

PLANNING & ZONING COMMISSION MEETING MINUTES

August 15th, 2012

OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Chairman Earl Abrahamson called the meeting to order at 7:15 AM.

II. ROLL CALL

PRESENT: Tracy Tooz, Scott Kovash, Gene Jackson, Jerry Krieg, Jay Elkin, and Earl Abrahamson

ABSENT: Jason Hanson

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

STANDARD MOTIONS

REGULAR AGENDA

1. REZONE PETITION - To consider a Rezone Petition from AG to R1 & R2, for Hillside Mixed Use Addition generally described as the SE ¼ of Section 16, Township 139N, Range 96W.

Mike Maus and Shawn Rowles are presenting for Centennial Estates. Rowles notes there will still be some AG on the plat, used for mini storage unit. Maus thinks they have come up with a plan that is satisfactory. Courton states that his comments are the same as the last meeting. He feels items one and two should be continued until the annexation is resolved. Rowles states that he has tried to get on the City Commission agenda, but he hasn't been able to do that. He believes staff has delayed his progress. He would like to move forward with contingencies placed for annexation and other items.

Chairman Abrahamson opens the hearing for public comment.

Tim Priebe states that he concurs with Courton's recommendations. He and others would like to see R1. He states he is also curious about his subdivision being annexed.

Elkin comments that this project has been in the works for over a year. He would like to see the lots on the exterior to be more uniform like the lots in Decker's subdivision. Street access points are also an issue; he would like to see them widened. Rowles comments on the size. He states the approval for phase one could be a smaller project. Elkin would like to see the higher density in the interior. Rowles mentions that they have adjusted their lot sizes. Jackson thinks the layout and land use is fine. He has some concerns, but thinks they are premature. He mentions that we are in a different place in the City than we were back in February when this was first presented. He believes it's prudent to hold off on it. Abrahamson concurs with Elkins, Jackson and Courton. Courton adds that in March the applicant says staff has delayed his project, and that is not so; they have been intensely looking at annexation for the Comprehensive Plan.

MOTION: Gene Jackson

SECOND BY: Jerry Krieg

Motion to continue the Rezone Petition until a later meeting.

DISPOSITION: Motion carried unanimously

2. **PRELIMINARY PLAT**- To consider a Preliminary Plat for Hillside Mixed Use Addition generally described as the SE ¼ of Section 16, Township 139N, Range 96W.

Shawn Rowles and Mike Maus are presenting for Centennial Estates. Same as item #1.

Chairman Abrahamson opens the hearing for public comment. No one is here to comment.

MOTIONS: Jerry Krieg

SECOND BY: Scott Kovash

Motion to continue the Preliminary Plat.

DISPOSITION: Motion carried unanimously

3. **SPECIAL USE PERMIT**- To consider amending a Special Use Permit for Convenience Storage at the intersection of 8th Street SE and 10th Avenue in Section 14, Township 139N, Range 96W.

Erving Lantz says he plans to put another storage unit up like his last one. Tooz asks if all the issues with the City inspection department were taken care of with the prior units. Courton says they have paved the mini storage, and all issues have been resolved. Courton feels the location is ok for this, but not anything larger. He mentions that his 3rd condition will state that no further expansion will be allowed. Abrahamson asks if Lantz does year round maintenance, and if there is an area for snow removal. Lantz says he does all that, and he has an area to take care of snow removal. He also adds that there is low traffic. Abrahamson asks if the rentals are strictly used for storage. Lantz says they are only for storage, and do not store toxins inside.

Chairman Abrahamson opens the hearing for public comment. No one is here to comment.

Courton recommends approval. He thinks we need to set some requirement for AG land uses, and not make it more commercial. Abrahamson mentions he would like to review storage on another agenda

MOTION BY: Tracy Tooz

SECOND BY: Gene Jackson

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Amendment to the existing Special Use Permit for Convenience Storage, 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 (IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE):

1. ***The project must remain in compliance with Section 39.06.005 (f) at all times.***

2. ***The entrance must be paved from the county's gravel road to the existing concrete drive aisle prior to certificate of occupancy.***
3. ***No further expansion of the mini-storage facility will be allowed. The total number of buildings shall be two as depicted on the project site plan.***

DISPOSITION: Motion carried unanimously

4. **PUD AMENDMENT**- To consider an amendment to the PUD for Lyon's 2nd Subdivision generally located in the NE ¼ of Section 27, Township 140N, Range 96W.

Mr. Tooz excuses himself from items #4 and #5.

