

## I. PLANNING & ZONING COMMISSION MEETING MINUTES

March 16, 2011

### II. OPENING CEREMONIES AND PRESENTATIONS

#### III. I. CALL TO ORDER

Chairman Earl Abrahamson called the meeting to order at 7:10 AM.

#### IV. II. ROLL CALL

PRESENT: Nancy MosBrucker, Matt Kolling, Scott Kovash, Shawn Soehren, Earl Abrahamson, Tracy Tooz, Jason Hanson Larry Dockter and Gene Jackson

ABSENT: Ron Hartl, Jerry Krieg, and Jay Elkin

### STANDARD MOTIONS

#### 1. MINUTES

Minutes of the February 16, 2011 meeting submitted for approval.

**MOTION BY:** Jason Hanson                      **SECOND BY:** Nancy MosBrucker  
to approve minutes of the February 16, 2011 meeting.

**DISPOSITION:** Motion carried.

### REGULAR AGENDA

1. **FINAL PLAT** – Koch's Meadow Hills First Addition – Tract of land in NW ¼ Section 28, Twp 140N, Rge 96W.

Chairman Abrahamson opened the Public Hearing. Harvey Schneider of Toman Engineering in Mandan and owner Mike Koch were present to answer questions concerning the plat. Tim Spilman of Keitu Engineers and Consultants was also present to give the Board information concerning pipelines within communities and residential developments. A new handout was provided showing some changes within the development. The plat now contains 14.64 acres. One change to the plat is that three parcels in the SE corner belonging to Ron Hartl and Greg Lefor are no longer part of the plat. Schneider said they met with Hartl and Lefor on March 9<sup>th</sup> and they decided they do not want to be part of the subdivision because of unresolved issues on 10<sup>th</sup> Avenue West. They have increased the easement for the oil line from 30' to 50'. The depth of Lots 5 – 13 in Block 5 has been decreased to accommodate the oil line easement. An

easement was added between Lots 2 & 3 in Block 5 to provide sewer service to the Lefor property. The plat has been reduced by two lots, now containing five blocks and 32 lots. Blocks 1, 3, 4 and 5 will be zoned R1 (Residential Low Density) and Block 2 will be zoned R2 (Residential Medium Density).

Mr. Koch and Mr. Schneider met with James Kramer of the Dickinson Park District on January 28<sup>th</sup> and March 9<sup>th</sup>. The Park District has decided on cash in lieu of land.

Mr. Schneider noted a conference call was held with Fred Cline of Cline Production on March 1<sup>st</sup> to discuss ways to resolve issues with the pipeline within the proposed plat. Schneider stated they did ask Mr. Cline if he would consider moving the existing pipeline. Cline stated he would not. Schneider stated they offered to widen the easement for the pipeline from 30' to 50' and put in either a berm or swale within the easement area. Cline chose the swale. He also asked that no trees or buildings be within the easement. Mr. Schneider also informed the Board that the pipeline is newer in this area being reworked in 1988. The pipe is 2.5" schedule 40 insulated with heat tape. He said the line is closer to 5" with the insulation. Daily flow for the line is 15 barrels per day or approximately 630 gallons. The line is on a timer and doesn't flow all day long. There was a small leak on the line in 2009 causing one barrel spilled. A summary of the spill and its cleanup was provided in the handout.

Timothy Spilman of Keitu Engineering gave a presentation on oil pipelines in the State of North Dakota. He provided information on pipelines throughout the state showing examples where they exist in residential neighborhoods. North Dakota has over 7000 miles of pipelines carrying crude oil and natural gas. The line within the Koch plat is a gathering line carrying only 15 barrels per day. A gathering line brings the crude from the pump jack, possibly through a heater/treater to a tank battery storage facility where it is stored until it can be trucked out. He showed pictures where 12" oil transmission pipelines exist in the Bismarck/Mandan area that carry over 60,000 barrels per day and the houses are right next to the line and in areas the line is under the driveways. He explained that pipelines are taxpaying entities within the state. Mr. Spilman explained easements, right-of-way, State and Federal regulations, and the physical characteristics of crude oil.

Issues relevant to this development: Required cover over a buried pipeline is 36 inches. This line is buried six to eight feet deep (72 – 96 inches). Required distance from occupied buildings and premises is 50 feet unless there is 12 inches more cover. If the line has four feet (48 inches) of cover, the buildings can be right up to the pipeline. He explained Mr. Koch has offered the 50' easement making the residential dwellings further than 50' even though the six to eight feet of cover would be sufficient to build right next to the line. Chairman Abrahamson asked if there is an agreement forbidding building over the pipeline. Spilman explained recording an easement gives the pipeline more say. Mr. Koch's intent

is to file a separate document defining the easement which can specify no trees, no structures, and no fences. When title is transferred, the easement and its specifications will be on the title. Spilman added the Cities of Bismarck and Mandan have also adopted ordinances defining no trees, no structures, etc. in the pipeline easements. City Attorney Matt Kolling concurred that under the Federal Regulations, there could be structures or trees over the pipeline, but an easement with specifications would protect that from happening. Kolling stated it is no different than any other utility easement where they cannot build, but it does occur.

