

Minutes - Woodbury County Zoning Commission Meeting January 28, 2008

The meeting convened on the 28th of January, 2008 at 6:10 PM in the Board of Supervisor's meeting room on the first floor of the Court House, Downtown, Sioux City, Iowa. Present were the following Commission members – Grady Marx, Dwight Rorholm, Arvin Nelson and David McWilliams; excused absence Christine Zellmer Zant. Zoning Staff Present: Mr. John Pylelo Director of Planning and Zoning for Woodbury County and Peggy Napier. Others present from the public were David Linn, Robert Knaack, Vernen & Karla Knaack, Layne & Jeana Todd, Richard Madsen, Bruce & Anita Gitlin, Micoh & Sarah Gitlin, Andy Kleespies, Peter & Rosanne Van Etten, Larry Burnham, Richard Storm, Bill Dotzler, Roger & Rosemary Heath.

The first agenda item was election of 2008 Chairperson and Vice-Chairperson.

Mr. Rorholm made a motion to table the election of Officers until all members of the Commission were present; Mr. McWilliams seconded the motion. Motion carried 3-0.

The second agenda item was election of SIMPCO Representative for 2008.

Mr. McWilliams made a motion to table election of SIMPCO Representative for 2008 until all members of the Commission were present; Mr. Rorholm seconded the motion; motion carried 3-0.

Mr. Rorholm made a motion Mr. Marx facilitate the meeting until new officers are elected. Mr. McWilliams seconded the motion; motion carried 3-0.

The third agenda item was approval of January 15, 2008 Commission Minutes.

Discussion:

Chairman Marx asked if the second question on page two (2) had actually been resolved. Mr. Pylelo and Mr. Rorholm recalled a decision to discuss it further at a future meeting when Consultant Simpson was present.

Mr. McWilliams made a motion to recommend approval of the minutes subject to said change. Motion was seconded by Mr. Rorholm; motion carried 3-0.

The fourth agenda item was the Consideration of Final Platting for Wingert Addition subdivision and Recommendation to Board of Supervisors.

At your Commission's meeting of November 26, 2007 the public hearing was held and the Commission voted to recommend approval of the preliminary platting condition upon:

1. *Clearly identify Lot 1 and Lot 2 on final plat*
2. *Identify on final plat cesspool serving address 1919 (or Lot 2)*
3. *Identify on final plat how water line connects to 1919 address*
4. *Waive the contours for Lot 2 which are the 115 plus or minus acres of land*
5. *At the completion of construction the trailer be removed in its entirety*
6. *An easement be prepared and recorded for each lot involved for a common well*
7. *An easement be prepared and recorded for both lots for probable use of existing septic field that serves house address 1917; the use of the septic field being subject to evaluation by Siouxland District Health and DNR (Department of Natural Resources) regulations*
8. *A Paving Agreement be executed and recorded for Wingert Subdivision*
9. *Driveway that is now associated with house address 1919 and currently serves house address 1917 be destroyed upon completion of the new driveway proposed for Lot 1*
10. *Driveway connecting the two lots be removed; the potential for it becoming circular drive will not be approved by County Engineer*
11. *Driveway is graded according to County Engineer's directive/*

In reviewing the certification page that is attached to the final plat you'll note that the consent signed by the mortgagor Pinnacle Bank is omitted. It has been prepared; it is in the file and will be recorded as an attachment to the final plat.

This office has reviewed the final platting along with the easement and paving documents prepared and made available by the applicant's legal council. All the above conditions are resolved except for conditions 5, 9, 10 & 11. These four conditions will be included and monitored within the building permit approval and construction monitoring process administered by the Office of Planning and Zoning.

Special Note: We want to refer you to the fact the District Health Department has investigated and analyzed well and septic systems within this subdivision and it signed off approving

current and proposed use of those systems. We've received no additional comments other than the above mentioned from agencies since your November 26, 2007 meeting.

Your Commission is asked to consider the Final Platting for the Wingert Addition subdivision with recommendation to the Board of supervisors. Each unmet condition (5, 9, 10 & 11) should be included as a condition within any approval recommendation.

Mr. Rorholm made a motion to approve the Wingert Final Plat subject to conditions 5, 9, 10, & 11 being met and the recording of the certification from Pinnacle Bank being attached.

Chairman Marx asked if the driveway connecting the two (2) lots could be left in for the convenience of the Wingert grandchildren. County Engineer Richard Storm stated it was a matter of county policy no circular drives be created; this drive had the potential to create a circular drive. Mr. Rorholm stated since the preliminary plat was approved with the drive eliminated, it should be left as it was approved.

Mr. Nelson seconded the motion; motion carried 3-0.

