

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, December 17, 2007

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, December 17, 2007 at 1:00 p.m. at the Dickinson County Community Building, Spirit Lake, IA.

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

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

First on the agenda was approval of the minutes of November 19, 2007. Fairchild moved to approve the minutes as written. Weber seconded. All were in favor.

Second on the agenda was discussion of the West Okoboji Harbor Overlay District. Brad Howe of Berg and Howe said his client was the West Okoboji Harbor Association. The Harbor was developed as three separate plats recorded in 1970, 1977, and 1980. The language of all three is identical. It is mandatory that all property owners be members of the lot owners association and pay dues. There is a Board of Governors and Design Committee that approve outside dwelling construction. There are 145 lots. The by-laws provide for the Design Committee to approve specifications based on covenants. The restrictive covenants have expired. In the 90's they did attempt renewal of the covenants. Through a technical error in recording, this didn't get done. They only have the zoning restrictions of the R-4 Lakeshore Residential district. In doing research on overlay districts, one justification is if the area is unique. The Harbor owns its streets, water distribution system and lights. No outside entity has control. Through dues, they maintain the boardwalk. The Design Committee controls the designs. The restrictive covenants expiring has bound their hands, so they propose a few additional rules that would apply to the Harbor only. This is a neat, clean, orderly addition and they want to keep it that way, but some of the regulations don't give the needed protection. The proposed Overlay protects the original intent of the covenants. There was some concern if every little dispute would land in the lap of the P & Z Commission, the Board of Adjustment, or the Board of Supervisors. The Board of Governors will do all they can to enforce the Overlay restrictions.

Steve Lindeberg passed out a colored map to the P & Z commission members. The map was a survey of lot owners in the Harbor as to whether they wanted the Overlay District. The ones marked in green said they want the Overlay, the red said no, and the white didn't respond. They propose the minimum number of rules to protect what they've got regarding fences and the boardwalk.

Weber asked when the latest covenants had expired.

Howe said in 2001. The earliest was in 1991. All lot owners had assumed the covenants were still in place when they bought property. It was only recently discovered that they had expired.

Nielsen asked if this was just a discussion or was some action to be taken.

Kohlhaase said the commission has four options:

1. Do nothing.
2. Continue to another discussion.
3. Move forward to a public hearing.
4. Say no.

Fairchild asked if there was documentation kept of the Association meetings.

Howe said yes.

Kohlhaase commented that there had been a concern on enforcement, but the Board of Governors has said they would take care of enforcement themselves, but they are looking for a tool that they can enforce.

Howe said it his legal opinion that government can't be forced to bring lawsuit regarding a violation of zoning. The law allows citizens to do this.

Fairchild asked if this were the only alternative. Did they look into annexing to a city?

Howe said he had looked into this. There is property between them and Wahpeton, some farm ground that wouldn't go in.

Nielsen asked if anyone present had any objections. There were none.

Saunders said if this goes to public hearing, those in objection will have an opportunity to voice their concerns.

Fairchild had a concern coming in if some bought in with no restrictions, and if the county has enforcement issues that are different than the rest of the county.

Weber has the same concerns as Fairchild and is worried about precedence. The county has maybe 30 or 40 subdivisions where covenants have expired and it could open the door for others to want an overlay district.

Saunders asked if any of the covenants proposed are more restrictive than ones originally in place.

Howe said no.

After further discussion, the Planning and Zoning members agreed to move forward to public hearing on next month's agenda.

Third on the agenda was rezoning for Gregory R. Tritle from A-1 Agricultural District to R-1 Suburban Residential District, Lot 1 Plat of T & W Addition.

Gregory R. Tritle and John Wedebrand are co-owners of this plat.

Kohlhaase said the owners originally split a piece off these 40 acres and placed a house. They wanted to do another house, but they had to do a subdivision to split off a second lot. The ten acre parcel is for sale. Lots of folks want to purchase this property, but not ten acres. The only option was to change the zoning to R-1 Suburban Residential. The intent and goal was to divide the ten acres with one parcel with the house on it and the remainder staying in agricultural use. The future land use map shows agricultural, but there are a number of small acreages in the area.

Mr. Tritle said he had called adjoining property owners. The Hummels, Reed Potter and the Andersens had no problem with this as long as it didn't change the drainage. They don't have any plans to build anything more, so the south portion will remain in agricultural use. Tritle presented a map of the location of some adjacent acreages. There are six in the area ranging from two to ten acres in size. If the rezoning is allowed, they would have an acreage of approximately two to five acres.

Kohlhaase said wherever the split would be, they would need to maintain 50 feet on all sides and stay away from the septic system. This is consistent with other areas along there.

No one present had any questions.

Roach asked if the other acreages are zoned residential.

Kohlhaase said they are all zoned agricultural. Some were built prior to zoning and some were an existing or abandoned farmstead which is allowed to be less than ten acres.

Roach asked if this would be spot zoning and if so, what would the drawbacks be?

Kohlhaase said it could be spot zoning. There are pros and cons both ways. One of the goals of zoning is to protect farm land. The land use map shows this as agricultural.

Kohlhaase asked if the board could legally put a stipulation on the use of the land.

Jon Martin, representing Tritle, said his client would be willing to put a condition on that says the remainder of the property will remain agricultural.

Fairchild asked for how long can you set the restriction?

Saunders said a reasonable time line. It cannot be in perpetuity.

Kohlhaase said this is not prime AG land, it is about medium.

Jane Shuttleworth said isn't it also the nature of the community to keep agricultural and residential uses separate.

