

# DICKINSON COUNTY PLANNING AND ZONING COMMISSION

Monday April 19, 2021

1:00 P.M.

The Dickinson County Planning and Zoning Commission met Monday April 19, 2021 at 1:00 P.M. via zoom.

Members present were Tony Weber, Carol Pierce, James Blum, Curt Smith, Erica Schultes, and Jon Gunderson. Absent was Vickie Godfredsen

Also present was Lonnie Saunders, Dickinson County Assistant County Attorney, David Kohlhaase, Dickinson County Zoning Administrator, Megan Kardell Dickinson County Zoning Assistant.

Tony Weber-Chairman called the meeting to order at 1:00 p.m.

First item on the agenda was approval of the minutes from January 27, 2021

Pierce said on page 5 there is a word negation when it should be negotiations. Kardell will correct. Pierce motioned to approve the minutes. Smith seconded. All were in favor.

Second item on the agenda was a Pre Application Conference for David Lawrence in Crandall's Beach.

David Kohlhaase gave the staff report. In 1985 what is shown as Lot 2 was split off. Later in 2002 what is shown as lots 4, 5, 6, 7, were split off by Vern Keerbs whom violated the subdivision ordinance and created unbuildable lots. Then in 2020 what is shown as Lot 1 was split off to David Lawrence, whom wanted to build a garage on the newly split piece of property. Due to the nonconformance of the area, Mr. Lawrence is unable to build anything on that piece of property without going through the subdivision process. David Lawrence with the assistance of Patrick Mohning is attempting to do what's necessary to work backwards to bring the subdivision into compliance. This is a cleanup for the individual owners as well as the County.

David Lawrence introduced himself to the Commission, he is the homeowner of Lot 1 as presented on the screen. He is here to discuss the preliminary application for the subdivision for Crandall's beach. As Mr. Kohlhaase said, Lawrence was in the process of trying to use his lot for a garage and learned about the nonconformance of the subdivision. He would like to take this on and try to clean up the mess that was created and bring the area into conformance and eventually proceed with building a garage on his property. He is working with the current owner of Crandall's beach, Block D and Flemming Dr. The Keerbs family is willing to work with us to dedicate the roadway to the property owners as well as working on cleaning up the nonconforming subdivision. Lawrence's surveyor Pat Mohning is also present to answer any questions.

Weber asked if Outlot A is still owned by Crandall's beach.

Lawrence said yes. Crandall's Beach/Keerbs Family. Crandall's Beach is the LLC, they also own Flemming drive and the private drive through the development to the peninsula. As a home owner along the beach there needs to be some cleanup of this subdivision because currently the Keerbs Family, Ann Keerbs owns the road and maintains it. They do not have a maintenance agreement about how it is going to be taken care of in the future. There are access easements to the lots, but no general understanding or covenant about how that road will be maintained over the years, if she were to sell the property, or pass on. So that is one of the things she is willing to do is to dedicate the road as part of the subdivision so that we can clean up the mess that was created years ago.

Blum asked if lots 2-7 they are owned by other individuals.

Lawrence said yes.

Blum said if there are 6 or 7 different owners in there they all have to enter into the platting procedure. Are they all in agreement to do that?

Lawrence said that it is his hope and intent to have all of the owners participate, but he cannot guarantee it. We could have some non-participants, but he does not foresee that. Just because, it is a benefit for all the land owners to have some kind of written document for the subdivision so they know what is going to happen with the road. His plan is to have a neighborhood meeting if they are allowed to proceed with the subdivision. The most important part is the Keerbs family, which he has already met with them to talk about the plan and what he'd like to do. As said before she is willing to dedicate the road to the owners of the adjacent lots.

Blum said as we all know with property next to the lake there is some riparian ownership, everyone is going to have some areas below the ordinary high water mark and a flood hazard zone, several of these have portions of their lot in the flood hazard zone. If someone is going to build a garage on them, they will probably have to have some fill brought in.

Lawrence said he does not know the answer to that, possibly Pat Mohning might, he does know that due to the topography and shape of those lots as you proceed to the east, not all of them will be buildable. What they are anticipating is coming up with a set of covenants for the proposed road association through there. They will have a setback to the lake and as you proceed east there will probably be 3 buildable lots for a garage and further east maybe just a shed or nothing due to it being so narrow. He does not believe that every lot will be able to build a structure.

Weber said what we are looking for here is really a thumbs up or down so they can proceed with the clean up of the area. This is just a discussion as to whether they should proceed with the necessary paperwork and meeting with property owners about the proposed subdivision.

Saunders said understand whether or not the Commission gives the preliminary approval to move forward, there is no commitment to anything in the future. All the Commission is saying is proceed and bring back the preliminary plat when complete.

Kohlhaase said they've talked about the participation of the other owners of those lots. Since the beginning, there have been inquiries from those people about doing something more with their property only to find out they couldn't. Additionally this is the first time that someone has attempted to get the area cleaned up. That is a positive, but addressing Blum's question, what happens if there is someone who does not want to participate, is that something that could make or break a subdivision.

