

PLANNING & ZONING COMMISSION MEETING MINUTES

April 18th, 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, Earl Abrahamson and Jason Hanson

ABSENT: None

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

STANDARD MOTIONS

1. MINUTES

Minutes dated March 21st, 2012 submitted for approval.

MOTION BY: Gene Jackson

SECOND BY: Jay Elkin

Motion to table until next month.

DISPOSTION: Motion carried. (7-0)

REGULAR AGENDA

1. PRELIMINARY PLAT – To consider a Preliminary Plat for Lyons 2nd Subdivision and generally described as all of Lyons Subdivision and all of Lots 1,2 & 3, and part of Lot 4, Block 3 of North Industries First Addition situated in the W ½ of NE ¼ of Section 27, Township 140N, Range 96W.

Tracy Tooz removed himself from items 1-6 of the agenda. Jeff Schaumann of Arista Development is representing the petition request. Mr. Schaumann notes that the plat is consistent with the rezoning and sketch plat presented in prior meetings.

City Planner, Ed Courton proposed five recommended conditions that are attached in the motions, if approved:

1. Prior to Final Plat Approval, the City shall approve the Planned Unit Development Plan. In addition, a six-foot opaque vinyl or higher quality fence approved by the City shall be installed after site grading and prior to issuance of any building permits. All landscaping requirements shall be installed prior to certificate of occupancy or the developer shall be required to post a bond for 120% of the landscaping cost. The existing Development Agreement shall be amended and approved by the City.

2. A one-foot non-access easement shall be depicted along the eastern boundary of Block 1, Lots 14 through 25 prohibiting access to 7th Avenue East.
3. Prior to Final Plat Approval, the developer shall coordinate sufficient stormwater, sewer and water easements from the subdivision to abutting properties to the satisfaction of the City Engineer.
4. Lyons Avenue shall be changed to Lyons Street for the section running east to west.

Commissioner Jackson questioned the easements for sewer and drainage. City Engineer Shawn Soehren agrees that we need to consider how we are going to serve the site and added that is a condition of approval.

Commissioner Jackson also noted that Lots 15-25 are going to have double street frontage. Commissioner Jackson questioned if they will front those lots to the west, and also questioned if Lyons Street should moved west. Commissioner Jackson would like the double frontage lots removed. Mr. Schaumann commented that he has been in discussions with neighbors about 7th Avenue not being improved and they support it. Mr. Schaumann agrees to shift the road if it creates challenges. Mr. Soehren commented that if the intent is to never have the avenue developed - why are we asking them to plat it. Chairman Abrahamson does not think it makes sense for the properties to have two streets to maintain. Discussion about the double frontage road ensued. Mr. Schaumann does think there will be value someday to having 7th Avenue as part of the development, and would be willing to include it in the development agreement.

Mr. Courton thinks the issue is a valid one, and thinks this needs to be resolved before we make a decision. Mr. Courton recommends it be continued until next month. Mr. Schaumann would like to go to Final Plat next month. Mr. Courton explained that a preliminary plat is the vested approval, and there could be a contingency that the applicant will accept any conditions recommended for final plat. Mr. Jackson doesn't think Mr. Courton and Mr. Soehren should put that pressure on themselves. He does not think this plat is where it should be today.

Chairman Abrahamson opened the hearing to public comment. No one commented.

Chairman Abrahamson thinks the burden should not be on the engineering department and this item should be continued.

MOTION BY: Gene Jackson

SECOND BY: Jay Elkin

Motion to continue the item until next month.

DISPOSITION: Motion Carried (7-0, all in favor)

2. **PRELIMINARY PLAT** - To consider a Preliminary Plat for Timbers 1st Addition generally described the S ½ of the SE ¼, Section 29, Township 140N, Range 96W. The property is +/- 9.65 acres.

Jeff Schaumann presenting a two lot subdivision – the rezoning has been approved by this Commission in the past. Mr. Courton questioned if this is going to be a unified apartment development. Mr. Schaumann confirmed. Mr. Courton stated that if that is going to be the case, he proposes that they should have one access, unless the fire department would like two access points via 21st Street. Mr. Schaumann has no objections.

Chairman Abrahamson opened the hearing for public comment. No one commented.

Mr. Jackson questioned the 75-foot rights-of-way. Mr. Soehren says it would be appropriate.

