

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, July 17, 2006

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday July 17, 2006 at 1:00 p.m. at the Dickinson County Community Building, Spirit Lake, Iowa.

Members present were Robins Jackson, Sally Nielsen, Tim Fairchild, Bob Chaffin, Duane Moser, Jon Gunderson, and Tony Weber. Staff present were David Kohlhaase, Zoning Administrator and Lonnie Saunders, Assistant County Attorney.

Robins Jackson called the meeting to order at 1:05 p.m.

First on the agenda was approval of the minutes of June 19, 2006. Nielsen moved to approve the minutes as written. Moser seconded. All were in favor.

Second on the agenda was Ficken-Brown Subdivision preliminary and final plat, recommendation to the Board of Supervisors.

Kohlhaase gave some history on the property.

Jim Blum was representing Ficken and Brown. He said the Ficken's purchased the property to build a home. They split a piece off to Wally Jorgensen and split a lot off to Carol Ayres. They are requesting a third split which requires subdivision. The property is surrounded by the City of Spirit Lake. There is an existing house on the Ficken's Lot 1 which abuts the property shown as Lot 2. They plan to sell this parcel (Lot 2) to the Brown's to add to their property. The septic drainfield is on Lot 2. The Ficken's intention was to build a bigger house, which they are not going to do. The plat shows a common access area which has always been off 28th Street providing access to the Ficken's. Lot 2 will use the same access. There are no improvements needed, so they are asking for approval the preliminary and final plat together. The plat has not yet gone before the City of Spirit Lake council, so any approval should be subject to the city's approval.

There were no questions from the board.

Questions were taken from the public:

Wally Jorgenson said he owns property next to John Brown. His is concerned with the common access between his house and the Stueven's. It is very narrow. If a driveway or road is put in, how will the snow removal be handled? Mr. Brown has other accesses to use.

Carol Ayres and Doug Stueven said they are in favor of positive growth. They have no problem with the subdivision being requested, but the 34' access is too narrow for use if developed behind their lot. Mr. Stueven asked what is the definition of common access?

Jim Blum said this is labeled a common access. Jill Ficken uses this as her only access. Mr. Brown's intent is that the access is not to be used for a future subdivision, but only for emergency purposes. This road could not be used for any future subdivision, as it would not meet the road width requirements of the subdivision ordinance.

There being no further questions or comments, Fairchild moved to recommend approval of the preliminary plat of Ficken-Brown Subdivision with the stipulation of City of Spirit Lake approval. Nielsen seconded. All were in favor.

Nielsen moved to recommend approval of the final plat of Ficken-Brown Subdivision. Weber seconded. All were in favor.

Third on the agenda was Bartels, Bartels, and Fox – preliminary plat of McClelland's Beach, recommendation to the Board of Supervisors.

Kohlhaase said this is the only unplatted residential area in the county. The Bartels family has been leasing lots for years, and now wants to sell off lots, so they have to go through subdivision. The challenge was working to conform with what's there. There were two options – start over by removing houses, or try to conform with zoning requirements. The property is currently zoned R-4 lakeshore residential, R-3 multifamily residential across from the lake and the remainder is A-1 agricultural and A-2 environmentally sensitive. There is no rezoning being requested, just a design plat for a subdivision.

Mike Zenor, attorney, was representing the Bartels family. He said the Bartels family homesteaded this property and they have been renting out lots since the late 1800's. The family is to the point where they want to stop leasing lots. They are trying to conform wherever possible. In some instances, they are asking that the lots be grandfathered in and are asking for variances from the plat requirements. The roads will never be in the public road system. They are proposing a homeowner's association to take over the roads, garbage removal, etc.

Jim Blum, surveyor for the plat, said it consists of 151 acres with 5400 feet of shoreline on the north shore of Big Spirit. There has been a lodge there since 1890. The farm has been in the family 100+ years. In 1968 the County Auditor requested the Bartels to prepare a plat for taxation purposes. There were 130+ lots platted. There was not zoning or a subdivision ordinance at that time. It was platted where the existing cabins were sitting. That plat was never recorded. Today they are trying to change from leased lots to those that can be sold.

