

Application Date: February 17, 2016

Owners/ Agents: Dale & Jodi Spohn (owners)
Birch Bay RV Resort

Contact Information:

Owner: Dale Spohn
5116 145th St NW
Royalton, MN 56373
320-250-4154

Property Identification:

14-357-0030	14-357-0070	14-357-0080	14-357-0090
14-357-0100	14-368-0105	14-368-0110	14-368-0115
14-368-0120	14-368-0125	14-368-0130	14-368-0135
14-368-0140	14-368-0145	14-368-0150	14-368-0155
14-368-0160	14-368-0165	14-368-0170	14-368-0175
14-368-0180	14-368-0205	14-368-0210	14-368-0215
14-368-0220	14-368-0225	14-368-0230	14-368-0235
14-368-0240	14-368-0245	14-368-0250	14-368-0255
14-368-0260	14-005-2303		

Property Description:

PLS Location: NW ¼, Section 5, Township 134 N., Range 29 W.

Application: Conditional Use Permit

Project Description: Application to expand and reconfigure the golf course/ resort in the phases of expansion. This application, Phase 1, contains the placement and construction of 55 RV sites and a waste water treatment system. The applicable portions of the Land Use Ordinance (02/15/13) include Section 705 which establishes conditional use permit process and criteria standards, Section 1104.9 which establishes resort standards and 1118 which establishes campground and camping vehicle campground standards. The property contains 49.74 acres riparian to Agate Lake (RD) classified Water Oriented Commercial (WOC).

SITE VISIT AND NOTES:

Site Visit Date: None at this time

FAIRVIEW BOARD OF SUPERVISORS TO CASS COUNTY PB/BOA

On March 2, 2016, at the Monthly Board of Supervisors meeting, the Board discussed the CUP application and drafted the following letter:

The Board of Supervisors of Fairview Township has reviewed the CUP application submitted to the Cass County ESD and has many concerns about the proposed project, both for the surrounding residents and for the overall environment.

The Board understands that there is no foundation for blocking this plan, so we can only hope to mitigate some of the potential affect it may have. Our first and foremost concern is the sheer density of this proposal and the impact it will have on Agate Lake and for the surrounding residential neighborhood.

Both the EAW and CUP applications referred to construction taking place in three phases. The Fairview Board was under the impression these phases would be spaced out over a period of several years, thus allowing a fair and accurate assessment of the impact this project is having on the neighborhood, public infrastructure, and environment. This application indicates construction of all three phases will take place within the span of approximately 18 months. By allowing this schedule, construction would be completed before data on the overall impact could even be gathered.

The Fairview Board of Supervisors originally requested the first phase of construction and camp sites be directed away from the existing residences, and near Sandy Point Road and Cty 77, which will be the primary point of access to the campground. Instead, this application indicates Phase I would be the area directly closest to the existing residences and farthest from the point of access.

Along the same vein, the Board would suggest the developer relocate the primary SSTS system from the planned location in Phase I, to an area that is not adjacent to existing homes.

The Board requests the creation of a dense tree/foilage buffer around the perimeter of the RV Resort, especially along South Agate Shore Dr across from lots 10 through 19, and most specifically as a barrier to separate the existing residences from the potential septic system if it is not moved. This buffer should consist of staggered rows of White and Blue Spruce trees, at a height of at least 15 feet.

The applicants have chosen to circumvent the township in the process of making their plans, which has put the Board at a disadvantage in having input on how the township infrastructure meshes with these plans. Fairview provides grading, mowing, tree trimming, and snow removal along South Agate Shore Dr., a public roadway, with trucks and plows using the area near the clubhouse as a turn-around. The drawings submitted with this application indicate the installation of a chain gate at the lower access to the camp ground across South Agate Shore Drive. The installation of this chain gate would shut off an existing township public roadway and hinder maintenance. This must be discussed with the Fairview Township Board.

