

DICKINSON COUNTY PLANNING AND ZONING COMMISSION
Monday, July 18, 2011
1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, July 18, 2011 at 1:00 p.m. in the community room, Dickinson County Courthouse.

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

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

First on the agenda was approval of the minutes of June 22, 2011. Fairchild moved to approve the minutes as written. Moser seconded. All were in favor.

Second on the agenda was T and D Holdings LLC Subdivision, preliminary and final plat. Recommendation to the Board of Supervisors.

Jason Eygabroad with Beck Engineering was representing the developers Tom Graves and Doug Truckenmiller. He said they have adjusted the plat by reducing each lot to 200 feet in depth, so the overall area is smaller.

The drainage is overland flow to the west and southeast. They plan to capture any runoff in a detention pond which will then outlet north to Highway 9. Anything that continues southeast will run to Lot 7 and remain on the lot which will stay zoned agricultural.

The driveways will be addressed by each property owner. Access will be off 215th Avenue. Each property owner will be responsible for their driveways.

The utilities are rural water in the north ditch and sanitary sewer in the south ditch. Not everyone will have a hook up.

Restrictive covenants – the main one is even though zoning is requested for R-3 Multi-family Residential, there will be no multi-family dwellings allowed. They are not anticipating providing lake access across the road.

Weber said even though the covenants say no multi-family, the R-3 zoning allows other civic and commercial uses which may be allowing a lot of other things not normally allowed in a residential district.

The developers agreed they could add other uses as not allowed in the covenants.

Weber said that is the intent today, but tomorrow could be different. He said he saw no need to have two separate covenants, as the wording “suggested” is not even enforceable.

Weber said item 8 says exterior colors of all structures should be earth tones, no bright colors. Who is going to enforce that? There is no review board in place.

On the restrictive covenant copies, one of them is missing items 10, 11, and 12, and the second one is missing items 11 and 12.

Eygabroad passed out copies that had all the items included and Nielsen read the additional covenants.

Weber said if a single family home is built, there is a restriction on height of 25 feet. That means no one can have a two story home.

Tom Graves said the main reason was not to have anything taller that would block the view to the north.

Eygabroad asked if they wanted to go taller would they have to apply for a variance.

Kohlhaase said we would not enforce that. It would have to be in the restrictive covenants and enforced by the developers.

Graves said the main purpose is to have storage buildings there, and really discourage single family buildings.

Fairchild said this would come to the county when the covenants run out.

Graves said they have worded the covenants so they are perpetual.

Kohlhaase said covenants and restrictions could be changed in the future if agreed by all owners of the property. Any stipulations added to the rezoning by the Planning and Zoning Commission are perpetual.

Weber asked how close to a lot with the dwelling on it do they have to be to put up a storage building.

Kohlhaase said they must own a lot with a principal dwelling on it within 100 feet or less.

Weber said item 20 of the covenants says no outside toilets permitted, but you want them available during the construction phase.

Graves said they can change the wording on that.

Moser said there will be no access to the lake, but what prohibits someone from buying the lot, then selling to someone else and giving them the right to go across their property to get to the lake.

Kohlhaase said anyone can allow a friend to use their dock or even a storage building. Dickinson County has a keyholing provision where you have to have 100' minimum of lakeshore. Unless they write something up that is a legal binding agreement, we don't get involved.

Sue Downing asked if there will be a requirement to pave around the building.

Eygabroad said no, there will be a 40 feet gravel driveway.

Downing commented there would be gravel dust.

Graves said the covenants require that the lots be seeded and mowed.

Unknown speaker : If the lots are for accessory use, with the condos to the south, if one of the condo owners wanted to buy, would that be under the whole condo ownership?

Kohlhaase said each condo resident owns their own unit, so it would be the same.

There was a question about a tornado shelter.

Kohlhaase said zoning doesn't require a tornado shelter.

Unknown speaker representing Beaches condos said all responses have been positive.

John Harmelink said he has no problem with the plans except he has a concern with more expansion. They can't handle the sewage in that area now and if you put more load onto the system, it puts everyone behind it at risk. We put a water basin out there that is fine, but you are still going to have water on the front side of the buildings. This went before the Supervisors four years ago and there has been nothing done. It is not responsible to put more zoning in there to add more water to that site.

Eygabroad said what is in the ditch will stay in the ditch. They intend to grade and provide swales to the detention pond. This is designed to retain the pre-development flow.

More discussion followed on drainage issues and topography.

Graves said he checked after the last rain and there was no water in the ditch in front of lots 3 and 4. To the west, down on Lot 7, there was water.

Harmelink asked if the covenants require the roof to drain to the north.

Graves said no. There will be culverts for the driveways. They have talked with Dan Eckert and have a verbal agreement on the driveways.

Downing asked if a green space buffer is required between the condos and the storage buildings. This is not being met between the swimming pool and the condo building.

Kohlhaase said if this zoning had taken place and the resort was going to improve, they would have to put in a green belt buffer, but with the resort already being there and this taking place, they are not required to do anything.

Eygabroad said the sanitary sewer in general said they can serve the properties. They will make a decision on each individual building as it comes up.

Fairchild said a few storage buildings wouldn't add that much sewage to the system.

Downing asked the reason for leaving one of the lots agricultural.

Eygabroad said there is a house there now. It meets the setbacks for agricultural. It was the developer's decision.