MOTION BY: Gene Jackson

SECOND BY: George Nodland

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Preliminary Plat for Timbers 1st Addition, 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 requirement:

- 1. Only one access shall be provided to the plat, unless the Fire Department requires two access points.**

DISPOSITION: Motion carried (7-0, all in favor)

- 3. REZONING REQUEST -To consider a Rezone from AG to GC, LI, and GI for Energy Center North generally described as a tract of land located in the SE ¼ of Section 16, Township 140N, Range 96W**

Mr. Tooz says this is the same lot that was presented last month with no changes and he described the rezoning petition.

Mr. Elkin questioned the possible road alignment and widths. Mr. Tooz says the possible roads are going to be upon the Commission's approval. Chairman Abrahamson questioned the access to Block 3. Mr. Tooz stated that access would be from 33rd Street or Hwy 22. Mr. Tooz says there will only be three companies, and not a lot of traffic. Mr. Jackson thinks there should be transitioning from the GI, and it should transition into commercial along 33rd. Mr. Courton feels the rezone is consistent with proposed corridor overlay district.

Chairman Abrahamson opened the hearing for public comment.

Jeff Loh lives in Kralicek subdivision. He says a lot of people are concerned about the GI part of the land. He would like to see LI, and agrees with Mr. Jackson about GC along 33rd.

Chairman Abrahamson noted that Mr. Nodland has left himself out of the discussion.

Chairman Abrahamson wants to hear more about the overlay district. Mr. Courton added that the properties to the south of 33rd are mixed use according to the proposed Future Land Use Map. The surrounding area has been designated as mixed use. Mr. Jackson noted 33rd is not part of the corridor overlay right now. He would like to provide a transition zone, and would like to see GC. Chairman Abrahamson asked about buffers to this property. City Attorney, Matt Kolling, says it's at the commission's discretion. Mr. Courton says they could have mixed uses of commercial or offices along Hwy 22 and more industrial uses westerly of Highway 22. The applicant has various options.

Mr. Tooz addresses the concerns to 33rd Street SW.

MOTION BY: Jay Elkin

SECOND BY: Jerry Krieg

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Rezone Petition from Ag to GC, LI and GI for Energy Center North, 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

MOTION BY: Gene Jackson

SECOND BY: Jay Elkin

Motion to amend a 300-ft strip of GC along 33rd.

DISPOSITION: Motion Carried (7-0, all in favor)

4. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Energy Center North generally described as a tract of land located in the SE ¼ of Section 16, Township 140N, Range 96W (Enc #4)

Mr. Jackson says he has an issue with the rights-of-way width. Mr. Tooz stated that the plat doesn't show the 120', but the final plat will depict it. Mr. Soehren thinks we need to require 120' rights-of-way along 33rd Street SW. Mr. Courton recommends a modification from 100' to 120' feet for necessary road dedication. Mr. Courton also recommends that DOT should sign the mylar prior to recordation. Mr. Courton would like to add one condition: Prior to final plat, the city shall receive water verification from SW Water Authority.

Chairman Abrahamson opened the hearing for public comment.

Jeff Loh states that he had a meeting with Mr. Tooz in February, 2012. Mr. Loh says Mr. Tooz agreed to a 300-foot "no build zone" and it would not include a parking lot and display of equipment. Mr. Loh says he was supposed to receive a plat with those notations and he has not received it. He says that he would be in agreement with the corridor overlay, as long as it's just customer parking, a nice display area and a frontage road.

Jeff Schauman is representing RDO Equipment Company. He states that the current right of way on Hwy 22 is 200 ft. Mr. Schaumann is wondering what 240-foot rights-of-way section would represent and the impacts to his project. Mr. Soehren noted that the cross-section for the bypass is yet to be determined and this is the reason for the additional land. Mr. Jackson questioned what will happen if the bypass doesn't end up here. Mr. Soehren says the process to give it back would be a street vacation. Discussion ensued about the 120' road dedication per NDDOT. Mr. Kolling believes it would be easier to take the 120' roadway dedication now and give it back in a vacation process in the future. Mr. Tooz says the additional land would be significant. Chairman Abrahamson added that we are at the mercy of the State right now.

Mr. Courton believes we need to preserve it, and if DOT decides not to do the bypass there it can change back to the original widths.