Blum went through a summary of the lot subdivision:

- 1) Zoning Districts – R-4, R-3, A-1 and A-2. No changes.
- 2) Roads – private. Will be no county maintenance. Roads will need to be widened.
- 3) Clay Regional Water available and some private wells. Not enough pressure to provide fire protection
- 4) Iowa Great Lakes Sanitary Sewer serves all lots. West end needs updating. There are 6 or 7 houses on one line, must have individual lines. Lots 100 and 130 will have to be relocated. Lots 108 and 109 will reverse direction because of the roadway.
- 5) Alliant Energy – want a 10' easement along roadways for underground electric.
- 6) Aquila is within 5 miles, so probably won't provide service.
- 7) Fire protection – the fire chief would like to see 5 dry fire hydrants. They will apply for a grant to assist in costs. Bartels family will make up the difference. He also indicated he would like to see a 30' clearance on the width of the road so two fire trucks could pass. Also some trees need to be trimmed back for access for emergency vehicles.
- 8) Some electrical and other utilities hang too low across the street. Will have to raise the mast on some houses to get the lines up.

Blum said there are presently 132 lots and parcels. They will be taking lot 27 and 63 and a few others will be changes. Only 27 of the 132 lots comply with zoning. On the east end they are lengthening the lots by 42'. On the west end and second row, they are deepening the lots to get more square footage. They propose eliminating some lots, leaving 127 lots in compliance. He reviewed which comply with the zoning ordinance setbacks.

There are four accesses shown on the original 1968 plat, ranging in width from 10' to 24'. They have trimmed them all down to 10' to save 14' for lot compliance. The goal of the Bartels family was to accommodate the houses in place.

The turn around and cul-de-sacs are longer than the ordinance allows because it is 1800' to get in there from the main road.

Along the lake lots, there will be a 10' utilities easement on the front and 15' on the rear. On the west end there will be a 30' right of way looped street.

Blum pointed out the flood zone map on the wall. The dam elevation at the spillway in Orleans is 1401'. The FEMA flood elevation is 1404'. Anything above the 1404' topographic contour would not need a flood plain development permit. They are not platting any lots for subdivision that would be below the flood line. Approximately the first 10' of the lakeside lots will be in a flood zone.

Regarding roads and storm drainage, they will regrade the road and keep it gravel. They need ditches to hold snow. Culverts need to be upsized. There will be bio-retention cells at these locations. They are not changing any existing drainage. The back of the houses drain to the slough and the fronts drain to the lake.

Blum read from the subdivision ordinance about any variances that are required.

Kohlhaase then reviewed Subdivision Ordinance 103 for the paragraphs that pertain to the preliminary plat:

Streets – planned to be private, but must meet county standards except for surfacing. That will be approved by the county engineer.

Sanitary Sewer

Storm sewer system – the county engineer addressed.

Water main system.

Curb and gutter.

Surfacing – none, gravel.

Gas main – not available.

Other improvements – existing and some don't pertain.

Soil erosion – most lots already developed.

Easements – outlined on the plat.

Maintenance bond – questionable if required.

Lands subject to flooding – addressed.

Does conform to comprehensive plan.

Street standards – county engineer.

Block and lot standards – already existing.

Parks and open spaces. (Mike Zenor will address.)

Procedures.

Kohlhaase advised the zoning commission they do have the right to approve a subdivision with variances. Any additions or new construction would have to meet the bulk regulations.

Mike Zenor said some months ago they contacted the Iowa Natural Heritage Foundation regarding the wetland to the north and they are very interested. This wetland is likely to go to the DNR.

Questions and comments were taken from the public:

Jim Humeston – they lease Lot 63 which is being removed. He asked for a variance for Lot 63 so it can remain. Leased for 20 years and made substantial improvements.

Blum said Lot 63 was in an area where they couldn't widen the lots on either side to make them conforming.

Bret Heitkamp – they lease Lot 48. His questions were:

1) R-3 Multifamily zoning – how much area do you need? Kohlhaase read from the ordinance. Heitkamp concerned that multiple family units could be built on the agricultural lands still owned by the Bartels family. He would like some assurance that they could never use the platted accesses to allow access to the lake from a development behind.

Kohlhaase said any future development couldn't use existing accesses. They couldn't comply with the keyholing provision.

2) The wetland – can it be drained and mitigated? Can there be stipulations added to the approval?

