

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, January 18, 2010

1:00 P. M.

The Dickinson County Planning and Zoning Commission met Monday, January 18, 2010 at 1:00 p.m. in the community room of the Dickinson County Courthouse.

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

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

First on the agenda was election of officers.

Nielsen called for nominations.

Weber moved to accept the current slate of officers which is Nielsen – Chairman, Weber – Vice Chairman, and Moser – Secretary. Gunderson seconded. All were in favor.

Second on the agenda was approval of the minutes of December 21, 2009. Weber moved to approve the minutes as written. Moser seconded. All were in favor.

Third on the agenda was Gregory R. Tritle, a rezoning application from A-1 Agricultural District to R-1 Suburban Residential District, Lot 1, Plat of T & W Addition, with recommendation to the Board of Supervisors.

Tritle said he is applying for rezoning on a property of approximately 10 acres. He moved a house in about 3 ½ years ago. At that time it seemed like a good idea to leave the zoning as agricultural. Recently there has been some interest from buyers, but they don't want 10 acres.

Two years ago, the Planning and Zoning Commission approved the rezoning to R-1. The Board of Supervisors turned it down by a vote of 3 to 2. Recently one of the supervisors said he would change his vote if they received a petition from adjoining property owners saying they had no objection to the rezoning. Tritle had received signatures of surrounding property owners. He read the text of the petition, then presented copies to the board. Tritle pointed out the location of surrounding properties on the map and the different property owners.

Tritle said if he is successful in selling off the north part of the acreage, he plans to sell the remainder of the acreage to adjoining property owner, Maurice Potthoff. He has no intention to build another house.

Kohlhaase said that this property is zoned agricultural. Tritle went through subdivision to split these 10 acres off. He wants the option to sell the house with fewer acres. He can't request to rezone a portion and leave the rest agricultural as this creates a non-conforming parcel. The future land use map shows this as A-1 agricultural. One concern is that if this is rezoned to R-1 Suburban Residential, the remaining property could be sold and split, and then new owner could sell and split. This property could be resplit several times.

Moser asked if the adjoining farmer bought the remainder, couldn't he also split the property.

Lonnie Saunders said yes, but there could be a deed restriction that the property must remain agricultural use.

Tritle said there is a waterway that runs through the south part. The remaining acreage would not really be suitable for anything but farming. He is not even sure a septic system could go there.

Moser said his concern was in setting a precedent that could happen elsewhere in the county.

Weber asked if there was an area requirement for a septic system.

Kohlhaase said one of the residential zonings requires at least 20,000 square feet. The existing house is already on septic. The south part is a poor area for a septic system.

Kohlhaase asked if Tritle will continue to market the property.

Tritle said yes.

Kohlhaase asked if the deed restriction would come later.

Saunders said the deed restriction should be put on if sold to Potthoff, or if kept by Tritle. He suggests that Mr. Tritle sign a statement that restricts the remaining property to agricultural use only.

Tritle said he would be in agreement.

Gunderson asked why the supervisors voted it down.

Kohlhaase said they were concerned with spot zoning and with the property being re-subdivided.

Weber asked about the other parcel B. Why wasn't it required to be 10 acres?

Kohlhaase said that parcel was an existing farmstead, so it met the size requirements of 20,000 square feet minimum.

Nielsen asked if there were more questions or concerns.

Tritle was concerned that there was not a full board today.

Saunders said this will still be one ten acre farm, with a house on it, with no change in use. It is still going to be farm ground.

Kohlhaase said Tritle can continue to own and farm, or sell to an adjoining farmer with a restriction on the deed that it can only be agricultural use. This would also be a red flag in the zoning office that this is not a buildable lot.

Discussion of a stipulation attached to any approval. Saunders recommended the wording as follows: The board requires placement of a negative easement on the balance of real estate such that there can be no residential development or structures and the future use is limited to agricultural. He said there should be a 15' minimum easement provided to the southerly parcel.

Tritle said he was okay with that requirement.

Moser asked if Tritle will end up with a 5 to 7 acre piece of less value.

Kohlhaase said there is a law that you can't create a land locked parcel.

Saunders said that is common law. If an adjacent land owner buys the property and Tritle's want to continue farming the land, they need to have a 15' easement to get the farming equipment in there.

Tritle asked if he should put more information together and come back to the P & Z.

Saunders said if he is more comfortable with putting a package together and coming back to the board, that is an option.

Weber said he would be more comfortable voting on the request if we are not talking in vague terms; if Tritle had a buyer for the southerly parcel. He suggested tabling until something could be put together.

Saunders said perhaps offering the adjoining land owner an option to purchase in the event Tritle sold off less than 10 acres.

Tritle requested the rezoning application be tabled for now.

Fourth on the agenda was old or unknown business.

Reed Potter said he owns 240 acres in the NW quarter of Section 12 of Center Grove Township. He has been approached by a realtor about buying 10 acres in the northwest corner. He asked if he could do that.

Kohlhaase explained that each 40 acre parcel can be split once. If Potter has not split any property off before, he can sell a parcel. It must be a minimum of 10 acres.

There being no further business, Weber moved to adjourn. Roach seconded. All were in favor. The meeting adjourned at 2:00 p.m.