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 Energy Center North, 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. **North Dakota DOT shall be added to the signature block.**

2. **Prior to Final Plat Approval, all interior roads must be finalized to the satisfaction of the City Engineer**
3. **Prior to Final Plat Approval, a 120-foot road dedication from the centerline of the road shall be depicted on the plat running along 33rd Street.**
4. **Verification from South West Water (added)**

DISPOSITION: Motion Carried (7-0 all in favor)

5. **REZONING REQUEST** - To consider a Rezone Petition from R1 to R2, R3 & CC for Prairie Creek Subdivision situated in the NW ¼ of Section 33, Township 140N, Range 96W. (Enc #5)

Troy Tooz is representing Karl Best, who is the owner of the property. Mr. Courton adds for clarification that the rezone map in the packet has been revised and a new map is handed out. Mr. Nodland would like to hear an explanation of the detention area. Mr. Tooz states that they are proposing it along the drainage way, and he realizes there is a water issue. Mr. Tooz says the detention pond may change. Mr. Soehren questioned moving that road closer to the drainage ditch and asked Mr. Tooz if he has looked at the sewer there. Mr. Tooz says he has looked at the sewer in the development to the south and it is 16' which he thinks is sufficient. Mr. Tooz is aware that a lift station may be required. Mr. Tooz states that the developer is a residential single family developer.

Mr. Courton adds that there was a letter sent to him – and it was given to Mr. Tooz.

Mr. Jackson questioned if the west side of Prairie Creek Road is R1. Mr. Tooz says he feels R2 would be appropriate in that area.

Chairman Abrahamson would like to see the lots on Prairie Creek Road be R1. Mr. Tooz says they were going to be townhomes. Mr. Jackson suggested revising the rezoning from R2 to R1.

Chairman Abrahamson opened the hearing for public comment.

David Kalow would like to see everything east of North Grasslands Drive be R1. The R3 along State Avenue would be appropriate. He states that the neighborhood feels that access to 21st Street needs to be considered. Mr. Courton stated that the suggestions he talked about with Mr. Kalow have been depicted in the new map. Mr. Nodland opined that all of the land east of Grasslands be R1.

Craig Steve wants to make consideration that North Grasslands drive connects to 21st. Mr. Courton agrees.

David Kalow believes some R2 on the east side of Grasslands would be acceptable. Mr. Elkin really likes the development. Mr. Elkins would like to see the east side of Block 7 be R1 and transition to R2. Chairman Abrahamson thinks Grasslands name needs to be changed. Mr. Tooz agrees to change the name.

MOTION BY: Jerry Krieg

SECOND BY: Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Rezone Petition from R1 to R2, R3 and CC for the Prairie 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. **NE Block 7, be R1, and all of Block 6 be R2.**

DISPOSITION: Motion carried (7-0, all in favor)

6. **PRELIMINARY PLAT** - To consider a Preliminary Plat for Prairie Creek Subdivision situated in the NW ¼ of Section 33, Township 140N, Range 96W (Enc #6)

Troy Tooz is representing Karl Best who is the owner of the property. Mr. Kovash stated the developer has not appeared in front of Park Board. Mr. Tooz says they called Mr. Kramer, Parks Director, and wants to exercise the cash option with the Park Board. He added that he also recognizes they have some flood plain issues that must be work out. Mr. Kovash and Mr. Tooz discussed Park Board issues. Chairman Abrahamson asked about the proposal. Mr. Kovash says they have a bike path along the drainage, and because of that they will go with cash in lieu. He would like to see a determination in two weeks. Mr. Jackson would like Mr. Courton to discuss the requirements to developers to meet with the Parks Board prior to submittals for preliminary plats. Mr. Courton noted our deadline is today, and this project was in transition with the new Park regulations. Mr. Courton says next month he will present a 30-day period review before going on to the next meeting. Mr. Jackson thinks we need to know exactly what is happening with the parks at the time of preliminary plat. Mr. Kovash would be comfortable not holding it up in this case, and would like a condition placed on this preliminary plat. Mr. Courton says he's ok with getting a letter from the Park Board before going to final plat. Mr. Krieg questioned if there are 11 conditions on a plat if it is really ready to be approved. Mr. Courton says this is not uncommon and this will become the standard to address outstanding issues.

Mr. Nodland added that he thinks we need to slow down. We have approved 3,200 dwelling units in the R3 zoning district and approximately 800 lots in R1. Mr. Nodland questions why we are in such a hurry. He wants to protect the citizens and the developers. Chairman Abrahamson agrees with his comments, and thinks all the conditions Mr. Courton has put on preliminary plat are very insightful and thoughtful.

