

DICKINSON COUNTY PLANNING AND ZONING

Monday, August 21, 2006

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, August 21, 2006 at 1:00 p.m. in the conference room of the Zoning/Engineers building.

Members present were Duane Moser, Jon Gunderson, Sally Nielsen, Tim Fairchild, Tony Weber, and Robins Jackson. Absent was Bob Chaffin.

First on the agenda was approval of the minutes of July 17, 2006. Nielsen moved to approve the minutes as written. Gunderson seconded. All were in favor.

Second on the agenda was Faye Meadows, Preliminary Plat – recommendation to the Board of Supervisors.

Brad Beck was representing developer, Ken Ferguson. Beck said this is a 50 acre parcel which they want to divide into five 10 acre lots. They will keep it A-1 agricultural. They are not looking to develop, but just to clean up the lengthy legal description. Nothing has changed on the plat since the preapplication discussion. They have met with the Board of Health who approved septic systems. They need to meet yet with the City of Spirit Lake and Okoboji.

All members had looked at Dave Kohlhaase's review of the plat.

Keith Frost, adjoining property owner to the east, had a question on the septic systems.

Beck said if this became a subdivision someday, they would have to hook to sewer. The closest sewer is on Highway 71. Rural water is across the road as well. If in the future, this were developed as a subdivision, the city would need to bring sewer and water.

Ken Henderson asked about access to the lots.

Beck said access to Lots 1 and 2 is from the county home road. Lots 3 and 5 are land locked. Lot 4 is accessed from 165th Street.

Jackson asked the board for any questions.

Moser asked if any of these lots be sold now?

Beck said yes, someone could buy any 10 acre lot.

Moser asked if they could have livestock?

Kohlhaase said yes, they could have livestock with 10 acres or 50 acres.

Dan Eckert, County Engineer, asked if lots 3 and 5 were unbuildable because there is no access?

Beck said yes, these lots were created mainly to clean up the lot description.

Sonja Johnsen, adjoining property owner said her concern was they don't want a subdivision to affect their privacy on 225th Place and maybe have to change to city limits.

Beck said there is no access from Faye Meadows to 225th Place, so it wouldn't affect their privacy. There would have to be right of way granted from Pruss Subdivision to connect the streets.

Ken Henderson was concerned with having access off 165th Street.

Beck said they can't use that driveway as a street. They would have to plat a road.

Eckert asked if part of this property lies within drainage district #22?

Ken Ferguson said most of the southeast corner, a portion of lot 5.

Sonja Johnsen asked what are the subdivision laws to re-split?

Kohlhaase said that would require changing zoning and maybe subdivide into more lots. It would require public hearings with the county or city.

There being no further questions, Nielsen moved to recommend approval of Faye Meadows preliminary plat. Weber seconded. All were in favor.

Kohlhaase said it will now go to the Board of Supervisors for a public hearing and adjoining landowners would be re-notified.

The board postponed agenda item 3 until later.

Fourth on the agenda was discussion of an Overlay District for PMC. Kohlhaase gave background on the uniqueness of PMC. If this district were approved, it would be added as another article in the zoning ordinance.

Jason Carlstrom was the attorney for PMC. He said his understanding is this meeting is to facilitate an understanding between PMC and the zoning ordinance to help with permits issuance.

Carlstrom said last fall, PMC owners received a letter from the zoning office saying they were non-conforming and couldn't enlarge or replace their homes. Later they received a letter from Dave Kohlhaase proposing an overlay district. Carlstrom is proposing that PMC is not non-conforming. It began development in the 60's and over the years was allowed to be developed by zoning. In 1991, PMC and the then zoning administrator undertook a survey of the property and have lot lines established. They are requesting the planning and zoning develop an overlay district consistent with what is already in place for PMC as far as setbacks and height requirements.

Kohlhaase said PMC was platted before zoning and therefore is grandfathered and accepted as is. But once zoning was put in place, the property became non-conforming and is not allowed to expand unless it conforms to the existing zoning ordinance.

There were questions on what the zoning district was and uses allowed there.

Carlstrom said if non-conforming uses can't continue, it would not allow any improvements.

Unknown speaker said there is a tremendous risk to leave the situation as it is. They need an overlay that would protect their interest.

