

PLANNING & ZONING MEETING MINUTES

January 18th, 2017

OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

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

III. ROLL CALL

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

Absent:

Staff: City Engineer Craig Kubas, Planning Director Walter Hadley, City Attorney Haylee Cripe and Planner Steve Josephson

IV. ORDER OF BUSINESS

Consideration for approval

MOTION BY: Scott Bullinger SECONDED BY: Shirley Dukart
To approve the January 18, 2017 Order of Business as presented.
DISPOSITION: Motion carried unanimously.

V. CONSENT AGENDA

Approval of meeting minutes dated November 16, 2016 (Enc.):
Approval of Agenda (via email):

MOTION BY: Shirley Dukart SECONDED BY: Scott Karsky
DISPOSITION: Motion carried unanimously.

VI. ACTION ITEMS – AGENDA

1. **Item - MINOR PLAT - PLP-001-17** - To consider a preliminary/final minor plat for the Little One Subdivision on a 26.5 acre parcel. The proposed plat will create two lots Lot one is 6 acres, and Lot 2 is 20.5 acres in size. The site is described as being located in the NE ¼, Section 25, Township 140 North, Range 96 West within Stark County and the City of Dickinson Extra Territorial Zone.

Planning Director Walter Hadley opened by stated that in the future staff have discussed and are in agreement that if we are not dedicating or creating a number of issues when reviewing Minor Subdivisions they will be presented as Preliminary/Final Plats, and only require one hearing in front of the Planning Commission. Chairman Jackson added its part of the current Ordinance that any new right-of-way needs to be dedicated.

City Engineer Craig Kubas said the subdivision ordinance can be changed a little to say if there is no internal street right of way the plat would be considered a minor plat. The Planning Commission would always reserve the right to have a preliminary-final plat come before the commission again if issues were not resolved.

Chuck Olson with Benchmark Engineering representing Park and Linda Little. Mr. Olson stated the Little family would like to parcel off a smaller 6 acre parcel of the land, there will be no construction the homes are existing.

Mr. Hadley said staff recommends approval and noted that the applicant had already met the intent of 3 of the conditions of approval. Mr. Jackson opened up the hearing for public comments, there being none, the public hearing was closed.

Commissioner Decker made a motion to approve the Preliminary and Final Plat of Little One Subdivision.

MOTION BY: Scott Decker

SECONDED BY: Shirley Dukart

***** Approval *****

Little One Subdivision Preliminary/Final Plat

I move the City of Dickinson Planning and Zoning Commission recommend Approval of PLP-001-17 **Little One Subdivision Preliminary/Final Plat**, as depicted in Attachment A, and meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

1. The Applicant shall gain final City Engineer approval on the proposed plat prior to it being placed on a City Commission agenda for consideration.
2. The Applicant shall submit the plat to the County Recorder for input and alteration of the proposed plat prior to being placed on a City Commission agenda for consideration and final approval.
3. The owners of lots 1 and 2 shall post their correct 911 addresses on each the sites as directed by Stark County Emergency Management.
4. The Applicant shall dedicate 40' of right of way for use as a future roadway with possible utility locations as part of this plat request. (as shown on revised plat)

(AND) the following additional requirements (**IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE**):

1. _____;
2. _____.

DISPOSITION: Motion carried unanimously.

VII. WORK SESSION – AGENDA

1. Item - Article 13.08 International Fire Code – 1st reading City Commission (1/9/2017)

City Attorney-Ms. Cripe - explained the changes made to IFC that are related to the city code. This is specific to liquid propane, if you have questions to specific classes you will have to talk to Fire Marshall Selle. Mr. Hadley added this item is noticed for hearing and will be voted on by City Commission, this is just for informational purposes only. Mr. Hadley indicated that staff would be bringing a few amendments to the zoning code to reflect the above changes after the City Commission has approved Chapter 13 amendments.

2. Item - Happy Hounds – Dog Daycare

Planning Director Hadley opened the discussion by explaining that Jessica Uran, Owners of Happy hounds daycare are requesting a reclassification to a home occupation or a new allowed use with a Special Use Permit for dog daycares in single family residential areas. Mr. Hadley had the applicant come to Planning Commission to explain their home occupation due to the executive team feeling this is more like a "kennel" and not a "daycare".

Jessica Uran, Owner of Happy hounds daycare located at 1471 4th Ave E; gave a statement explaining how her dog daycare is similar to a child's daycare therefore she should be allowed a Special Use Permit.

Ms. Uran stated we are open from 7:00am -6:00pm, Monday – Friday, there is no overnight boarding allowed, vet proof of spay or neutering is required after 7 months of age. There is always one person on site with 4 cameras recording the dogs. Happy Hounds is licensed and insured through the state of North Dakota.