Saunders said it doesn't make or break a subdivision if someone does not want to participate. Subdivisions can be done in such a way that someone can be left out, if someone chooses not to do the subdivision, depending on how it is laid out. One can certainly proceed with a road sharing agreement without 100 percent participation. He hopes this is not the case. It makes sense for everyone to participate and it does make their property more valuable. He would hope someone would see the value in participating, but it is not a dead end if someone opts out.

Blum made a recommendation for them to proceed. Weber asked if the rest of the Commission members were in favor of moving forward. All were in favor.

Third on the agenda was Recommendation to the Board of Supervisors for an amendment to the Comprehensive Land Use Plan Future Land Use Map from Residential to Commercial.

Kohlhaase gave a staff report. The property as shown is currently zoned A-1 Agricultural. The future land use map identifies the area as residential. The requested zoning is GC General Commercial. The owners would like an area for general retail sales to display and sell portable buildings. Numbers 3 and 4 on your agenda relate.

Jim Lupkes co-owner of the OCW, LLC introduced himself to the Board. They would like to change one acre of their property from A-1 Agricultural to GC General Commercial. He understands when one hears the proposed zoning might change from Ag to General Commercial it raises a red flag. But what they would like to do here is clear the sod off of the one acre, put gravel down and display these portable buildings. There will be no digging, no electric, no water or sewer going into this project. Also if in the future, they sell this property, meaning the entire 60 acres, this acre will revert back to what it was zoned before. He does not want any issues with any of his neighbors, he is willing to work with them. The name of the people who own these buildings are Brady and Ray Eekhoff who own Eekhoff Motors in Webster City Iowa. This one

acre is for the display of the portable buildings that Brady's wife sells through their website. As stated before, this will be for the display of the buildings only.

Smith stated that the land is still in CRP, have you talked with the FSA.

Lupkes said yes, the FSA office said he could take the one acre out of CRP, you basically have to pay back everything that was paid out of it.

Smith said great. Thank you.

Blum said the land is going to be cleared and gravel put out there and have these mini storage units, how many roofs are you going to have out there? Just curious about how much runoff there will be.

Lupkes said the area is very flat, he could maintain something around there so there isn't any runoff.

Blum asked if that would be part of the permit.

Kohlhaase said it would be a better fit with the zoning change for the reason that they are not really constructing anything. So once the use permit is or would be issued we would lose control from the drainage part of it. The ideal thing would be to incorporate something into the zoning change if being looked at positively.

Blum said he understands there will be no construction taking place.

Lupkes said no.

Blum said that the runoff is a concern and there really should be an engineered drainage plan to control the runoff.

Lupkes said okay.

Weber said we can add conditions on this if we choose to, Lupkes stated that they were going to make it revert back to A-1 if the usage was no longer going to be used as presented. So that can be added as a condition if there is a zoning change. Another condition could require a drainage plan is engineered, because right now the drainage would enter into the ditches along the road and they are not very substantial. Even though this is taking a little chunk of ground and rezoning it, there are compatible uses across the street with the mini storage and maintenance building. The Cedar Ridge campground is up North of that area and is zoned agricultural which is commercial use, but that is allowed in an agricultural zone.

Smith asked Kohlhaase if there are temporary use permits available.

Kohlhaase said we do have conditional type uses but there is nothing in the commercial conditional use types of the agricultural district that would allow for what Lupkes is trying to do. He thinks what Lupkes is saying and from their discussions there was kind of a 50/50 opinion regarding the rezoning and if this fits that area. But to answer your question, no, so could he go to the Board of Adjustment for a conditional use permit, no. The closest zoning that fits what Lupkes is trying to do is general commercial. Another condition that could be considered would be that the use is specific to this plan, and if the uses ceases for a period of time, the zoning would retract to the agricultural district. But one thing Lupkes hasn't answered yet was how many units will be sitting on this acre and does there need to be any landscaping.

Weber asked if there was going to be a fence around the property for security reasons.

Lupkes said they've discussed what they would like to do there, but they could put a fence around there if there.

Kohlhaase asked how many units are going to be on the property.

Lupkes said probably 12 to 15.

Kardell read correspondence.

Weber opened the meeting up to public comment.

Doug Shimon 616 Blue Heron Rd. asked for clarification of the specific area requesting to be rezoned.

Weber said it is the little acre down in the corner.

Lorraine Groves 1212 Sunshine Run said her concern about this is once the zoning is changed and if it would get changed back if the use ceases. She is a part of the SALT patrol, a group of volunteers with the Dickinson County Sheriff's Office, and at the west end of that property is where the bike trail enters into the trails system that goes around Minnewashta. She doesn't want additional traffic in that area for safety reasons. There are a lot of people who walk in that area and the streets are not very wide. There is a curve at the other end by the pumping station and because she lives at Pelican Ridge she sees how much traffic is in that area. She would be concerned that if they change that one section, there would be more people who would want additional land changed.

