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**Board Members Present-Representing**

Brad Wilkening, Chair, Becker Township  
Brian Kolbinger, Vice-Chair/Chair Becker Township  
Tracy Bertram, City of Becker Mayor  
Mark Rask, Becker Township  
Rick Hendrickson, City of Becker

**Absent: none**

**Staff Members Present**

Kelli Bourgeois – Township Attorney  
Ben Wikstrom – Township Planning Consultant  
Jacob Sanders – Planner, City of Becker  
Lucinda Messman – Township Clerk via phone

Also Present: None. On March 13, 2020, Minnesota Governor Tim Walz issued Executive Order 20-01, “Declaring a Peacetime Emergency and Coordinating Minnesota’s Strategy to Protect Minnesotans from COVID-19,” declaring a peacetime emergency under Minn. Stat. § 12.31, subd. 2. Also, the Center for Disease Control has labeled COVID-19 as a pandemic illness since COVID-19 poses a risk to the health, welfare, and safety of the public groups larger than 10 are not to occur. Anyone wishing to attend was asked to notify the clerk so space accommodations could be verified/determined. No one requested to be in attendance for this board meeting.

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Joint Planning Board meeting called to order by Chair Wilkening at 7:00 p.m. Quorum Verified.

**Motion to approve agenda as posted by Rask. Second by Hendrickson. Motion carried, all voting in favor.**

**Motion to approve February 2020 minutes by Kolbinger. Second by Rask. Motion carried. All voting in favor.**

**New Business**

Ordinance Amendment – Subdivision Ordinance as relating to ‘Nominal-40’ parcels. Packet materials reviewed with Joint Planning Board members by Wikstrom. Full text on file.

- A Metes and Bounds survey presented to the Town Board in February 2020 brought to light that quarter-quarter sections that are listed as full 40 acre parcels but when surveyed turned out to be slightly less than 40 acre parcels could not be given a statutory exemption due to our planning and zoning processes.
- Statute requires that the platting authority can provide an exemption for these nominal-40 parcels. Our ordinance gives this authority to the Joint Planning Board, not the Town Board.
- Our ordinance does not provide the Joint Planning Board the ability to make this exemption. The proposed language would change that process.
- Language has been pulled from other jurisdictions that allow these ‘nominal-40’ splits without requiring them to go through the full platting process.
- Proposed language:
  - 18.03 Conditions for Metes and Bounds ... Conveyances
    - Add item 1-F “If a parcel to be divided contains less than forty (40) acres but is described by the rectangular survey system as a quarter-quarter section, in common ownership, the tract shall be considered eligible for an equal split of the parcel (see Section 18, Subdivision 18.06.02. Exceptions, Part D – Nominal Forty Subdivisions). A parcel

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divided under this provision shall be reviewed and acted upon by the Joint Planning Board.

- 18.03 Item number 2, add text as noted below (underlined)
  - Any of the above transfers of land shall require a certificate of compliance duly executed by the Town Clerk after approval by the Town Board – unless noted in Section 18.06.02.F - prior to recording of the land transfer in the County Recorder's Office.
- 18.06 Variances, Exceptions ... Add item 2-D
  - D. Nominal Forty Subdivisions. For nominal forty-acre parcels - described as a quarter-quarter section – that are found by Certificate of Survey to be less than forty acres, the Joint Planning Board may approve a subdivision into two equal parcels by Metes and Bounds description. The Joint Planning Board, as with Minor Subdivisions, has discretion as to the supplementary information required. Parcels that are less than forty acres due only to nominal error or physical change, or previous dedication of rights-of-way, may qualify. The subdivider may be required to convey necessary rights-of-way to the Town upon subdivision.
- 18.07 Definitions, add definitions of Subdivision, Nominal Forty as item 52 and renumber as necessary
  - 52. Subdivision, Nominal Forty. A subdivision of a parcel of land, described by the rectangular survey system as a quarter-quarter section but found by certificate of survey to contain less than forty (40) acres through nominal error or physical change or/and by previous dedication of rights-of-way, into two equal parcels.
- Q: Is nominal 40 the only one impacted? Are there such things as nominal 60's or nominal 80's? A: no impact for our code. A 40-acre parcel is the smallest size allowed for a metes and bounds split. If an applicant had a 60 or 80 acre parcel, they wouldn't run into this situation – they would have ample land to split into the minimum size 20 acre parcels.
- Discussion of the meaning of 'nominal-40' vs. full platting process.
- **Motion to approve Ordinance 2020-01: An Ordinance Amending Section 18: Subdivisions of the Becker Joint Planning Board Zoning Ordinance [full text on file] by Kolbinger. Second by Rask. Motion carried, all voting in favor.**
- **Motion to approve Summary Ordinance 2020-01: An Ordinance Amending Section 18: Subdivisions of the Becker Joint Planning Board Zoning Ordinance by Hendrickson. Second by Bertram. Motion carried, all voting in favor.**

