

PLANNING & ZONING COMMISSION MEETING MINUTES

July 18th, 2012

OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Vice Chairman Tracy Tooz called the meeting to order at 7:11 AM.

II. ROLL CALL

PRESENT: Tracy Tooz, Scott Kovash, Gene Jackson, Jerry Krieg, Jason Hanson, Jay Elkin, Larry Dockter, and George Nodland

ABSENT: Earl Abrahamson

STAFF: City Planner Ed Courton, City Engineer Shawn Soehren and City Attorney Matt Kolling

City Planner Ed Courton introduced newly hired City Employee City/County Planner Steve Josephson.

STANDARD MOTIONS

1. MINUTES

No minutes were submitted for approval.

REGULAR AGENDA

1. FINAL PLAT - To consider a Final Plat for Medora Meadows generally described in the NE ¼, Section 32, Township 140N, Range 96W.

Andrew Shrank with Highlands Engineering presented a Final Plat for Medora Meadows.

Tracy Tooz will be abstaining from the vote since his land is adjacent to the proposed Final Plat for Medora Meadows.

Mr. Shrank commented on the utility easements, the gas line located at block 2 lot 1, it is currently in process of being vacated, they are waiting for a response from oil companies, and are currently doing a traffic study.

Mr. Courton read the motions, he then suggested that the items are taken care of, then they can come back when they are complete.

MOTION BY: Jason Hanson

SECOND BY: Tracy Tooz

To Continue until Issues are resolved.

DISPOSITION: Motion carried. (Unanimous)

2. **FINAL PLAT - To consider a Final Plat for Gerber's Addition generally described in the NW ¼, NW ¼ of Section 7, Township 139N, Range 95W.**

Andrew Shrank with Highlands Engineering presented a plan for storage units and some shops. Mr. Shrank has been in contact with Al Heiser regarding the right-of-way that will be required. Mr. Courton read the motions and conditions.

Jay Elkin said he spoke with Al Heiser and he has no problems with 130ft with 65ft on each side with the amount of traffic that will occur. Discussion ensued about road easement.

No public comment.

MOTION BY: Gene Jackson

SECOND BY: Jay Elkin

To recommend Approval of the **Final Plat for Gerber's Addition**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

1. Prior to recordation of the Final Plat, remove the dedicated street text from Lot 1 (condition was changed to state 30ft private easement).
2. Prior to recordation of the Final Plat, add County Commissioner signature block.

DISPOSITION: Motion carried. (Unanimous)

3. **FINAL PLAT- To consider a Final Plat for Hatzenbuhler Subdivision generally described in the SE ¼ of Section 16, Township 139N, Range 96W.**

Terry Ficek with KLJ presented a Final Plat for Hatzenbuhler Subdivision. Mr. Courton recommends approval. Mr. Jackson noted conditions should be changed to 30 foot private easement.

Discussion ensued with regards to dedicated or easement roads.

MOTION BY: Jay Elkin

SECOND BY: Gene Jackson

To recommend Approval of the **Final Plat for Final Plat for Hatzenbuhler Subdivision**, as depicted in as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

1. Prior to recordation of the Final Plat, remove the dedicated street text from Lot 1 (condition was changed to state 30ft private easement).
2. Prior to recordation of the Final Plat, add County Commissioner signature block.

DISPOSITION: Motion carried. (Unanimous)

4. **REZONE PETITION** - To consider a Rezone Petition from GC to R3 for property at 26 5th Avenue E (34 x 170, Block 16, Messersmith and Simpson Addition).

Carol Leginstein requested on behalf of herself and 7 siblings, a rezone from GC to R-3.

Mr. Courton explained that this is one of the many properties that are along Villard to have an existing house, but nobody can build since it's a long skinny lot. All we would be doing is changing to R-3 so they can get financing. One day we would like to have a mixed use in some of these areas so residential and commercial to co-exist together.

Mr. Tooz is asked if this is R-3 zoned down to NAPA.

Mr. Courton explained that it is with the exception of lot 24, they were not part of this application.

MOTION BY: Tracy Tooz

SECOND BY: Jay Elkin

To recommend Approval of the Rezone Petition from GC to R3 for property at 26 5th Avenue E (34 x 170, Block 16, Messersmith and Simpson Addition).

DISPOSITION: Motion carried. (Unanimous)

5. **REZONING REQUEST** - To consider a Rezone Petition from R-2 to LC for Lots 4-7, Block 1, States 3rd Addition.