Courton states this is an amendment to an existing PUD. They have obtained land to the south, and are modifying the existing instead of having two separate PUD's. The PUD will be extending to the south. They will be modifying new conditions. Staff supports approval with the additional conditions. Jeff Schaumann with Arista Development is presenting. He explains the plat, and the rezone. Courton clarifies that the rezone will be part of the PUD amendment, and LI will be included in the amendment. Abrahamson asks about increasing the structures and acreage. Schaumann notes, that while they are increasing acreage they aren't increasing density. Abrahamson asks about the issue with the vinyl fencing. Schaumann says that will be installed for any CO's that are issued. Abrahamson asks about easements. Schaumann says they have presented the utility plans to the City. The improvements have been engineered, and they have received bids, and will start after acceptance by the City.

Chairman Abrahamson opens the hearing for public comment. No one is here to comment.

Jackson mentions the agreement with the City and adjacent property owners. Kolling says those agreements are in place. Courton states that this piece will need to be annexed into the City. Since it is one party it can be an expedited annexation. He says the agreements are not applicable for this piece, only Lyons 2nd.

MOTION BY: Jay Elkin

SECOND BY: Jerry Krieg

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Amendment to the existing Lyon's PUD, 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 (IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE):

1. ***Prior to Final Approval of the PUD ("PUD"), the City shall approve the Planned Unit Development Plan described as part of Exhibit "A" attached.***
2. ***The Planned Unit Development shall be in substantial conformance at all times with the file materials described as Exhibit "A".***
3. ***A continuous six (6) foot vinyl opaque fence or higher quality fence shall be installed along the easterly property line abutting the 7th Avenue East rights-of-way for Lots 1-7 prior to any building receiving a certificate of occupancy.***
4. ***Prior to Final Approval of the PUD, the property shall be annexed into the City.***
5. ***No activity on-site shall occur until a storm water management plan has been approved by the City***

DISPOSITION: Motion carried unanimously

5. **PRELIMINARY PLAT** - To consider a Preliminary Plat for Lyons 3rd Subdivision generally described as part of the NE ¼ of Section 27, Township 140N, Range 96W.

Jeff Schaumann notes that land uses continue all the way south to the creek, and they will leave that as natural. The pond will be constructed. Lot 12 will be LI. Courton asks if he has any questions on the conditions he has placed. Schaumann is agreeable to all. Jackson asks about communication with the park board. Schaumann says he has talked to staff, and they have discussed taking cash and also adding a pocket park on the west boundary of lot eight. That lot would be improved by funds from Lyons 2nd. Kovash says this is acceptable. They will have a meeting next Tuesday to discuss. Jackson questions the half streets on the plat. Soehren said they have had extensive discussions about this. He feels they should capture the right of way when they can, but at this point they are fine with it. Abrahamson asks about accessibility to the pocket park. Schaumann states the public portion would extend all the way to Lyons Avenue. Elkins questions the park being on a cul de sac, and the possible congestion. Schaumann says he sees that as mostly pedestrian traffic. Elkin has a concern about safety. Courton says he will have to look at that with the overall plan, and parking spaces. He thinks it can work, and is glad they will be providing that amenity. Jackson asks about ownership of Lot 11. Schaumann says they will dedicate that to the City.

Chairman Abrahamson opens the hearing for public comment.

Bob Sivak from Dickinson Fire Dept. wants to stress that the developers need to be meeting with the fire department regarding two access points for emergency access. Abrahamson asks about ownership of Lot 11. Soehren says they have to look at the overall drainage plan. They think City should take ownership so drainage is maintained appropriately.

MOTION BY: Gene Jackson

SECOND BY: Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Preliminary Plat for Lyon's 3rd Subdivision, 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. 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 Plat approval, a one (1) foot non-access easement shall be depicted on the plat along the eastern edge of Lots 1 - 7.***
- 3. Prior to any building certificate of occupancy for Lot 12, the road and all improvements shall be paved and accepted by the City.***
- 4. Lot 11 shall be renamed to Tract 1 and labeled as an unbuildable lot and the property owner shall establish a funding mechanism for the maintenance of the tract approved by the City.***
- 5. Prior to Final Plat submittal, the City Engineer and Fire Chief must approve the road alignments for the plat.***
- 6. Prior to Final Plat approval, the City Engineer and Fire Chief must approve the necessary fire and emergency turnaround of Lyons Avenue.***
- 7. Prior to Final Plat submittal, the FIRM map number shall be denoted on the plat.***
- 8. Prior to Final Plat submittal, the floodplain shall be delineated and any wetlands shall be illustrated on the plat.***

DISPOSITION: Motion carried unanimously

6. **FINAL PLAT**- To consider a Final Plat for I-94 Industrial Park 3rd Addition generally described as a tract of land located in the NE ¼ of Section 6, Township 139N, Range 95W.