Weber said there are two items they are discussing. The first one to consider is changing the comprehensive plan from residential to commercial before we discuss changing the zoning.

Weber asked if they should put the conditions on the comprehensive land use plan as well as the rezoning.

Kohlhaase said the commission can do what they would like to do. He would discuss the conditions with the applicant so when you vote to change the comprehensive plan and the zoning, we know exactly what the look and the agreement is. Remember if you put any stipulations on the agenda items it has to be agreed upon by the applicant. The things that you talked about were having the use be specific to what is being requested, time length, drainage, and landscaping. In his opinion the request is on the fence in relation to what is taking place in this area. If the use ceases and the zoning would go back to agricultural, the comprehensive land use plan, future land use map would also need to go back to residential. That is why if you take action, it should be each agenda item separately, but including all of the conditions in each one. Someday, with the plan showing residential, there is going to be something there, is it great to see birds and CRP land, but someday there will probably be something in that neighborhood.

Weber asked about the A-2 Environmentally Sensitive area.

Kohlhaase said that area is zoned A-2 Environmentally Sensitive, it is an area that was determined at the time of the zoning maps to be a sensitive area, it's a protected area. There are very limited uses that can take place in that area. If someone owns that and would like to put a house in that area, could they, no. If someone would like to have a farming operation there, yes they could. The campground could expand into that area, with the approval of the Board of Adjustment. It is critical area considered to be environmentally sensitive.

Weber said he assumes there are some wetlands in there.

Kohlhaase said wetlands, buffer areas, soils, slopes.

Weber asked how big is that area.

Kohlhaase said he cannot tell you exactly, but probably around 10 to 15 acres. Also, since it is public information, Oar's Campground will be in front of the Board of Adjustment next Monday requesting an increase of their spaces by 29 sites. This expansion does get close to the A-2 area, but is not in it.

Weber asked if Lupkes owns the rest of the ground, meaning the A-2 and agricultural ground.

Lupkes said yes.

Weber asked if Cedar Ridge goes all the way west to your property.

Lupkes said yes.

Kohlhaase said just a little background, 2-3 years ago Oar's Campground sold, Lupkes was a resident there, and there was a concern from the residents if they would be able to stay in the campground or not if it sold to someone else. It is Lupkes and his partner's ultimate goals since day one to maintain it, improve it, and expand it, to make it relate to the selling price they had to

pay. What is being proposed today is just another enhancement of that to compliment the folks in those areas whom may need a shed.

Schultes asked if where the proposed sheds are located will be manned.

Lupkes said no it will not be manned. There will be flyers inside the buildings.

Blum asked where the primary entrance would be, 240th or Rohr St. (195<sup>th</sup> St).

Lupkes said 240<sup>th</sup> St.

Weber asked if the Commission would like to discuss the specifics and some conditions they may want to consider. First would be the time limit if it does not function as a sales area for a temporary sale of buildings, would 6 months or a year be sufficient. What time limit do you think would be reasonable.

Smith said 5 years. Smith asked Lupkes what he thought.

Lupkes said after 6 months it could revert back.

Kohlhaase clarified and said if the operation would cease for a period of 6 months, then it would go back to the original zoning.

Schultes asked if the owners of the operation are leasing the land.

Lupkes said yes they are leasing the land.

Schultes clarified that Lupkes is going to put the work into the land, put in the gravel and then they would lease the land from you.

Lupkes said correct.

Blum asked why this couldn't be a conditional use, is it because of the current zoning.

Kohlhaase said the use is based upon definitions, there is not a definition in the agricultural district that fits what he would like to do. The definition that fits is general retail sales allowed in the GC General Commercial district.

Weber asked if it would be an option to change the definition.

Kohlhaase said it would be a process and procedure, it is basically a law change. The question would be, would the Commission want general retail sales to be an allowed use in the agricultural district. If you look at the definition of general retail sales, it opens the door up to many types of uses that not necessarily all fit in the agricultural area. Kohlhaase said if this gets looked at in a positive way, the Commission can put the conditions in place to keep the area controlled and neat as possible. Kohlhaase feels comfortable today that Lupkes is a good neat operator due to past interactions with him and his improvements to Oar's Campground.

Smith asked if this would be an infinite use as long as they do not cease the use for 6 months.

Kohlhaase said it could go on for 100 years as long as the use does not cease more than 6 months.

Smith asked who handles the delivery and pick up.

Lupkes said it would be Brady Eekhoff would do that.

Schultes asked if the ownership of the operation changed, could the use still take place.

Kohlhaase said unless the Commission stated differently, the use would just continue on.

Pierce said for clarification Lupkes is only leasing the property, not selling it to them.

Lupkes said that is correct.