MOTION BY: Jay Elkin

SECOND BY: George Nodland

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Preliminary Plat for the Prairie 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 Final Plat Approval, North Grasslands Drive and Grasslands Circle shall be changed to a unique name to avoid confusion. North –south roads shall be named as Avenues.**
2. **Prior to Final Plat Approval, the Parks Department shall provide a recommendation to the Planning and Zoning Commission relative to park dedication or payment-in-lieu and the bike trail.**

3. Prior to Final Plat Approval, the proposed bike path shall be located outside of any lots and be a minimum six (6) foot wide, hard-surfaced bike path and it shall be maintained by a Homeowners' Association or other funding mechanism acceptable by the City.
4. Prior to Final Plat Approval, the 100-year floodplain shall be depicted.
5. Prior to Final Plat Approval, a Development Agreement shall be recommended for approval by the City Engineer.
6. Prior to Final Plat Approval, A note shall be placed on the plat stating the following: "All improvements and/or development activity must comply with the City of Dickinson Ordinance governing floodplain areas." Further the Floodplain shall be depicted as hash lines and the described accordingly.
7. A one foot non-access easement shall be depicted along the eastern property lines for Blocks 1 and 3 to prevent direct access via State Avenue.
8. Prior to Final Plat Approval, the plat must be consistent with platting requirements per Century Code.
9. All dashed lines shall be removed other than the requirement for Condition #6.
10. Prior to Final Plat Approval, Prairie Creek Road, 19th Street West and Grasslands Drive shall align perpendicular to the road extension across State Avenue.
11. Prior to Final Plat Approval, a 75-foot road dedication shall be depicted from the centerline of the road running along State Avenue and 21st Street West.

DISPOSITION: Motion carried (7-0, all in favor)

Mr. Elkins says it bothers him that the Commission brought up last time and that the developers need to address the park board prior to the Commission, and he is disgusted that they are not meeting those requests.

7. **REZONING REQUEST** - To consider a Rezone Petition AG to GC, R1, R2 and R3 for the Southpark Addition situated in the NE ¼ of Section 16, Township 139N, Range 96W.

Chairman Abrahamson stated that Mr. Nodland would be taking a break for an appointment and he will be back later.

Dave Patience from Swenson Hagen Company is representing John Holt. Mr. Patience states that this area has some commercial use already and they intend to accommodate commercial along Hwy 22. He says that in discussion with the property to the south, they are not in as big of a hurry as them (Centennial Homes). Apartments are proposed for phase one. They also intend on moving forward on the commercial section of the plat. They have intentions on turning in a final plat on those two sections. Mr. Jackson questioned if they are only platting two parcels, and if they are rezoning the entire property. Mr. Jackson pointed out that the plan sheets do not match the map and the street boundaries, and asks if they still intend to have single family. Mr.

Patience says they will have R2 in the middle – they would like to do a mixture of R1 and R2 for the subdivision. Mr. Elkin questioned how they are going to handle the park corridor along the floodplain. Mr. Kovash noted that they are taking cash-in-lieu. Mr. Patience says the drainage has several possibilities including a storm water facility, or leave it as open space and make it the responsibility of the HOA or run lot lines down the center and run an easement and prohibit any construction in that corridor. Mr. Courton believes they need to create a HOA and leave it as an open space area and restrict development within the floodplain. All lot lines must outside of the floodway and floodplain and this issue will be addressed at final plat.

The road alignment needs to be addressed by the City Engineer, and there needs to be a development agreement. Mr. Soehren thinks the layout as drawn functions fairly well. Mr. Jackson believes the preliminary plat is done well. Chairman Abrahamson believes the apartment phases and commercial are in fine shape, but disagrees with the interior part. Mr. Patience says if they City would like to see the interior as R1, he is okay with the revision. Chairman Abrahamson says he is ok with R2. Mr. Courton added that his main concern about the interior open space and how it addressed by the plat. Chairman Abrahamson would like to see a definite rezone, and the expectation that the road going east and west would be the burden of the developer and not the City.

Chairman Abrahamson opened the hearing for public comment.

Shawn Rolls of Centennial Homes is the owner of the property adjacent to the south. They have been working together, and he is open to the undefined rezoning. All of their concerns have been addressed and he thinks it's a good plan.

Georgette Dorval lives north of the apartment phase. She questions where the access points are going to be in the apartment phase. Mr. Soehren stated that the City has not made a determination for access points and this will take place at building permit stage. Chairman Abrahamson added that this is strictly rezoning.

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 Ag to GC, R2 and R3 for Southpark 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. Must have proper meets and bounds to clarify where the zoning limits start and stop.**

DISPOSITION: Motion Carried (7-0, all in favor)

8. **PRELIMINARY PLAT** - To consider a Preliminary Plat for the Southpark Addition situated in the NE ¼ of Section 16, Township 139N, Range 96W.

