

PLANNING & ZONING MEETING MINUTES

April 19th, 2017

OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Chairman Gene Jackson called the meeting to order at approximately, 7:10 AM.

ROLL CALL

Present were: Chairman: Gene Jackson, Vice Chairman: Jason Fridrich
Commissioners: Scott Decker, Shirley Dukart,
Scott Karsky and Dean Franchuk

Absent: Scott Bullinger and City Engineer Craig Kubas

Staff: Planning Director Walter Hadley, Assistant City Engineer Loretta Marshik
City Attorney Haylee Cripe

II. ORDER OF BUSINESS

Consent Agenda

MOTION BY: Jason Fridrich **SECONDED BY:** Shirley Dukart
To approve the April 19th, 2017 Order of Business as presented;
DISPOSITION: Motion carried unanimously.

Meeting minutes dated March 15th, 2017

MOTION BY: Dean Franchuk **SECONDED BY:** Scott Karsky
Approve meeting minutes dated March 15th, 2017.
DISPOSITION: Motion carried unanimously.

III. ACTION ITEMS – AGENDA

1. I-94 East Business Loop “Urban Section”

Chairman Gene Jackson added I-94 East Business Loop “Urban Section” as an action item. The NDDOT is proceeding with an urban section project that will greatly enhance aesthetic issues on the route; aid in managing stormwater; facilitate safety in vehicular movements; and generally better fit the mature commercial and industrial development in this area, based on a roadway section that includes curb and gutter throughout project rebuilding the business loop.

Mr. Jackson noted there have been announcements in the paper advertising public hearings, where the NDDOT will be seeking public comments. Mr. Jackson drafted a letter he would like to present to the NDDOT on behalf of the P&Z.

Commissioner Scott Decker added there have been conversations within the City Commission, Mr. Decker feels this project is a benefit to the city. Mr. Jackson said he thinks the meeting is tomorrow night. Assistant City Engineer Loretta Marshik stated that there will be two meetings; the first is at Public Works from 2:00-4:00 and the other is at City Hall from 5:00-7:00 on Thursday April 20th. Ms. Marshik agrees that this should move forward; it could be years before it gets going again. Mr. Decker added this will completely change the look of the City, and he is in complete support of the project. Commissioner Scott Karsky agrees he supports this project too. Commissioner Shirley Dukart agrees.

Mr. Jackson asked for a motion to move forward in support of the Urban Section, in doing so signing and sending the letter.

“Motion to move forward with Urban Section”

Mr. Jackson added that Scott Bullinger is not in attendance. Mr. Jackson wants to make sure Mr. Bullinger is in support of the motion. Mr. Hadley stated he will contact Mr. Bullinger to get his comments on the matter.

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MOTION BY: Jason Fridrich **SECONDED BY:** Shirley Dukart
DISPOSITION: Motion carried unanimously.

IV. WORK SESSION – AGENDA

1. Dog Daycare - Discussion

Planning Director Walter Hadley opened the discussion by explaining the memo presented to the Planning Commission. Mr. Hadley stated the consensus from City staff is to recommend denying the application for special use if the applicant chooses to move forward, staff is also in agreement that the dog daycare relocate to the appropriate zoning district.

Mr. Jackson asked if the owners are requesting a change to our code. Mr. Hadley stated no they are requesting a Special Use Permit that's not supported in R-1 zoning as a home occupation. City Attorney Haylee Cripe stated the request doesn't fit our current code for home occupation, therefore the applicant would be requesting a change to the current code.

Commissioner Jason Fridrich asked why city staff isn't supporting the proposed dog daycare. Mr. Hadley stated it can be disruptive and he and other staff members have received multiple calls from people having concerns with the current illegal non-conforming operation. Ms. Cripe stated a dog daycare generally speaking fits under pet services, it changes the impact to neighbors, and the Building Official doesn't support this. Ms. Cripe added we are allowing the applicant to start a business then get approval for it after they are established. Ms. Dukart stated we are setting a precedence in R-1 zoned areas, this isn't allowed in that area, the applicant needed to find out what was allowed prior to beginning a business. Ms. Cripe explained the differences in the city code regarding pet services, daycare, and what's allowed.