Weber said if the area will no longer be used for the display of the portable buildings, the state of the land should be returned to its original condition by removing the gravel and planting grass or whatever was planted there before. It is extremely important for an engineer to do some drainage plans with as flat as that area is and everything from that property does go to the lake, it may

require a little holding pond area probably in the SW corner, he thinks that is a critical condition. Also some minimal landscaping especially along that south border. He is not talking about a huge hedge because you want people to be able to see the buildings.

Kohlhaase cautioned the commission for the vagueness of the landscaping due different interpretations, we've just learned overtime that you may want to get a little more specific. It's hard to enforce something if we don't know what you want them to do.

Pierce asked if there was going to be any kind of signage.

Lupkes said yes there will probably be something to reference the website.

Pierce said that is something else to take into consideration.

Weber said that there is a County sign ordinance that would have to be followed.

Mike Julius, General Manager at Pelican Ridge, said there are a handful of homeowners here that are concerned. Lupkes is a great neighbor, he is a friend, and will take good care of the property, but speaking for Pelican Ridge, if this would go over really well, this is the beginning of a slippery slope and could turn into more commercial. He appreciates Kohlhaase's remarks about making it site specific. The more commercial areas could change the landscape of the neighborhood.

Blum asked if there were any other locations on the land this could be placed.

Lupkes said the other option they looked at would be to the North, along the very South border of Cedar Ridge. It would not be real desirable to clear off and gravel that area because it is a wetland. They looked at this option on this corner mainly because there is already a driveway and it was probably the easiest to do what we wanted to do at this location.

Lorraine Groves stated the location is right on the corner, there is a lot of traffic on 240<sup>th</sup> and at this corner. Most do not go the speed limit, her concern would be the visibility of someone pulling out on to 240<sup>th</sup>, and if they can see past the buildings. If you cross that intersection, there is a city maintenance shed with recycling that also increases traffic.

Weber said one other thing they could consider would be a setback from the right of way, it would help with the visibility of road traffic. Since these are portable buildings, they will not be getting a permit for the shed. It would make some since so the buildings are not sitting right on the property line. He suggested 20 to 25 feet. Visibility going to the North is pretty good Cedar Ridge is substantially higher.

Kohlhaase said that if it were a residential area, this would be a corner lot, the setback would be anywhere from 25 to 40 feet. The agricultural district calls for 50' feet setbacks so there is a range from 25 to 50 feet. This would be measured from the net property line and not the center of the road.

Weber said on 240<sup>th</sup> there is 33' feet of Right of Way. He would think a 25' foot setback from the net property line would be sufficient. Due to the setbacks it would limit the number of units on the property.

Weber said we're looking at two issues, first is the comp plan from residential to commercial. If that is approved we would go ahead with the rezoning from agricultural to commercial.

Pierce motioned to vote including the following conditions. A 6 month maximum amount of time the use can cease before the zoning would revert back to agricultural, an engineered drainage plan, a 25' foot setback from the net property line for both buildings and signs, and specific to the portable buildings. Gunderson seconded the motion.

Schultes said on the surface this is one acre of land we are discussing, ideally she has some reservations about changing this area from agricultural to commercial, given Arnolds Park and Pelican Ridge's concerns, she would like to hear if the amendments that they are discussing is that something you are agreeable to, and does it mitigate some of your concerns.

Lorraine Groves said it helps mitigate some concerns if everything you are saying would be complied. She didn't hear about any fencing or landscaping.

Schultes asked Lupkes how he feels about the amendments.

Kohlhaase said that another thing for the commission to consider is if the balance of the land is sold, this area would go back to the agricultural zoning.

Lupkes said that this is just a place to display the buildings in this area. The other amendments that are placed on the application, he is fine with.

Verbal vote recorded as Schultes yay, Blum no, Gunderson yay, Pierce no, Smith no, Weber no.

4-2 Nay. The comprehensive land use plan future land use map is not changed.

Kohlhaase said due to the comprehensive land use plan and future land use map not being changed, it would be his recommendation to not go forward with the rezoning. If the rezoning is ever contested in a court of law, if you are not following your comprehensive plan, we are not okay.

Fourth item on the Agenda was Recommendation to the Board of Supervisors for a Rezoning from A-1 Agricultural to GC General Commercial for OCW, LLC c/o Jim Lupkes

Blum motioned to vote. Schultes seconded the motion. Gunderson approve, Blum, Weber, Schultes, Pierce, Smith deny.

Vote recorded as 5-1 deny.

Fifth item on the agenda was Recommendation to the Board of Supervisors for Preliminary Plat for Egralharve Club Subdivision

Kohlhaase gave the staff report. On January 27, 2021 Egralharve Club Subdivision owned by Minne-Do-Ka Springs presented to you their pre-application plan and study, at which time the Planning and Zoning Commission looked it in a positive way and gave permission to proceed with the planned development. Today you will be reviewing and acting on the preliminary and final plat. The property is zoned R-3 Multi-Family Residential and the future land use map of Dickinson County shows the property as residential. At this time I would like to introduce Ben Groen from Beck Engineering and Chad Bakker owner to give a presentation on their plats.

