURTHOUSE

Members Present: Laura Johnson, Curt Stubstad, Commissioner Paul Krabbenhoft (for Jenny Mongeau), Kurt Skjerven, Brad Eldred, Ezra Baer, Joel Hildebrandt,

Members Absent: David Steichen, Steve Lindaas, Brent Berg

Others Present: Matt Jacobson, Michael Leaser, Rita Rueckert, Greg Anderson, Rodger Hemphill (by telephone)

ROLL CALL:

Attendance was recorded by Chair Ezra Baer and meeting called to order

APPROVAL OF AGENDA:

On motion by Joel Hildebrandt, seconded by Curt Stubstad, and unanimously carried, the Agenda was approved.

APPROVAL OF MINUTES FROM DECEMBER 20, 2022 MEETING:

On motion by Brad Eldred, seconded by Laura Johnson, and unanimously carried, the Planning Commission approved the December 20, 2022 Minutes.

CITIZENS TO BE HEARD:

There were no citizens wanting to speak on any items not on the Agenda.

PUBLIC HEARINGS:

GREG ANDERSON – PETITION FOR TEXT AMENDMENT TO THE CLAY COUNTY DEVELOPMENT CODE

The applicant is petitioning to amend the text of the Clay County Development Code to change the lot dimensional standards for Shoreland: Residential District from 200 feet width and 80,000 square feet area to 150 feet width and 40,000 square feet area. A draft of the proposed amendment is available for viewing at www.claycountymn.gov/323/Planning-Zoning.

On motion by Curt Stubstad, seconded by Paul Krabbenhoft, and unanimously carried, the Planning Commission opened the public hearing.

Matt Jacobson, Planning Director advised this hearing is a petition for a text amendment to the Clay County Development Code to change the lot dimensional standards for Shoreland: Residential District from 200 feet width and 80,000 square feet to 150 width and 40,000 square feet for Recreational Development Lakes.

Applicant has lived on Turtle Lake for many years and would like to sell his property but retain a portion of the non-riparian lot for his use. Applicant also believes that the standards on lakes shared with Becker County should be consistent to create parity. Currently, Clay County shares Turtle Lake and Sand Lake with Becker County.

Policy Considerations reviewed from the Comprehensive Plan include:

Natural Resources: Shoreland and Stormwater

1. Protect and enhance the health and vitality of Clay County surface waters including lakes, rivers and streams for the benefit and enjoyment of Clay County residents and visitors.
 - a. Reduce development pressure on natural environment lakes in Clay County.
 - c. Continue to enforce shoreland regulations on Clay County lakes, rivers and streams.

Ezra Baer asked Director Jacobson to clarify the terms Riparian and Non-Riparian. Riparian lots are touching, bordering or adjoining a public water. Non-riparian lots are any lots within the Shoreland Zoning District, extending 1000 feet from the Ordinary High-Water Level (OHWL) of the body of water but not actually bordering the water itself.

Currently the Clay County Development Code has Residential District lakes standards of 80,000 square feet for Riparian and Non-Riparian property and a minimum lot width of 200 feet. The dimensional standards and impervious surface coverage for Riparian and Non-Riparian lots were reviewed for the following lakeshore areas: Special Protection-Low Development, Special Protection, Residential Development, and Special Protection (River and Stream).

Minnesota State Department of Natural Resources (MN DNR) lakeshore lot standards were reviewed as well as the Minnesota Lake Classifications.

Minnesota Lake Classifications are:

Natural Environment – generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

Recreational Development – Generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

General Development – Generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.

The request being made is consistent with the Minnesota Shoreland Rules 6120 and meets minimum dimensional standards for riparian and non-riparian lots on recreational development lakes.

Considerations would include:

- Two recreational development lakes in Clay County are shared with Becker County: Sand Lake and Turtle Lake
- Current Clay County area standard is double and lot width is 33% greater than the state minimum
- Becker County standards for recreational development lakes match the minimum state standards
- Proposed amendment would impact approximately 78 parcels
- 49 of the 78 parcels are below the state minimum standard of 40,000 square feet
- 39 of the 78 parcels meet or exceed the state minimum standards, although not all of them meet the width standard, primarily because they were developed long before the Development Code
- The Minnesota Shoreland Management Rules are the floor for standards guiding development and protecting shoreland resources. These standards are statewide and not tailored to the individual needs of counties and municipalities. Many Counties, including Clay, have higher standards to further protect water resources. Clay County has an additional lake classification of Special Protection-Low Development Zoning District where the minimum lot size is 10-acres around the lake and the impervious surface standards are 15% maximum, which is a higher standard than required by the State.

Proposed standards for the Residential Development lake district are 80,000 square feet; 40,000 square feet for Recreational Development lakes and includes both Riparian and Non-Riparian. Minimum lot width of 150 feet is for both Riparian and Non-Riparian.

