

# PLANNING & ZONING COMMISSION MEETING MINUTES

October 19, 2011

## OPENING CEREMONIES AND PRESENTATIONS

### I. CALL TO ORDER

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

### II. ROLL CALL

PRESENT: Nancy MosBrucker, Tracy Tooz, Scott Kovash, Gene Jackson, Jerry Krieg, Jason Hanson, and Earl Abrahamson

ABSENT: Jay Elkin and Larry Dockter

STAFF: Ed Courton, City Planner and Matt Kolling, City Attorney

## STANDARD MOTIONS

### 1. MINUTES

Minutes of the September 21, 2011 regular meeting submitted for approval.

**MOTION BY:** Nancy MosBrucker      **SECOND BY:** Scott Kovash  
to approve minutes of the September 21, 2011 regular meeting.

**DISPOSITION:** Motion carried.

## REGULAR AGENDA

1. **FINAL PLAT AND REZONING** – BK Subdivision Final Plat and rezoning from AG to GC, LI, GI and RR – lying in the NW¼ Section 15, Twp 140N, Rge 96W and situated easterly of Hwy 22 containing +/- 15 acres.

Chairman Abrahamson opened the Public Hearing. Don Schmelling with Continental Real Estate representing the Bob and Angie Kadrmass Estate stated they've changed the zoning request as recommended at last month's meeting. City Planner, Ed Courton stated he was okay with the final plat and the rezoning request but would recommend the action come in two separate motions. He noted the zoning shown on the plat is not what we're approving, adding the second page shows the zoning. He also noted that one neighbor was added to the rezoning request.

Tracy Tooz asked if we should address County Road Foreman, Al Heiser's concern for paved streets. Mr. Courton explained that is a policy statement. He

said the applicant has been notified that pavement similar to city standards is expected. He said the city policy will be finalized at a later date requiring pavement in all zones within the ETZ. He said it should not be unexpected by the applicant. Chairman Abrahamson asked at what point do we attach something to assure they follow through. City Attorney Matt Kolling agreed that it is a policy matter and the conditions for road surfacing and standards are set by the City Engineer. Mr. Courton stated policy and agreement with the City Engineer are that the streets will be paved. The developer should pay for those improvements rather than the property owners once it is annexed.

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jason Hanson

To recommend approval of the final plat with the **recommendation from the city to pave the streets.**

**DISPOSITION:** Motion carried.

The rezoning request was clarified that the zoning would be GC along the corridor, LI for the middle, GI on the outside with an RR zone abutting the existing residential development. Gene Jackson asked if the zoning request includes long parcel that is not part of the plat. Mr. Courton stated that was correct.

**MOTION BY:** Gene Jackson

**SECOND BY:** Jerry Krieg

To recommend approval of the zoning as shown on the revised final plat and including the unplatted tract shown as document #3066594.

**DISPOSITION:** Motion carried.

2. **FINAL PLAT AND REZONING** – Industrial Park Subdivision Section 16 Preliminary Plat and rezoning from AG to GI – lying in NE¼ Section 16, Twp 140N, Rge 96W and situated easterly of Hwy 22 containing +/- 84 acres.

Chairman Abrahamson opened the Public Hearing. Don Schmelling of Continental Real Estate again representing the Bob and Angie Kadrmas Estate was present to answer any questions. City Planner Ed Courton stated staff recommends approval and again will recommend pavement for the platted streets.

**MOTION BY:** Jason Hanson

**SECOND BY:** Tracy Tooz

To recommend approval of the final plat.

**DISPOSITION:** Motion carried.

Mr. Courton stated the request is to rezone from AG to GI and city staff supports the request. Again, he noted the definitive policy statement for pavement in the ETZ.

**MOTION BY:** Jerry Krieg

**SECOND BY:** Jason Hanson

To recommend approval of the rezoning request with **the requirement for pavement on the platted streets.**

**DISPOSITION:** Motion carried.

3. **PRELIMINARY PLAT AND REZONING** – Koch’s Meadow Hills Koch’s Meadow Hills Third Subdivision and rezoning from AG to R3 – lying in the NW¼ Section 28, Twp 140N, Rge 96W containing +/- 15 acres.