Mr. Tooz opened the Public Hearing. Neal Messer was presenting for Messer-Schwab Construction. Mr. Messer answered Chairman Abrahamson's question regarding accessing the property, the public use of 8th St W or 23rd Ave W. Mr. Courton stated access would be prohibited from Fairway Street.

MOTION BY: Jason Hanson

SECOND BY: Tracy Tooz

To recommend approval of the Rezone Petition from R-2 to LC for Lots 4-7, Block 1, States 3rd Addition, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

DISPOSITION: Motion carried.

6. **FINAL PLAT-** To consider a Final Plat for Tweetens 3rd Addition generally described in the NE ¼ , Section 28, Township 140N, Range 96W.

Steve Brud with Advance Engineering represented the Final Plat for Tweetens 3rd Addition. Mr. Brud explained that Walt Smith has been before the board previously.

MOTION BY: Tracy Tooz **SECOND BY:** Jay Elkin

To recommend Approval of the **Final Plat for Tweeten's 3rd Addition**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

DISPOSITION: Motion carried. (Unanimous)

7. **FINAL PLAT -** To consider a Final Plat for Lamont First Addition generally described as a Replat of Lot 1, Block 1 and Lot 1, Block 2 of Lamont First Addition.

John Lawry with Lawry Engineering in Fargo represented the Final Plat for Lamont First Addition. Mr. Lawry stated they created 4 lots and dedicated and realigned Sims Street since the Preliminary Plat was submitted. Mr. Courton has some concerns regarding the storm water and read the 4 conditions. Mr. Lawry explained that the blocks are on the Plat already but will change the numbers to a darker color. Mr. Lawry asked if the roads need to be done first. Mr. Courton stated roads should be done first but we will allow that the roads need be done before any Certificate of Occupancy's or Temporary Certificate of Occupancy's will be issued.

Lyle Scott owns property to the east. Mr. Scott stated he received 2 letters and was wondering if it was the same thing. Mr. Courton stated the notifications are clear and that one letter was for the KDIX rezone. Mr. Scott wondered if the large row of trees were going to be removed and about a road by the park. Mr. Soehren stated 16th street is north of this property but is not sure when it will be constructed. Mr. Kovash stated that there has been no discussion on that particular park regarding parking.

Mr. Krieg stated the plat should have 1st Ave East not West. Mr. Tooz stated he has received a few calls regarding this development with the zoning and underwater issues. Mr. Soehren stated that storm water management will address the water issues and that is area has a high water table.

Vern Retzlaff lives on 1st Avenue East for the last 30 years and stated the big issue is the groundwater that gets backed up into the lots instead of getting onto the street. Mr. Retzlaff explained that when the Hampton Inn was being built the water was being kept in the fields

and now that it is building is complete the water is able to get to the street again and the water is gone too.

Mr. Jackson asked Mr. Courton and Mr. Soehren if the board should add a condition to get Sims Street built. Mr. Courton stated again that no Certificate of Occupancy's will be issued until the road is done.

MOTION BY: Gene Jackson

SECOND BY: Jerry Krieg

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Lamont First Addition**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements:

1. Prior to submittal to the City Commission, a revised stormwater management plan for the plat shall be approved by the City Engineer.
2. Prior to issuance of any building permits requiring access via Sims Street, the road must be constructed and accepted by the City. Said road must be extended through the entirety of each lot.
3. Prior to submittal to the City Commission, the surveyor shall depict block numbers.
4. Tract 1 must be provided with a minimum of 20 foot access easement.

DISPOSITION: Motion carried. (Unanimous)

8. **PRELIMINARY PLAT - To consider a Preliminary Plat for Hoerner's 2nd Subdivision generally described in the SE ¼ of Section 23, Township 140N, Range 96W.**

Bob Procive with Interstate Engineering stated this subdivision adds onto to Hoerner's First Subdivision. Mr. Procive stated there is a 10ft shift in the road to try to preserve some trees that future home owners may want. Mr. Elkin stated cul-de-sacs are prohibited in the county and streets need to be paved and 80ft instead of 66ft that is on the plat.

Mr. Courton read the conditions:

- a. The interior plat road width must be a minimum of 80-foot.
- b. Remove the interior cul-de-sac and extend the road northerly to connect to 33rd Street SW.
- c. All roads shall be consistent with the City's rural roadway design standard, and the roads shall be paved and approved by the City Engineer.
- d. Prior to Final Plat approval, the property owner shall dedicate 75-feet from the centerline each county road: 33rd and 34th Streets SW.

Justin Hoerner, nephew of the land owner, explained that the development will have septic tanks and that Southwest Water is already on some of the lots.