Applicant Greg Anderson provided documentation on many other area counties' current dimensional standards and how they compare to Clay County and how they compare to the Minnesota DNR standards. He pointed out that the request will have no impact on the lake, as Turtle Lake is fully developed and has many lots that are only 50 feet wide. Most of the lots that will be affected by this request will be back-lots/Non-Riparian lots. Mr. Anderson pointed out that one of the benefits of his request is that it would help keep more development off the shoreland area of the lake by making the backlots more accommodating. He also advised that there are currently 2 shared septic systems on the backlots, where 7 or 8 of the smaller 50' lots have gone together and put shared septic systems and drainfields on the backlots and moved that further away from the lake, which helps protect the lake quality.

Director Jacobson pointed out that, although most of these conversations have involved Turtle Lake, Sand Lake is another lake that is partially in Clay County and partially in Becker County. There are approximately 11 parcels on Sand Lake within Clay County, with not much residential development identified on the Becker County side. Sand Lake is algae impaired and currently has high water with impacted beaches.

Chair Baer asked Rodger Hemphill if a lake could be reclassified. Mr. Hemphill advised he was not aware of any that had been reclassified, but that a person or organization could make a request for a review to change a lake classification. Lake classifications were done back in the 1970's and 1980's.

Paul Krabbenhoft inquired of Greg Anderson regarding his time on the Clay County Planning Commission and what the thought process was for how the current lot standards were determined. Mr. Anderson advised that there was a huge drive at that time for people wanting to move out of the city and into the rural areas so there

was a lot of development of rural subdivisions. There were many members on the Planning Commission at that time that were not in favor of people living out in the country and wanting to keep residential areas out of the rural area and more restricted to the municipalities.

Rodger Hemphill gave some history and background on some of the neighboring counties' general shoreland ordinances. He stated the second-tier development was a concern back in the 1970's. He pointed out that Becker County has a different standard for non-riparian lots.

On motion by Curt Stubstad, seconded by Brad Eldred, and unanimously carried, the Planning Commission closed the public hearing.

The Findings of Fact and Order were addressed and discussed by the Planning Commissioners as they pertain to the requested text amendment.

On motion by Joel Hildebrandt, seconded by Curt Stubstad, and unanimously approved, the Planning Commission *RECOMMENDED APPROVAL* to the Clay County Commissioners.

UNFINISHED BUSINESS:

None

NEW BUSINESS:

Director Jacobson recommended having a presentation from the Department of Natural Resources regarding Shoreland and Floodplain issues. Area DNR Hydrologist Rodger Hemphill advised he would be willing to do an in-person presentation. Director Jacobson will utilize the area MN DNR office to set up this presentation at a future meeting.

- **Administrative Penalties for Zoning Violations – Director Jacobson reviewed Ordinance 2010-3 and 2010-26.** This Ordinance was dated June 8, 2010 and provides penalties for violations in the Food/Beverage/Lodging, Environmental Health and Planning Offices to leverage. There was discussion about applying the fees to Use Permit holders and also for applying penalties on these violations. Director Jacobson outlined the steps of how a violation, penalty and revocation hearing would be done. The Ordinance provides an appeal process to bring any contested fines/penalties before the Board of Adjustment. The Ordinance outlines a \$100 penalty for first violation and \$300 penalty for any additional violation within three years. Continued violations extending past the timeline within a 12-month period at the same property are subject to daily penalties for each day of noncompliance to a maximum penalty per violation of \$2,400. Interim Use and Conditional Use Permits are subject to be held in compliance of their conditions and a hearing can be held for noncompliance with the end result possibly being a revocation of their Permit.

Director Jacobson set out how he sees three areas of enforcement with Ordinance 2010-3: Administrative penalties with fines and fee schedules; Revocation hearings, which is the most common among counties; and, Revocation hearings to apply conditions to the Permit.

Commissioner Paul Krabbenhoft asked if there would be an update to the Ordinance or if it is adequate in its current state. Director Jacobson felt that there would need to be a policy written to implement the fines and penalties. Director Jacobson advised that our Ordinance has rules written in 2012 as to how to enforce the Code through criminal or civil remedies; however, the Code is not specific as to how to go through the process. Attorney Michael Leaser advised that administratively handling these violations is much quicker than handling violations through the courts. Paul Krabbenhoft asked if it is thought the dollar amount of the fines would provide deterrence or compliance as the fine/penalties amounts are quite moderate. Director Jacobson stated there is the option of bringing Conditional Use and Interim Use Permit holders in front of the Planning Commission or the Board of Commissioners to discuss the status of their Permit if there is noncompliance or no action.

- **MCIT Land Use Training: Conditional Use Permits** – Director Jacobson described the training offered by MACPZA which will be held on March 1st in Mankato or March 3rd in Staples, 9:00-3:00. Mr. Jacobson encouraged members to reach out to him if they are interested in attending.

Director Jacobson advised he had a video to watch tonight, but it was determined to wait until a future meeting to include some of the members missing from this hearing.

- **February – Officer Elections** – Officer elections will be held at the February 21, 2023 meeting.
- **The per diem rate for meeting attendance has gone from \$50 to \$75. Also, this month, the GSA mileage rate increased to 65.5 cents per mile.**

ADJOURNMENT;

On motion by Curt Stubstad, seconded by Brad Eldred, and unanimously approved, the meeting adjourned at 7:25 PM.



Laura Johnson, Planning Commission Secretary