

## PLANNING & ZONING COMMISSION MEETING MINUTES

October 17<sup>th</sup>, 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, Thomas Grimm, Gene Jackson, Jerry Krieg, Earl Abrahamson, and Jay Elkin

ABSENT: Jason Hanson

STAFF: Ed Courton - City Planner, Nathan Peck -Assistant City Engineer and Matt Kolling  
- City Attorney

### STANDARD MOTIONS

#### 1. MINUTES

Minutes for the meeting dated September 19<sup>th</sup>, 2012 submitted for approval.

**MOTION BY:** Tracy Tooz

**SECOND BY:** Scott Kovash

**DISPOSTION:** Motion carried. (Unanimous)

### REGULAR AGENDA

1. REZONE REQUEST - To consider a Rezone Petition from R1 to R2 for Lots 7-14, Block 11 and CC to LC for Lot 1, Block 4, Koch Meadow Hills 4<sup>th</sup> Addition.

Harvey Schneider and Michael Koch are presenting the rezone request. Mr. Schneider stated there would be 2 different areas that would be rezoned. The first would be Block 11 lots 7-14 from R1 to R2. Mr. Schneider stated the reason for this request is for the potential buyer. The potential buyer wanted to carry over to the east since he bought some lots to the west. However, Lot 11 has been sold and it is a single family, so they are unable to change that lot 11 to R2. Mr. Schneider suggested another request of leaving Lots 10, 11 and 12 in the R1 zone.

Ed Courton stated he has no problem with this request since the area is already segregated. Mr. Courton also stated there was an issue with lot 6 in Block 11 due to the change in a city ordinance and added Mr. Kolling will explain.

City Attorney stated that the City of Dickinson has adapted a new oil well ordinance which increased the area to 300ft from an oil well that is unbuildable. This new ordinance was adopted after the plat had been recorded. If the City decides to enforce the new ordinance then some of the lots are unbuildable. At this time this is an issue that will need to resolve in the future but will not affect this rezone request.

Mr. Schneider stated the second request is to change Block 4, Lot 1 from CC to LC. The potential buyer would like to put in an apartment with garages. Mr. Schneider asked if it would be easier to rezone this area to an R3 instead.

Mr. Courton stated he is in favor of leaving it at an LC request. LC provides greater flexibility and the potential buyer can request a Special Use Permit (SUP) for the apartments and garages.

Discussion ensued regarding the request.

Chairman Abrahamson opens the hearing for public comment.

Jan Prchal lives south of this development and stated that the developer continues to increase the density of Block 11 compared to the Master Plan. Ms. Prchal added that more R1's are changing to R2's.

Discussion ensued regarding the density change.

**MOTION BY:** Jay Elkin

**SECOND BY:** Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition from R1 to R2 for Lots 7, 8, 9, 13, 14 in Block 11 and CC to LC for Lot 1, Block 4 of Koch Meadow Hills 4<sup>th</sup> 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, the applicant shall pay any applicable Parks fees.

**DISPOSITION: Motion Carried (Unanimous)**

- 1A. Mr. Abrahamson stated that Mr. Koch would like to give an informational presentation and this will not be open for comments or questions. Mr. Koch presented a possible future development for the City of Dickinson on the Herauf Property which is 310 acres west of the Koch Meadow Hills Subdivision Development. Mr. Koch added they are hoping to come forward to Planning and Zoning in the near future with a master plan.
2. **REZONE REQUEST**- To consider a Rezone Petition from AG to R2 for Lot 1, Block 1 in Northern Heights Subdivision

Chuck Geisen with Landmark Development stated that Northern Heights Subdivision is in the middle of Koch Meadow Hills Subdivision and the request to rezone from AG to R2.

Mr. Kolling stated this subdivision is not annexed into the City of Dickinson.

Mr. Courton stated that it makes sense to rezone this property. The previous owner wanted to keep their house there but they are going to move due to all the development. Mr. Courton stated that anytime there is an increase of density then the applicant needs to pay the park fees prior to recording the plat.

Discussion ensued regarding Park Fees. Mr. Kolling stated that if the park fees are not paid then no building permits or Certificate of Occupancy's will be issued.

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

**MOTION BY:** Gene Jackson

**SECOND BY:** Scott Kovash

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition for from Aq to R2 for Lot 1, Block 1 of Northern Heights 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.

(AND) the following additional requirements:

1. Prior to submittal to the City Commission, the applicant shall pay any applicable Parks fees.

**DISPOSITION: Motion Carried (Unanimous)**

3. **HOME OCCUPATION PERMIT**- To consider a Home Occupation Permit to allow a tax accounting business in a residence zoned R1 and addressed as 3721 114<sup>th</sup> Ave SW.

