

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, February 26, 2007

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, February 26, 2007 at 1:00 p.m. at the Dickinson County Community Building. Members present were Duane Moser, Tony Weber, Sally Nielsen, Bob Chaffin, Jon Gunderson, and Tim Fairchild.

Sally Nielsen called the meeting to order at 1:05 p.m.

First on the agenda was approval of the minutes of January 15, 2007. Moser moved to approve the minutes as written. Weber seconded. All in favor.

Second on the agenda was Robert E. Duncan, rezoning application from HC Highway Commercial to R-1 Suburban Residential District, recommendation to the Board of Supervisors. It was found that the existing zoning of the property is actually General Commercial, so a correction needs to be made to the application and public notice. This item will be postponed to the March 19th meeting.

Third on the agenda was Faye Meadows final plat, recommendation to the Board of Supervisors.

Dave Kohlhaase said that Ken Ferguson is the owner of this property and Beck is engineer for the subdivision. Both had to be gone today. On May 9, 2006 the water and sewer was approved. August 3, 2006 the Planning and Zoning recommended approval of the preliminary plat. September 26, 2006 the Board of Supervisors approved the preliminary plat.

Kohlhaase read from the developer's statement. The property is zoned A-1 agricultural. They will have five 10 acre lots to clean up the lot description. He then read Beck Engineering's letter. The cities of Okoboji and Spirit Lake received a copy of the plat to review. Dennis Daly of Okoboji did not object and there were no written objections. Spirit Lake's Planning and Zoning approved the plat December 11, 2006. The city council had a concern with no sanitary sewer available. They didn't submit any written objection within the 30 day limit.

Nielsen asked if there were any questions from the board.

Weber moved to recommend approval of Faye Meadows final plat. Gunderson seconded. All were in favor.

Fourth on the agenda was McClelland's Beach final plat, recommendation to the Board of Supervisors.

Kohlhaase said on July 17, 2006 the Planning and Zoning recommended approval of the preliminary plat. August 29, 2006 the Board of Supervisors approved the preliminary plat.

Mike Zenor, attorney for the plat developers, said the only change since the preliminary was approximately \$200,000 spent on roads and sewers. A few lots were made deeper to make sure the road worked with everything. He was made aware of people that filed an objection. Nielsen handed a copy to Zenor. It was dated February 26, 2007 and signed by 43 individuals.

Zenor said one of the major goals was to bring the original plat into conformance of the zoning ordinance. Some lots had to be reconfigured. After substantial discussion at the first meeting, one lot was added back in. They have done everything to leave the lots in place while trying to conform to the zoning

ordinance. Anyone that has an existing lease can stay there until the lease expires.

Jim Blum, surveyor for the project, said the preliminary plat showed the size of the lots, and a summary of the lots which complied and those that did not. The goal was to comply with the requirements of 7,000 square feet and 50 feet width. They tried to meet the setbacks where possible. It was impossible in all cases to meet the setbacks. In January 2007, changes were made which increased lots 4 through 25 lot depths to the north to avoid moving four garages and ten outbuildings. Those lots now have 8,000 square feet and they saved several trees.

Blum said since August 2006 they had approval to proceed with improvements. They have the sanitary sewer installed to Lots 101 through 122 to serve the back row. All lots are in service with the exception of 125. Freezing conditions have delayed that until spring. They have temporarily graded the roads and cleared numerous trees. There is a complete set of grading plans for the east road to Lot 32. They will relocate the west lane, moving to the west and will grade it. They will then complete the road where they placed the sewer. They have yet to complete the roads and put in two dry hydrants. They are asking the board to allow them to furnish a letter of credit. Approximately one-third of the improvements are completed.

They have made small changes to accommodate the property owner's wishes. There are no encroachments except a small 8 x 10 building. They removed houses on Lot 100 and Lot 129. The house on Lot 101 has been moved over. Blum asked if there were any questions.

Diane Hilton has a cabin on Lot 105. She sees stakes that go through the driveway. They have the smallest lot at 6,552 square feet.

Blum suggested they get together at the site to look at the stakes. He believes they have more square footage than before.

David Ohme has Lot 108 and asked when the roads will be completed.

Blum said by August or September. They will do the east one first, then the west.

Ohme said Lot 108 has a garage on the lot. The road will go through it. They have three years left on the lease.

Blum said the garage will have to be moved or they will leave that section of the road uncompleted.

