

# **DICKINSON COUNTY PLANNING AND ZONING COMMISSION**

**Monday, October 15, 2018**

**1:00 P.M.**

The Dickinson County Planning and Zoning Commission met Monday, October 15, 2018 at 1:00 P.M. in the community room of the Dickinson County Courthouse.

Members present were, Dalton Kidd, Jed, Jensen, Jon Gunderson, Doris Welle, Nancy Pfund, and Carol Pierce. Absent was Tony Weber.

Also present were David Kohlhaase, Dickinson County Zoning Administrator.

Dalton Kidd called the meeting to order at 1:00 p.m. and read the opening statement

First item on the agenda was the approval of the minutes from August 20, 2018. Welle motioned to approve, Pfund seconded the motion. All were in favor.

Kohlhaase gave a staff report saying items 2-5 relate and are a package of actions needed to accomplish what Mr. Schomaker is requesting. Each item will need to be acted on individually.

Parcel ID: 01108100018 aka "Parcel K" consists of 4.41 acres. This parcel is zoned A-1 Agricultural and the Comprehensive Land Use Plan shows the Future Land Use as Agricultural. The property is located directly south of Country View Acres, which is zoned R-2 1 & 2 Family Residential. The request is to rezone the property from A-1 to R-2. The existing land use is grass land, trees and one detached garage. It is in my opinion that this land is not prime agricultural land not needing protection from the encroachment of development. Its existing land use and location supports it not being agricultural. The plat as determined at the pre-application conference by the Planning and Zoning is simple allowing the preliminary and final plat to be reviewed at the same meeting.

The development plan is to extend the existing Country View Acres properties which abut this property making their rear yards larger. The ownership will only be the property owners whom abut or those with a principle structure within 100 feet or less. The use will only be for accessory structures.

Second item on the agenda was Recommendation to the Board of Supervisors for an amendment to the Comprehensive Land Use Plan from Agricultural to Residential for Dale Schomaker on the following described land Part Parcel "K" being a part of the Northeast Quarter of the Northwest Quarter, Section 8 of Milford Township, Dickinson County. The request was read.

Schomaker said he bought the land for a buffer for the separation distance between the farm land and Country View Acres. As he talked to people who lived beside him and down the street they wanted to buy a piece of it to extend their back yards for accessory type uses. He does not have any plans to build anything behind his house, just an extended yard.

Welle asked if each of the property owners who will purchase a section will be responsible for maintenance of the property, and if they are not sold, if he will be responsible.

Schomaker said there isn't any maintenance to it, it is all tall grass, prairie, and trees.

Kohlhaase said through his discussion with Schomaker over the last year, the purpose of the purchase was to control it, to maintain it as grass and trees versus the previous owner tearing it up and removing the trees. After Schomaker's purchase of the land, others have shown interest in extending the rear yards. One option he had was what he is doing today, that's extending those lot lines, and what we told him what would be important is that the ownership will need to abut or have a principal structure within 100 feet or less away. He has covenants restrictions put together that shows the allowable accessory type uses allowing for one building 30 x 36 x 10'. Country View Acres needs to be a participant in this process. They would be allowing access to the development on their private roads. What Kohlhaase's explained to Schomaker, is that he is going to have to have that participation from the association, because otherwise the property is landlocked, and one cannot create a landlocked parcel.

Schomaker said he had a meeting the previous night at his house with people that could come as well as phone conversations, people don't have a problem with him using the end street for building materials, like if something needs to be brought in for construction.

Pierce asked if 221<sup>st</sup> St. is public.

Schomaker said its private, Country View Acres owns 221<sup>st</sup> and 220<sup>th</sup> St.

Pierce asked if there was any intent to extend the road back into the new subdivision.

Schomaker said the road will end where it does now, but they will put an access easement path along the north part of the subdivision, that way if someone does need to go from one to another they can use that easement.

Pierce asked if there were any concerns about access for emergency services.

Kohlhaase said it would all depend on the use and the grass, it is there and existing today, emergency services would use the road, and it would be the same as it is today.

Schomaker said there is an easement for rural water at the end of our property lines, and Cornbelt has an easement under the power lines where the pine trees are, so there are 2 easements back there already.

Pat Mohning said there is a 20' feet access easement shown on the preliminary and final plat, on the north side of the development.

Welle clarified if they put an accessory structure on their lot, there will not be water or sewer to that structure.

Schomaker said that is correct, the only thing they could have would be electricity, ran from their own home.