Larry Robinson stated he is a local tax accountant and will be looking at retiring in next 10 years. Mr. Robinson stated his current location has a for sale sign and he is looking for something permanent until he can retire. The request is to have a tax accounting business in the home. Mr. Robinson stated they will be adding an addition into the home.

Mr. Courton stated that Mr. Robinson will need to be in compliance with the home occupation guidelines. Mr. Courton will give Mr. Robinson the requirements. This will not transfer if the property will be sold.

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

**MOTION BY:** Jerry Krieg

**SECOND BY:** Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Home Occupation Permit to allow a tax accounting business**, 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 project must remain in compliance with Section 39.06.008 at all times.
2. The approval of the Home Occupation Permit shall be termination if the business use is changed or the business ceases from operation more than one (1) year.

**DISPOSITION: Motion Carried (Unanimous)**

4. **REZONE REQUEST and FINAL PLAT**- To consider a Rezone from CC and P to PUD for a property situated to the east of I-94 Business Loop, to the north of Fairway Street and west of 23<sup>rd</sup> Ave W. The property size is +/- 73 acres.

Reed Rayman, President and CEO of St. Joseph's Hospital, presented the rezone request and Final Plat. Mr. Rayman introduced Lee Hanthrow that will explain the requests.

Mr. Hanthrow stated the rezone request and final plat will allow the St. Joseph's Hospital project to begin.

Mr. Courton stated the city has been working with the applicant. There will be 11 proposed conditions. The site plan that was presented was not complete. Mr. Courton explained that there were buildings but not roads on the site plan. Mr. Courton would like a traffic study completed before the roads are platted. Mr. Courton explained normally we address the alignment of the roads right away but in order to not delay the PUD any longer we will address the road alignment in the conditions.

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

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition from CC and P to Planned Unit Development ("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:

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. Prior to Final Approval of the PUD, a traffic impact study shall be performed and accepted by the City.
4. All roads and road alignments shall be approved by the City Engineer
5. Prior to issuance of any building permits for structures on-site, the property owner shall record a re-plat or plat vacation. **{City staff note: The property is part of the original State Subdivision and has existing lot lines and dedicated rights-of-way that need to be adjusted or vacated prior to issuance of any building permits for structures}**
6. Prior to certificate of occupancy of any building, landscaping shall be installed along each roadway in accordance with the City's Landscape Ordinance.
7. A minimum sidewalk width of six foot shall be installed along each roadway within and around the perimeter of the property site.
8. Empire Road shall be upgraded and re-constructed to urban road standards approved by the City Engineer.
9. A one-foot, non-access easement shall be depicted on the approved site plan and all subsequent plats, unless amended by the approving body. This easement shall run along the western property line abutting I-94 Business Loop.
10. No activity on-site including grading shall occur until a storm water management plan has been approved by the City.
11. Prior to Final Plat submittal, the hospital shall pay any applicable Parks fees.

**DISPOSITON: Motion carried (Unanimous)**

- 4B. I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Hospital Acres 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 Final Plat approval, a detailed storm water management plan shall be approved by the City.
2. A one-foot, non-access easement shall be depicted on the approved site plan and all subsequent plats, unless amended by the approving body. This easement shall run along the western property line abutting I-94 Business Loop.

**MOTION BY:** Gene Jackson

**SECOND BY:** Jay Elkin

**DISPOSITION: Motion Carried (Unanimous)**

5. **PRELIMINARY PLAT** - To consider a Preliminary Plat for Rolling Hills Subdivision generally described in the SW ¼ of Section 9, Township 139N, Range 96W.

Dean Rowl with Interstate Engineering presented the Preliminary Plat for Rolling Hills Subdivision. Mr. Elkin asked what the time frame would be to start building. Mr. Rowl stated April or May with hopes of building 6 buildings next summer. Possibly a total of 3 years to complete the project.

Mr. Courton stated there is a condition regarding storm water. The storm water plan needs to get approved and also park fees paid before this can move to final plat.

Mr. Kovash confirmed that the Park Board decided on cash in leau.

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

**MOTION BY:** Jerry Krieg

**SECOND BY:** Gene Jackson

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Preliminary Plat for Rolling Hills PUD 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.

(AND) the following additional requirements:

1. Prior to Final Plat Approval, the storm water plan shall be approved by the City.
2. Prior to submittal to the City Commission, the applicant shall pay any applicable Parks fees.

Tracy Tooz expressed that he hopes they keep the grade for this development. Gene Jackson stated this is a perfect use for a PUD.