Mr. Tooz questioned the sewer off of Hwy 22. Mr. Patience says he has a couple of options and he has not finalized this issue. Mr. Jackson questioned the utility easements in the front yard and he prefers to see the easements in the back yard. He also questioned the lot lines being extended into floodway areas. Mr. Courton commented that he is strongly opposed to lot lines

that proceed in the flood plain area, and says they need to be separated. All issues need to be resolved prior to final plat. Chairman Abrahamson asked Mr. Kolling about the park corridor not being identified. Mr. Kolling says if the commission approves this preliminary it can be defined. Mr. Courton says when a final plat is submitted, for the interior area, we will look at the lot lines at final plat. Chairman Abrahamson is concerned about the plat, and Mr. Patience assured him there are regulations with the Army Corp of Engineers to further restrict development along the floodplain.

Chairman Abrahamson opens the hearing for public comment.

Mr. Tooz states that he is comfortable if Mr. Courton and Mr. Soehren are comfortable with the floodplain. Mr. Soehren added that dealing with the flood plain is tricky. They are going to have some challenges.

MOTION BY: Scott Kovash

SECOND BY: Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Preliminary Plat for the Southpark 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. North Dakota DOT shall be added to the signature block.**
- 2. Prior to Final Plat Approval, A Homeowners' Association or other funding mechanism shall be established for the maintenance and preservation of the depicted open space areas, including the existing floodplain.**
- 3. Prior to Final Plat Approval, the City Engineer shall approve all road extensions and road alignments within the subdivision and extensions to the property to the south.**
- 4. Prior to Final Plat Approval, a Development Agreement shall be recommended for approval by the City and shall include a provision requiring annexation of the entire property.**

DISPOSITION: Motion Carried (7-0, all in favor)

Mr. Patience asks about ratification instead of DOT signature block. Mr. Courton was not in favor of this option.

9. **REZONING REQUEST** – To consider a Rezone Petition from AG to CC for property described as a tract of land in the SE ¼ of NE ¼ of Section 28, Township 140N, Range 96W.

Walt Smith is presenting for the property owner. Mr. Smith says this item was on last month's agenda and he has revised the rezone from GC to CC. Mr. Courton says City staff recommends approval. Based up the property to the west and north they are proposing CC zoning.

Chairman Abrahamson opened the hearing for public comment. No one from the public commented.

MOTION BY: Gene Jackson

SECOND BY: Jason Hanson

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Rezone Petition from Ag to CC, 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 (7-0, all in favor)

10. **SPECIAL USE PERMIT** – To consider amending Special Use Permit for Convenience Storage to construct an addition building in the North ½ of Section 14, Township 139N, Range 96W.

Erving Lantz is here presenting his petition request. Mr. Jackson questioned the paving around the building not being done. Mr. Lantz does not remember that request. Mr. Courton added that it was clearly stated on the building permit and he is in violation of the SUP and has no Certificate of Occupancy for the existing facility. Mr. Courton will be directing the building department to pursue enforcement actions.

Chairman Abrahamson opened the hearing for public comment. No one commented.

Mr. Jackson says he doesn't have a problem with putting up a second building per the request, but doesn't think we should approve it until they meet the SUP requirements.

MOTION BY: Jay Elkin

SECOND BY: Jerry Krieg

I move the Dickinson Planning and Zoning Commission recommend Denial of the Special Use Permit for the expansion of a Convenience Storage Facility, 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 (7-0, all in favor)

Mr. Courton will outline what Mr. Lantz needs to do to come into compliance and Mr. Lantz should notify the City after he paves the site. When this is accomplished, then Mr. Lantz can receive a certificate of occupancy. Mr. Abrahamson emphasized that we need to make sure everything is up to code or people will do what they want to do.

11. **REZONING REQUEST** – To consider a Rezone Petition from GI to CC for property described as a portion of the NW ¼ of Section 5, Township 139N, Range 96W.

Mr. Courton is presenting this rezone petition request on behalf of the Stark County Parks District. Mr. Courton met with Bernie Marsh, who is president of District and suggested rezoning the property. The current zoning is GI, and the City feels it should be CC. Chairman Abrahamson asked if anyone from Stark County is here to represent. No one was in attendance.

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

MOTION BY: Jerry Krieg

SECOND BY: George Nodland

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Rezone Petition from GI to CC, 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 (7-0, all in favor)

12. **REZONING REQUEST** - To consider a Rezone Petition from AG to R3 for property described in a portion of the S ½ of SE ¼ of Section 29, Township 140N, Range 96W.

Tracy Tooz is excusing himself from this Commission agenda item. Troy Tooz presented the applicant.

Chairman Abrahamson opened the hearing for public comment. No one commented.

Mr. Krieg asked if the area around the oil well will be rezoned R3. Mr. Courton confirmed the site would be R3. Mr. Courton says all residential habitable structures must be a minimum of 100' setback from the wellhead site and this distance may be increased to 300' in the near future.