The fifth agenda item was the Consideration of Preliminary Platting for Deer Meadow Estates Addition subdivision and Recommendation to Board of Supervisors.

The Woodbury county Office of Planning and Zoning has received a subdivision application from property owner R & J Van Beek, L.L.C. The stated intent is to subdivide the existing three parcels into 20 lot single family residential development. There are currently no structures on any of the three parcels.

The parcels are located in part of the NE ¼ Section 28 Union Township abutting the north and east sides of Michigan Avenue which is a County maintained, graveled roadway. The subdivision's location lies approximately 1.25 miles northwest of the Correctionville and may require approval by the Correctionville Town Council.

The parcels are zoned AG (Agricultural), the current and intended uses are permitted and no portion of the subdivision lies within any floodplain. The average crop suitability rating for the parcel is 43.0. Access for driveway purposes would be provided by two separate driveway locations off Michigan Avenue with the lots serviced by a proposed private interior roadway. The County's paving policies would apply requiring a paving agreement related to Michigan Avenue be recorded as a condition for subdivision approval. County subdivision ordinances further require the interior roadway be built according to the standards and specifications of the county Engineer.

The 11 property owners within 1000' have been notified of the required public hearing. Notices were also sent to each of the following Agencies or Institutions with responses noted.

County Engineer: *I have struggled with the issue of paving the section of Michigan Avenue and 150th Street from Deer Meadow Estates Subdivision to County Route L-*

36. *It is my opinion that with the current traffic volume on these roads and then assuming an increase in traffic due to the subdivision would still not result in a traffic volume that would justify paving.*

We recently completed paving of Derocher Path as a Secondary Road Assessment District. According to the Iowa Code, residents are required to pay 50% or more of the cost of the proposed improvement. The average cost per resident for the project was \$5,200. If the Zoning Commission and Supervisors want a paving agreement of some type, I would recommend that if that section of road were to be paved, each of the residents of Deer Meadow would be required to make a contribution of \$6,000 to the cost of the improvement. This payment would be made to Secondary Roads and might be able to be included with their property taxes and paid over a period of time. At that rate, the residents would be paying approximately 1/3 of the cost of paving of approximately one mile from the subdivision to L-36. It may be advisable to include an annual; inflation price adjustment factor in the agreement.

I was visiting with Bill Dotzler as I was writing this and ran it by him. I indicated that he and Mr. Van Beek could also provide another alternative for consideration.

Let me know if you have any questions.

Richard J. Storm

DNR: No Response Received

Long Lines: No Response Received

Woodbury County REC: No Response Received

Siouxland District Health Department: (E-mail from Ron Brandt) *After reviewing the soils map and looking at the proposed site I cannot see any problems with putting septic systems in the Deer Meadow Estates area.*

County Assessor: No Response Received

Emergency Services: No Response Received

Real Estate Department: No Response Received

Board of Supervisors: No Response Received

Western Iowa Telephone: No Response Received

Woodbury County Soil and Water Conservation District: No Response Received

Iowa Department of Transportation: No Response Received

Iowa State Highway Commission: No Response Received

First Federal Bank n/k/a Vantus Bank: No Response Received

The Board of Supervisors at their meeting of January 8, 2008 considered preliminary platting and forwards to your Commission for public hearing and recommendation.

Comments from public present:

Robert Knaack: Lives across the road, south and west from proposed development.

- He applies herbicide and cannot afford insurance for possible damage to those living in the development. This means he would have to hire professionals who would have insurance to do the weed control he had done.
- Concerned about the amount of water the subdivision will use and depletion of the water table he and other neighbors now use. Wells are shallow and have been depleted before.
- Mr. Knaack uses manure on his fields and anticipates conflict from proposed subdivision because of the odor. Knaack wanted to be assured they couldn't make him stop spreading manure.
- Concerned with dust control on road from increased traffic.
- Wildlife will be pushed from the area of the development and forced onto his and his neighbor's land causing damage to crops and fences.
- Doesn't like to see Agricultural land being used for housing developments when there are inexpensive homes available in town.

David Lynn: Lives above northern border of proposed development.

- Concerned about grading and water runoff, erosion and sloughing from his property into development lots.

Mr. Nelson and Mr. Rorholm assured him the DNR (Department of Natural Resources) would ensure proper runoff facilities.

Mr. Lynn asked who would be liable if something happened in the future.

Mr. Bill Dotzler said the Home Owner's Association formed for this subdivision would be responsible. He also said at this point they planned for each owner to have an individual well.

Mr. Rorholm said the grading wouldn't necessarily be extensive. It was possible they may grade only enough land to set a house on and the rest would be left natural.