#### Anderson Split Exemption – Metes and Bounds Split Application

- In reviewing the application, it was found that the overall acreage when split in two would result in 19.84- and 19.85-acre parcels.
- The Town Board can approve a metes and bounds subdivision as long as the resulting parcels are at least 20 acres in size. That is not the case here.
- Because of this, the Town's attorney and engineer recommended adopting ordinance language that would allow the Town to approve subdivisions of "nominal forty" parcels by metes and bounds.
- The ability to grant a metes and bounds exception for a 'nominal forty' parcel rests, by statute, with the platting authority, in this case the Joint Planning Board due to our planning and zoning arrangement.
- The power is not directly noted in ordinance and needed to be. Since Metes and Bounds splits are exceptions to subdivision standards by statute, our language needed to be cleaned up so it would be clear who had the authority to approve a 'nominal forty' metes and bounds split.

- An ordinance amendment was made earlier this evening to allow the Joint Planning Board this power.
- The Planning Commission recommended approval of the ‘nominal forty’ metes and bounds split with a few conditions:
  - The survey shall be revised to show a 33-foot roadway easement east of the center line of 173rd Avenue and approved by the Township Engineer prior to recording.
  - A declaration of the roadway easement shall be approved by the Township Engineer prior to recording.
  - A park dedication payment to the Township of \$800 is required prior to recording of the survey and conveyance.
  - A copy of the survey and conveyance with proof of recording shall be submitted to the Township offices.
- **Motion to approve Resolution 2020-08 [full text on file]: A Resolution Approving a Metes and Bounds Subdivision by Hendrickson. Second by Rask. Motion carried, all voting in favor.**

**Variance Application – Theco Increased Sign Square Footage**

- Wikstrom reviewed packet materials with board members [full text on file].
- Variance recommended by the Town Planning Commission
- Ordinance allows a maximum of 200 sq ft for signage in commercial zoning district for properties fronting a road with speed limit in excess of 50 mph. Currently a 190 sq ft wall sign, requesting 193 sq ft pylon sign. Unique characteristic - this parcel technically fronts a railroad.
- 2017 use was permitted via CUP for “agriculture equipment sales” as it is an industrial use closely matching. A rezone to industrial was not possible as it would be spot zoning.
- The area where this business is located along highway 10 is commercial with some industrial zoned parcels behind the highway-fronting (railway fronting) properties. Images displayed.
- Due to size of building, its separation from highway and orientation needed for circulation and outdoor storage and display for this type of use – physical characteristics should be considered.
  - Reasonableness – this request is reasonable
    - 20,000 square foot building – very large
    - Orientation limits exposure of the wall sign from highway. Orientation chose for good reason and every parcel has its difficulties. As relating to this benchmark, for a parcel and building this size, the desire to have a wall and pylon sign, both large, is a reasonable request
  - Circumstances unique to property and not created by landowner
    - Separation from highway by a 120 foot railroad right of way creates need for more advertising/difficult to meet ordinance and serve needs of business
    - Any building orientation would limit exposure to due to shape of parcel as it relates to the highway layout
  - Essential Character of neighborhood not to alter if variance granted
    - There is at least one example of large signs along the highway exceeding limits of ordinance.
    - ‘neighborhood’ is a mix of commercial and industrial uses
    - This use is more industrial on a commercial site, board members should consider if precedent is being set to allow bigger signage among commercial businesses.
    - Because of the proposed size of the signage as it relates to the size of the structure, ratio-wise, the character of the neighborhood would not be changed.