Ben Groen with Beck Engineering and Chad Bakker introduced themselves to the commission. The preliminary plat and final plat they have submitted will split this 10 and a half acre lot into 5 separate lots. Each lot will be single family residential. Based upon the residential covenants, the lots will not be allowed to be split in the future. They will be allowed to have one primary structure per lot. Lots 3-5 as shown on the plat will be accessed from 168<sup>th</sup> St. They have confirmation from the County that each of those driveways will be fine with them. Lots 1 and 2 will share an access easement, that would access North Inner Lane. That access will be through parcel H. Parcel H is planned to become a part of Lot 1 which is under the same ownership. Sanitary Sewer is planned to access the manhole on the northwest corner of the lot in the highway right of way. Sanitary utility easements are provided along lot lines so that each of the lots will have access to sanitary sewer. Water will also be pulled off of Highway 86 right of way, from Osceola Rural water, and will use the same access easements as sewer. Bakker has agreements in place with Black Hills Energy and Alliant to provide gas and electric to the subdivision. The southern lots will have access via 168<sup>th</sup> St. Lots 1 and 2 will be via N. Inner Lane.

Weber asked how the existing spring is going to be treated.

Bakker said if you go out there today water is not coming down onto North Inner Lane. They have already done quite a bit of work on that to mitigate it this spring. Rick Wagner who that spring effects the most was not able to be there today, but his yard is no longer as wet as it was. They've dug bore holes and they are not filling with water. They took a lot of the scrub trees out this winter to get rid of the noxious trees. They replanted all the prairie grass. They have a plan to put a rock basin that goes down to the property line with an intake that conforms to what Rick Wagner did on North Inner Lane. They would then take a solid 6 inch pipe with filters that would drop into the intake that he uses if needed. The water is not flowing right now down on to his property, its dispersing instead of running down one 4 foot section that just ran it right to Inner Lane. There is zero water flowing on to Lots 10, 9, 8, 51.

Blum asked how long has it been since it stopped flowing.

Bakker said the spring is flowing now, but because of the work they've done it has stopped flowing on to Wagner's property.

Blum asked when they did the work.

Bakker said they've worked on the property over the last couple months. They haven't straightened the creek bed yet, it's still winding. They are going to straighten it and put the rock beds in as well. It has dissipated the water across the land instead of condensing it.

Blum said that we are in a drought which may have something to do with the amount of flow. He also asked about downstream easements for that water if you do need to channel it someplace or do you have permission to use this tile.

Bakker said the Rick Wagner has given permission to install a drain tile if necessary across there to his intake. He paid a lot of money a year, year and a half ago to have an 8" inch intake taken from the lake up to that intake to help dissipate water. Bakker would agree that we are in a drought, but that water mark in that spring is the exact same level, one can see the high water mark on it and we're within a 1/2 an inch of that. So it is still actively extinguishing water it's just being spread and going into rock basins to hold it, instead of flowing down a narrow stream.

Weber said that it still flows down, it just maybe subsurface at the moment and can affect those property owners.

Bakker said that it is surface water and on top, they've done bore holes down along the edge to see how much water is not flowing across the ground versus going in the ground. Those bore holes are empty, there was only one 24" inch hole that had any water in it. They've just dissipated the water plus they've put in some rock basins to help hold water so that it is not flowing continuously all at once. He is not going to say if there is a major rain, there is not going to have water, but that will not be from the spring. That will be from the ground as it exists today, but this entire property now, the way it is graded, all funnels, not just the spring water, all the rain water funnels to lot 10. What they intend to do is spread that water across the land, instead of funneling it to one property. All the homeowners are very receptive to it. It's not funneling 10 acres into a 2' foot section which is essentially what happens right now.

Weber asked if there was anything existing on lot 10.

Bakker said no, it is open. Right now he just has fizzers going down it from the water lines. Wagner was up last weekend and was extremely satisfied with what is being done. Bakker lives in the neighborhood and the last thing he wants to do is to upset his neighbors. Tim Oitzman, his partner, owns lots 1 and 2, parcel H, and the house across the street on the lake. When they built the covenants for this area, they are the strictest covenants he has done in his career. It is stated in the covenants, the lots cannot be split, there is water management, and prairie grass management for all of the watersheds, and removal of invasive trees. They're using the prairie grass as a water filtration system, they've been pretty extensive on the things they are doing to mitigate the problem.

Blum asked if the intake they are talking about on lot 10 shown on the preliminary plat.

Bakker said it is not shown on the preliminary plat, it is right about where the E is on lane.

Blum said so the water does flow across lot 10 to the intake.