Chairman Earl Abrahamson opened the Public Hearing. Harvey Schneider from Toman Engineering and developer Mike Koch were present to discuss the plat. This is phase 3 containing three blocks and four lots. The property lies in the NW ¼ of Section 28, Township 140N, Range 96W. Block 1 consists of two lots to be zoned R3; Block 2 consists of one lot to be zoned R3 and Block 3 consisting of one large lot to be zoned R3. Access will come from 10<sup>th</sup> Avenue West and the continuation of 12<sup>th</sup> Avenue West which will connect to 34<sup>th</sup> Street in the future. Infrastructure will continue in 12<sup>th</sup> Avenue West from the last phase. Annexation has already been requested from the City Commission. Mr. Schneider explained he forgot the non-access line on 10<sup>th</sup> Avenue West, but it will be on the final plat. Mr. Courton agreed the non-access line on 10<sup>th</sup> would be required as recommended by the commission as a continuation of what we’ve required on 10<sup>th</sup> for the first two phases. He said it will be policy for the east property as well. Gene Jackson agreed it will be a while until 10<sup>th</sup> Avenue West is constructed and the primary access will be from the south on 12<sup>th</sup> Avenue West.

Mr. Jackson asked if they’ll be okay for sanitary sewer with this density. Mr. Schneider stated they’ve visited with City Engineer Shawn Soehren and it should be okay. He said this is the last phase to go to this sewer line which was recently developed.

Mr. Schneider said they’ve talked with James Kramer from Parks and Rec and cash in lieu of land will be given for this phase as well as the first two phases. Chairman Abrahamson stated he wants assurance from Park and Rec that they are satisfied. Mr. Schneider stated they are committed to work with Park and Rec. Scott Kovash said he has no problem with the preliminary plat but wanted to make sure the Park District land is shown on the plat before it goes to final. Mr. Courton stated he spoke with the developer and he is comfortable with the 3<sup>rd</sup> phase but he wants to evaluate the property as a whole during the next phase as the park will be located in that portion (southwest). He said he would like to see a preliminary plat for the remainder of the development. He said he would reject the 4<sup>th</sup> phase if it is not for the entire project. Jerry Krieg asked if we should look at having the park in place before approval of the final plat of Koch’s 3<sup>rd</sup> in case Koch’s 4<sup>th</sup> didn’t take place. Mr. Courton stated Koch’s 3<sup>rd</sup> won’t have a park in it. The park will be placed to the west. He suggested we come up with

an agreement to confirm the acreage. Mike Koch stated there seems to be a lack of communication with respect to this issue. He said they've had extensive conversations with the park district and it was agreed they would take cash in lieu of land for the first three phases. He said they are working with the Fire Department along with Park and Rec as to where they want to see the park. He said he doesn't want to stop phase 3 because of this. He said he has a meeting with Mr. Kramer following this meeting and he will ask for a letter or ask him to come to the meeting if necessary. Tracy Tooz stated the letter from Mr. Kramer states they will take cash for phases 1 and 2 but taking cash for phase 3 is not clearly stated in the letter. He asked that they resolve the issue at the meeting today. Mr. Courton stated he was not at any of the meetings but because this is a timing issue, we can condition approval that this be resolved before the final. Scott Kovash agreed that Park and Rec would take cash for the first two phases but didn't recall discussions to take cash for phase 3. He asked that Mr. Koch get a letter from Mr. Kramer today as well as finding the location for the park as there is no guaranty for future phases. Mr. Koch stated he is willing to give land but they want to put the park is the best possible location.