- Granting of the variance would not create a use not provided in the zoning district.
  - Signage is allowed in the commercial zoning district
- No comments received from neighbors
- Discussion
  - Does the request meet criteria for variance?
  - Does the placement of the pylon sign necessitate removal of the wall sign; whether variance should be granted to allow both.
  - Other option – amending sign ordinance – multiple ways.
- Staff recommends approval as shown in Resolution 2020-09.

#### Board Discussion

- If lot is unique, doesn't that make all parcel's unique? In this instance, the board approved a use that is industrial in a commercial zone, plus the size of building and orientation due to railroad/highway 10 make this unique.
  - Proposed sign is not out of scale with building/neighborhood. It is a large sign, but given scale of building, it will not look out of place.
  - Industrial district allows 400 square feet – note, a small wall sign, not-permitted has been viewed by staff
  - Not seeing the uniqueness of this site – the railroad was there before they built
  - Would other structures be allowed larger signs if similar situation?
  - Large amount of frontage here
- Should ordinance be amended rather than allowing a variance? Area is known to have individuals who do not follow ordinance and issues have been had in the past with signage. If variance is approved then code is changed looks weird.
  - Not necessarily weird. It happens quite often as we are unaware of issues until something like this comes up. Difference here is that variance came forward before anything about changing ordinance.
- Why does Township have sign ordinance – are we trying to prevent anything? Do we care about signage?
  - Goal is to prevent a lot of temporary and off premise signs. Issue in the past.
  - Keep signs on parcels and control the amount/number of temporary signs
  - Safety and Structure of sign important here
  - Is it ok to grant a variance then change ordinance? Suggestion to deny and revisit.
- Attorney
  - Zoning ordinance is a living document – it is not an issue to change
  - Overall the situation is unique – location to Highway 10 and Railroad, size & use of building, odd shaped parcel
  - Applicant has an industrial building
  - Consideration of impact to neighboring properties is important
  - Wall signs are not the issue here. Large signs that block neighboring properties would be an issue.
- Chair – Resolution 2020-09 is in front of us – further thoughts?
- **Motion to approve Resolution 2020-09 [full text on file] with addition of condition to obtain an after the fact permit for the second wall sign on the east side of the building (side facing Big Lake) by Rask. Second by Hendrickson. Motion carried, all voting in favor.**

- Applicant may need to remove small wall sign if ordinance doesn't allow.
- Put applicant on notice that they should not put up sign without proper permitting and must bring current signs into compliance by obtaining an after the fact building permit.