Bakker said right now, yes. What Wagner has asked is if they would put a 6" inch drain tile from the rock buffer that comes out into a V to retain water, under his ground and dump into the intake so there is virtually no water going across his ground. They sent cameras up all of the drain tiles that go into that intake, and there is not a single one that goes in any direction that are not blocked. There are six of them that go into there, and within 5' feet of going up those tiles, they are completely full of mud. He cannot even run a bore scope up there, some of them are clay tiles, and he feels a lot of the water problems in the area are due to the drain tiles being blocked. He dug one up about half way up in the water drainage easement below the spring, it is completely packed with clay, it is in operable.



Kohlhaase said in a general comment about the water, remember with the subdivision ordinance states they need to control water as a result of the development. What is interesting here, the water that is being discussed has always been there and flowed that way, and what they are trying to do is make it better. Instead of having it in a concentrated flow down to the lake, which the properties downstream have accepted because it has just been a way of life, they're trying to do more to make that area better.

Blum said if you are putting more water into the ground, you are elevating the ground water elevation/ground water table for everyone in the vicinity. Whenever there is a development like this, you need to control your runoff. The post development runoff does not exceed your predevelopment runoff. He does not see anything that has addressed that.

Kohlhaase said the predevelopment is basically there, the post development is exactly the same.

Blum said the predevelopment is what is out there, you cannot have an increase on a 10 year 24 hour storm. The ordinance also talks about the 100 year storm.

Groen said according to what they are showing this is subdividing the lot, installing the utility improvements, but not adding any impervious surface, and are not changing the runoff as it sits today. The runoff will be affected when homes are built on the lots. Part of building those homes will be going through the County's building process with a permit and each lot owner will need to account for their runoff on their property. So the intent of this is to subdivide the lot and the lot owners own responsibility as they build to address the runoff.

Blum said that it doesn't make a difference, the ordinance states the post development rate of runoff cannot exceed the predevelopment. You can't tell me you're putting all of them houses out there with paved driveways, you are not going to have some runoff, he believes there needs to be some retention in the low spot. He doesn't see that, there needs to be some temporary detention so you do not flood the people downstream. The North 13' feet above parcel G, who owns that.

Bakker said they do.

Blum said he does not see it in the legal description.

Bakker said it is in the legal description. Axel Johnston and Brad Beck wrote it. They talked about this originally in January. That parcel, the original 13' feet was included in the original plat, that even went down onto Scott's plat. When that was subdivided off for parcel G, and H that was still left with the original Auditor's plat.

Blum said so what you are saying is that it is a part of lot 53.

Bakker said yes.

Blum said that it is hard to interpret that on the plat.

Bakker said he is building his personal residences on lots 4 and 5. His gutters will all go into underground rock beds or sand. His intention is not to throw water downstream. Right now there is only one person that is taking all of the water downstream. What we're proposing when they create this, the water will be spread across the land and not just funneled to one area.

Blum said are you changing the water course

Bakker said no, as we grade this, when he puts his home on here, you're going to have water runoff from the property that won't necessarily hit just the spring. It is going to dissipate depending on the topography to other lots.

Blum said so you're going to put your roof drains into a LID area. The design standards for rain gardens is 1.25 inches, what happens when we get a 4 to 6 inch rain. We need a detention.

Bakker said if you put retention on this spring, you are going to have a pond in no time. That area is going to fill completely up from the water coming out of the spring. So how are we gaining anything.

Blum said it doesn't have to fill up, you can talk to your engineer and keep the pond level at nothing, but you need to have a berm behind there for the rapid runoff of the 100 year storm or the 10 year/24 hour storm is what you have to design for.

Bakker said that's what they're doing with the rock basin and then we've got the rock lip, and when you come up to the end and its larger riprap. He thinks its 55' feet wide, is what they've proposed putting in. That basin with a drain intake when it hits a certain level will take the water down to the intake on Inner Lane.

Blum said he does not see any of that on the plan.

Groen said they can revise the plan to show that.

Weber said there is 25' feet of fall from the high point to the low point on this plat. That is a lot of fall.

Bakker said there will be soil movement on the lots. The high spots are going to come out more. So there is not going to have a 25' foot drop.

Blum said in the dedication you are going to have private sewer, so the sanitary district is not going to have ownership of those lines.

Bakker said that is correct, it was their preference to connect to their manhole, put cleanouts every 100' feet and a cleanout at the end. They've had lengthy discussions with the sanitary district and that is how they would like it to be done.

Blum said his point is that it is going to be a private sewer, not public.

Kohlhaase said it will be a private public sewer. A private sewer is a septic system.

Blum said in the declaration there is a note here about proximity to streets. It reads "no dwelling or other structures will be closer than 25' feet", the R-3 district requires 35' feet, so that needs to be changed.