Tracy Tooz stated 10<sup>th</sup> Avenue West will be an important part of their project and there could be a problem since all of 10<sup>th</sup> Avenue is not owned by Mr. Koch. The street will be necessary for looping access, storm sewer, sanitary sewer and water. Mr. Jackson agreed that will require consideration for the future. We will need to evaluate 10<sup>th</sup> to see if improvements need to be made before moving forward. Mr. Schneider said they are dedicating 40' on each of their phases. He said it started at Hartl's and Lefor's property. He said they are doing their part with the right-of-way dedication. Tracy Tooz stated if the last phase goes in and Mr. Koch dedicates this there is no way possible of getting 10<sup>th</sup>. He said they will discuss 10<sup>th</sup> Avenue before the final plat for Koch's 3<sup>rd</sup>. City Attorney Matt Kolling added that they have been dealing with Hartl's and Lefor's and have a development agreement to put in 10<sup>th</sup> Avenue West. He said the annexation process is done. There is a public hearing scheduled for the 21<sup>st</sup> of November on the annexation from 31<sup>st</sup> Street to 34<sup>th</sup> Street. He agreed the east side of 10<sup>th</sup> will also have to be annexed to get right-of-way to put the street in.

**MOTION BY:** Gene Jackson

**SECOND BY:** Tracy Tooz

To recommend approval of the preliminary plat with two contingencies. First, the Park District is satisfied and second, the question on the development of 10<sup>th</sup> Avenue West is satisfied according to the City Engineer.

**DISPOSITION:** Motion carried.

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jerry Krieg

To recommend approval of the rezoning request from AG to R3.

**DISPOSITION:** Motion carried.



**MOTION BY:** Tracy Tooz

**SECOND BY:** Jerry Krieg

To recommend approval of the rezoning layout as illustrated for State 8<sup>th</sup> with access on Fairway rather than 8<sup>th</sup>.

**DISPOSITION:** Motion carried.

5. **REZONING REQUEST** – To consider a rezoning request from LI to R1 for the property described as Lot 1, Block 1, Praus 1<sup>st</sup> Subdivision. (1474 South Main)

Chairman Abrahamson opened the Public Hearing. Petitioner Dale Johnson stated he purchased the property in March and wants to rezone in order to place a home there. The lot to the north is zoned R1 and the lot to the south is zoned LI and Mr. Johnson owns that lot as well. City Planner Ed Courton stated he talked with Mr. Johnson and he wants the ability to live next to his business. He wants to down zone and put a house there. The other building will be used for his business. Mr. Courton recommends approval.

Gene Jackson asked if the existing structure on the lot would be converted to a residence. Mr. Courton explained that structure would be used for personal but a home would be built on the lot. The existing structure is non-compliant and this would allow the applicant to buffer his commercial property.

Gene Jackson asked if he would want to rezone just the west half of the lot. Mr. Courton stated he could do a portion but it may be difficult to show on the map. He added that if the structure is over 1200 SF and were destroyed by fire or tornado or whatever, he would have to reduce the size to come into compliance. City Attorney Matt Kolling agreed it is now a non-conforming building and would have to come into conforming size if the building was destroyed. Tracy Tooz stated that he if owned the building, he would rezone just half the lot. Mr. Johnson agreed. He said he is not pushed by time, he is researching his options.

Mr. Courton explained there are two ways to proceed. We could go with the original request or we can reduce the request. We could also continue the request until next month. Prior to taking the request to City Commission, we will need a definitive line for the rezone. Mr. Johnson stated his wish to proceed with the recommendation by Gene Jackson to rezone only half the lot to R1 to accommodate placing a manufacture home on the lot. Mr. Courton confirmed a manufactured home was permitted in the R1 zone. Jerry Krieg suggested a buffer from the west side of the building for 10' to 15' since everything north is zoned R1.

**MOTION BY:** Gene Jackson

**SECOND BY:** Tracy Tooz

To recommend approval of the rezoning request of Lot 1, Block 1, Praus Subdivision from 10' west of the existing building to the west boundary of the lot.

**DISPOSITION:** Motion carried.

6. **REZONING REQUEST** – To consider a rezoning request by Stallion Rockies to rezone from AG to GI for the property generally described as E½ NW¼ Section 16, Twp 140N, Rge 96W.