Unknown speaker: Lot 109 has three owners. What can they do?

Blum said they can't move the road to the east, so they have to move to the west. There are certain things they have to do in order to get the square footage for the lots.

Unknown speaker asked about Lot 90. The plat shows it is 42 feet wide, but it is actually 57.8 feet.

Blum said there are two dimensions on the lot because of an angle.

Mary Lou Ayres asked if they are obligated to purchase the land before their lease expires? Do they have to move buildings now or at the end of the lease?

Zenor said the land is offered now for sale. If the lessee doesn't buy it, at the end of the lease, they would no longer have the right of first refusal.

More discussion on moving buildings. Zenor said if they can't make a deal on moving buildings, then the road can't go through.

Kohlhaase said a group of the Bartels family first brought this before the board in a preapplication conference. There were two options: to look at the property as vacant ground and start over, or work with the locations already there. It was decided to work with what's in place. The preliminary plat, the design plat, was approved with the understanding that not all improvements could be put immediately in place. The developers are asking for the final plat to be approved even though not all the improvements are completed. At this point, the board will have to work with the plat that is in front of them, knowing not all improvements are in place.

Dave Bartels said they will deposit a letter of credit from a local bank to assure they will complete all improvements required by the ordinance.

Zenor said they may have to wait until leases expire (3 years) until the last bit of road is done. Hopefully that will be done next summer if they can reach agreements with the residents.

Fairchild asked if they approve, how do they see that the improvements are finished?

Kohlhaase said the subdivision ordinance requires a performance bond. In lieu of a bond, we can accept a letter of credit. This is a legal document, notarized, and attached to the plat that says the money is available to finish. The board could recommend approving the plat subject that Lonnie Saunders, Asst. County Attorney, see the letter of credit and it be in place before the Board of Supervisors hearing.

Blum said there are three garages to be moved. The third one will not be moved right away. They will build a temporary road around the garages. They have a bid in hand that is substantially under the \$200,000 that was estimated.

Paula Dyer and Shirley Lindberg said there are two plats on the table with different dates and measurements.

Blum said the one is the road grading plan. 2/22/07 is the one you need to go by.

Willis Hamilton, attorney from Storm Lake, had prepared and presented an objection to the plat, signed by several residents of McClelland's Beach. He said the final plat with a February 22nd date has changes on it which his clients have not had opportunity to review. He asked the board to delay approval until the clients can examine the plat and see if it is agreeable with them.

Zenor said the only differences between the January and final plat is that they made some lots deeper to accommodate the road. The asking price is per front foot, so it doesn't change anything.

Nielsen asked if there were more questions from the board.

Weber asked if the agreement, restrictive covenants, and dedication to the plat goes into effect when the Board of Supervisors approves the plat?

Kohlhaase said as soon as it is recorded, they are effective.

Nielsen read an e-mail from Jim Humeston requesting that Lot 63 remains in the plat.

Fairchild asked for clarification of the Planning and Zoning Commission's function. Isn't their job to approve or not the plat put before them by the developers? The issues brought forward today are between the lessees and the developers. If the owners want to wait three years until the leases expire, they could then sell the entire parcel and someone could start over.

Moser agreed that the plat presented meets the criteria of Dickinson County zoning and he sees no reason why they shouldn't recommend approval.

Nielsen asked if there were any more questions from the public on zoning issues. There were none.

Moser moved to recommend approval of the final plat of McClelland's Beach dated 2/22/07 with the stipulation that the letter of credit and amount be included.

Blum said the major improvements will be done right away.

The board discussed the motion of approval to the Board of Supervisors be contingent upon a letter of credit, supported by a list of items not completed, but to be completed by June 1, 2010. The statement should also include estimates to support the figures for improvement and any legal fees before the Board of Supervisor's meeting.

The Planning and Zoning members agreed that the statement with the letter of credit should include the following:

- 1) Specify what improvements are not complete.
- 2) The dollar amount for completing all improvements.
- 3) A statement from the bank holding the letter of credit that the dollar amount required is available.
- 4) The improvements will be completed within three years of June 1, 2007.

Fairchild seconded the motion with the above stipulations attached. All were in favor. Motion carried.

Fifth on the agenda was any old, new, or unknown business. There was none.

Weber moved to adjourn. Chaffin seconded. All were in favor. The meeting adjourned at 2:00 p.m.

Filed By: Barbara K. Woodley Date: March 13, 2007