Bakker said another thing they have done and working with the DNR, this 13' feet plus the spring area was all trees and no ground cover, there was a little bit of grass near the existing spring, they are replanting with the assistance of the DNR, prairie grass across that 13' feet. So that whole shaded area will be prairie grass and all the weeds and trees will be maintained and will be burned off as necessary. In doing that they're stopping 95 percent of the water runoff now that is blowing dirt into the lake. By replanting that all in prairie grass it will be a natural water filtration system.

Kohlhaase said years ago the DNR would not let people cut a tree down, now they're cutting trees down to get sunlight down to the ground to grow these native plants.

Bakker said it was their opinion to plant prairie grass. They're taking a massive area out of his lots for the prairie grass. Their root system absorbs a good amount of water, the roots are extremely deep and holds the ground soil. They've had the DNR involved with the process, there is only 5 trees left, and everything else was ripped out if they were noxious and invasive.

Communications were read.

Kohlhaase said Wahpeton from what we understand is going to be looking into the preliminary plat. We do not know what their schedule of events is, but they have that right to do it. So whatever your action will be, you would need to make it contingent on Wahpeton being okay with the plan. Those were discussions with Don Hemphill the City Attorney and himself.

Blum asked if North Inner Lane was a private lane.

Groen said yes.

Blum asked if they needed to get permission to allow the 2 lots to access the road.

Bakker said that Tim Oitzman has the ability to access Inner Lane because he owns parcel H.

Blum said that he is increasing traffic.

Bakker said that Oitzman had the right with parcel H to put a home on it, Parcel H and G were the only 2 parcels in this area that were able to put a residence on them. To his knowledge he got support from people on Inner lane. When we purchased the property some people offered to throw money at the project, which they did not accept. There were other bidders who had different ideas for the use of the property.

Blum said so you have written permission to use the road.

Bakker said to his knowledge and interpretation they did not believe they needed permission due to Oitzman owning parcel H.

Blum said would it be an expansion of the use with the two additional lots.

Groen said technically it is one additional lot, because they are combining lot 1 and parcel H. So lot 2 will be the only additional lot to access Inner Lane via an access easement.

Blum said so doubling is okay.

Kohlhaase said the addition will be lot two. In reference to the association of Egralharve and the controlling factor of Inner Lane, is the additional lot access permissible with that group of folks.

Bakker said he did not believe there was a road association, but he could be wrong, Bakker lives on South Inner Lane and they do not have an association.

Blum said as a board we want to make sure they're not granting permission for something and get the applicant in trouble.

Bakker said he understands that.

Weber said he would think having something in writing from the road association would be important since you are adding an additional lot.

Kohlhaase said does an association that even exist.

Bakker asked the people in attendance if there is a board and association.

Public responded yes.

Weber opened the meeting up to the public.

Mark Sullivan 16712 N. Inner Lane he is one of the people who offered to throw some money to purchase this property. There are a number of springs along that area, property owners have spent 10's of thousands of dollars trying to mitigate the water from pouring into their basements. When they built their home they built a culvert to drain to the lake when the large rains happen. In the fall after talking with Oitzman, he said that he and Bakker were going to split the property. He does appreciate that Bakker is putting single family residences on the lots and not condos, but at no time was there talk about 5 lots, grading, or the water issues that we're hearing about today. The thing they are worried about is keyholing. They want to keep people from coming through and procuring a lakeside lot and putting a bunch of hoists on it. They understand that it isn't doable unless someone has 100' contiguous feet of lakeshore. Inner Lane is a private lane and it has an association. The association is registered with the state of Iowa, they do have an annual meeting, and all pay an assessment into it of about \$400.00 to maintain the road. There is an elected board, to his knowledge they have not been approached regarding the use of the road.

Weber asked if there are written by laws for the road association.

Sullivan said yes.

Weber said I would think having those documents would be prudent for the developer going forward.

Blum asked if there is a history of drainage issues on the lake side of Inner Lane.

Sullivan said yes.

Blum ask specifically if the drainage issues are specific to rain fall events.

Sullivan said no. They do have issues with both rain fall and springs in the area.

Blum said his concern is the rainfall runoff.

Bernadette Christie 16580 N. Inner Lane., their property sees a lot of traffic coming off the highway, they are worried about extra homes on Inner Lane because of the traffic in the summertime. They have no police to watch the speed, they have put a 10 mph limit because the road is very narrow and they have many children on the lane.

Weber closed the public meeting.

Weber said to the Commission for the pre application process you were accessing Lot 1 and 2 from 168<sup>th</sup> with an access along the west side of Lot 3, why did that change.

Bakker said that Oitzman owns parcel H and instead of coming down 168<sup>th</sup>, he would like to access off of his parcel from Inner lane.

Weber asked Bakker since he owns Lots 4 and 5, why is that not all one parcel.

Bakker said he is going to have his principal home on Lot 5 and an axillary home on Lot 4.

Blum asked if Highway 86 is a controlled access.

Bakker said it has stop signs.

Blum asked if they can get more entrance permits onto Highway 86.