Mr. Jackson stated we need to look at this as if it wasn't already existing, what would our decision be based on that, this is difficult when it's already established. Mr. Fridrich asked how many complaints the city has received. Mr. Hadley stated there have been multiple calls to different departments. Mr. Fridrich interjected what is the difference between them having a dog daycare over a daycare when it comes to noise. Mr. Hadley stated there are different restrictions and regulations with childcare. Ms. Cripe added there is an enforcement issue as well, the Police Department and Code Enforcement have issues with the enforcement sides of this. Mr. Karsky added if you own a business you need to research it as part of your business plan, which includes whether this would have been approved from the beginning.

Mr. Jackson asked what the City staff needs from the Planning Commission at this point. Mr. Hadley stated that City staff needs guidance on what direction the Commission would like to move. We have been allowing them to operate until we decide if this an allowable use, City staff recommends denial and refunding the application fee. If the Planning Commission concurs with staff, we will allow them to withdraw their special use application and refund their application fee.

Mr. Fridrich stated he feels they should be able to move forward with the application for a special use permit if they choose to. Mr. Decker stated they should be allowed 60 days to relocate if they choose to withdraw. Mr. Fridrich added he thinks they should have 60-90 days due to the time it could take to find a suitable location. Ms. Cripe stated the applicant should be notified that it's their choice if they choose to submit the application, however the City does not support the application, should they choose to withdraw the application we will refund their application fee. Mr. Jackson stated he feels 90 days is more appropriate for the operation to relocate.

Mr. Fridrich proposed if the applicant chooses to withdraw their application they should have 90 days to relocate and be issued a refund of their application fee. If needed a 30 day extension can be requested directly through the Planning Director. The Planning Commission concurred. Mr. Hadley will follow up with the applicant.

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2. Chapter 34, p.1-14 – Discussion

Planning Director Walter Hadley gave a brief description of the proposed changes to Chapter 34, p. 1-14.

Mr. Jackson stated do we want to get too far into this without City Engineer Craig Kubas. Mr. Hadley added these are mostly design standards, we can put this on hold until Mr. Kubas is available if that's what the Commission would like to do.

Mr. Jackson added there's nothing in here that's emergent in nature, he feels this can wait. Mr. Hadley concurred and will not bring this item back to the Commission until Engineer Kubas can weigh in further.

Mr. Hadley added he did receive a comment about bonds. Mr. Jackson asked if a bond agent had been contacted for input. Mr. Hadley stated no. There was a discussion among the Commission regarding bonding, letters of credit, contractors being bonded, percentages of bonding, and three way contracts. Ms. Cripe stated she will discuss this further with Mr. Kubas.

Mr. Jackson stated he feels what you're asking the impossible from developers with a bond of 150%, the city needs to talk to a bonding company. Mr. Fridrich added developers will create a new LLC for every development and won't have that kind of money. Ms. Cripe stated some developers are having issues getting bonds, three way contracts are another option we can look into. Mr. Jackson, Mr. Fridrich, and Mr. Decker are in favor of the idea of a three way contract.

Mr. Jackson stated he believes American Insurance does bonds and Mr. Hadley should contact them, maybe Mr. Fridrich can attend the meeting to give his perspective and we can make sure this can be done.

V. PLANNING COMMISSION ITEMS NOT ON THE AGENDA

Mr. Jackson stated in the future if there are no Action Items on the agenda we don't need to have a meeting. If there are issues, questions or concerns these can be handled through email until the next meeting. The Commissioners concurred.

There being no further business Chairman Jackson asked for a motion to adjourn.

MOTION BY: Shirley Dukart **SECONDED BY:** Jason Fridrich

Adjournment of the meeting at approximately 7:59 AM.

DISPOSITION: Motion carried unanimously.

PREPARED BY:

Brandy Goetz

APPROVED BY:

Walter Hadley