

DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday, November 19, 2018

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday, November 19, 2018 at 1:00 P.M. in the community room of the Dickinson County Courthouse.

Members present were Tony Weber, Dalton Kidd, Jed Jensen, Jon Gunderson, Doris Welle, and Nancy Pfund. Absent was Carol Pierce.

Also present were David Kohlhaase, Dickinson County Zoning Administrator.

Tony Weber, Chairman called the meeting to order at 1:00 p.m. and read the opening statement

First item on the agenda was the approval of the minutes from October 15, 2018. Pfund motioned to approve, Welle seconded the motion. All were in favor.

Weber said the first order of business is a continuation from the October 15, 2018 meeting.

Second item on the agenda was Recommendation to the Board of Supervisors for an amendment to the Comprehensive Land Use Plan from Agricultural to Residential for Dale Schomaker on the following described land Part Parcel "K" being a part of the Northeast Quarter of the Northwest Quarter, Section 8 of Milford Township, Dickinson County. The request was read.

Kohlhaase gave a staff report. On October 15, 2018 agenda items 2, 3, 4, and 5 were continued until today, Monday November 19, 2018. They are a package of actions needed to accomplish what Mr. Schomaker is requesting. Each item will need to be acted on individually.

Parcel ID: 01108100018 aka "Parcel K" consists of 4.41 acres. This parcel is zoned A-1 Agricultural and the Comprehensive Land Use Plan shows the Future Land Use as Agricultural. The property is located directly south of Country View Acres, which is zoned R-2 1 & 2 Family Residential. The request it to rezone the property from A-1 to R-2. The existing land use is grass land, trees and one detached garage. It is in my opinion that his land is not prime agricultural land not needing protection from the encroachment of development. Its existing land use and location supports it not being agricultural. The plat as determined at the pre-application conference by the Planning and Zoning is simple allowing the preliminary and final plat to be reviewed at the same meeting.

The development plan is to extend the existing Country View Acres properties which abut this property making their rear yards larger. The ownership will only be the property owners whom abut or those with a principle structure within 100 feet or less away. The use will only be for accessory structures.

Kohlhaase read the developers statement provided by Dale Schomaker, the owner and developer. The intent of this as stated was the purpose to extend peoples yards that already exist in the current subdivision to the north. It is actually a barrier between the residential and the agricultural land. In addition to the future land use map shows the area as agricultural. If the Commission feels that agricultural is not applicable to this parcel, then an amendment to the future land use map is needed to change the area from agricultural to residential to match the needs of the planned development. The Commission will also look at the zoning change, preliminary plat, and final plat.

Dale Schomaker 23439 221st St. said he was requested to get legal papers drawn up for the covenants that they are going to follow. He had those signed and notarized this morning, he asked if the Commission has a copy.

Weber said yes we do.

Kohlhaase said for clarification, somethings have changed in reference to those. Abby Wallack Schomaker's attorney has been assisting him. Kohlhaase read the covenant restrictions. Number 1: All construction must be new and must be in compliance with Dickinson County Zoning Ordinance 102. Number 2: Except for the Developer, all owners of parcels of property located in the Plat of Kiki Prairie Subdivision must be an owner of Lots 7-12 located within Country View

Acres. One comment on number 2, where it says “except of the developer” even though Schomaker said he is not leaving or moving from his home located on lot number 8 in Country View Acres, but if he did move tomorrow, he would be an owner who lives somewhere else, and not an owner with a principal structure within 100’ feet. Which would lead to his parcel of land being land locked, and the Commission cannot approve a land locked parcel. It is not currently land locked because Schomaker has access through his own property. The suggestion would be to eliminate “except for the developer” so covenant restriction number 2 would read “All owners of parcels of property located in the Plat of Kiki Prairie Subdivisions must be an owner of Lots 7-12 located within Country View Acres.” Kohlhaase continued to read the rest of the covenant restrictions. Number 3: Accessory structures only. No Principal structures are allowed. Number 4: No buildings larger than 30 feet by 36 feet by 10 feet (30’ x 36’ x 10’) shall be placed upon the lot. Number 5: Appropriate rain gutters and downspouts shall be required on each building in this plat. Number 6: Neither public nor private sewer will be allowed to the lots in the Plat. Number 7: Utilities, other than sewer, can service the lots of the Plat, but it will be the responsibility of the individual lot owner, not the developer/proprietors. Those covenant restrictions spells out the intent of the proposed subdivision.

Kohlhaase said that a concern around covenant restrictions is if they are not renewed within a certain period of time, usually 21 years they will expire. It would be suggested by both my office and the County Attorney’s office that the covenant restrictions be attached as a condition if you look at approving the rezoning.

Kohlhaase said that in summary, the Commission is looking at an amendment to the Comprehensive Land Use Plan, Future Land Use Map, the rezoning, preliminary plat, and final plat. One thing that was discussed at the last meeting was the access to the new subdivision via the private roads. It was determined that those roads are already providing access to the owners of Country View Acres and they will be using access through their own properties to the new subdivision. The covenant restrictions of Country View Acres have expired, their association is not legal anymore. That is why if you look at the application favorably to make the covenant restrictions a condition of the rezoning change and the plat so they will stick to the plat forever.