MOTION BY: Scott Kovash

SECOND BY: Jason Hanson

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Rezone Petition from Ag to R3, 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 (7-0, all in favor)

13. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Decker's 4th Subdivision generally described as a tract of land located in the SW ¼ of Section 16, Township 139N, Range 96W. The plat is +/- 6.76 acres.

Andrew Schank is representing the owners of plat. He noted that they have had some revisions since sketch plat phase, mainly the access points. The applicant will change the rights-of-way width from 30 foot to 40 foot for final plat. Mr. Courton recommended approval.

Chairman Abrahamson opens the hearing for public comment.

Sylvia Olson lives across the street on 13th street. Ms. Olsen is surprised the property is located within the City's ETZ.

MOTION BY: George Nodland

SECOND BY: Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Preliminary Plat for Decker's 4th 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 road dedication of 40-foot from the centerline of the road shall be depicted along 20th Avenue SW.**

DISPOSITION: Motion carried (7-0, all in favor)

14. **ITEM REMOVED**

15. **REZONING REQUEST** - To consider a Rezone Petition from AG to Mobile Home Residential. The property is generally described as the SE ¼ of Section 16, Township 139N, Range 96W.

Mr. Courton suggested that the next items for the mobile home park be discussed concurrently as they are the same project and the rezoning petition should be approved, unless the subsequent SUP is granted. There was no representative for the project at the meeting, therefore the item was moved to the end of the agenda. Mr. Courton suggested that the Commission take testimony public since there are several people from the public are attending the meeting.

Chairman Abrahamson opens the hearing for public comment.

Mr. Jackson noted the total number of conditions on this property. He suggested the public hear staff's recommended conditions of approval. Mr. Courton read the conditions of approval into the record and believes the project should be continued. The conditions of approval are as follows:

1. *All industrial properties situated to the west shall be notified of the minimum 500-foot separation requirement for tanker trucks and other industrial activities prior to the next public meeting to provide each landowner with an opportunity to comment on this petition request.*
2. *A second tornado shelter shall be built to satisfactory address adequate room for all residents and parking, unless sufficient room and off-site parking is provided for the community by the proposed shelter and this requirement is administratively removed by the City Planner.*
3. *The property owner shall be the responsible party for all Code infractions and/or violations relative to initial site work and building activities, park operation and maintenance and all attached conditions contained herein as part of the SUP. Section 39.12.016 shall apply for each violation, as amended.*
4. *The property owner shall install "No Parking" signs, approved by the City, to be installed at equal distances throughout the development. All signs shall remain in perpetuity or until the SUP is terminated.*
5. *The City Engineer shall approve all roads and infrastructure prior to any site grading and/or building activity.*
6. *The Park shall remain in substantial conformance with the approved application materials.*
7. *Lots along the northerly portion of the Park situated in Blocks 1, 2, 3, 5 and 7 shall not be permitted to install any residential units (mobile, modular or manufacturing) until approved by the City Commission after a favorable recommendation from the Planning Commission to ensure compliance with established conditions attached herein. Until development has been approved for the above lots, all lots shall remain as open space areas, maintained by the mobile home park consistent with the overall park open space maintenance plan.*

8. *Prior to submission to the City Commission, the developer shall provide the following to the City: 1) a detailed Landscape and Maintenance Plan & 2) Park Operation Plan.*
9. *Prior to final SUP approval, legal ownership shall be established and shall remain for the life of the SUP. If property ownership transfers to another individual, party or entity, then the SUP is terminated.*
10. *A lot spaces shall have a minimum two car garage on each lot.*
11. *No RV's, campers, fifth-wheels, or other temporary housing units, etc. shall be permitted in the Park.*
12. *Prior to Final SUP approval, the Park shall obtain approval from the Fire Department relative to access, circulation, fire protection.*
13. *No placement of residential units shall occur for Phases II and III until Phase I is 80% occupied and the Park is consistent with all conditions attached herein and no there are no outstanding violation(s).*
14. *A performance bond shall be issued for \$1,000,000 for the life of the SUP to ensure proper Park maintenance and remediation of the site after the termination of the Park.*
15. *No commercial manufacture or mobile home sales facility is approved. Model units, if proposed, shall only be allowed in connection with a rental office, and shall only be located on established lots.*
16. *The property owner shall remain in compliance with the City's solid waste removal requirements at all times.*
17. *A maximum of three hundred and ninety-five (395) mobile home or manufactured dwelling units are approved by this permit.*
18. *In the event the use hereby permitted ceases operation for a period of one (1) year or more, this approval shall become null and void.*
19. *In the event the use hereby permitted under this permit, a) is found to be in violation of the terms and conditions of this permit, b) is found to have been obtained by fraud or perjured testimony, or c) is found to be detrimental to the public health, safety or general welfare, or is a public nuisance, this permit shall be subject to the revocation procedures.*
20. *Prior to SUP approval, the entire property shall be annexed into the City.*