At the Fairview Township Board meeting held on March 2, 2016, a resolution was passed by the Board of Supervisors to request the Cass County Planning Commission take all of the afore mentioned conditions into consideration as they make their final decision. Specifically:

- 1) Timing of construction between the three proposed Phases must be expanded.*
- 2) Construction of Phase 1 and Phase 2 should be switched.*
- 3) A dense, sight-and-sound barrier of trees should be installed along the perimeter of the campground, separating it from the residential homes.*
- 4) Consideration should be given to relocating the SSTS system in Phase I.*

CASS COUNTY FINDINGS OF FACT:

Birch Bay RV Resort Inc, Spohn, Dale & Jodi, Fairview Township on property described as "Birch Bay on Agate Lake", "Birch Bay Golf Villa" & Part of Govt Lot 5, Section 5-134-29 located at 1646 S Agate Shore Drive SW. An application submitted to expand and reconfigure the golf course/resort in the phases of expansion. This application, Phase 1, contains the placement and construction of 55 RV sites and a waste water treatment system. The applicable portions of the Land Use Ordinance include Section 705 which establishes conditional use permit process and criteria standards, Section 1104.9 which establishes resort standards and Section 1118 which establishes campground and camping vehicle campground standards. The property contains 49.74 acres riparian to Agate Lake (RD) classified Water Oriented Commercial (WOC). PC members were at the site 07/15/15. 140 notices of the application were mailed. 16 written responses all raising concern and all except one recommending denial of the application were received. Copies of all the comments were forwarded to the Planning Commission members via e-mail, regular mail or personal collection.

MS/P Fitch/Froehlig based upon the number and length of the responses and the fact that the PC members had all received said comments to waive their reading aloud. In addition, numerous persons appeared at the public hearing to express their concern and opposition for the RV Park proposal. Written and hearing comments in regard potential threats public health, safety, peace, tranquility along with excess density of the proposed RV Park and potential of inadequate waste water treatment and past golf course treatment to negatively impact ground water and Agate Lake. The application was reviewed with proposers Jodi Spohn and Dale Spohn along with their consultants Jim Kramer, Ben Meister and Tim Haeg.

MS/P Fitch/Pehling to approve the RV Park application for Phase I as revised for PID #'s (see attached) based upon review of the criteria contained in Sections 705, 1104.9 G. and 1118 of the Land Use Ordinance along with M.S. 394.301 with the following findings and conditions:

Findings:

1. The property has been operated as a golf course/resort as best can be determined since the 1970's.
2. There is no evidence or information to conclude that the golf course/resort operation has adversely affected adjoining property.
3. The proposed RV park clientele will be seasonal and typically will consist of seniors and families with children which will not impact local public facilities such as schools.
4. Presuming the existing tree buffer is maintained and as deemed necessary by ESD improved, along the boundaries of the property, there is nothing to indicate that the proposed use will have detrimental visual or other impact to neighboring residential property located to the south and north of the proposed land use activity which therefore does not necessarily contradict the purpose of the Land Use Ordinance which is to protect, preserve and enhance the quality of the lakes, rivers, forests, wetlands, natural land forms and open space for future generations and to promote health, safety, and general welfare or contradict the purpose of the Comprehensive Plan which is to 1.) Provide a rational basis to make difficult land and resource decisions wisely, 2.) Eliminate the conflicts caused by unplanned development, 3.) Improve coordination and communication between county, local governments and the citizens in land use planning, and 4.) Protect the County's natural resources from degradation.
5. The surrounding area consists of a rural suburban type development along with existing resort and recreation areas located along County #77 to the east and based upon the amount of vegetative buffer and the location of the RV sites in Tier 2 which is 267 feet from the lake, there is no reason or evidence to conclude that area land use or the view from the lake will be negatively affected or altered by the proposed location of the proposed RV Park.
6. The proposed development of Phase 1 of the RV Park will not substantially change the current utilization of existing public roadways and will not require expansion or reconfiguration therefore additional public infrastructure will not be required.
7. No wetland or critical habitat will disturbed by the proposed RV Park.
8. No scenic or historic features will be affected by the proposed RV Park.
9. Based upon the anticipated RV park clientele, rules of occupancy, limited permanent mooring, limited motorized watercraft access, proposed AIS inspection, compliance with Department of Agriculture recommendations, along with "state of the art" waste water treatment no threat to public health, safety and welfare can reasonably expected from the proposed RV park.
10. Lake access for motorized watercraft will be restricted to 12 at any one time.
11. The waste water treatment system will be designed by a MPCA Licensed Advanced Designer that complies with applicable county and state standards which will not require public infrastructure.