Discussion ensued regarding Southwest Water and infrastructure.

Lonnie Neuberger wondered if there are more houses to be added onto the first subdivision and then the second subdivision was approved if there would be enough water pressure through Southwest Water. Mr. Neuberger also stated that area has a lot of clay and was wondering if the septic will be tested before approved. Mr. Courton stated we have not added conditions regarding Southwest water yet to developments. The board has discussed having something in writing but have not enforced that yet. The septic tank issue is up to state health department.

Bob Stockert lives in South East corner on a 4 acre plot. Mr. Stockert's main concern is the septic system since the area is clay.

Discussion ensued regarding enforcement on developing roadways in subdivisions and the city and county standards.

Mr. Elkin expressed that even with water, septic and roadway issues the real question is whether or not this subdivision is really needed since there are so many subdivisions that are not developed at this time.

MOTION BY: Jay Elkin
To Deny Request.

SECOND BY: Gene Jackson

DISPOSITION: Motion carried. (Unanimous)

9. **PLANNED UNIT DEVELOPMENT** -To consider the Sundance PUD for property generally described in the W ½ of Section 25 & NE ¼ , NE ¼ of Section 35, Township 140N, Range 96W.

Craig Kubas with Kadrmas Lee and Jackson explained the PUD application for Sundance Coves and Village. Mr. Kubas explained the phasing plan. Sundance Coves would be phase 1. Mr. Kubas explained the owner will install all infrastructure including a fire station. Southwest water easement will be shown on the plats in the future and the developer has already talked with the Parks Department.

Mr. Kovash stated that the Parks District will take Cash in Lieu for Sundance Cove and Land for Sundance Village.

Mr. Kubas stated there is flexibility with R1, R2, and mixed use zoning within the PUD. The Owner will create a Home Owners Association, will help staff the fire department, will remove snow for 3 years or until the 300th unit is completed and also meet with at 3rd party plan reviewer and the City.

Mr. Courton stated he has met with the developer many times and has some conditions. Mr. Courton likes that this development is on the east side of Dickinson.

Mr. Kolling stated the annexation resolution has passed for this area. Hearing to protest will be on July 10th, 2012.

Brian Bochman with Meyer Contracting stated that the Sundance Coves will have some multifamily and the Village will have R2 to allow some flexibility with the intention to have heavy R1 zoning.

Mr. Elkin stated that there is a road restriction and the developer needs to meet with the county superintendent. Mr. Kubas stated while the development is in progress there will be heavy equipment but after that it will be regular traffic. Mr. Kubas stated he will work with Al Heiser.

Mr. Jackson asked about phasing. Mr. Kubas stated Sundance Coves will be done first. Mr. Bochman explained step one will be with the coves starting in July 2012.

Devon Gimsel expressed traffic issues since 21st Street is narrow and has steep ditches.

Aaron Schmidt stated that on Friday he just found out about this project. Mr. Courton explained the city gets county addresses from the county and they are not certified. Mr. Schmidt would like to get a letter regarding the annexation.

Andy Schmidt has concerns regarding the apartment buildings and wondered if the next annexation would take his property.

Ralph Schultz was wondering if the 25th road will be next to the city and if that road will be widened.

Leslie Ross just bought 40 acres in Vaagen Subdivision. Ms. Ross asked about enforcement. Ms. Ross asked if she would have to pay specials in the future for this development. Ms. Ross wondered if this area could get water because is not able.

Mr. Elkin stated the developer must meet with county engineer and county road superintendent regarding roads. Mr. Soehren stated that the city would be looking at upgrading 25th. Mr. Courton stated city services will not extend east of this development. Mr. Courton does not foresee annexation further to the east. Residents to the east would not have to pay specials.

Mr. Tooz abstained from voting since he owns 60 acres across the road.

MOTION BY: Jay Elkin

SECOND BY: Scott Kovash

To recommend Approval of the **Rezone from Ag to Planned Unit Development for Sundance**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements

1. The Planned Unit Development (aka "PUD") shall be in substantial conformance at all times with the file materials described as Exhibit "A", including illustrative maps.
2. Prior to Final Approval of the PUD, the City shall review and approve the Planned Unit Development Plan described as part of Exhibit "A".
3. The PUD shall remain in substantial compliance with the time building tables described in the Planned Unit Development Plan.
4. The developer shall be bound to the referenced items described in the May 11, 2012 letter from Paul Meyer. The items listed therein shall be incorporated as part of the application materials.
5. The Sundance Village illustrative map shall be revised to include definitive zoning district boundaries and approved as part of the adopting ordinance.
6. Prior to any activity on-site, the developer shall submit a stormwater management plan for review and approval by the City.
7. Prior to Final PUD approval, the City Engineer shall determine roadway dedications from the centerline of the roads abutting the property and each dedication must be depicted on the site plan included in the application materials and the Planned Unit Development Plan.
8. Prior to Final PUD approval, the illustrative site plan shall depict Southwest Water District's water easement.
9. Prior to any activity on-site, the developer shall submit a detailed landscape and site amenity plan for review and approval by the City Planner. Once approved by the City Planner, said plan shall be included in the Planned Unit Development Plan.