Andrew Schrank from Highlands Engineering is presenting a Final Plat that consists of ten lots adjacent to the current Industrial park. He states he has gotten approval from SW water to use their water depot road for access. He states they would like to receive permission to do a county road with ditches. Elkin has a concern that with anything that falls within the ETZ needs paved roads. Schrank says everything will be paved, but is wondering if they have to do curb and gutter. Soehren says they will work with the county road superintendent on what he feels should be done. County Road Superintendent, Mr. Heiser says he believes there was only a verbal agreement and he says Mary Masset has concerns about trucks that are lining up at the depot; they need to get a definite approval. Courton adds that SW Water is concerned that if they put a road through it would have to be clear road. He doesn't feel it's to SW Water's advantage. He feels we should continue the Final Plat until this is resolved. Schrank asks what would be required by them if they are allowed access from SW Water. Courton says it would have to be a dedicated right of way. Schrank adds that he believes it's unplatted property right now.

Chairman Abrahamson opens the hearing for public comment. No one is here to comment.

MOTION BY: Jay Elkin

SECOND BY: Gene Jackson

Motion to continue Final Plat until street issues are resolved.

DISPOSITION: Motion carried unanimously

7. **FINAL PLAT** – To consider a Final Plat for Clear Creek subdivision generally described as a portion of the S1/2, SE1/4 of Section 29, Township 140N, Range 96W.

Mr. Tooz excuses himself from this item.

Nathan Anderson from Lightowler Johnson is presenting. He states that they have addressed the 300' radius from the well, and there will be no habitable structures around that. They are working on the drainage plan right now. Abrahamson comments that everything in the interior would be subject to approval and would have to come forward with another plat. Jackson notes that there are some important dimensional things missing from this plat that would be a problem if recorded. He recommends continuing. Elkin asked about pedestrian easement. Anderson says it would be a bike path that would be maintained by the HOA.

Chairman Abrahamson opened the hearing for public comment. No one is here to comment.

MOTION BY: Gene Jackson

SECOND BY: Jay ELkin

Motion to continue the Final Plat until the dimensional issues are resolved.

DISPOSITION: Motion carried unanimously

8. **REZONE PETITION** - To consider a Rezone Petition from AG to RR for Peaceful Valley Subdivision generally described as the W½, SE¼ of Section 14, Township 139N, Range 96W.

Randall Schwartz, the property owner, is presenting the Rezone. He states he would subdivide this piece into 5 acre lots, and have buildings for horses. It would mainly be for equine owners. Elkins believes that having 40 acre tracts in that area would be more uniform with what currently exists there. Schwartz adds that he finds that people can't afford those large of lots. He is doing this because he has been approached by a number of people. Abrahamson questions if five acres is enough to take care of horses. Schwartz adds that they would have to stable them and

hay feed. Abrahamson asks about how many lots. Schwartz says its 16 lots. He also says they are proposing a covenant on the property. Walt Smith clarifies that all the lots and such will be on the next item, Preliminary Plat. Elkin believes we need to allow for existing subdivisions to reach some level of saturation before approving anymore. Schwartz says the realtors are saying they will be sold out, and Elkin says that's what's happened in the past. Courton says we need to be consistent with what the County is doing. Elkin says they are going through subdivision regulations right now and these lots may not conform at this time. He would like to see this project held off at this time. Elkin recommends that Mr. Smith visit with the new County Planner. Abrahamson says the issue is the use of the property, not who can and cannot afford it. He says the proposed use isn't appropriate. Jackson thinks that as a board we need to be open to a RR development in the future, but not at this time. Krieg says he likes the intent of this, but questions if the current subdivisions are set up to provide the 5 acres. Elkin says they are.

Chairman Abrahamson opens the hearing for public comment.

Erin Wanner has a few concerns about access and high water table. She would like to see an environmental assessment done, due to septic systems and manure. She would also like to see larger lots. She mentions she has 40 acres and says, even on that large of a lot, there is a large burden of cleaning manure and finding a place to put it.

Chad Brusso is concerned about how they are handling the roads. He asks if the County will be able to put a road in all the way through. Schwartz says their plan is to extend 39th to Hwy 22.

MOTION BY: Jay Elkin

SECOND BY: Gene Jackson

I move the Dickinson Planning and Zoning Commission recommend Denial of the Approval of the Rezone Petition from AG to RR, as depicted in the application materials, as NOT meeting all the requirements of the Dickinson Municipal Code and being contrary to interest of the public health, safety and welfare

DISPOSITION: Motion carried unanimously

Abrahamson thinks once the County updates its subdivision proposals we could look at this again, and would like to see the lots larger than 5 acres.

9. **PRELIMINARY PLAT** - To consider a Preliminary for Peaceful Valley Subdivision generally described as the W $\frac{1}{2}$, SE $\frac{1}{4}$ of Section 14, Township 139N, Range 96W.

