

DICKINSON COUNTY PLANNING AND ZONING COMMISSION
Monday, December 20, 2010
1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, December 20, 2010 at 1:00 p.m. in the community room, Dickinson County Courthouse.

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

First on the agenda was approval of the minutes of November 15, 2010. Moser moved to accept the minutes as written. Weber seconded. All were in favor.

Second on the agenda was additional review/discussion on considering an amendment to Zoning Ordinance 102, Article 10. R-4 Lakeshore Residential District Section 2: Permitted Principal Uses B) Commercial Uses to delete the wording "Commercial Cottage and Commercial Single Family" and insert the wording "None."

Article 3. Definitions/Use Classifications to add the following definition: Rental Residential. In all residential districts, permitted and conditional residential uses can only be rented for periods of 30 days or more.

Kohlhaase read through his notes giving background history of this proposed amendment. On September 20, 2010 the Planning and Zoning voted to not recommend the amendment to the ordinance to the Board of Supervisors. On November 9, 2010 the Board of Supervisors sent it back to the P & Z. On November 15, 2010 the P & Z decided to send a survey to the Egralharve residents, both north and south Inner Lane. A possible overly district was discussed. 61 property owners were notified. 52 or 85% responded. 15 replies or 29% were to allow rentals of more or less than 30 days. 37 replies or 71% were to allow rentals of more than 30 days only.

Kohlhaase said possible solutions are:

- 1) An overlay district. After more research, it doesn't seem to fit the intent and is not meant for specific problems.
- 2) Conditional Use required for less than 30 day rental of residential properties. This would need approval from the Board of Adjustment. It takes about two months and requires approximately \$500 in fees.
- 3) Amend the zoning ordinance to disallow commercial cottage and commercial single family or leave the ordinance as worded.

Kohlhaase told the commission members if they feel the same as the time they voted, they can send this back to the Board of Supervisors with a no recommendation, or set up another public hearing to revote, then send that recommendation to the Board of Supervisors.

Mrs. Davis asked how many houses on West Lake are in the unincorporated areas.

Kohlhaase said from Village West on the west side to Pike's Point on the east side.

Darrel Mergen spoke again on the safety and law enforcement issues with their private road.

Nielsen said with a conditional use requirement, this would only be for future rentals.

Kohlhaase said yes. Any existing rentals would be grandfathered. Conditional uses are thought to be okay in that district, but would need some specifics. That application would have a tough time in the Egralharve neighborhood. The concern seems to only stem from the Egralharve area. How is that to be policed? The best police are the neighbors. They call us, and we call the property owner to find out the facts. If the neighbors are reluctant to call the Sheriff, they could call zoning and we could contact the Sheriff.

Weber said he has a problem with an overlay district. When you create a whole set of different rules for a certain subdivision, for contractors it becomes extremely difficult to figure out the different rules for each area. He doesn't think an overlay is the proper way to go.

Fairchild said if the biggest problem is the narrow road, maybe the answer is a sidewalk and wider road.

Mergen said other cities have adopted this law to coincide with state law of a 31 day minimum for rentals, to give their people some protection.

Weber said on south Inner Lane there are two condos and a duplex. There are 18 units on a property suitable for two. Some of the traffic could be from the 18 living units, adding to the congestion.

Kohlhaase said if the ordinance were amended, it would affect all the lakeshore properties in the county. It seems so many of the issues are respect issues to the neighbors. Communication is the best solution to any problem. He said Gary Taylor with ISU was strongly against applying an overlay district. This would be getting into restrictions and covenant issues. A conditional use would grandfather in existing renters.

Discussion followed:

- 1) Put up a gate and be a gated community.
- 2) Contract for law enforcement, calling the Sheriff as needed.
- 3) The comprehensive plan talks about the importance of lodging and tourism.

Roach said no matter where one chooses to live, you can have problems. Next to a school, factory, elevator, or busy highway. Use the tools you have, call the law enforcement if needed. If you don't get help, contract with the local law enforcement as some cities do.

Gunderson said Dave Kohlhaase made a tremendous offer to talk with the owners of the rental properties if need be. Take him up on it, it may help.

Fairchild said originally he was totally against this, but he doesn't see any practical way to solve this issue.

Nielsen said her thought is to go with the conditional use; that any new requests have to go before the Board of Adjustment.

Lonnie Saunders clarified that the Sheriff can issue a ticket to someone on a private road if he observes them breaking the law, or he can warn them about speeding or trespassing. In the case of a disorderly house, the first time the owners get a warning and the second time a ticket and get closed down. A loud party is not likely to close down the house, but could get a warning.

Discussion followed on the Egralharve residents adopting private restrictive covenants. Saunders explained it is a contract and you get as many residents as possible to agree. Set your own rules on speed limits, parking, etc. As properties sell, try to get the new owners to become part of the contract.

Kohlhaase asked the board if they want to change the ordinance to eliminate commercial cottage as a permitted use in the entire county. Moser said no. Weber said he would abstain. Fairchild said he sees no reason to change the entire county. Gunderson and Nielsen who voted aye before said they would change their vote to nay.

Kohlhaase said requiring a conditional use also affects the entire county.

Roach asked for an explanation of an overlay district.

Kohlhaase used the overlay district for PMC as an example. It was 3 or 4 lake lots with 20 – 30 mobile homes on it. It was a matter of letting it die or work with them to maintain their homes and keep their properties.

Weber recommends letting it go as it is. The commission has spent a lot of time on this and are not going anywhere with it.

Nielsen agreed.

Kohlhaase said then the recommendation to the Board of Supervisors would be the same as before with a side bar of communication and enforcement. The neighborhood can utilize the zoning office to assist with that.

Kohlhaase said he would like to talk with Mergen to go hand in hand to the Board of Supervisors. If we can get people on notice, they know we are watching. We can talk to the Sheriff and get his assistance.

Third on the agenda was Jacob Wittkamp with Flow Green Energy Products. He was present to speak on behalf of small wind turbines. Harold Prior, former President of ILCC and supporter of the wind energy program was also present, but had to leave. Wittkamp has been working with Spirit Lake and Milford and has had some road blocks. He has about 6 customers in the county who are interested in putting up a turbine. He was surprised to find the county allows wind turbines only in the agricultural district. He is asking the county to consider writing a small wind ordinance for all districts in the county. He feels the public is being denied access to the wind resource. Spirit Lake has an ordinance in place and Milford is ready to adopt one. Wittkamp passed out information to the commission to review.

Kohlhaase explained that the commission was asked in the past to put together a committee to discuss and act on small wind. They came back with the decision to allow it only in the agricultural areas. Most requests received were from around the lake where it is difficult to access the wind and meet fall down distances. Then most requests were for roof top models which haven't had good reviews.

Wittkamp said some properties have plenty of room, but are not zoned agricultural.

Kohlhaase asked the commission if they want to revisit this issue.

Fairchild asked Wittkamp how he would propose an ordinance.

Wittkamp said he would propose a small wind ordinance for something of 50 kW or less, or 20 kW or less, with height decided by lot size. He doesn't have any turbines in place in Dickinson County that the board could look at. There is a 10 kW turbine south of Menards in Clay County.

Kohlhaase told the commission their assignment could be to look at where it might be appropriate for wind turbines to be placed and see if they want to open it up to other districts.

The members agreed to put on their next agenda additional review and discussion of small wind.

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

Weber moved to adjourn. Fairchild seconded. All were in favor. The meeting adjourned at 3:30 p.m.