Weber opened discussion up to the board.

Welle said there is an existing garage on the parcel, will it be grandfathered in?

Schomaker said that it was brand new when it was built, and it will be grandfathered in.

Weber said that the first thing we need to talk about is the amendment to the Comprehensive Land Use Plan to change the Future Land Use Map from Agricultural to Residential.

Weber opened the meeting to the public. There was none.

No Correspondence.

Weber asked if there any discussion from the board. There was none.

Kohlhaase said according to the comprehensive plan it is the responsibility of the Commission to protect prime agricultural land from encroachment of development, it is clear this is not prime agricultural land, it is basically buffer ground with trees and grass.

Gunderson moved they approve the comprehensive plan. Welle seconded the motion. Weber said there is a motion and a second to amend the comprehensive land use plan to take parcel “K” and change it from agricultural to residential.

Vote recorded as 6-0 approve. Weber, Pfund, Gunderson, Welle, Kidd, Jensen.

The recommendation has been made to the Board of Supervisors.

Third item on the agenda was Recommendation to the Board of Supervisors for a rezoning from A-1 Agricultural to R-2 1 & 2 Family Residential District for Dale Schomaker on the following described land Part Parcel “K” being a part of the Northeast Quarter of the Northwest Quarter, Section 8 of Milford Township, Dickinson County.

Kidd asked if the recommended conditions should be attached to just the preliminary and final plat, and not the rezoning.

Kohlhaase said that they could do it for the rezoning as well, because if the owner chooses to sell it completely to someone else, it's just an extra precaution. If you feel good about the conditions in general, he would suggest they attach it to both the rezoning and the final plat. He would also consider suggesting striking "except for the developer" in the second covenant restriction.

Kidd asked if Schomaker had any objections to the changes/conditions.

Schomkaer did not.

Kidd motioned to approve the rezoning, with the following conditions: Delete part of number two "Except for the Developer" and include the rest of the restrictive covenants. Welle seconded the motion.

Vote is recorded as 6-0 approve. Gunderson, Weber, Pfund, Welle, Jensen, Kidd.

Fourth item on the agenda was Recommendation to the Board of Supervisors for the Preliminary Plat for KiKi Prairie Subdivision.

Weber said that the covenant restrictions should be attached to this item as well.

Weber asked for any comment from the Public. There was none.

Kidd motioned to approve with the conditions set forth in the rezoning. Pfund seconded the motion.

Vote 6-0 approve. Pfund, Weber, Gunderson, Welle, Jensen, Kidd.

Fifth item on the agenda was the recommendation to the Board of Supervisors for the Final Plat for the Kiki Prairie Subdivision.

Pfund motioned to approve final plat with the same conditions. Welle seconded the motion.

Vote recorded as 6-0 approve. Jensen, Gunderson, Welle, Kidd, Weber, Pfund.

Sixth item on the agenda: Recommendation to the Board of Supervisors for a rezoning from A-1 Agricultural to GC General Commercial for Leo Parks Jr. on the following described property: N 10 AC of W ½ of NW EXC E 100' Section 28, Center Grove Township, Dickinson County. The request was read.

Kohlhaase read the staff report. Agenda items number 6 review and recommendation or not to the Board of Supervisors for a 7.52 acre parcel of land located in part of Section 28, Center Grove Township (south of Bridges Bay). The land is currently owned by Leo Parks Jr. and it is zoned A-1 Agricultural, and has an existing conditional use permit for Recreational Storage.

The request is to change the zoning from A-1 Agricultural to GC General Commercial. The purpose of the zoning change request is so Mr. Parks would be able to split off a part of this parcel to sell. The size of the lot presently is 7.52 acres, does not allow for a split due to the required bulk regulations of the A-1 Agricultural District. The General Commercial district allows for Recreations Storage as a permitted commercial principal use.

Dickinson County's Comprehensive Land Use Plan Future Land Use Map identifies this property as future commercial. The rezoning request is not in conflict with the Comprehensive Land Use Plan.

Kohlhaase read the developers statement from Leo Park Jr.

Kohlhaase continued when Mr. Parks wanted to use the property for Recreational Storage in the present A-1 Agricultural District, it is considered a conditional use requiring the Board of Adjustments approval, that was done in 2011. It was approved with the following stipulations: to clean, construct and maintain the waterway to keep the water on the north side of the fence line, trees to be planted on the north side in 2 rows, the conditional use permit is in effect a long as Leo Parks Jr. owns the property an uses it for recreational storage.

Weber asked Mr. Parks if he had any comments.

Parks said that Bridges Bay has requested the use of the property for boats and trailers, mostly in the summer. Parks said that he could lease the property to them, or sell them a portion of the property if the rezoning is approved. Parks indicated that he is already taxed commercial on the property, they want to buy a couple of acres and add a couple of entrances. Parks said that Dale Kilts is here and is the farmer who owns the farm to the south. Kilts reminded Parks that the area isn't draining perfectly, but that is something that can be easily taken care of. There were some people who were dumping things other than just fill, so they eliminated allowing anyone to dump. Parks said that they can fix the water way.