Groen said they would have to request access permits from the DOT, they did not pursue this because of the access off 168<sup>th</sup> and Inner Lane, also this is the safer option.

Blum said in the January meeting you said Lots 1 & 2 were going to access off Highway 86.

Weber said that is incorrect they were going to access Lots 1 and 2 via 168<sup>th</sup> with an access easement going to the north.

Bakker said Oitzman has been talking with people on Inner Lane, he has talked with Rick Wagner, Brosnahan, and the person who bought Lot 7.

Blum said the area directly North in Van Steenburg Estates put in a frontage road, why has that not been done here.

Groen said they did consider that but were concerned about where that would come on out 168<sup>th</sup>, you are very close to that intersection of the Highway.

Blum said there is an intersection on the Highway. If you do not get permission from Inner Lane you will need some sort of access.

Weber said there are a number of issues that have not been addressed. First is the permission from North Inner Lane association. Second they would like an engineered plat for drainage, they have nothing here besides what you are telling us. Since this is sort of different from what we agreed to at the January meeting, they may need to table this for the time being because he is not sure if they have the answers that they need to move forward.

Blum said he agrees, your engineer needs to look at what provisions are going to be made for detention of a 24 hour 10-year storm. As soon as you have buildings on there, you've got an increase. You also need to look at downstream provisions for the 100 year storm, they are hearing there is downstream flooding when it rains.

Blum motioned to continue any action until there are access agreements on Inner Lane and then the storm water detention be addresses and if you cannot get an agreement with Inner Lane you're going to have to redesign the frontage road.

Kohlhaase said if they cannot get the agreement from Inner Lane, they will need to come up with another option to get access to those lots.

Bakker said only Lot 2

Blum said Lots 1 and 2, parcel H is a lot smaller than lot 1

Bakker said there is a residence available on Lot one, how is that any different than parcel H.

Weber said that parcel H is not a buildable lot.

Bakker said yes it is, it is only 1 of 2 left on that street, Parcel G and Parcel H.

Blum said that is a good legal question whether they can expand the use.

Pierce asked if that would that be 2 different associations.

Bakker said he cannot answer if parcel H is in that association or not. There are some lots in that location that are located in an ambiguous area.

Weber said the only thing that could be built on parcel H would be a garage.

Bakker said no, it has a buildable with of 45' to 50' feet, they could put a single family home on there and meet the setbacks.

Bakker said technically the NE corner could be a driveway.

Blum said the 13' foot strip. You would need to get that approved by the Inner Lane people.

Weber said we have a motion for a continuance on the table.

Schultes seconded the motion. All in favor.

Sixth item on the agenda was Recommendation to the Board of Supervisors for Final Plat of Egralharve Club Subdivision.

Blum motioned to continue. Schultes seconded the motion All were in favor.

Additional discussion regarding drainage and grading.

Seventh item on the agenda was Discussion/Action Recommendation to the Board of Supervisors for an Amendment(s) to the Dickinson County Zoning Ordinance No. 102: Article #20 Sign Regulations, Section 4, Sign Requirements for Permitted Signs, Add Letter F: A parcel less than 40 acres may have one (1) sign less than 45 square feet parcels 40 acres or more may have two (2) signs less than 45 square feet.

Weber asked if there have been some issues with this.

Kohlhaase said in January the P&Z recommended to the Board of Supervisors one sign per parcel. There were some board members who had issues with the recommendation. The new proposal is the compromise, our ultimate goal is to not allow sign after sign after sign. So this way if a parcel is less than 40 acres they may have 1 sign, if it is greater than 40 acres or more they can have 2.

Blum asked if what we have the language the Supervisors are looking for.

Kohlhaase said the Supervisors came back and asked for that language. They wanted to make sure the Commission was okay with it.

Blum said if someone has 50 acres out there and they may only have 500' feet of frontage on the road. He wondered if there should be some spacing requirements.

Kohlhaase said that is up to the Commission, remember we have a 3' foot setback from the lot line. 40 acres or more which is a quarter of a mile for 2 signs.

Schultes said she has 2 - 40 acre parcels, but the net is 36 acres.

Kohlhaase said you would be allowed to have one sign on each of the parcels. Where we get that information is from the Assessor's office from Beacon. A lot of those 40 acre parcels are 35 acres, we always use the net area, not the gross area. Most parcels are divided by ¼ ¼'s

Schultes said when they purchased their land, they asked why they had to have two parcels since they own it all, and the answer she received was that is how we do it in Dickinson County.

Pierce said just for clarity after "sign less than 45 square feet" there needs to be a comma or the word and for the sentence to flow. We're making one statement and then we're making a second statement.

Weber said a comma is fine.

Pierce motioned to make the recommendation. Smith seconded the motion All in favor.

Eighth item on the agenda was Old, Unknown, or Other Business. There was none.

Ninth item on the agenda was Adjournment. Smith motioned to adjourn. Blum seconded the motion. All were in favor.

(For more information see recording 04 19 21)