Jim Raeke of SW Grain says he deals with hazardous materials and he opposes residential properties abutting industrial uses. He thinks the residential setbacks would restrict the existing industrial development. He stated that they moved out of town because of City recommendation it because of their hazardous materials and this project would encroach on them.

Tim Priebe would like to see the applicant work with the neighbors. He was hoping they could come to some common ground. The neighborhood had a meeting on Sunday prior to the Commission meeting and he answered questions. Residents are just not in favor of that location for a mobile home park. There are a lot of unanswered questions and the neighborhood is against the rezoning petition. They don't have assurances that this facility will be a well-run

operation. It comes down to the owner of the park and how they are going to run it. A big issue is the location. He also feels if you need to put that many restrictions on the property to make this work, then it's pretty clear this isn't the right location. He is not opposed to development. The location is the wrong area. He urges the Commission to deny the request.

Kathy Ebertson lives across the street from Steffes. She is worried about traffic, and states that on 20th Street is hard to make the turns in icy conditions.

Kyle Koffler lives on 7th Ave SW and is the one who held the neighborhood meeting. He says our neighborhood agrees that the City is moving their way and would be more than happy to see local contractors build houses on that land. He has a problem with the size and number of lots on that land, and is also concerned that there would only be two entrances. He is also concerned about the site drainage. These issues have not been addressed satisfactory.

Tammy Stang has the same concerns from the prior speakers. She believes the applicant doesn't have a good history of managing mobile home parks.

Judy Neuhrrohr says the increase in density to high density is a concern. Traffic is also a concern. She thinks it's only fair to them to have additional buffers than the specific ones proposed by the applicant.

Eddie Praus is also concerned about getting out on the Hwy 22.

Mr. Jackson commented that he has made three trips to Bismarck looking at MH parks. He has met with the Bismarck planning office, and with a man who owns a number of MH courts. He thinks the conditions are valuable and would also add some more. His conclusion is there is no way to guarantee a quality MH park, it ultimately depends on the owner. Jay Elkin feels at a minimum there would have to be a security fence put around the park. He is concerned about children playing on the industrial properties. He recommends denial. Mr. Nodland agrees with Mr. Jackson and Mr. Elkin. He thinks we need more mobile homes somewhere, but this isn't the right location. Mr. Abrahamson thinks this is a wonderful layout, but you have to live there and take care of it personally not financially to make it work. Mr. Courton noted that the applicant was in attendance earlier this morning and decided to leave prior to the scheduled time slot for some unknown reason and would recommend a motion to deny the petition request.

MOTION BY: Jerry Krieg

SECOND BY: Jason Hanson

I move the Dickinson Planning and Zoning Commission recommend Denial of the Rezone Petition from Ag to Mobile Home Residential, 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 (7-0, all in favor)

16. **SPECIAL USE PERMIT** – To consider a Special Use Permit for a Mobile Home Park. The property is generally described as the SE ¼ of Section 16, Township 139N, Range 96W.

Matt Kolling agrees with Mr. Courton assertion that the petition request cannot be heard at this time, as the above rezone request was denied and this petition is now inconsistent with City Code.

MOTION BY: Jerry Krieg

SECOND BY: George Nodland

I move the Dickinson Planning and Zoning Commission recommend Denial of the Special Use Permit for a Mobile Home Park, as depicted in the meeting 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 (7-0, all in favor)

17. **REZONE REQUEST** – To consider a Rezone from R1 to R3 for Sunrise Park Subdivision generally described as the SW ¼ of Section 2, Township 139N, Range 96W.

Mr. Courton states that the application says GC to R3 and it is currently zoned as R1. Kim Kolling plans is to build an apartment complex on the property. There would be several buildings in the complex. He says they would not own them and they would only build them.

Chairman Abrahamson opened the hearing for public comment.

The owner of East End Auto is opposed to the rezone petition. He lives in a house adjacent to the property site. He was hoping that this area would be commercial. He owns a 24-hour towing company that creates noise. He is also concerned about traffic.

Jim Ladbury says he does not have a concern with the proposal. His main concern relative to the apartment complexes are motorcycles and snow mobiles. He is concerned about safety and liability. He is also concerned with a traffic issue.