Weber asked if the board had any questions.

Weber said that if you have been out there, that site has had all kinds of things dumped over the years, that ground is substantially lower than where Parks' buildings sit.

Parks said that the people who owned the land before him, filled in all that land, then people started taking advantage of it, it is now locked up.

Weber opened the meeting to the public. There was none.

Weber asked if the restrictions that were put on the conditional use should be continued.

Kohlhaase said that it is entirely up to you. The Commission is looking at a zoning change, there needs to be agreement with the property owner, but yes you can put conditions on the recommendation should you choose to.

Welle said that they've all been out there and know that it cannot be used for agriculture, and since the comprehensive land use plan already shows this area as future commercial, she would like to make a motion to allow the rezoning with the conditions that the drainage and the stuff that was established previously is attached to the rezoning.

Kohlhaase asked the Commission to clarify the conditions with Parks.

Welle asked Parks if it was alright.

Parks said in the past it was just Morton buildings, and they planted a double row of trees so they cannot see the buildings, there will be no more buildings where those trees are.

Welle said as long as the drainage problems are taken care of, with this rezoning, the drainage conditions would continue on with the rezoning.

Parks said they can fix that.

Weber asked if the drainages goes to the west, and if there is a culvert underneath the road.

Parks said he would assume so.

Welle indicated on the map that there was one down the road.

Kohlhaase said when it says to "clean, constructed, and keep the water on the north side of the fence line, trees be planted in two rows along the road, 1 row of Dogwoods and 1 row of Green Ash, but you substituted Eastern Red Cedar because they would grow together better to create a wall like appearance. The third condition would not be applicable, because once the rezoning is changed the conditional use would no longer be needed because recreational storage is a permitted principal use in the General Commercial district.

Welle said her motion recommendation for approval for the rezoning the with the conditions that all the drainage problems are taken care of, since the rest of the stuff has already been taken care of, and the trees are not going anywhere. Kidd seconded the motion.

Vote is recorded as 5-0 approve, 1 Abstain. Weber, Pfund, Welle, Gunderson, Kidd Approve. Jensen Abstain.

Seventh on the agenda Recommendation to the Board of Supervisors for a rezoning from A-1 Agricultural to R-1 Suburban Residential for Robert Larson (owner) and Lee Steele (contract purchaser) on the following described property: Parcel "D", Lot D, Tusculum Beach, Center Grove Township, Dickinson County, Iowa. The request was read.

Kohlhaase gave a staff report. Agenda items number 6 review and recommendation or not to the Board of Supervisors for an 8.70 acre parcel of land located in parcel D, Lot D, Tusculum Beach, the address is 25439 165th St., Spirit Lake. The property is west of the Francis Sites area. The land is currently owned by Robert Larson. The land is zoned A-1 Agricultural land the request is to be rezoned to R-1 Suburban Residential. The zoning change would allow Mr. Larson to split off a part of the parcel to Mr. Steele for the purpose of constructing a new house on a separate lot. Due to the current agricultural district bulk regulations, the lot size does not allow for the split to occur.

Dickinson County's Comprehensive Land Use Plan Future Land Use Map identifies this property as residential. The rezoning request is not in conflict with the Comprehensive Land Use Plan.

Kohlhaase read the developers statement from Robert Larson and Lee Steele, owner and contract purchaser.

The future land use shows this areas as future residential. Also if a rezoning were to be approved, in terms of environmental health the house is on 4 acres and would be serviced by a private onsite sewer system with plenty of room. Water will be proved by rural water

Weber said that after looking at the property, it is grass and trees with residential use taking place on the property, it definitely falls within the range of the zoning change because of the comprehensive plan.

Kohlhaase said the applicants chose the R-1 Suburban Residential district because it is a transitional district from agricultural to residential. The parcel will be divided and two acreage sites will be created on the property.

Pfund motioned change the zoning from Agricultural to R-1 Suburban Residential. Gunderson seconded the motion.

Vote recorded as 6-0 approve. Weber, Gunderson, Welle, Pfund, Jensen, Kidd.

Eighth item on the agenda was Old, Unknown, or other business. Weber said that he sees there are a couple of members whose terms are set to expire this year. Sometimes it takes the Supervisors time to find people to fill the vacancies, which can throw the board out of compliance. So please be aware.

Kohlhaase said that it is correct, Pfund, Pierce, and Gunderson's terms expire on December 31. All three of the members whose terms are up reside in the unincorporated areas of Dickinson County. All new appointments to the Planning and Zoning Commission will need to reside in the County. Even existing board members need to fill out a new application. The deadline for applications is December 14, 2018.

Ninth on the agenda was Adjournment. Welle motioned to adjourn. Jensen second the motion. All in were in favor.

(For more information see P&Z 11 19 18)