**DISPOSITION: Motion carried (Unanimous)**

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

Andrew Shrank with Highlands Engineering presented the Final Plat of I-94 Industrial Park 3<sup>rd</sup> Addition. Several changes were discussed. Mr. Elkin stated the roads will need to be paved

and someone will have to meet with the county road superintendent. The county is responsible for snow removal and it has been difficult to remove the snow due to the road materials.

Mr. Jackson questioned the access easement. At this time the road will not be built but may be in the future. Mr. Jackson asked if we don't dedicate the road now then how do we get it dedicated in the future. Discussion ensued regarding the access easement.

Al Heiser stated he has concerns regarding this final plat. One concern is turning around at the hammer head. Southwest water is up fairly high and Mr. Heiser is concerned how they would design the street. Mr. Heiser stated when the oil boom first started it was requested to have temporary roads but now it is time to have the roads paved.

Mr. Jackson clarified that we have 2 issues. Issue #1 is the paving issue within other developments to the west of this final plat but has the same developer. Mr. Jackson stated those roads should be paved before this final plat can be recorded. Discussion ensued regarding the verbal agreement on the roads in past developments.

Mr. Abrahamson stated that the city, county and developer need to meet regarding issues, the paving and development of future road dedication to the east.

Mr. Elkin stated to removed the easement to the north then add it through the hammer head for connectivity to the east.

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

**MOTION BY:** Gene Jackson

**SECOND BY:** Tracy Tooz

**TO CONTINUE THE FINAL PLAT FOR 1-94 INDUSTRIAL PARK 3<sup>RD</sup> ADDITION.**

Mr. Abrahamson again stated that the city, county and developer need to get together.

**DISPOSTION: Motion Carried to continue. (Unanimous)**

Mr. Courton asked the commission what day they would like to have the November Planning and Zoning Commission meeting. It is now scheduled for November 21<sup>st</sup>, 2012 which is the day before Thanksgiving. The commission agreed to move the meeting to November 14<sup>th</sup>, 2012. City staff will notify the applicants.

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.

Nathan Anderson with Lightowler Johnson and Associates presented the final plat for Clear Creek subdivision.

Mr. Elkin asked about the access point onto 21<sup>st</sup> Street W and what kind of upgrade will there be because of this development.

Mr. Heiser stated when you come onto 21<sup>st</sup> Street W from the development area there is somewhat of a hill and possibly someone can cut the hill down a little. Discussion ensued on who will upgrade and later maintain the road.

Mr. Courton stated the city will look at the site issues with the developers and in the development phase the access points will be looked at.  
Chairman Abrahamson opened the hearing for public comment. No one was here to comment.

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Clear Creek 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.

(AND) the following additional requirements:

1. Prior to any activity on-site, the applicant must received approval for a storm water management plan meeting all the requirements of City Code and issued by the City Engineer.
2. No buildings or any structures shall be located in the pipeline easement, unless expressly permitted by all parties and documentation submitted and confirmed by the City.
3. The oil well access easement shall be paved to the satisfaction of the City Engineer prior to issuance of any certificate of occupancy for any buildings on Lots 1-3.
4. Any improvements and on-going upkeep & maintenance within the pedestrian access easement shall be funded by a private funding mechanism approved by the City. The funding instrument shall be approved prior to recordation of the plat.
5. Prior to any activity commencing on Lot 3, the property owner shall show the activity is in conformance with the City's Floodplain/Floodway Overlay District Ordinance, Section 39.05.019.
6. Prior to recordation of the Final Plat, the Parks Department fees must be paid and verification of payment submitted to the City.

**DISPOSITION: Motion carried (Unanimous)**

8. **FINAL PLAT** - To consider a Final Plat for property described as a Replat of Lot 1 Less the South 110 Feet and Lots 2-6 of the Replat of Blocks 2 and 6-12 of Country Oaks Estates Second Addition, Section 28, Township 140N, Range 96W.

Jeremy Woods with Northern Plain Engineering presented the Final Plat of Country Oaks Estates Third Addition. Mr. Woods stated no changes have been made since the preliminary except for the name.

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

**MOTION BY:** Gene Jackson

**SECOND BY:** Thomas Grimm

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Country Oaks Estates Third Addition**, 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)**

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

Tracy Tooz abstained from discussion and voting.

Brian Bochman represented Arista Development, standing in for Jeff Schaumann.

Mr. Kolling stated his property is a PUD but has not been annexed into the City yet. Will be doing the annexation in the near future.

Mr. Courton clarified the motions. Motion #1 has already been completed and Motion #2 should read Lot 1 Block 3 not Lot 12.

Mr. Elkin asked about the Park fees. Mr. Courton stated that there is an area dedicated for a park.