12. The proposed RV Park required an EAW which upon review, the Planning Commission determined that a Negative Declaration for an EIS was appropriate.
13. The proposed RV park redevelopment configuration complies with applicable ordinance standards.
14. The proposed RV Park will comply with applicable lake setback, storm water management and vegetative requirements.
15. The property is classified Water Oriented Commercial (WOC) which is the proper class for the proposed RV park.
16. The RV's will be for seasonal or transient use only and will not be occupied as year round residences or homesteaded,
17. The current application is for Phase 1. Applications for additional phase(s) will be treated as a separate a CUP application(s) with acceptance determined by ESD and the Planning Commission based upon review of the data and generated during previously developed and occupied phases.

Conditions:

1. The typical RV site dimension and size is adopted as contained in the application document submitted 02/18/16.
2. The location of Phase 1 shall be relocated to the location shown as Phase 2 in the submitted site plan with a revised site plan that must be submitted to ESD prior to the commencement of construction.
3. Phase 1 is approved for 49 sites in the area described in Condition # 2 and 6 sites to be located in Tier 1.
4. The water system to the RV site shall only be operational from May 1st to October 31st.
5. The waste water treatment system as designed Watab Inc designer Tim Haeg shall be installed as designed and approved by ESD with any revision reviewed and approved by ESD.
6. The access management plan and AIS protocol are adopted as contained in the application document submitted 02/18/16.
7. The number of watercraft accessing the lake along with a record of AIS boat inspections by boat number shall be compiled daily.
8. The guidelines/rules for occupants are adopted as contained in the application document submitted 02/18/16.
9. The applicant shall comply with applicable requirements of the Minnesota Department of Health and provide verification of such to ESD.
10. The applicant shall comply with all requirements and recommendations of the Minnesota Department of Agriculture Ag VIC program and provide verification of such to ESD prior to the commencement of construction.
11. In the event the applicants are not accepted into the Minnesota Department of Agriculture Ag VIC program the applicants shall select and provide an alternate to the Planning Commission for approval prior to the commencement of construction to which the applicant shall comply with all requirement and recommendation and provide verification of such to ESD prior to the commencement of construction.
12. The applicant shall submit a vegetative maintenance plan for existing vegetation and, if necessary, vegetative enhancement to ESD prior to the commencement of construction.
13. The applicant shall submit a storm water management plan to ESD prior to the commencement of construction.
14. The swimming area and mooring systems shall be located and configured as described in the Submittal Document. No other shore area or Shore Impact Zone 1 area shall be used for swimming,

docking, beaching of watercraft or other recreation activity.

15. The applicant shall submit a grading plan that includes construction phase erosion control measures shall be submitted to ESD prior to the commencement of construction.

16. Prior to commencement of construction and for the duration of construction, ESD shall be provided with verification of issuance of an MPCA NDPEs permit.

17. Boat trailer parking/storage shall be confined to those areas designated in the EAW.

18. Upon commencement of RV Park operations, the applicant shall install a traffic counter at the entrance of the property along the access road from County #77 and record the results in twenty-four hour intervals.

19. The applicant must retain a consultant that will obtain and sample and analyze water quality of the drinking water supply well and the lake in order to establish an analysis baseline prior to the commencement of RV Park operations. The protocol for this process shall be approved by the Minnesota Department of Agriculture.

20. The depth of the existing vegetative/tree buffer along the north, east, south and west boundary to the occupied residence boundaries must be maintained at a width of at least 50 feet.

21. Following each year of operation, the applicant shall submit to ESD by December 15th a summary report of the previous season's occupancy rate, water use, AIS inspections, lake access activity and Sheriff's Department calls to the facility until and if the Planning Commission considers such unnecessary.

22. The current application is for Phase I. Applications for additional phase(s) will be treated as a separate a CUP application(s) with acceptance determined by ESD and the Planning Commission based upon review of the data generated during previously developed and occupied phases.

23. Financial assurance in the amount of \$15,000 shall be submitted to ESD prior to the commencement of the project which shall be reduced incrementally as determined and approved by ESD.