Ms. Uran added she is certified in dog CPR and first aid. There are no more than ten dogs a day, having six to eight cars dropping off and picking up dogs using the off street parking or their driveway for a few

moments at a time. Dogs are leashed at all times when picking up and dropping off. There were no complaints in past the two years until the most recent traffic complaint. Activity's take place in the backyard or in the garage. The dogs play games, run around, take naps and have snacks.

The neighbors have been contacted by Ms. Uran, many households had no idea they were even operating, many households had nothing but praise, Ms. Uran has over 40 signatures supporting the dog daycare in its current location at this time.

Happy hound's meets all conditions for a home occupation and is not included in prohibited occupations. Ms. Uran states in her opinion this is not considered a kennel, and doesn't fall under our code regarding kennels. Dogs are not boarded at her business and never will be. This business is her dream. Therefore a sub category should be added to our city code to allow dog daycares under home occupations. Keeping our City code current and up to date.

Commissioner Karsky asked how long happy hounds has been operating Ms. Uran stated since January 19, 2015, the only complaint has been a traffic complaint, just recently.

Commissioner Dukart added I am all for dog daycare, I have tried to push them in commercial zones before as a realtor this is in a residential area and allowing a Special Use Permit for one person is setting a precedent for others. Ms. Dukart then asked; how do you clean your yard? Ms. Uran stated she is cleaning all day long and running her sprinklers. Ms. Dukart added in our ordinance doesn't it only allow three pets per home. Mr. Hadley stated this would be a request for a Special Use Permit for home occupation for dog daycare and would allow one employee.

Commissioner Fridrich asked what was the executive teams reasoning this wasn't a permitted use.

Mr. Kubas explained that the decision was based on the fact that a dog daycare isn't defined as a permitted use or a disallowed use, and isn't covered in the code. There has been some controversy in the past with kennels, can this be come an allowed use for a home occupation, how do we want to handle this through our process. If we allow it and one applicant runs their business well that doesn't mean the next applicant will, so we need to set a precedent with some rules and regulations.

Mr. Hadley explained we are looking for guidance from the Planning Commission to see if these are applications we should entertain reviewing. The dog daycare shouldn't be operating, it's a little late for that they should have obtained a Special Use Permit. Mr. Fridrich asked if every home based business in R-1 needs to come before the Planning Commission to be heard, Mr. Hadley said if it meets the criteria of a home business then yes.

Mr. Jackson in the future a home occupation like this would require a Special Use Permit. Mr. Hadley added we just need to decide what zoning designations we want to add this to. Mr. Fridrich stated do we really need to change anything, can't they just apply for the existing Special Use Permit for home occupation, with our determination as a home based business.

Mr. Karsky asked for just for clarification any new business starting home occupations would have to obtain a Special Use Permit. Mr. Hadley stated that was correct.

County Planning Director Steve Josephson interjected Special Use Permits like these have been before the Planning Commission before, these are restricted through the Special Use Permit process by adding conditions of use.

Mr. Fridrich indicated that's why you have it in the ordinance, we don't even have to hear it it's already lined out.

Ms. Uran added she has had no formal complaints about noise and takes precautions to prevent it. Ms. Dukart said that someone came to her personally regarding noise at the location.

Mr. Decker added we can set up parameters with in the Specials Use Permit. Mr. Hadley stated that's correct, you can add any requirements desired and a limit to warnings which could lead to revocation of the permit.

Mr. Jackson stated we should entertain the Special Use request, Mr. Fridrich stated he agrees they deserve the opportunity. Ms. Dukart asked the applicant if she was aware that a permit was required.

Ms. Uran said she had no idea they were required to have a Special Use Permit, she added she did apply through the state.

Mr. Kubas added the Executive Team stated that this use would be permitting this as an in-home daycare as our code currently allows for an SUP for in home care, but not for kennels. This sounds more like a kennel

and not a daycare. This has a stigma of being a kennel. For future clarification the zoning code needs to state a specific type of use. This needs to have a differentiation from kennels with parameters, with a category specifically for this in home use.

Mr. Hadley added we are going to propose an amendment to the ordinance in the meantime with some standards and minimum criteria. Ms. Uran can continue until the amendment is approved. Then we would entertain a special use at that time if that is the desire of the Planning Commission.

Mr. Jackson stated we should be a little more formal with a motion to encourage the Special Use Permit as soon as possible; in the mean time we will allow her to operate.

Karsky stated he will make that motion “to allow the operation of the Dog Daycare until the approval process of the amendment to the Ordinance”

Commissioner Bullinger asked if the Special Use Permit would be processed before the amendment to the city code.

City Attorney Cripe stated the proposed changes are not prohibited changes therefore they wouldn't need to hold up the Special Use, but they could be discussed concurrently if that's what the commission chose to do so.