Chairman Abrahamson opened the Public Hearing. Attorney Mike Maus representing Stallion Rockies and Steve Day, operations manager for Stallion Rockies were in attendance to present the request. Mr. Maus explained this is an 80 acre tract which hasn't been rezoned but is being taxed as commercial. The property is currently zoned AG. One third of the property is being used as industrial to operate the Stallion Rockies trucking business. The other two thirds of the property is currently used for hay land. Stallion Rockies plans to expand the operation and sell off a portion of the 80 acres. The request is consistent with keeping the GI off Hwy 22 and is immediately west and adjacent to what was approved for rezoning today.

Gene Jackson stated that approximately a year and a half ago, Stallion applied for and was granted a conditional use permit to operate a man camp. Mr. Day explained that they couldn't get a commitment from anyone to operate the man camp so the camp never came to existence. The conditional use permit has since expired and they have no plan to operate a man camp. There is no one living on the property.

Chairman Abrahamson asked if there was any point in rezoning the entire 80 acres to industrial when it won't all be used for industrial. Mr. Day explained the intent is that future use will be industrial but they will allow the parcel as hay land until such time when the property is sold for industrial use.

**MOTION BY:** Jerry Krieg                      **SECOND BY:** Gene Jackson  
To recommend approval of the rezoning request noting that there is not an existing man camp and no man camp is intended for this parcel at this time.

**DISPOSITION:** Motion carried.

7. **CODE ENFORCEMENT REPORT** – September, 2011  
Provided as information. Mr. Courton noted there is significant activity for commercial and multi-family properties. The numbers have significantly increased.
8. **ZONING AMENDMENTS**  
City Planner Ed Courton stated he will bring two zoning amendments for recommendation to the meeting next month and provided the information.

The first is concerning the gravel and dirt parking lots within the city and its ETZ jurisdiction. The last portion in red indicates his proposed change. The proposed change is that if there is an addition of 50% or more to the property or if the number of parking stalls is increased by 50% or more, pavement would be required. The second concerns the corridor overlay district. Mr. Courton stated this will be discussed at the workshop meeting to be held on November 2<sup>nd</sup>. Both items will be published for Public Hearing for next month.

**9. OTHER BUSINESS**

Chairman Abrahamson mentioned the Roundup to the Future kick off the city's Comprehensive Plan was held recently. He suggested Planning and Zoning members be involved and get their comments in. The next meeting is scheduled for November 17<sup>th</sup>. City Planner Ed Courton noted there were four Planning and Zoning members at the kick off meeting. He suggested all members complete the survey at dickinsonplan.com.

Gene Jackson stated concerns with motions in the minutes when there is mixed zoning and different situations. He asked that members be sure to name the lot and block in the motion to eliminate any confusion. Mr. Courton stated he would draft the motion ahead of time in the staff report and the board can use that wording adding contingencies if necessary. This would be clearer for the record.

Mr. Courton stated the City and County are looking to hire a Regional Planner. Tracy Tooz stated the position is needed to safe guard our community but knows it will be probably four to five months before someone is on board. Mr. Jackson stated the position will be half time County and half time City. Direction for the position will have to come from Ed Courton. Mr. Courton agreed. He said he would like to work more closely with the home builders to find ways to improve the permitting process. He said he has begun working with the Fire Department. It will be a more detailed process but it should expedite the permitting process. He said they want contractors to go through the formal process before moving any dirt to avoid problems with setbacks, parking, landscape, etc. He stated we are working hard, but we need to start working smart and find ways to improve our process.

**10. ADJOURNMENT**

There being no further business to discuss

**MOTION BY:** Tracy Tooz                    **SECOND BY:** Scott Kovash  
to adjourn meeting. Meeting adjourned at 9:00 AM

**DISPOSITION:**        Motion carried.

**PREPARED BY:**

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Karen Amann

**APPROVED BY:**

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Ed Courton