DISPOSITION: Motion carried. (Unanimous)

10. **PLANNED UNIT DEVELOPMENT** -To consider a PUD for property described as a Tract of Land located in the E ½, SW ¼ of Section 9, Township 139N, Range 96W.

Deanna Ellis with Rolling Hills Development stated this PUD is located at State Ave and 8 Street SW. It is approximately 30 acres within city limits. The development will keep some natural terrain. The development will have a club house, BBQ/fire pits and trails for walking or biking.

Mr. Courton concurs with Deanna. Mr. Courton expressed he has met with the developer several times before. Mr. Courton commends working with the natural terrain with the property.

Ms. Ellis requested further clarification on conditions #4 and #7. Ms. Ellis asked if the developer would change their name to a ND name if that would be approved. Mr. Courton stated he had no issues with that as long as it was the same developer. Ms. Ellis asked if item #7 could be modified to 50% done instead of all done in 2 years. Discussion ensued regarding what percent done in how many years and if the city is allowing too many R3 zones.

MOTION BY: Tracy Tooz

SECOND BY: Jay Elkin

To recommend Approval of the **Rezone from R1 to Planned Unit Development for the Rolling Hills Development**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare. And to include all 8 conditions with amending #7 to 3 years instead of 2 years.

1. The Planned Unit Development (aka "PUD") shall be in substantial conformance at all times with the file materials described as Exhibit "A".
2. Prior to Final PUD approval, the City Engineer shall determine roadway dedications from the centerline of State Avenue and 8th Street SW and each dedication must be depicted on the site plan included in the application materials and in the Planned Unit Development Plan.
3. Prior to Final Approval of the PUD, the City shall review and approve the Planned Unit Development Plan described as part of Exhibit "A".
4. The PUD expires with a change in ownership. The established owner is Bluffs Communities, LLC.
5. Prior to any activity on-site, the developer shall submit a stormwater management plan for review and approval by the City.
6. Prior to any activity on-site, the developer shall submit a detailed landscape and site amenity plan for review and approval by the City Planner.
7. All twenty-one (21) buildings and site amenities must be completed and each building must obtain a certificate of occupancy within three (3) years of the execution of this PUD entitlement or the PUD shall expire and the remaining property shall be rezoned to R1 through the City's rezoning procedures.
8. Prior to Final PUD approval, the Fire Department shall approve the interior access roads relative to road width and turning radius for emergency vehicles.

DISPOSITION: Motion carried. (Unanimous)

11. **PRELIMINARY PLAT** -To consider a Preliminary Plat for Sundance Village generally described in the NE $\frac{1}{4}$, NE $\frac{1}{4}$ of Section 35, Township 140N, Range 96W.

Craig Kubas with Kadrmas Lee and Jackson explained the Sundance Village Preliminary Plat. (2) streets with 40ft and all others will be 32ft wide. All public areas will part of lots and blocks to easily identify. 15ft wide trails will connect the subdivision.

Mr. Bochman stated the developer will be working with the Parks District and the parks will be a public space.

Mr. Courton stated any areas maintained by the HOA must be called a tract.

Mr. Elkin wondered about the (2) different size streets and asked if that is ok.

Mr. Soehren stated that request is being looked at and that it would only allow parking on 1 side of the street.

Mr. Kovash stated the Park District will be looking at a big chunk of land.

Mr. Jackson expressed that park is usually on preliminary plats but it is not on this plat. Mr. Jackson stated that the Sundance Coves may be ready to approve but the Village may not be ready to approve yet. Mr. Jackson wondered if the board could approve the Preliminary Plat and then state will see the final plat in 2 months.

Discussed ensued.