Kohlhaase asked if that was spelled out in the convent restrictions.

Schomaker said no he did not, only verbally.

Welle said if lots 7-11 each bought the additional land to the south, would all of that end up being considered one lot.

Kohlhaase said that it would be platted as two separate lots, but being used as all one yard.

Schomaker said he was told the deeds/ titles will stay separate until the property owners sell, then they can have it attached to the property.

Pfund said then it can never be sold separately again, is that correct?

Kohlhaase said that it can only be sold separately to an adjoining property owner with a principal structure within 100' feet of the subject lot. The additional lot will not be able to have a principal structure built upon it, that is not the intent of the subdivision.

Pierce asked for a copy of the convent restrictions.

Kardell said that it was included in the packet, it is located within the proprietors certificate at the bottom of the page.

Kohlhaase asked if the convent restrictions addressed sewer and water.

Kidd said that according to the convent restrictions, numbers 5 stated "no sewer will be provided to these lots" and number 6 stated "utilities can be provided to lots by an individual owner as they see fit but will not be provided by the owners/proprietors."

Kidd asked for further discussion from the Commission. There was none.

Kidd opened the meeting to the public.

Roger Godfredsen 23438 221<sup>st</sup> St. he resides next to the vacant lot in Country View Acres. They had some questions when the development was originally proposed because there is no ingress or egress to that property. Also the homeowners association has not had a formalized meeting to approve or disapprove any of this. He was notified on Saturday that there was going to be a

meeting on Sunday night, which they were unable to attend. So they have no idea what is being proposed, including the new covenant restrictions, and most of the homeowners do not know anything about what is taking place. They would like to get some clarification, possibly ask to postpone the decision for a month to find out what is really going to happen.

Welle asked if they're lot number 5 in County View Acres, and if that is where they reside.

Godfredsen said yes.

Kohlhaase said that it is very important during this process to make sure Country View Acres is on board and a player in this. One thing that has been stressed from the beginning is that they will need to participate in approving this. Schomaker has attempted this, but it may be that we're not there yet. The covenant restrictions are basically they style and internal rules that are going to govern this proposal. It sounds like there needs to be more communication between everyone so people are more informed. Eventually they are going to need some sort of legal document showing that Country View Acres is on board.

Pierce clarified with Godfredsen that Country View Acres as an association has not had a meeting to discuss this.

Godfredsen said that is correct, he said there was one on Sunday, but he was notified on Saturday and was unable to attend.

Welle asked Schomaker how people were in attendance at the meeting Sunday night.

Schomaker said there were 7 neighbors there.

Pierce asked how many are in the association.

Schomaker said 11, he did get approval from 2 on the telephone.

Welle said Schomakers up to 9 out of the 11.

Pierce asked if it is majority vote in the association.

Schomaker said he thought it was majority vote.

Discussion about Country View Acres covenants restrictions.

Pierce was concerned about whom was and was not contacted, and the Commission should continue the discussion to the next meeting.

Pfund motioned to continue until County View Acres has a meeting and gets back to them, Pierce seconded the motion. All were in favor.

Kohlhaase said that for clarification, Schomaker should follow the covenant restrictions, policy and procedures of County View Acres, then have either a copy of the minutes or an affidavit approving or disapproving the proposed KiKi Prairie Subdivision.

Kidd stated that Agenda Items 2, 3, 4, and 5 all related, they will all be continued to the next meeting.

Third item on the agenda was Recommendation to the Board of Supervisors for a rezoning from A-1 Agricultural to R-2 1 & 2 Family Residential District for Dale Schomaker on the following described land Part Parcel "K" being a part of the Northeast Quarter of the Northwest Quarter, Section 8 of Milford Township, Dickinson County.

Fourth item on the agenda was Recommendation to the Board of Supervisors for the Preliminary plat for KiKi Prairie Subdivision.

Fifth item on the agenda was the recommendation to the Board of Supervisors for the Final Plat for the Kiki Prairie Subdivision.

Sixth item on the agenda was Old, Unknown, or other business. Kardell said that there are 2 rezonings on the agenda for the month of November. Kohlhaase gave an update on East Loch Estates lawsuits and shared a letter from the Sanitary Sewer addressed to all Boards and Commissions.

Seventh on the agenda was Adjournment. Welle motioned to adjourn. Pierce second the motion. All in were in favor.

Please note: Dalton Kidd ran the meeting, Doris Welle is Vice Chair of the Commission and should have governed the meeting.

(For more information see P&Z 10 15 18)