Chairman Abrahamson asked how much fluid was in the one barrel spill which occurred on this line. Spilman explained there is metering from the well head and again further down the line which helps to detect the leak as soon as possible. He said the one barrel is approximately 42 gallons. It includes the water and crude oil. One gallon is made up of approximately 90% crude oil and 10% saline.

Mike Koch provided plot plans showing possible housing layouts on the lots in question to give the concept of a builders view. The drawings also showed where trees could be planted on the Lefor property. Abrahamson stated he would like to see an agreement worked out to make that a green area. He felt it could possibly be funded by the City or donations by organizations such as the BLM, Forest Service, or possibly an Arbor Club. Koch stated he would agree to plant the trees. He said he met with the Park District but this area didn't fit their concept plan for the area. Koch added that Bismarck/Mandan put in walking trails in the area of some of the pipelines and now wish they hadn't because they got so many complaints from homeowners concerning those using the trails. They ended up spending a lot of money that they hadn't planned on to fence out the trails because of complaints received by the neighboring homes.

Gene Jackson asked about the swale. Mr. Schneider explained that Fred Cline felt it was a good idea. He added it really won't be a swale by the time it's done. He explained that the back side of a foundation may have 6 inches exposed, when landscaping an area 75 to 80 feet deep with 1/2" drop per foot, then pick up at 1/2" per foot, when that homeowner looks out their back window, they will never know the swale was there. He added the swale will also carry the surface water.

Jon Bogner, partner to Bruce Selinger, representing Cline Production stated although, they have met with Mr. Koch and Mr. Schneider, Mr. Cline hasn't agreed to anything. Cline Production feels there shouldn't be a plat where their oil line exists, but they realize the development will take place. Bogner said they do want the easement with no trees, no fences and no structures.

Greg Lefor stated he owns property adjacent to the plat and because they were unable to work out issues with the oil line they don't want to be part of the plat. Mr. Lefor wanted to make the Board aware that he feels it was not one barrel of

oil spilled. He asked if EPA or the Health Department were out there. He said it took a week to clean up and he wishes he had taken pictures. Mr. Lefor was given a copy of the Oil Field Spill Summary. Lefor added concerns with Mr. Koch being willing to plant trees in the green space. He stated that without covenants, a new buyer could take the trees out. He asked what kind of trees would be planted, when they would be planted, who will follow up with them. Lefor stated the logical solution would be to move the plat north, he said it is a simple solution.

City Engineer Soehren was asked if he had any comment from the city's perspective. Soehren stated he is comfortable that they have followed the procedures and regulations of subdivision platting. He added if the subdivision were just moved north, it could create other issues such as who would maintain the area which really wouldn't resolve anything.

**MOTION BY:** Tracy Tooz                      **SECOND BY:** Jason Hanson  
to recommend approval of the Final Plat to the City Commission with the 50' easement and that the easement be a no build easement.

Gene Jackson asked that the motion be more specific concerning the trees.

Motion was amended to recommend approval of the final plat with the 50' easement being a no build easement and that the trees would be put in at the time the first building permit is issued.

**DISPOSITION:** Motion carried.

2. **PRELIMINARY PLAT** – State 6<sup>th</sup> Addition – Replat of a portion of Blocks 15, 16, 17, 19, 32, 33 and 36 of State Addition and a portion of 6<sup>th</sup> Street West, 7<sup>th</sup> Street West, Experiment Drive and Dakota Drive of State Addition.

Chairman Abrahamson opened the Public Hearing. Walt Smith of Kadrmas, Lee and Jackson stated this is just the next phase following the approval of State 5<sup>th</sup> Final Plat last month.

The zoning to be requested for this plat will be Block 1 – R3 (Residential High Density), Block 2 – R2 (Residential Medium Density) and Blocks 3 & 4 – R1 (Residential Low Density). They may also be looking at some regional detention in Block 3. Larry Nygaard with Roers Development stated some lots in Block 3 have been expanded from the 68' by reducing the width of one other lot

**MOTION BY:** Gene Jackson                      **SECOND BY:** Tracy Tooz  
to recommend approval of the Final Plat to the City Commission.

**DISPOSITION:** Motion carried.

3. **REZONING REQUEST** – To consider a request to rezone from R2 (Residential Medium Density) to R3 (Residential High Density) in order to build an eight unit condominium and a four unit condominium on the property described as Lots 10, 11, 12, 23, 24 and 25, Block 5, Country Oaks Estates 2<sup>nd</sup> Addition.