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

**MOTION BY:** Jay Elkin

**SECOND BY:** Jerry Krieg

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Lyon's 3<sup>rd</sup> 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.

(AND) the following additional requirements:

- ~~1. 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.~~
2. Prior to any building certificate of occupancy for Lot 1 Block 3, the road and all improvements shall be paved and accepted by the City.
3. Tract A shall be labeled as an unbuildable lot and the property owner shall establish a funding mechanism for the maintenance of the tract approved by the City.
4. Prior to Final Plat submittal to the City Commission, the City Engineer and Fire Chief must approve the road alignments for the plat.
5. Prior to Final Plat submittal to the City Commission, the City Engineer and Fire Chief must approve the necessary fire and emergency turnaround of Lyons Avenue.
6. Prior to Final Plat submittal to the City Commission, the FIRM map number shall be denoted on the plat.
7. Prior to recordation of the Final Plat, the Parks Department fees must be paid and verification of payment submitted to the City.
8. No activity on-site including grading shall occur until a storm water management plan has been approved by the City

Mr. Courton noted that the map shows unstudied areas. Further studies are needed when submitting storm water plans to the city.

**DISPOSITION: Motion carried (Unanimous with Tracy Tooz abstaining)**

10. **ZONING TEXT AMENDMENT** - To consider a Zoning Text Amendment to allow accessory buildings to be located between the front building line of the principal building and the front property line in R-3 zoned districts.

Mr. Courton explained the current zoning text is applied more towards R1 and R2 zones. Mr. Courton stated when getting into more density like a R3 zone the accessory buildings can act as a natural buffer as long as the materials match the building materials.

Deb Wendal Daub, architect with Roers Development, stated they have been working with the City regarding this text amendment.

Mr. Courton made special note in the condition regarding the setback. The setbacks are not changing. Mr. Kolling stated he will work with Mr. Courton regarding the language.

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

**MOTION BY:** Jay Elkin                      **SECOND BY:** Jerry Krieg

1.        **The Amendment (Section 39.07.002 (a) (5) (b)) shall read as follows: “No accessory building may be located between the front building line of the principal building and the front property line, except for residential buildings equal to or greater than three units per building in the R3 zoning district.” It should be noted that City staff is not in favor of amending the zoning regulations to allow accessory buildings closer than 20-foot if abutting a road or 15-foot if no road access is provided with respect to front yard setbacks.**

**DISPOSITION: Motion carried. (Unanimous)**

11.      **FINAL PLAT** - To consider a Final Plat for Sundance Village Subdivision generally described as part of the West ½ of Section 25, Township 140N, Range 96W. The property size is +/- 308 acres.

Brian Bochman with Meyer Contracting presented the Final Plat for the Sundance Village Subdivision. Mr. Bochman stated there are no major changes since the Preliminary Plat.

Mr. Kolling stated there is some technical legal issues that need to be worked out regarding 21<sup>st</sup> Street W but that will not hinder the Final Plat application.

Al Heiser clarified that the County and Meyer Contracting are in agreement to access Sundance Coves but no agreement with accessing anything north of the Sundance Coves. Mr. Heiser believes they can come to an agreement but they just need to get together.

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

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

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Sundance Village 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.

(AND) the following additional requirements:

1.    Prior to City Commission submittal, the storm water plan shall be approved by the City.
2.    Prior to submittal to City Commission, the Development Agreement must be approved by the City.

**DISPOSITION: Motion carried (Unanimous)**

12.      **PRELIMINARY PLAT** - To consider a Preliminary Plat for Whispering Pines generally described as a portion of the SW ¼ of Section 15, Township 139N, Range 96W.

Steve Brud with Advanced Engineering presented the Preliminary Plat for Whispering Pines.

Mr. Courton stated this is a large lot within City limits and the applicant would like to build another house.

Chairman Abrahamson opened the hearing for public comment.

Lee Stroh stated have no objection if this stays R1.

Mr. Courton stated it will be R1.

**MOTION BY:** Jay Elkin

**SECOND BY:** Jerry Krieg

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Preliminary Plat for Whispering Pines 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.

**DISPOSITION: Motion carried (Unanimous)**

Discussion: Mr. Jackson discussed how the process is changing within the City on how we are annexing land. Previously the City saw platting and annexation at the same time but now the City is going to annex the land then let the Planning and Zoning Commission control what will be platted. Discussion ensued.

13. **ADJOURNMENT**

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jerry Krieg

**Motion to adjourn at 10:03am.**

**DISPOSITION: Motion carried (Unanimous)**

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Prepared by: Melissa Gjermundson

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Approved by: Ed Courton