Mr. Dotzler said the DNR would be overseeing everything and will determine what is proper and acceptable.

Mr. Lynn was concerned there may be too much traffic on Michigan Ave. for a safe entrance where planned into the subdivision.

Mr. Nelson said County Engineer Dick Storm discussed either re-routing entrance to a location that was less steep or grading the proposed entrance to a more acceptable grade.

Mr. Lynn was also concerned that the roads and distance from town would not accommodate emergency services.

Mr. Dotzler commented the previous Mayor of Correctionville thought the Deer Meadows Subdivision would be a win-win advantage for the community. Dotzler didn't have a comment from the new mayor.

Mr. Pylelo said 911 services at Climbing Hill hadn't commented for the hearing. Pylelo said he would ask for a comment from them.

Mr. Lynn asked about having hard surfaced internal roads in the development.

Mr. Pylelo said that would be discussed later in the evening.

Mr. Lynn was also concerned about using chemicals in his fields.

Micoh Gitland: Lives south east of proposed subdivision.

- How can you spray (chemicals) and leave the land natural at the same time.

Mr. Pylelo asked Mr. Dotzler if Van Beek would consider a conservation easement.

Mr. Dotzler thought Van Beek might be open to that idea.

Mr. Gitland wants the neighborhood to stay "rural", and not begin to look and feel "urban."

Andy Kleespies: Works for Secondary Road, is familiar with work on these roads, and is also volunteer emergency service person.

- Doesn't believe roads can handle the kind of traffic that would come from a subdivision this size. They currently grade them in rainy weather but it becomes rutted again quickly.
- He agrees with above assessment of availability of emergency services based in his own experience as an emergency service volunteer.
- He is also concerned about water contamination from the subdivision.

Vernon Knaack: Owns land with his father south west of proposed development.

- Concerned about potential trespassers on the backside of his land. People ride through his hay field – vandals destroy property and dump trash.
- A development will push more deer onto his property and cause damage to fences and crops.
- Development would be a waste of farm land.

Layne Todd: Lives east of subdivision next to property line.

- Has issues with grading
- Needs fencing to keep cattle out of land. Who will pay?
- Thistles from Van Beek's land blows over onto his land. Many neighbors have same problem. If subdivision is encouraged to stay as natural as possible, who will be responsible for eradication of thistles? Spraying only partially helps.

Mr. Nelson and Mr. Rorholm suggested the County Weed Commissioner will address issue.

Chairman Marx asked who will own proposed lake; Mr. Van Beek or Homeowner's Association?

Mr. Dotzler didn't know.

Mr. Pylelo said historically the Homeowner's Association assessed a fee to manage these things.

Anita Gitlin asked is the Homeowner's Association didn't happen, who would be liable.

Mr. Rorholm said the lot owners pay the fees and Mr. Van Beek pays the balance of the fees for the unsold lots.

Chairman Marx commented Mr. Van Beek will want to keep the lots in saleable condition.

Mr. Todd asked if those living in the proposed development could force him to stop farming based on odors from his farm. *(He was assured by the commission this could not happen)*

Mr. Gitlin asked at what point does the land cease to be AG (Agricultural) land. (Developments) seem to defeat the purpose of having AG land.

Mr. Pylelo said the Zoning Commission acts in the function of making recommendations to the Board of Supervisors.

Mr. Kleespies asked if the proposed development could raise the taxes on their AG land.

Mr. Pylelo said it depends on who is looking at the land and how the land is being used.

Bruce Gitlin said he had a strong belief in property rights. If the land is bought knowing it is AG land, what is the purpose of zoning if someone moves nearby and changes the use of the use of the land.

Mr. Nelson explained the zoning stays the same. The subdivision will still be AG.

County Engineer Dick Storm reviewed the comments he made (attached).

Mr. Micoh Gitlin asked who pays for upkeep of Michigan Avenue. Mr. Storm said the taxpayers paid for the upkeep.

Discussion:

Mr. Rorholm said he wants to see a grading plan for the entire subdivision on the final plat for each individual lot and outlot. He also said the lot has to fit the contour of the road.

Mr. Pylelo said some lots are suitable now for walkout basements.

Mr. Rorholm said the developer needs to control the outcome and show how the lots will be built. He added there should be no unnecessary grading.

Mr. Nelson said the final plat also needs to show the entrances for each lot.

Mr. Pylelo said this should be a condition to the final plat. Pylelo also suggested the development was not desirable without a Homeowner's Association and suggested the Association have covenants. This needs to happen before the final plat goes to the Board of Supervisors. Pylelo asked exactly what would the Homeowner's Association be responsible for.