Zenor said if it goes to the DNR that can't happen.

3) Where are the environmentally sensitive areas?

Blum said everything inside the green area on the amp and the lake.

4) Fire hydrants, street signage and lighting – are the developers responsible or would the homeowners be assessed later?

Kohlhaase said this could be spelled out in stipulations for approval.

Tom England representing Donna Gutknecht asked where he could get a copy of the packet of information? Call the office.

Matt Anderson – their family leases Lot 99. What is being done with that?

Blum said Lot 99 on the original plat was on the west end, along with Lot 98. Neither complied with width or square footage. Lot 98 and 99 being two small lots, he suggested 99 be moved and given a larger lot. If it is changed back, they will have two more nonconforming lots.

Anderson said he would request Lot 99 be grandfathered in at approximately 6,000 square feet. It would be another lot to sell and additional tax revenue.

A woman representing the lessees of Lot 30 objected to the placement of the cul-de-sac to the north as it cuts a lot off of their lot. She would request the cul-de-sac be moved farther north to the farm field.

Francis Goebel - leases Lot 100. His concern is with the road along the state park fence. He would request moving the lot to the east of their cabin instead. They built their cabin just two years ago.

Ward Orr – leases lot 129 (previous Lot 122), the cabin behind Goebel's. He is also concerned with the road along the state park.

Lessee of Lot 64 said he doesn't want ½ of Jim Humeston's lot. He said leave Lot 63 alone.

Mary Lou Ayres – lessee Lot 89. She asked about the 5% park requirement. Does the slough fulfill the park requirement?

Blum said yes, there wouldn't be any additional green space planned.

Unknown speaker – question on rear yard setback of 25'. Kohlhaase explained the setback requirements.

Shirley Wolf – lives in the back row. Who is paying for moving the sewer line and moving the houses?

Zenor said the roads and sewer line would be paid for by Bartels. Moving the houses would be the owner's responsibility.

Unknown speaker – Any problems with the road easement changed to 25' and their existing cabin?

Kohlhaase said everything in place today can remain where it is.

Blum explained changing the roadway behind the lake lots to an easement to gain 42' on the rear of the properties. He said regarding the concerns of the road encroaching on Lot 30, they actually added about 40' to the lot. The property gained about 2,000 square feet. The cul-de-sac will probably be back into the field some.

Moser clarified to the public that if they want to keep their small lots, it makes it impossible to rebuild if the structures are damaged or destroyed.

Goebel asked why the road on the west end was put through his property?

Blum said it either had to be Lots 100 and 130 or 101 and 129. They picked the far west because the developer wanted it that way. Lot 100 will be relocated and will be a much bigger lot. He pointed out to Goebel the new location of Lot 100 on the map.

Kohlhaase reviewed the main points brought forward in discussion.

Unknown speaker – what happens if people aren't going to buy the land? Can they sell their cabins?

Zenor said it is likely they can continue their leases for a time. He said he has submitted a short draft of restrictive covenants, with the main focus to create a homeowner's association.

Blum said the time frame on getting the subdivision all finished was sometime this coming winter.

Zenor said some of the improvements wouldn't be done before the final plat, so they will provide a letter of credit.

Discussion followed by the zoning commission regarding Lot 63 and Lot 99.

Robins Jackson asked if the commission wanted to consider stipulations in making a motion?

Moser moved to recommend approval of the preliminary plat of McClelland's Beach with the following stipulations:

- 1) Lot 63 and Lot 99 be added back in.
- 2) Any structures damaged more than 50% of their assessed value can be rebuilt to the same footprint and height.
- 3) Five dry fire hydrants are required.
- 4) Approving a blanket variance for lots and setbacks not conforming to their zoning district regulations.

Fairchild asked how they could make sure this stays a private road?

Kohlhaase said this could be handled through a written agreement and a legal document to support it.

Lonnie Saunders said a deed restriction will be put in place and recorded that this will never be a public road.

Fourth on the agenda was Amendment to Zoning Ordinance 102 – Billboard regulations. Moser moved to recommend the amendment as worded. Nielsen seconded. All were in favor.

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

The meeting adjourned at 3:40 p.m.

Filed By: Barbara K. Woodley

Date: July 20, 2006