Kohlhaase said if that house were torn down, a new one could be rebuilt.

Fairchild said he can see a potential to improve the drainage.

Eygabroad said it wouldn't be too difficult to have all lots drain to the north.

Fairchild said it would be an opportune time to shape the lots before they are sold. He asked if they plan to sell off one lot at a time and let each owner develop at their convenience.

Graves said yes. Pointing to the map, he explained the drainage plan to the north.

Kohlhaase asked who is going to police the drainage and will they have a building committee.

Kohlhaase asked what is the time frame for digging the retention pond.

Eygabroad said they plan for this fall after the crops are out.

Kohlhaase said they will have to post some bond to complete the preliminary plat; to have the improvements done. He explained the post development rate of runoff from the subdivision cannot exceed the pre-development rate of runoff for a 10 year, 24 hour storm.

Eygabroad said technically they will be releasing a little less than pre-development.

Weber asked if they were to treat the rezoning and plat as separate items.

Saunders said do the rezoning first. If that is not approved, the plat falls apart.

Third on the agenda was T and D Holdings LLC, Rezoning from A-1 Agricultural District to the R-3 Multi-family District, a Parcel in the NW ¼ Section 1, Lakeville Township.

Weber questioned how to add a restriction to the rezoning on uses to be allowed.

Kohlhaase said to clarify, they could change to this but the only allowed principal use would be single family dwelling and accessory uses that meets the definition in the zoning ordinance.

Weber asked about civic and commercial uses listed.

Kohlhaase asked the developers if they wanted the option of single family or accessory uses only.

Graves and Truckenmiller said they will change the covenants to exclude commercial and civic uses.

Kohlhaase said the commission could also make this a condition to zoning approval.

Weber moved to vote on the rezoning from A-1 Agricultural to R-3 Multi-family Residential with the restriction to allow only single family dwellings and accessory uses as allowed in the zoning ordinance. Moser seconded. All were in favor to recommend approval to the Board of Supervisors.

Roach was excused from the meeting before the vote was taken.

Discussion returned to the preliminary and final plat of T and D Holdings LLC Subdivision.

Sally Nielsen said she would like to see the detention pond constructed and have dirt placed at the front to slope the lots to the north before the lots are sold.

Kohlhaase said or it could be stated that when the lots are improved they should be graded and drained to the north.

Weber asked if they had any potential buyers. If they do grading ahead of time and someone wants to buy two lots, it would defeat the purpose and have to be redone.

Discussion followed on changes to the restrictive covenants.

Graves said in regard to the restriction of earth tone colors, the intention was to have no bright colors.

Weber said you would need to have a building committee to review the plans.

Graves said they will establish an architectural/building committee.

Weber said they should add no outside toilets except during construction and drainage from the gutters and downspouts to be directed north on all lots.

Graves said they will change to one set of covenants and on item 8, delete the wording "suggested."

Weber asked if they were okay with the 25 feet height restriction. What about storage of an RV?

Kohlhaase said the county would be more restrictive at 18 feet in height and 22 feet for RV storage.

Downing said regarding the 35 feet for single family homes, she understands the view is not a consideration for off lake lots.

The developers will scratch the 25 feet height restriction and will default to county zoning.

*Kohlhaase said make sure the only principal use allowed is single family dwelling or accessory structure or a combination of both.

*Kohlhaase said you could add a restriction that when a lot is sold and they are doing work on individual lots that their drainage plan meets your design and is approved by the building committee.

*Kohlhaase said the commission could add with the motion that “ the cities were notified on July 1st and have 30 days to reply. At the time of this meeting there were no comments.” Also regarding the time frame, the approval should be contingent on the construction being done within one year of the approval by the Board of Supervisors and how the developers will be financially responsible either with a performance bond or letter of credit. Letter provided by a certain date and funds are available. Usually it's one year.

Weber asked if the developers will be responsible for maintenance of the retention pond and liability issues.

Graves and Truckenmiller said yes.

Moser said looking to the future, maybe you should consider making the property owners of the lots responsible for some of the maintenance. Put this in the covenants.

Kohlhaase said usually at the time 50% of the lots are sold, owners of those lots are responsible for maintenance.

Weber said he should have said earlier that he is an adjoining property owner and neighbor to this property. He doesn't have any special interest, but does have some knowledge of what is going on.

Weber moved to vote on the preliminary plat with the following stipulations:

- 1) The cities of Okoboji and Spirit Lake were notified on July 1st and have 30 days to reply. At the time of this meeting there were no comments.
- 2) Improvements are to be made within one year of approval with a letter of credit or performance bond provided.

Fairchild seconded. All were in favor to recommend approval to the Board of Supervisors.

Moser moved to vote on the final plat. Fairchild seconded. All were in favor to recommend approval to the Board of Supervisors.

Saunders asked the developers to get revised covenants to him and Dave Kohlhaase before the Board of Supervisors meet so they can review.

Fourth on the agenda was review of the Subdivision Ordinance 103 and Zoning Ordinance 102.

Kohlhaase said the zoning office is really busy right now and asked the Planning and Zoning members if it would be okay to wait until fall to review the Subdivision Ordinance and Zoning Ordinance. The members were in agreement.

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

Fairchild moved to adjourn. Moser seconded. All were in favor. The meeting was adjourned at 2:50 p.m.