**Variance Application – JT Commercial/Preferred Concrete – variance to front yard setback**

- Wikstrom reviewed materials with board members [full text on file]
- Industrial zoning district, located at 16148 149<sup>th</sup> Street
- Variance requesting roughly 13' smaller front yard setback (from 67' to 54'8")
- Current structure and expansion floor plans displayed
  - Reasonableness – this is a reasonable request
    - A 930 s.f. addition to the front of the building in location proposed is reasonable.
    - Parcel is again unique - Industrial zoning district now requires 5 acres for lots. This was platted with only 1.4 acres so setbacks adopted, meant to apply to 5-acre lots are burdensome in this instance.
    - Street has been constructed 10-12 feet south of the platted 33' right of way. Even if the road were in the correct location, there is ample setback for a lot this size.
  - Circumstances are unique to the property and not created by the landowner
    - Lots are small for industrial zoning district
    - Ordinance required setbacks were written with 5 acre minimum lot sizes in mind
    - Legally non-conforming lot of record
  - Essential Character of neighborhood not to alter if variance granted
    - Aerial of buildings in the area viewed. Green line shows existing setback compared to other buildings. Yellow line shows the requested setback to see how they compare.
    - New structure would be closest to right of way, but no significant difference. All adequately set back from street.
  - Granting of the variance would not create a use not provided in the zoning district.
    - The current and proposed use is permitted in the Industrial zoning district.
- No neighborhood comments received.
- Staff recommends approval of the variance request as shown in Resolution 2020-06.

**Board Discussion**

- Last time we looked at a variance application, a garage wasn't allowed.
  - Applicant had a 3 car garage in place.
  - Nothing unique with the parcel – it wasn't smaller than normal (this is only 1.4 acres rather than the minimum of 5 now required) or larger than normal.
  - This is expanding a legal use – the lot size is non-conforming.
- There is space to the east – why not go that way?
- Will the road ever be improved and placed back where it should be located? Appropriate right of way is already dedicated for the plat.
- We never would approve any lot this small. True, however, the Township didn't get to define the shape/size of these lots, and they exist with businesses on them and we have to handle them now. If we want to knock this around more we can, but it is our issue to handle.
- **Motion to approve Resolution 2020-06 [full text on file]: A resolution approving a front yard setback variance for the property at 16148 149<sup>th</sup> Street Southeast, Big Lake by Kolbinger. Second by Rask. Motion carried, all voting in favor.**

Conditional Use Permit Application – Brad & Lisa Hiltz – Occasional Special Events

- Wikstrom reviewed packet with Board members [full text on file].
- Application if to host occasional special events (weddings) on a 40 acre parcel.
- Public hearing was held March 9, 2020. No one was present to comment, though a few questions were answered via telephone prior to the meeting. None were in opposition, motion to approve passed unanimously.
- Applicants submitted request following the meeting to consider more than 8 events per year in the General Rural district if a property meets certain criteria. Application for a variance to allow more than 8 events would be considered a use variance which is prohibited by state law. This request will be considered in the months to come.
- Occasional Special Events require a Conditional Use Permit (CUP) and are allowed in the General Rural Zoning district with the following standards:
  - A description of the types of events, expected frequency and hours, areas of the site utilized for the events, etc. shall be submitted with the application for the CUP.
  - In the General Rural district, the lot or contiguously owned lots shall not be less than 5 acres.
  - Event parking or proof-of-parking shall be shown on a site plan or depicted on an aerial photograph and submitted with the application for the CUP.
  - Location of the event shall have a minimum 100-foot setback from any side or rear property line and be separated by 500 feet or by a platted right-of-way from any existing residential dwelling other than the applicant's.
  - Town staff, the Planning Commission, or the Joint Planning Board may request a noise study, sight-line study, traffic study, or other information germane to the CUP application and the proposed use's impact on the neighboring area.
  - One sign at the site entrance to alert event-goers to the location is allowed from one day before to one day after the event, and shall be removed between events. On-site signage for the purposes of advertising the site is prohibited; permanent signage is allowed as permitted in the zoning district.
  - From the definition section of Becker Township Zoning Ordinance:
    - Occasional Special Event: Events for business purposes conditionally permitted on properties in the Agriculture or General Rural zoning districts, limited to sixteen (16) occurrences per year in the Agriculture district and eight (8) occurrences per year and two (2) per month in the General Rural district. A weekend-long event up to three (3) consecutive days is considered one (1) occurrence.
- Discussion – review with applicants:
  - parking area with applicants
  - number of attendees to be accommodated
  - plans for trash/bathroom facilities
  - minimum maintenance road access to the parcel
- Staff recommends approval of the conditional use permit, allowing occasional special events on the property with the following conditions:
  1. Events are limited to eight (8) occurrences per year in the General Rural district.
  2. Event parking or proof-of-parking shall be shown on a site plan or depicted on an aerial photograph and submitted with the application for the CUP and must be approved by the Township.