Loren Ross questioned the logic of rezoning the property to R3. He feels the property should remain as R1. He is concerned about the traffic on 10th Avenue. He would not be opposed to going to commercial in the corner of the lot.

Mr. Nodland asked which lots was part of the proposal. Mr. Courton clarified that east and north lots are R1.

Mr. Abrahamson thinks there are too many R3 designated properties. He would like to see GC or R2.

Mr. Courton noted that when he originally talked to Mr. Kolling, the R3 district's allocation wasn't a problem. At that time, he thought it was GC and verified that was R1. Having an R3 by itself with R1 around it could be a problem. He says they should provide a buffer - a minimum of a 6' fence. He believes apartments would be beneficial on that side of town.

Mr. Nodland asked how many units could be constructed on the site. Mr. Courton says they could construct a 100 or more units. Mr. Tooz questioned if East End Auto addresses hazardous substances from trucks, etc, such as oil tankers, and added that GC limits flammable liquids. If they had those trucks, they would have to be drained or removed off site.

MOTION BY: George Nodland

SECOND BY: Jay Elkin

I move the Dickinson Planning and Zoning Commission recommend Denial of the Rezone Petition from R1 to R3 for Lot 1, Block 1 Sunrise Park Subdivision, 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 (7-0, all in favor)

18. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Sunrise Park Subdivision generally described as the SW ¼ of Section 2, Township 139N, Range 96W.

Mr. Kolling recommends voting on the preliminary plat. Kim Kolling says the platting was done years ago, and no one ever did anything with it. Mr. Courton says without the rezoning, Mr. Kolling will only be able to put one residence on the property. He recommends continuing it and coming back with an R1 plat. Mr. Kolling asked if it went to a GC if the Commission would approve it. Mr. Courton recommends rezoning to CC or LC rather than GC. Mr. Kolling wishes to continue. Mr. Kolling suggests they table the item to a date uncertain.

MOTION BY: Jason Hanson

SECOND BY: George Nodland

Motion to table the item indefinitely.

DISPOSITION: Motion carried (7-0, all in favor)

Mr. Jackson questioned if the denial was because of too many R3 zoned properties? Mr. Nodland confirmed. Mr. Nodland is also concerned about approving all of these apartments and not knowing how long it will be before they are constructed. Mr. Elkin also concerned about the total number of proposed apartment complexes. Mr. Jackson says he is ready to start saying no to R3 zoning, but thinks it's a good idea to have them on this side of town. Chairman Abrahamson thinks this should come back with a PUD to propose a time table to construct the apartments.

Mr. Courton opined that a PUD makes sense and the Commission can place appropriate conditions of approval. Chairman Abrahamson would like to see a continuance on the motion to allow them to come back with a PUD.

19. **FINAL PLAT** - To consider a Final Plat for Prairie Ridge Subdivision and generally described in the SE ¼ of Section 34, Township 140N, Range 96W.

Chris Bideski is presenting the applicant. Mr. Bideski says they have addressed the two items from the last PC meeting and Doug Lybeck has met with the Park Board and the Board is considering payment-in-lieu. Mr. Bideski says they looked at moving units into the middle of the property, but City staff was opposed to the overall PUD concept. They have also reduced the total number of units from 36 units to 33. Mr. Tooz asks why Lot 7 was irregular-shaped. Mr. Bideski commented that they need to have room for the turnaround at the end of the lot.

Chairman Abrahamson asked Mr. Soehren if all engineering requirements are met. Mr. Soehren says he currently has not seen the water or sewer plan; nevertheless, the property has sewer and water service to the vicinity. Mr. Courton reiterated that the setbacks need to be removed from the final plat, and the surveyor needs to follow all the Century Code requirements for plats. Mr. Nodland asks about the developer's time frame. Mr. Bideski says as soon as he has the green light – the developer wants to start construction this summer.

Chairman Abrahamson opened the hearing for public comment.

Don Brugmeyer has concerns about the continuation of Elm Street and snow removal for those owners of the town houses. He further commented that the lots will have very little front yard space. He asked where are the locations for fire hydrants and postal boxes and asked how emergency vehicles could get into that area. He says it doesn't look like that design has been improved.

MOTION BY: Jay Elkin

SECOND BY: Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the Final Plat for Prairie Ridge 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 (7-0, all in favor)

20. **ADJOURNMENT** – 1:29pm

MOTION BY: Tracy Tooz

SECOND BY: George Nodand

PREPARED BY:

Sylvia Saylor

APPROVED BY:

Ed Courton