MOTION BY: Scott Karsky SECONDED BY: Scott Bullinger

DISPOSITION: Motion carried unanimously.

3. Item - ETZ Zoning Transition Project

Mr. Josephson County Planner presented an Extraterritorial Zoning Transition Project.

Mr. Josephson explained that the North Dakota Century Code requires that a city exercising its extraterritorial zoning authority hold a zoning transition meeting if the to be brought in the extraterritorial zone (ETZ) is currently zoned by the county. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place for properties to be added into the ETZ and to plan for an orderly zoning change transition. The zoning transition meeting is to take place before the city's adoption of an ordinance exercising extraterritorial zoning.

Mr. Josephson provided a display showing several of the properties in the ETZ that show up as Agriculture (AG) on the City's zoning map that are within platted subdivisions originally zoned for large lot residential development. Many of these platted lots were originally zoned by Stark County as Residential Low Density (RLD). Several others were originally zoned Residential, Agriculture (R, A). The City's AG zoning imposes more restrictive building setbacks than either RLD or R, A zoning and permits and permits agricultural and certain commercial uses not compatible with single-family residential development.

Ms. Dukart asked about residential and agricultural zoning and how this changed might affect financing and building. Mr. Josephson gave a detailed explanation. City Engineer Kubas asked why the proposed zoning for the Maryville lots is Low Density Residential (R1) while the proposed zoning for several other subdivisions is Rural Residential (RR). Mr. Josephson said most of the lots in Maryville are less than one acre in area and the minimum lot size in RR is an acre. Planning Director Hadley clarified this will be a public hearing next month.

Mr. Fridrich asked if you go from R-1 to RR will this affect the size of the allowable accessory structures. Mr. Josephson stated the County code is more restrictive with a maximum square footage of 1,200 square feet for a detached accessory structure; the City allows detached accessory structures a maximum of 1,200, but if the lot is over an acre in size an additional 250 square feet of accessory structure is allowed for every half acre. A discussion ensued regarding lot size and zoning. Staff was given direction to process with what is concerned a cleanup project.

4. Item - Backyard Family Chickens

Mr. Karsky stated he and Mr. Fridrich went to the Dykma home and visited the place where they housed their chickens. Mr. Karsky also contacted the City of Sioux Falls South Dakota and acquired a copy of their

ordinance, to present to the commission to review. Mr. Dykma has since then gotten rid of his chickens to be compliant with city code.

Mr. Dykma said he is still for chickens and would like to see Chickens allowed in Dickinson with the proper guide lines. He has had a lot of positive feedback; this is a lot different than the barn yard chickens that people grew up with on a farm.

Mr. Jackson has no issues with bringing this forward for review, the concern before was there is no place in the code for this activity. Mr. Hadley stated this would only be allowed in R-1 zoning; it is allowed in AG and RR, and this is an issue the community needs to be educated on. There should be something that could be presented to the public by proponents before it even gets the Planning Commission for a public hearing. The proponents could advocate for it and put it out to the public. Ms. Dukart added this has to be given to the public and should be a Special Use Permit and if you move the permit would be considered null and void.

Mr. Jackson asked that if this gets to the P&Z there needs to be more than just a public notice. P&ZA would need to get a feel from everyone in the community. Ms. Dukart added most realtors would be against this and this needs to go through the planning process. Mr. Fridrich stated if the public is open to it he would be as well. Mr. Jackson agreed that the public needs more than just a public notice; maybe even a press release. Mr. Hadley stated that it was important for the proponents to present to the community and gain support for the amendment prior to coming to the Planning Commission for a public hearing.

Mr. Bullinger there would not be a Special Use; it would be a permitted use if the City followed the Ordinance from Sioux Falls.

Mr. Jackson stated you can write that into the code as the Special Use, or the City could adopt an ordinance permitting the use. Mr. Hadley added the Special Use Permit runs with the land unless you add a condition stating otherwise.

Mr. Kubas added keep in mind when we allow things or don't allow them there is an enforcement side of this. City staff has to follow up with these be it the Police Department, Animal Control or Code Enforcement. Mr. Hadley added challenge the proponents to educate the community and not make the city do it and have them bring it back to us when all the bugs are worked out with a clean proposal at that time we can help them with it.

Mr. Bullinger asked what other North Dakota communities do, Mr. Hadley stated our ordinance currently is in conformance with the majority of North Dakota communities.

viii. ADJOURNMENT

MOTION BY: Jason Fridrich SECONDED BY: Scott Karsky
Adjournment of the meeting at approximately 8:25 AM.

DISPOSITION: Motion carried unanimously.

PREPARED BY:

Brandy Goetz

APPROVED BY:

Walter Hadley