Kohlhaase said he is trying to look for direction of a way to make it workable. He is hoping they could put their minds together and come up with a draft that everyone could work with. One concern is safety – to have some separation distance between homes.

Kohlhaase read from the non-conforming section of the ordinance and replacing damaged buildings.

Carlstrom said he sees two options.

- 1) Assuming PMC is a non-conforming use, they could add an overlay district.

- 2) Make a Planned Unit Development (PUD) retroactive to the original development.

Kohlhaase said these would be two good options. We need to come up with some rules.

Carlstrom said the survey done in 1991 may or may not be valid. He suggested getting a new survey done and establish what we need for regulations for distances between buildings, height and use.

Kohlhaase said a survey would be helpful to establish lines and setbacks. Then PMC could have it's own ordinance or PUD. If no survey is done, they have a perimeter for front and rear, and would have to set side yard distances.

Tony Weber said state fire codes come into play and buildings can't be so close. We need to look at any approval that it wouldn't violate fire codes.

Jackson asked PMC representatives to get their ideas in order and come back to the P & Z board with their proposal.

Back to third on the agenda – preapplication for Merry Subdivision. Brad Beck said this property is located on A34 west of Milford 1 ½ miles, on the east side of the Little Sioux River. A group of families is in the process of selling their home and would like to start a subdivision for these families. They are proposing seven lots. Currently it is zoned A-1 agricultural and they want to change to R-1 Suburban Residential. There is a 33' access off A34 to the property. Adjoining owners have agreed to sell another 33' to make a 66' access. There is no sewer within 200 feet. Osceola Rural Water is on the south side of A34. For roads, they can't afford to pave them, so will conform to the minimum county standards, but not surface them.

Kohlhaase said if this subdivision were approved, it would be with private sewers, rural water and private roads. The proposed cul-de-sac is beyond the 600' allowed in county standards. There will be some covenants and restrictions.

Moser asked about fire protection.

Beck said they would have to talk to the City of Milford.

Jackson asked what is the time frame?

Beck said they would like to move pretty fast. Their house is for sale.

Kohlhaase said there is no agricultural activity in the area and this is a pretty piece of ground.

The Planning and Zoning members agreed to have them proceed to preliminary plat.

Fifth on the agenda was discussion of an overlay district for West Okoboji Harbor.

Steve Linderberry and Joe McKee were present. They are on the board of the Harbor Association. Linderberry said in 1988 there were three plats of West Okoboji Harbor, each with it's own covenants. When they combined the covenants, they were recorded in the wrong book, so they lapsed. They are asking for a zoning overlay district to get the covenants back in place. The Harbor would have a compliance committee, so the zoning wouldn't have any extra work. They are looking for some way to regulate trailers, hoists, etc. parked on lots. They need more restrictions on fences, storage structures, above ground pools, no businesses in the home etc. They would have a design committee. There would be minor differences from the county zoning ordinance, but it would give them more control. They would like their attorney to work with the county attorney on drafting a model ordinance.

Fairchild asked about residents of the Harbor who don't want these restrictions? He feels they would need letters of overwhelming support for this.

Kohlhaase said there would be public hearings and notification of adjoining property owners. They would have an opportunity to object.

There was discussion of opening a Pandora's box and setting a precedent that other subdivisions may want the same thing.

Nielsen said there are some questions that need to be looked into. It was agreed for Lonnie Saunders and Brad Howe to work on this together.

Sixth on the agenda was a discussion of the Resort Enterprise District. A committee met on June 6, 2006 to try to clarify some issues under the RE district. Tony Weber went through the draft of changes recommended.

Mardi Allen asked why the addition of single family, duplex and townhouse?

Weber said this was for off-lake developments such as around a golf course, where the rental would be managed by a resort.

Under Bulk Regulations, H. Density of Dwellings – it was agreed to change the wording to “10 units per acre” and to get a good definition for unit. Gunderson moved to recommend approval of the proposed Resort Enterprise District amendment with the changes discussed today. Moser seconded. All were in favor.

There being no further business, the meeting adjourned at 3:10 p.m.

Filed by: Barbara Woodley

Date: August 23, 2006