MOTION BY: Jay Elkin **SECOND BY:** Scott Kovash

To recommend Approval of the **Preliminary Plat for Sundance Village**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements and the blessing with city engineer and city planner:

1. Prior to Final Plat approval, the City Planner shall approve the street names.
2. Prior to Final Plat approval, the City Engineer shall determine roadway dedication(s) from the centerline of each abutting road and said dedication(s) shall be depicted on the plat.
3. Prior to Final Plat approval, the Southwest Water District's waterline easement shall be depicted on the plat.
Prior to recordation of the plat, the document titled, "Declaration of Protective and Restrictive Covenants for Sundance Subdivisions" shall be reviewed and approved by the City prior to recording the document.
4. Prior to Final Plat approval, the City Engineer shall review and approve all roads including but not limited to road widths, configuration and overall design.
5. Prior to any activity on-site, the developer shall submit a stormwater management plan for review and approval by the City.

DISPOSITION: Motion carried (Unanimous) Mr. Tooz abstained.

12. **PRELIMINARY PLAT** -To consider a Preliminary Plat for Sundance Coves generally described in the W ½ of Section 25, Township 140N, Range 96W.

Craig Kubas with Kadrmas Lee and Jackson stated Sundance Coves will be 40 acres. There will be a 40ft right-of-way on 25th Avenue East. Smaller lots on the east side. The Private Street shown on the Plat will be a driveway that will access several townhomes. There will also be (2) apartment buildings.

Mr. Courton stated he has attached 8 conditions after extensive discussions with the developer.

Kevin Gisle wondered what the plan was to control traffic at 21st Street and 25th Avenue.

Mr. Soehren stated that it may be a stop sign or may need to redesign the intersection for traffic signals. The city will do a traffic study if warranted.

MOTION BY: Scott Kovash

SECOND BY: Jerry Krieg

To recommend Approval of the **Preliminary Plat for Sundance Cove**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements:

1. Prior to Final Plat approval, the City Planner shall approve the street names.
2. Prior to Final Plat approval, the City Engineer shall determine roadway dedications from the centerline of each abutting road and said dedication shall be depicted on the plat.
3. Prior to Final Plat approval, the Southwest Water District's easement shall be depicted on the plat, if applicable.
4. Prior to recordation of the plat, the document titled, "Declaration of Protective and Restrictive Covenants for Sundance Subdivisions" shall be reviewed and approved by the City prior to recording the document. .
6. Prior to Final Plat approval, the private road must be removed and dedicated to the City.
7. Prior to Final Plat approval, the City Engineer shall review and approve all roads including but not limited to road widths, configuration and overall design.
8. Prior to any activity on-site, the developer shall submit a stormwater management plan for review and approval by the City.

DISPOSITION: Motion carried. (Unanimous) Tracy Tooz abstained.

13. **REZONE PETITION-** To consider a Rezone Petition from AG to LI for I-94 Industrial Park 2nd Addition generally described in the NE ¼ of Section 6, Township 139N, Range 95W.

Andrew Schrank with Highlands Engineering stated this is for the 3rd addition. Mr. Schrank stated adding industrial areas.

MOTION BY: Jerry Krieg

SECOND BY: Jay Elkin

To recommend approval of the **Rezone from Ag to LI Plat for I-94 Industrial Park 2nd Addition**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

DISPOSITION: Motion carried. (Unanimous)

14. **PRELIMINARY PLAT**- To consider a Preliminary Plat for I-94 Industrial Park 2nd Addition generally described in the NE ¼ of Section 6, Township 139N, Range 95W.

Andrew Shrank with Highlands Engineering stated the Street will be paved.

Mr. Courton read of conditions.

MOTION BY: Jay Elkin

SECOND BY: Scott Kovash

To recommend Approval of the **Preliminary Plat for I-94 Industrial Park 2nd Addition**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements:

1. Prior to Final Plat approval, a detailed stormwater management plan shall be approved by the City.
2. Prior to issuance of any building permits, the roads design shall be approved and paved to the satisfaction of the City Engineer.
3. Prior to Final Plat approval, the property shall be rezoned from Agriculture to Light Industrial.
4. Prior to Final Plat approval, the road shall be designed to meet adequate emergency vehicle turnaround in or around the terminus of the road to the satisfaction of the City Engineer and Fire Department.

DISPOSITION: Motion carried. (Unanimous)

10. **OTHER BUSINESS**

Planning and Zoning Commission's next workshop will be on February 14th, 2012.

11. **ADJOURNMENT**

There being no further business to discuss

MOTION BY: Scott Kovash

SECOND BY: Jason Hanson

To adjourn meeting.

DISPOSITION: Motion carried.

PREPARED BY:

Melissa Gjermundson

APPROVED BY:

Ed Courton