Courton says this item should be pulled until the rezone is approved. Schwartz is fine with that. Jackson comments that if this comes back it should address the overall street layout.

10. **FINAL PLAT** - To consider a Final Plat for Sundance Coves 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 is representing the owner. He notes the changes that have been made: 33' road right of way on the N side towards the east end and on the east side - that has been increased to 40ft. Utility easement also added along that line. Interior streets are 60' right of way widths. Street names have been added. SW corner have two tracts, both open spaces, both storm water ponds which shall be maintained by the HOA. He notes they have lost a couple lots because of the owner's preference. They have done this to reduce the setbacks on the homes. They have dedicated some storm easements to get underground sewer between some lot lines. Abrahamson asks Mr. Heiser to comment. Mr. Heiser states that he has

concerns with the five ton restrictive road. He sees there has been work started without permits, and there has been heavy equipment on that road. He is disappointed no one has contacted him; he has lots of unanswered questions. He thinks the developer needs a plan on how to access this property. He would like more clarification on the annexation. Soehren says he will have to check on the exact annexation, and will discuss that with Mr. Heiser. He comments that no one should have been hauling heavy equipment on those roads. Elkin says he is disappointed that Sundance did not work this out with the County. Soehren believes that Elkin did bring up the weight restriction at the last meeting. Abrahamson feels these are not issues we can just let go. Courton adds that they did not do what they said they were going to and recommends continuance. He will be meeting with them today about the PUD. He says the restrictions can be added to the PUD plan. Krieg wants to hear what the options are. Abrahamson comments that the City, County and the developer have to get together and resolve the road issue. Courton says that they would take an inventory of the road and then put on a bond for six months to a year, and look at it again. Elkin believes this issue could have been resolved if they would have met with Mr. Heiser. Heiser said they would have to do a survey of the existing pavement. He thinks a pavement study needs to be done, and it could be resolved.

Chairman Abrahamson opens the hearing for public comment.

Bob Sivak says he wasn't aware that the roads were an issue. Questions the road on the east boundary, asks if this road has the same questions as 21st Street.

Travis Hande lives on the NW side of this development. He is wondering if he will be getting annexed into the City. Courton clarifies that he is not part of that.

Jackson thinks the plat looks good. He would like to remove the utility easements on the front lot lines. Courton recommends asking the developer their reasons for having them in the front. Kubas says that was the direction from the owner, he's not sure if it's for a specific reason. Courton adds that with the new subdivision regulations that the utility easements should be on the side or front, but there is a variance if the utility company requests otherwise. Brian Bochman, the owner, states he will be meeting with the County and will get everything taken care of. He requests to proceed with the final plat, because he is at the risk of losing builders building season. Krieg agrees with Mr. Jackson about easements on the front lot lines. He thinks this should have been resolved a month or two ago and is in favor of continuance. Jackson says the utility company will always want the easement in the front, because it is easier access for them. Bochman is fine putting them in the back or side. Abrahamson has a question about going forward with the road issue. Courton thinks it can be worked out. He says there are different options. He says they could recommend approval but it won't go to city commission until this issue is resolved. Elkins concurs with that. Mr. Heiser also agrees, and the road to the east will have to be addressed.

MOTION: Jay Elkin

SECOND BY: Scott Kovash

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Final Plat for Sundance Coves, 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 (IF THE PLANNING AND ZONING COMMISSION RECOMMENDS ANY ADDITIONS AND/OR DELETIONS TO THE PROPOSED MOTION LANGUAGE):

1. Prior to submittal to the City Commission, the signature block for the Planning and Zoning Commission shall be revised to include Ed Courton.

2. ***Prior to submittal to the City Commission, the signature block for Stark County shall be removed.***
3. ***Prior to submittal to the City Commission, an approved storm water management plan shall be issued by the City Engineer.***
4. ***Prior to submittal to the City Commission, all intersections shall have radius curves rather than "T" style intersections unless approved by the City Engineer.***
5. ***Prior to submittal to the City Commission, all road issues have been resolved by the County.***

DISPOSITION: Motion carried unanimously

11. **COMMISSION COMMENTS OR ISSUES**

Abrahamson comments on the timeliness of the minutes and agenda packets. He would like to see packets go out sooner. Courton says once the Subdivision Regulations change, that could be resolved; we will have more time to get the packets together. He states it is a staff and timing issue.

12. **ADJOURNMENT**

MOTION: Tracy Tooz

SECOND BY: Scott Kovash

Motion to adjourn at 9:41am

DISPOSITION: Motion carried unanimously

Prepared by: Melissa Gjermundson

Approved by: Ed Courton