

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, August 16, 2010

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, August 16, 2010 at 1:00 p.m. in the community room of the Dickinson County Courthouse.

Members present were Bob Chaffin, Duane Moser, Sally Nielsen, Tony Weber and Jon Gunderson. Absent were Tim Fairchild and Mike Roach.

Sally Nielsen, Chairman, called the meeting to order at 1:00 p.m.

First on the agenda was approval of the minutes of February 16, 2010. Weber moved to accept the minutes as presented. Moser seconded. All were in favor.

Second on the agenda was discussion – Egralharve resident's concerns with weekly rentals of residential properties.

Darrel Mergen spoke representing some of the Egralharve residents. He presented each of the Planning and Zoning members with a letter of explanation and attachments.

- 1) Signatures from the Inner Lane residents requesting help from Dickinson County Zoning.
- 2) A map showing how to get to Inner Lane and the approximate location of four rental houses.
- 3) Photos showing the private drive with extra vehicles and boats on lawns and on the narrow street.
- 4) On-line ads for rentals by owners.

Mergen said he had reviewed ads for rentals on all the lakes. There are 15 in the county. Some in Arnolds Park and Okoboji but they are a resort area. The New Inn has a commercial special use. Arnolds Park has a commercial resort district by the Amusement Park. There are rentals along the south side of Okoboji and Wahpeton which restricts rentals to 30 days minimum.

Mergen said when they had people renting by the month, they had no bad experiences until they began renting by the week. Recently, his granddaughter was almost hit by a car coming down the street too fast. They are looking for some help from the Planning and Zoning Commission.

David Kohlhaase explained the zoning regulations for the R-4 lakeshore district. Residential permitted uses are duplex and single family. Commercial permitted uses are commercial cottage and commercial single family. Kohlhaase read the definition for these commercial uses and the intent of the R-4 district. He said he has been meeting with Darrel and Gary and the following options are available:

- 1) Amend the zoning ordinance to not allow commercial cottage and commercial single family. The problem is the folks that are now renting out their homes are grandfathered in.
- 2) An overlay district specific to Egralharve only.
- 3) Form an Egralharve residents association. Currently there is no active association and they would possibly need 100% participation.
- 4) Rezoning from R-4 to some other district.

The zoning office is looking to Planning and Zoning for what they feel would be appropriate.

Mergen said in the fall of 2003 the City of Spirit Lake changed their wording to not less than 30 days.

Nielsen asked if changing the wording would help with the grandfathered uses.

Kohlhaase said no, but it may gradually change as homes are sold. The zoning ordinance could be amended in the R-4 district to change commercial uses to a conditional use, but you can't ever control renting for 30 days or more.

Saunders said no, there have been court cases that uphold the 30 day or more rentals. Saunders said the Egralharve residents can go to court and ask to form an owner's association. It would be a difficult, long drawn out process. They could then put restrictions on parking on private property. He felt the best solution was to drop out the commercial uses or drop down to a conditional use.

Weber said in his area he is affected by this as well, but he can also see the problem. The ordinance does not spell it out directly, but it is assumed that anyone can rent less than 30 days. It needs to say rentals are allowed for only 30 days or longer. His feeling is to amend the ordinance to not allow the commercial uses in a residential area.

Saunders said there was a court case with City of Okoboji to clarify the 30 days and under. The court ruled 30 days and over is hands off.

Weber said he has a concern with an overlay district. The ordinance keeps adding these and then we have different spots all over with different rules.

Moser said one of these rental properties has 118' of lakefront and sleeps 16 people. Could someone turn this into a commercial property?

Weber said if the use is discontinued for 18 months, it must convert to its original use as residential.

Egralharve resident Linda Holmes spoke of her problems living next door to a rental house, citing large numbers of people, cars, boats, trailers, noise, fireworks, etc.

There was discussion of annexation to another city to get more protection and zoning control.

Holmes asked if this situation could be defined as a public nuisance.

Saunders said this would be a civil matter, but a public nuisance is anything that takes away from the use of your property.

Saunders said he would suggest either take out the two commercial uses now allowed or make them conditional uses. This would probably be a waste of time because he can't envision the Board of Adjustment approving anything.

Kohlhaase said also the neighbors within 500 feet have the opportunity to object.

Moser asked how hard it is to put restrictive covenants in place.

Saunders said it is fairly involved litigation. It wouldn't solve the problem of the current uses that are grandfathered in.

Sally Nielsen said she would like to move forward to eliminate in the R-4 District Commercial Cottage and Commercial Single Family.

Kohlhaase said under permitted commercial uses, it would say none. Under definitions, specify rentals only for 30 days or more.

Weber, Gunderson, and Moser agreed.

Holmes said she is worried about revenge if she complains. She locks her doors and is concerned about the dog and people setting off fireworks near her house.

Chaffin asked if there was something that could be done about blocking the private road.

Saunders said they could contact the State Fire Marshal's office.

Kohlhaase said the residents could put up signs.

The public hearing to amend the ordinance will be at the September 20th meeting. Under R-4 district, permitted commercial uses will be changed to "none" and include a definition that specifies time for rental properties.

Third on the agenda was old or unknown business.

Kohlhaase mentioned that a subject that keeps coming up is the small wind turbines.

There being no further business, Weber moved to adjourn. Gunderson seconded. The meeting adjourned at 2:15 p.m.

Filed By: Barbara K. Woodley

Date: August 20, 2010