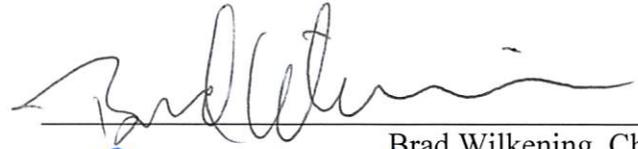
3. Location of the event shall have a minimum 100-foot setback from any side or rear property line and be separated by 500 feet or by a platted right-of-way from any existing residential dwelling other than the applicants’.
  4. Town staff, the Planning Commission, or the Joint Planning Board may request a noise study, sight-line study, traffic study, or other information germane to the CUP application and the proposed use’s impact on the neighboring area.
  5. One sign to alert event-goers to the location and temporary, portable signage on site are allowed from one day before to one day after the event, and shall be removed between events. On-site signage for the purposes of advertising the site is prohibited; permanent signage is allowed as permitted in the zoning district.
  6. If portable toilets remain on site throughout the event season, they shall be screened from view from neighboring properties by fencing, landscaping, placement, or other means.
  7. Plans for trash removal after events shall be in place prior to the event season.
  8. Outdoor music shall be limited to the hours of the events and must conclude by midnight of the night of the event.
  9. Any new structures must be approved through the Township offices.
  10. Food and alcohol service must be properly permitted by the State of Minnesota and by any other permitting jurisdictions.
  11. Restaurants are not allowed in the General Rural zoning district.
  12. Food trucks require approval and seasonal permitting from the Township office.
  13. Should 117th Street be realigned to fit within platted right-of-way or otherwise, the applicant shall be responsible for a driveway connection to the new alignment.
- Planning Commission did add item #13. Road alignment is off. Driveway technically connects using the parcel the applicants own to the south of the parcel they have applied for a CUP for.
  - Board discussion
    - Road is off - 117<sup>th</sup> is currently under review by Town Board working on right of way issues
    - CUP Application is exactly in line with the purpose of the Occasional Special Events ordinance
    - There is ample parking
    - Happy to see midnight as conclusion
    - Did neighbor to immediate west call in? Yes, no concerns as long as tree rows between them can remain. Applicants are actually planning to plan another 500 trees between the parcels and had spoken with the owners of that parcel prior to making their application.
  - **Motion to approve Resolution 2020-05: A Resolution Approving A Conditional Use Permit For The Property Located At 17508 117th Street Southeast by Kolbinger, second by Bertram with addition of condition 14: Should the contiguously owned property to the south be sold separately prior to a road realignment, the applicant must first record an easement allowing access to 117th Street and provide proof of recording to the Township and editing condition #9 to strike Township offices and replace text with building permitting process. Motion carried, all voting in favor.**

#### Accessory Structure Ordinance Amendment

- Wikstrom reviewed packet information with Board members [full text on file].
- Same ordinance we have been looking at for past several months. Final version.
- Public hearing was on March 9, 2020. No comments against.
- Planning commission unanimously recommended.

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- Motion to approve Ordinance 2020-02: An Ordinance Amending Section 16: General Performance Standards of the Becker Joint Planning Board Zoning Ordinance by Rask. Second by Hendrickson. Motion carried, all voting in favor.
  - Motion to approve Summary Ordinance 2020-02: An Ordinance Amending Section 16: General Performance Standards of the Becker Joint Planning Board Zoning Ordinance by Hendrickson. Second by Rask. Motion carried, all voting in favor.

Meeting adjourned at 8:21 p.m..

  
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Brad Wilkening, Chair

  
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Lucinda Messman, Clerk