After further discussion, Gunderson moved to vote on the application for rezoning. Fairchild seconded. All were in favor. The vote was recorded as Gunderson, Chaffin Nielsen, Fairchild, and Roach – recommend approval. Weber – recommend denial.

Fourth on the agenda was Wayne Petersen, Natural Resource Conservation Service, Low Impact Development (LID) discussion.

Kohlhaase said the Planning and Zoning Commission is at a point of discussing incorporating LID practices into the zoning and subdivision ordinances. He felt it is appropriate after the workshops held three years ago, and where we are now, to determine if these practices should be required or recommended. He introduced Wayne Petersen.

Wayne Petersen presented a slide presentation titled "The New Paradigm for Managing Stormwater".

Kohlhaase asked if these practices are adopted into the ordinances, how are the projects inspected? Who designs residential systems; what standards are used; how to determine if they are good or bad?

Petersen said design standards are going to be put into the SUDAS manual eventually. If you follow those standards it should be designed to protocol. You can hire an engineer. He would advocate the wording "professional engineer or a designated representative of SWCS or NRCS. If a proposed development comes to you with these features, it should be fast tracked.

Kohlhaase said once an engineer signs off on a design, it is not our place to question the design.

Steve Anderson said they are trying to get design standards in place for urban practices. Local or state staff will have licensed people on staff. The Soil and Water Conservation District (SWCD) has created four urban conservation positions to date with designated officers to assist with urban design. They want to create eleven more positions.

Fairchild said if lots of rain gardens get put in, what if this starts to affect the ground water level?

Petersen said he is committed to writing an 8 to 12 page manual for homeowners.

Weber said this would have to be on a case by case basis on lakeshore banks. Sometimes a rain garden would create ground saturation issues, resulting in bank cave-ins.

Petersen agreed that slope stability is an issue. Not every site is going to be suitable.

There was a short recess. The meeting reconvened at 2:55 p.m.

Fifth on the agenda was Amendment to Zoning Ordinance 102, Article 14, Resort Enterprise District – to add wording of requirements for storm water control. Nielsen read the proposed wording.

Kohlhaase said the three amendments on the agenda today were what we thought was important right away, but in view of the information presented today, maybe we need to hold off.

Nielsen asked the commission members for their comments on where the county should be heading?

Weber had concerns with requiring LID practices. The Iowa Stormwater Management Manual is a huge document to try and understand. If we add a drainage plan to the zoning compliance application and encourage LID practices, it would not give Dave any direction to enforce.

Barb Mendenhall said with hiring an urban design conservationist, the homeowner could get help with the design. City of Okoboji's language is to "encourage", but she feels it needs to be changed to "require".

Steve Anderson said the urban conservationist will be spending 70% of their time in Dickinson County and 30% between Emmetsburg to Storm Lake.

Joe VanderLaan said he has been involved with several LID projects. He is a strong believer in it, but advised taking baby steps here. He felt a committee should be formed which includes conservationists, builders, landscapers, bankers and real estate people.

Discussion followed of setting a deadline for a decision to be made.

Mendenhall said Okoboji had 36 months to requirement of LID. It is mandatory on new developments. Okoboji has talked about sharing the cost of an engineer with another entity.

Kohlhaase suggested instead of doing this piecemeal in part of the ordinances, to appoint a committee to set up guidelines and requirements for LID practices and enforcement.

Petersen agreed. These committees give the opportunity to hammer out problems.

Kohlhaase said he would support tabling the three amendments on the agenda, set up a committee to study and give a time frame for a deadline.

Jane Shuttleworth said recently there had been LIDAR mapping of urban run-off. This would be a fantastic tool in deciding where LID practices are most needed.

Weber moved to table the proposed amendments to Zoning Ordinance 102 and Subdivision Ordinance 103, to have the zoning office form a committee to study the LID requirements, and set a deadline of three months from the first meeting of the committee.

Tony Weber and Sally Nielsen volunteered to be on the committee from the Planning and Zoning Commission. Others suggested were Steve Anderson, home builders, landscapers, lake protective organizations, developers, real estate or banking industry. Try to keep it small – no more than 9 total members.

Kohlhaase said he would get together a list of committee members and send it to Sally Nielsen for approval, then send out meeting date and times.

The commission returned to the agenda items.

Fifth on the agenda was Amendment to Zoning Ordinance 102, Article 14. Resort Enterprise District, Section 5. Bulk Regulations – to add Paragraph J, wording for requirements of storm water run-off control. Recommendation to Board of Supervisors. All Planning and Zoning members moved to not recommend this amendment.

Sixth on the agenda was Amendment to Zoning Ordinance 102, Article 17. Additional Area and Height Regulations - to add Section 12, Drainage Plan, wording for drainage plan requirements on zoning compliance applications. Recommendation to Board of Supervisors. All Planning and Zoning members moved not to recommend this amendment.

Seventh on the agenda was Amendment to Subdivision Ordinance 103, Article 3. Improvements, Section 3.3 D. Storm Sewer Systems – to change wording on last sentence of first paragraph. Recommendation to Board of Supervisors. All Planning and Zoning members moved not to recommend this amendment.

Eighth on the agenda was discussion of adding a definition for Low Impact Development. This discussion was cancelled.

Ninth on the agenda was old or unknown business. There was none.

Fairchild moved to adjourn. Gunderson seconded. The meeting adjourned at 3:30 p.m.

Filed By: Barbara Woodley Date: December 20, 2007