

Stutsman County Planning & Zoning Commission Minutes – May 2, 2024

Meeting was called to order at 8:15 AM by chairman Brian Amundson. Roll call taken. Present were Brian Amundson, Duane Andersen, Joan Morris, David Steele, Levi Taylor, Paul Bensch, and Tyler Perleberg, Zoning Administrator. Absent was Dan Buchanan.

Others in attendance: Tyler Schlecht, Durwin Schmidt, Darron Orr. Todd Langston & Jamison Veil (Otter Tail)

Mr. Steele motioned, Ms. Morris seconded, to approve the March 21, 2024 meeting minutes. Motion approved.

Chairman Amundson introduced the zoning amendment application for East 30 LLP to request a change of zoning change of an agricultural zoning district to a residential community zoning district for the S1/2NW1/4 of Section 24, T139N, R69W (St. Paul Township). Mr. Amundson opened the floor to Tyler Schlecht, one of the ownership parties for the project, to explain their intended project. Mr. Schlecht explained they are planning a new subdivision along the west side of Jay Nelson Lake and gave a general idea of the type of layout they are looking at doing. He stated they have roughly 34 acres that are not inundated with water and plans are for around 15-20 lots, 12-13 which would have lake access with roughly 120 feet of lake frontage, and then another 5-6 back lots that would overlook the lake but not have lake access. He stated that they are intending to have about 150 feet of public dock access towards the northern end of the property and are potentially going to work with the ND Game and Fish on docks and public access to the lake. The current approach next to this property is owned by Durwin Schmidt and he does not want to entertain an easement at this point to allow access to the planned subdivision so Mr. Schlecht stated they'll work with the NDDOT to figure out another location for access and build a new approach. Mr. Andersen asked about our requirement of a residential community zone that states the minimum size of the R/C district is 40 acres, and it sounds like the land actually out of the water is less than 40 acres, & if that's an issue. Mr. Amundson responded that the applicants requested to re-zone the full 80 acres and our ordinance doesn't state anywhere where the land can't include water. Mr. Andersen also asked how the setbacks and other regulations are monitored after we act on this zoning amendment. Mr. Perleberg explained that the process today would only change the zoning district and that when property owners are ready to build on the properties, they then have to go through our permitting process to ensure the regulations within our zoning ordinance are being followed. Mr. Steele added that the county sanitarian, Central Valley Health, would be responsible for permitting each property for a septic permit. Mr. Amundson asked if anyone else had concerns about the project. Mr. Schmidt did explain that he's not here to stop the project but he doesn't want the public access or the new traffic to disturb his property, especially if there is a public access area to access the lake. Mr. Schmidt already sees issues with the section line to the south of his place with fishermen parking all over the place. Some conversation took place about the lake, ownership of the lake, & if the lake recedes who would own the new excess lake so Mr. Schmidt said they may look into platting extra land out into the current lake level in the event the lake may recede. Mr. Bensch explained a potential issue of gaining access from NDDOT to put in a new approach because the highway department may only allow so many approaches off of the highway. Mr. Schmidt said they'll work with NDDOT to come up with a solution. Ms. Morris asked about if there's any talk of allowing trailers or other uses besides residential homes. Mr. Schlecht did respond that they are looking at similar covenants that Reule Lake has in that they will entertain having a timeframe (he mentioned 5 years) that

would allow for campers to be used on the properties for that duration, but then would eventually have to transition to building on site or moving in a modular home. He mentioned they have no intention of allowing older mobile homes onto the property. With no further discussion, Mr. Bensch made a motion to approve the zoning district change for the full 80 acres, Mr. Andersen seconded the motion, all voted aye.

Mr. Amundson introduced the next agenda item related to potential consideration of amending the zoning ordinance in regards to electric transmission lines and other potential uses. Discussion took place on how we are trying to clean up our ordinance and add clarification on how our ordinance includes Communication towers, lines, and equipment as a permitted use within our Agricultural District, but it isn't very clear on if that includes electric transmission lines. Mr. Perleberg put together some options for the committee to review to help out with the discussion on what we could use or include in our ordinance to help clean the ordinance up and increase clarity on these types of uses. He mentioned that if we'd like to entertain change, we'd need to decide what verbiage we would like to use, determine if we'd like the use to be a permitted use or a conditional use, in which zoning districts to have the changes in, & then consider adding additional requirements to the uses such as setback waivers signed by landowners. Mr. Amundson stated he's in favor of the clarity that this would add to the ordinance and that he would prefer the conditional use aspect of it because it's more of checks and balances on the projects as they come up. Darron Orr, resident in Corwin Township, brought up concerns that some transmission lines are not small projects and that some are large towers and that he would like to see residents more protected and that the location of the current Otter Tail JETx project would add a visual nuisance to his family. Mr. Perleberg did clarify with the committee that our ordinance does not supersede any jurisdictions that have their own local zoning in place and he showed the committee the townships that handle their own zoning, Corwin Township being one of those. Mr. Perleberg added that our ordinance, even with any changes possibly made with this possible zoning amendment would not affect Corwin Township or Mr. Orr's residence and that the current JETx project that Otter Tail is working on would only affect Montpelier Township for the jurisdictions we are in control of. Discussion took place about how to move forward & Mr. Amundson alluded to the fact that transmission lines are not all alike, they can be of different sizes & serve different purposes. Mr. Steele brought up that making changes to our current #8 under the permitted use in our Agricultural District that states "Communication towers, lines, and equipment" could create other downsides to making those changes for other uses potentially included in that wording. So then, other utilities were brought into the discussion to cover more than just electrical transmission lines, including oil and natural gas pipelines, water pipelines, fiber optic. For the current #8 permitted use under our Agricultural District, it was verbally agreed upon to look to move forward with changing that wording from "Commercial towers, lines, and equipment" to "Commercial towers, structures, and equipment" and keeping that as a permitted use. Also for #5 under permitted uses in the Industrial District, it was verbally agreed upon the committee to change the wording from "Communication towers, lines, equipment, maintenance facilities, and offices" to "Communication towers, structures, equipment, maintenance facilities, and offices" and keeping that as a permitted use. Discussion then continued on how we want to word the verbiage of adding utility or transmission lines to our ordinance as a potential new permitted or conditional use. Mr. Perleberg asked if it was sufficient to the committee to label it "Utility & transmission lines & facilities" to cover all utilities, including water, gas, & oil pipelines. Initially it was agreed upon to write that into our ordinance as a conditional use in all of the six zoning districts but then it was cautioned that if we entertained adding that verbiage as a conditional use, that may open up

a lot of conditional use permit applications based on every type of utility or transmission line that exists, even though that wouldn't necessarily be the intent of this committee. Mr. Amundson stated that we may have to add a measurable of some sort to clarify the intent. It was made clear that the intent isn't to have a conditional use for any small project, such as a private residential transmission lines or utilities going to a local house or business. Discussion took place on how they could potentially label the large scale projects into our ordinance without including the small scale projects. Things that were considered: -Ms. Morris mentioned possibly any utilities that cross more than one township; -Todd Langston mentioned that the voltage of the lines may be of consideration; -Mr. Bensch mentioned the sizes or volumes of pipelines. It was ultimately decided that more information was desired to make an educated decision on how to word the changes intended by the committee. The committee would like Mr. Perleberg to do some research to check into how other counties are considering utilities, check into some size variations of utilities, & other possible considerations to make it more clear. Mr. Perleberg will notify the committee of some research findings and plans for another meeting in the near future. With no further discussion, Mr. Amundson adjourned the meeting at 9:55 AM.