

POST OFFICE BOX 1553
DETROIT LAKES, MN 56502

June 1, 2015

Dear Commissioner Landwehr

It is reported by the Forum News Service that the Department of Natural Resources is drafting a settlement with the City of Detroit Lakes which will include an improved ordinance, however in the same article; the City Administrator is quoted "The agreement will not obligate the city to any predetermined changes to the zoning regulations."

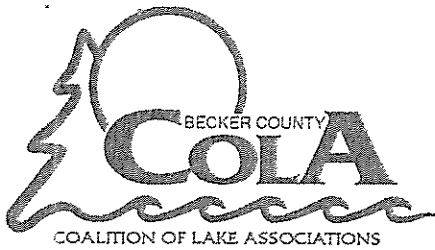
Those statements are contradictory and reminiscent of an effort in 2011, in which the Becker Coalition of Lake Associations proposed that the City of Detroit Lakes include a formal Mitigation requirement in a rewrite of the Ordinance Variance Section. At that point in time, the Detroit Lakes City Attorney had recommended an ordinance update to conform to the recent judicial and legislative mandates on the standards of review and the finding necessary for approval of a variance and we believed it was an opportune time to include mitigation as a condition for variance.

Our proposal was promptly rejected on the grounds it was not necessary to require mitigation by regulation. We subsequently proposed that the city adopt a policy that variance applications include a mitigation plan and a guideline was provided for use by the Planning Commission. That proposal was also rejected in favor of a statement that mitigation would be determined by the staff on a case by case basis. We believe that given the number of variances applications being received on commercial and residential properties surrounding Detroit and Long Lake; mitigation is an importance feature to protect the public waters. Attached is a copy of our formal mitigation proposal which was presented to the City nearly four years ago.

Although, our proposal was directed at riparian property variances; this correspondence is to alert you that based on our failed attempt to require mitigation and the statement by the City Administrator, DNR will likely encounter resistance in the proposed agreement to improve Detroit Lakes shoreland ordinance.

Sincerely

John Postovit
Becker COLA Environmental Concerns Representative.



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The Coalition of Lake Associations formally recommends the City of Detroit Lakes Ordinance Section 21 governing the issuance of Variances include the following provision:

“Mitigation shall be required as a condition of approval for a variance from Lake Setback and/or Impervious Surface standards on shoreland properties within city boundaries.”

In addition, but separate from the above ordinance provision, the Coalition of Lake Associations recommends the adoption of a policy to guide the administration of mitigation in order to assure objective and consistent application. Following is a proposed model recommended for City use.

John J. Postovit
COLA Representative
August 25, 2011

MITIGATION POLICY

LAKE SETBACK

The minimum requirement that must be met is determined by a stringline measurement or the most restrictive adjacent property building setback. The structure setback includes decks, patios, landings, stairs and must be outside the shore impact zone. Lake Setback less than standard, when approved by a Variance, may be allowed with offsetting mitigation. Each foot deficiency represents one Unit.

Standard Setback_____feet
Proposed Setback_____feet
_____feet Deficiency

MITIGATION REQUIREMENT_____UNITS

LAKE SETBACK DEFICIENCY MAY BE MITIGATED BY:

- A. Increasing Structure Setback from the lake. One Unit credit is allowed for each foot closer to the standard setback line.
- B. Establishing an approved vegetative buffer adjacent to the Ordinary High Water level and parallel to the shoreline. The minimum requirement is a 20 feet linear by 15 feet deep buffer. Ten Units credit is allowed for meeting the minimum requirement. An additional Ten Units credit is provided for each additional 10 feet linear by 15 feet deep shoreline increment. An additional Ten Units credit is also provided for each 10 foot linear segment of the buffer that is expanded to 25 feet deep.

MITIGATION SELECTION

Increase Structure Setback_____
Establish Vegetative Buffer_____
TOTAL_____UNITS

MITIGATION POLICY

IMPERVIOUS SURFACE

Impervious surface; which includes structures, driveways, parking areas, walks, decks, patios; exceeding 25 percent coverage, when approved by a Variance must include offsetting mitigation. Each percentage point greater than 25 percent represents five Units.

Threshold Coverage-----25---percent

Proposed Coverage_____percent

_____percent Deficiency

MITIGATION REQUIREMENT _____ UNITS

IMPERVIOUS SURFACE OVERAGE MAY BE MITIGATED BY

- A. Reducing Impervious Surface that exceeds the 25 percent coverage requirement. Five Units credit is allowed for each percentage point reduction over 25 percent.
- B. Divert structure and/or impervious surface water runoff to an approved on site Stormwater Management System. Ten Units credit is allowed for each 500 square feet of surface area from which runoff will be contained on the property through discharge to the system.
- C. Establish a berm not less than 12 inches above grade and parallel to the shoreline to contain/control stormwater runoff. Ten Units credit is allowed for each 25 feet of protected shoreline. This option is only available to properties of less than 8 percent grade to the lake.

MITIGATION SELECTION

Reduce Impervious Surface_____

Stormwater Containment_____

Establish Stormwater Berm_____

TOTAL _____ UNITS

Key elements of the proposed Ordinance provision and mitigation policy

- (1) The process and/or standards presently being used to address Variance applications remains the same.
- (2) If a Variance is justified and granted , the policy provides an objective evaluation and determination of an appropriate level of mitigation.
- (3) The ordinance provision and mitigation policy allows universal application to conforming and non-conforming properties and differing lake classification standards.
- (4) The ordinance provision and mitigation policy could enable development that may otherwise be denied because of project design or layout conflicts.
- (5) The presence of a mitigation policy could eliminate the need for a Variance on certain properties.
- (6) The property owner has a choice of mitigation features by which to resolve potential lake impacts resulting from the development.