Chairman Abrahamson opened the Public Hearing. Tracy Hauck representing the Hauck Family Trust stated they have an agreement to purchase this property from the Pamela Jean Kolling Living Trust and wish to put up an eight unit condominium and a four unit condominium which will either be rented or sold. He stated there is an Able home to the north and R3 zoning all around it with a new eight plex to the south and Century Apartments to the west. The existing R2 zoning only allows a two unit structure. Gene Hauck was also present and added they will build two different structures. One eight unit and one four unit. He stated he may possibly put up a 12 unit structure rather than the eight units.

Duane Schwab stated he owns property to the west and utilities come from 10<sup>th</sup> Avenue West to his property. Schwab said there is an easement through this property and he wanted to make sure he would still have services to his lot. City Engineer Shawn Soehren stated we are reviewing an easement vacation within these lots but a new easement has been offered for MDU for a high pressure gas line. Soehren said none of this will affect his property or utilities to it.

**MOTION BY:** Gene Jackson                      **SECOND BY:** Tracy Tooz  
to recommend approval of the rezoning petition to the City Commission.

**DISPOSITION:** Motion carried.

4. **SKETCH PLAT** – Vaagen Subdivision – A tract of land lying in the SE $\frac{1}{4}$  Section 25, Twp 140N, Rge 96W.

Proprietor Amanda Vaagen stated she and her father, Keith Vaagen are platting the property in four to nine acre lots. Stark County Road Foreman Al Heiser asked how they plan to access the lots. He suggested they may want to put in a frontage road as Parke Little has had some issues with snow this winter. He stated the north/south road is not really a road, adding that Lot 7 could not be accessed from the Section Line. Ms. Vaagen stated the roads will be private roads. Gene Jackson suggested the proprietor's certificate distinguishes that the roads are not dedicated as public roads. Heiser stated he would still like to see a frontage road and not a bunch of access roads to each lot.

City Engineer Shawn Soehren noted that there are three 40 acre lots. He asked the commission if they were okay with that type of plat as they could acquire a building permit and then still subdivide. Gene Jackson said he agrees; this would be a good place to implement the idea of ghost platting to give order to long term development. Vaagen stated she would be keeping Lot 7 and her father would keep Lot 8, allowing them to keep horses.

5. **SKETCH PLAT** – Southview Homes 2<sup>nd</sup> Addition – Parcel A, Southview Homes Addition located in E½ SW¼ Section 10, Twp 139N, Rge 96W.

City Engineer Shawn Soehren stated this is currently Parcel A and is already platted. They are planning to continue development to the south. To the east of this property is the truck route. Soehren stated he has concerns with all these lots along the truck route and would like to see limited access. He said they will be asking for MH (Mobile Home) zoning. They will use post and pier; not a permanent foundation. Soehren added the lots to the south are undeveloped and the area across the road is zoned industrial. Tracy Tooz asked if this property has the same owner as Heartland. Soehren stated it does not. This is owned by Rosa Johnson. Gene Jackson said he agreed with the issue of all the lots along 9<sup>th</sup> and asked Soehren to talk to the developer on that. He added there is no sign of development to the south.

6. **SKETCH PLAT** – Dennis Hulsing – Tract 2 in Section 9, Twp 139N, Rge 96W.

City Engineer Shawn Soehren stated this property is on the west side of State Avenue, north of 5<sup>th</sup> Street SW and east of 8<sup>th</sup> Avenue SW. He stated it is a new concept with the roads in a circle – 30' to 40' wide with a green space and walking trails between the pods. Soehren said it is called zero scape and is a new concept from what we've seen before. Soehren said this layout will save on the cost of development from a traditional development.

Gene Jackson asked who would have ownership of the green space. Soehren said they are still working that out but it would likely be a Home Owners Association (HOA). He stated they want to plant grasses that don't need to be mowed and smaller WWII type homes. They are looking at R1 (Residential Low Density) zoning with the potential for a six plex in one area.

Scott Kovash asked if the trails will be private and who will take care of them. He asked if there will be trails rather than public sidewalk. Jackson stated it is an interesting concept and he would encourage it but thinks they should be a PUD (Planned Unit Development). He feels one street through the middle as a public street and the rest PUD.

7. **CODE ENFORCEMENT REPORT** – February, 2011

City Engineer Shawn Soehren stated this report is provided for informational purposes.

8. **ADJOURNMENT**

There being no further business to discuss

**MOTION BY:** Jason Hanson

**SECOND BY:** Scott Kovash

to adjourn meeting. Meeting adjourned at 9:05 AM

**DISPOSITION:** Motion carried.

**PREPARED BY:**

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Karen Amann

**APPROVED BY:**

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Shawn Soehren