

DICKINSON COUNTY PLANNING AND ZONING COMMISSION  
Monday, October 18, 2010  
1:00 P.M.

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

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

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

First on the agenda were the minutes of September 20, 2010. Roach moved to accept the minutes as written. Weber seconded. All were in favor.

Second on the agenda was Kile Schwardt and Jerry Roskammer, continuation of a rezoning request from R-2 One and Two Family Residential to LI Light Industrial District in the SW ¼, Section 1, Okoboji Twp, with a recommendation to the Board of Supervisors.

Jen Wilkinson, office manager for Underground NRG, spoke for the applicants. She said there were some questions brought up at last month's meeting for which they have answers.

- 1) She read letters from Kile Schwardt and Jerry and Mary Jo Roskammer about why they were unable to personally attend the meeting.
- 2) Rumors that Star Energy might be moving and the residents could turn it into a park. Wilkinson contacted two persons at Star Energy and they wrote that they have no plans to sell or close.
- 3) Concerns of additional traffic. Wilkinson watched the traffic one afternoon between 3:30 and 4:00 p.m. going past the property. She counted 51 vehicles. Of those, 17 were trucks, 5 tractors, and 4 straight trucks. Their business has only 5 trucks.
- 4) Concern with welding too close to propane tanks. She has furnished the board with copies of their safety policy and welding policy. Included was a letter from the property across the highway, HTC Inc. They weld and torch on a daily basis and have done so for several decades and never had an issue. Wilkinson said Underground NRG works on live lines, that's what they do in their pipeline installation. If anyone knows safe welding, it would be their employees.
- 5) Questions on utilities. If they want to have city water, they have to annex into the City of Milford. If they want to stay county, they would have to put in a well. She contacted Milford Municipal Utilities. They said they may have a well. She received an e-mail from the City Administrator that if the annexation were successful, they would be rezoned to a district suitable for the use of their business.
- 6) Why hasn't that property sold as residential and a home built there? For one thing, being a corner lot requires greater setbacks.

In summary, Wilkinson said they want to put a business on a property that doesn't sell as residential.

Tony Weber said he commends Underground NRG for all the paperwork to clarify the concerns. In the packet was a copy of the Milford City Council minutes of 8/9/10 in which they already approved annexation and underground sewer agreement. An email dated 10/7/10 stated the intent of the city is to rezone the property to a district that is suitable to your planned use. His contention is to go to the city. They are all ready to annex and rezone.

Bib Walters asked wouldn't the City of Milford have had to announce they were going to discuss this?

Saunders said this would have had to be on the agenda at some time for them to act on it. The City of Milford has jurisdiction within 2 miles of its border. The city would have input as to whether it should be rezoned as well as the County Board of Supervisors, so this is not the final step.

Fairchild noted the city council minutes showed this was a unanimous decision.

Doug Fredericks, adjoining property owner, said he found out it takes 6 months to a year to annex and Underground wants to get building. That is why they are looking at the county. This would be taking a chunk out of residential zoning, and it is not a commercial use, it is industrial. If this company should leave, this would leave the property open to any industrial uses. The Syndergaard property is already zoned industrial and a larger building is already there. He feels they should look at a property already in place, vacant, all utilities are there and a building and office in place.

Wilkinson said they are a young company and can't afford that property. They wouldn't have gone through all this effort if they hadn't already researched other options.

There were questions on price of buildings and tax rates on commercial or industrial use versus residential.

Unknown speaker asked Wilkinson about their plans to make the property more friendly and keep up the maintenance on it. The property by the tanks is falling apart.

Wilkinson said they will have an office and warehouse there. She would be working there every day. They are planning landscaping and shrubbery around the chain link fence.

Dale Gehrels said a gravel yard doesn't fit in with the surrounding residential.

Jerry Carpenter asked if this was going to be a pole building with office annex.

Wilkinson showed a picture of what the proposed building would look like.

Bib Walters said he thinks the board should ask for a copy of the applicant's financials to know if they are financially able to go forward.

Lonnie Saunders, Assistant County Attorney, said every time there was a zoning change request, the board can't get into financials or specific drawings. This board's scope is limited. It is not the government's business to get into financials. It doesn't have any bearing on whether the land should be rezoned.

Fairchild said the building type would be part of the building permit process.

Gladys Walters asked the board members if they had visited their neighborhood and if they would want this business going in next to where they live.

Unknown speaker asked what the county stands to gain versus what the neighborhood stands to lose.

Saunders said it is not this board's responsibility to make any gain, but they have police power to allow a property owner to exercise their right to do what they can with their property. They want everyone to get along, and look at safety issues. They must look at property owner's rights versus somebody that already lives there. It is a delicate balance and not an easy decision.

Jerry Carpenter said there are 40 people on Airport Drive and Westview Drive that are totally against this.

Weber said that the properties where people are opposed are in the City of Milford, and this property is in the county.

Saunders said the City of Milford will have some input, but the final decision is from the Board of Supervisors.

There was discussion of the property being unsellable as residential. One resident said commercial use would be preferable. Once it is zoned Light Industrial, it would be open to lots of uses and there is already Light Industrial property available in town.

Saunders said the board hasn't been asked to zone this commercial, so stick to the application.

Weber said this application could go to the supervisors with no recommendation from the Planning and Zoning board.

Nielsen read new correspondence from:

Diane Warburton who was opposed to the rezoning.  
Lance Sovde and Steven Sovde who had no objection.

There being no further discussion, Weber moved to vote on the rezoning application. Moser seconded. All were in favor.

The vote was recorded as Chaffin, Weber, and Fairchild – recommend disapproval to the Board of Supervisors. Moser, Roach, and Nielsen – recommend approval to the Board of Supervisors.

Dave Kohlhaase said this goes as a recommendation of disapproval to the Board of Supervisors. There will be a public hearing and notification to the adjoining property owners.

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

Weber moved to adjourn. Chaffin seconded. The meeting was adjourned at 2:05 p.m.