Mr. Dotzler said the covenants, based on what was discussed, would be spelled out with the Homeowner's Association. One would be the Paving Agreement.

Mr. Pylelo said he would get Dotzler a Homeowner's Association template with an "Easement for roadway purposes." Pylelo explained the developer needed to understand the internal road would never be a public road and would never be maintained by the county.

Mr. Rorholm noticed the preliminary plat showed no well placements. Mr. Pylelo explained the only condition that can be placed is for each lot to have a permit from the Department of Health. Rural water from Cherokee may be a possibility.

Mr. McWilliams said the commission needed to make dealing with the fence issue a condition for approval.

Chairman Marx said a conservation easement had benefits for the developer as well as their rural neighbors. It would make it possible to leave as much land as possible natural.

Mr. Rorholm made a motion to approve Deer Meadow Estates subject to the following conditions:

- 1. The final plat show grading plan for the entire subdivision and for each individual lot and outlot.*
- 2. The lot has to fit the contour of the road.*
- 3. The developer needs to show how the lots will be built with no unnecessary grading.*
- 4. The final plat needs to show the entrances for each lot.*
- 5. Internal road, drainage and entrances meet County Engineer's standards.*
- 6. Homeowner's Association be formed including covenants.*
- 7. Each lot have a permit from the Department of Health.*
- 8. A statement defining who is responsible for fencing next to farm lands.*

Mr. McWilliams seconded the motion; motion carried 3-0.

The next agenda item was a Public Hearing and Consideration of preliminary platting for Lost Acres Addition subdivision – Portions of GIS Parcels # 8644 28 100 004 and # 8644 21 300 005.

The Woodbury County Office of Planning and Zoning has received a subdivision application from property owners Peter E. and Rosanne Van Etten. The Van Etten's stated intent is to subdivide a portion of the existing parcel into a single lot for potential single family residential development and retain the remainder of the parcel where they reside.

The parcel is located in part of the SW 14 of the SW ¼ of Section 21 and part of the NW ¼ of the NW ¼ of Section 28 Little Sioux Township partially abutting the east side of Jewell Avenue which is a County maintained, graveled roadway. The subdivision's location lies approximate ½ mile north of the intersection of Jewell Avenue and Old Hwy 141. The location lies slightly more than two (2) miles from the Smithland corporate limits and will not require subdivision approval by their Town Council.

The parcels are zoned AG (Agricultural), the current and intended uses are permitted and no portion of the subdivision lies within any floodplain. The average crop suitability rating for the parcel is 42.0. There are no improvements on the 20.17 acres within proposed Lot 1. Access for driveway purposes would be provided by existing 20' by 169' easement through parcel GIS

8644 21 300 004 to the west owned by Robert W. and Louis L. Morrison. The County's paving policies would apply requiring a recorded paving agreement as a condition for subdivision approval but, in this case, the applicant does not own frontage abutting the Jewell Avenue right of way.

The 11 property owners within 1000' have been notified of the required public hearing. Notices were also sent to each of the following Agencies or institutions with responses noted.

County Engineer: Woodbury County Secondary Roads Department has reviewed the preliminary plat submitted by your January 2, 2008 memo. The existing easement (entrance) for the proposed lot is satisfactory. We have determined that there are no impacts to Secondary Roads with this proposed subdivision.

If you have any other questions or problems, please let me know.

Richard J. Storm

DNR: NPDES permit #2 letter was received and forwarded to the developer.

Long Lines: No Response Received

Woodbury County REC: No Response Received

Siouxland District Health Department: No Response Received

County Assessor: No Response Received

Emergency Services: No Response Received

Real Estate Department: No Response Received

Board of Supervisors: No Response Received

Western Iowa Telephone: No Response Received

Woodbury County Soil and Water Conservation District: No Response Received

Iowa Department of Transportation: No Response Received

Iowa State Highway Commission: No Response Received

First Federal Bank n/k/a Vantus Bank: No Response Received

The Board of Supervisors at their meeting of January 8, 2008 considered preliminary platting and forwards to your Commission for public hearing and recommendation.

Mr. Rorholm made a motion to approve Lost Acres Addition Subdivision.

Mr. Nelson seconded the motion; motion carried 3-0.

The next agenda item was any Citizen wishing to be heard before the Commission.
Citizens had already been heard.

Mr. McWilliams made a motion to table agenda items #8 and #9.

Mr. Rorholm seconded the motion; motion carried 3-0.

Mr. McWilliams made a motion to adjourn; seconded by Mr. Rorholm; motion carried 3-0.

Meeting adjourned 8:50` PM. Next meeting February 12, 2008, 6:00 PM