

PLANNING & ZONING MEETING MINUTES

May 16th, 2018

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OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Chairman Gene Jackson called the meeting to order at approximately, 7:10 AM.

ROLL CALL

Present were: Chairman: Gene Jackson Vice Chairman: Jason Fridrich
Commissioners: Scott Decker, Shirley Dukart, and Dean Franchuk

Absent: Scott Karsky and Scott Bullinger

Staff: City Engineer Craig Kubas, Planning Director Walter Hadley, City Attorney Janilyn Murtha
and County Planner Steve Josephson

II. ORDER OF BUSINESS

MOTION BY: Jason Fridrich **SECONDED BY:** Shirley Dukart

DISPOSITION: Motion carried unanimously.

Planning Director Walter Hadley suggested moving agenda item #4 for the Odyssey Theater Final Plat to the end of the agenda because it could have a longer discussion.

MOTION BY: Dean Franchuk **SECONDED BY:** Scott Decker

Approve meeting minutes dated April 18th, 2018.

Commissioner Dean Franchuk noted there needs to be a correction to the minutes on page 2 item 2, the second motion for that item should say Dean not Gene.

DISPOSITION: Motion carried unanimously.

III. ACTION ITEMS – AGENDA

1. **SPECIAL USE PERMIT** - to consider Special Use Permit SUP-003-18 for a Communication Tower located at 11140 34th Street SW on an undeveloped 133 Acre parcel, located in the NE ¼ Section 28, Township 140 N, Range 96 E, within the City of Dickinson ETZ, Stark County, North Dakota.

Mr. Hadley explained this Special Use Permit had previously been approved over two years ago but has since expired.

Eddie Buell representing Verizon wireless stated this tower is to provide support to better serve the residents of Dickinson and the surrounding area. This will help off load the oversaturation of the tower on the west side of town and the surrounding towers. Mr. Hadley asked the applicant if they had reviewed all of the conditions of approval, since standards had changed from their first approval. Mr. Buell acknowledged both items. There were no comments from the Commission.

Chairman Gene Jackson asked if anyone from the public would like to comment, there being none the public portion of the hearing was closed. Mr. Jackson asked for a motion.

Special Use Permit for Verizon Telecommunication Tower

*****Approval with Conditions*****

1. Development shall be limited to a free standing monopole telecommunications tower, equipment building, generator, and accessory equipment as indicated on their site plan.

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2. The equipment compound shall not be used for storage of any excessive equipment; hazardous waste, or habitable space. No outdoor storage shall be allowed on site.
3. The maximum height of the radio tower shall be limited to 119 feet.
4. The applicant shall obtain an approach permit from the Stark County Road Department.
5. The developer shall be responsible for all maintenance associated with the tower, the tower compound and the roads accessing the tower.
6. The tower shall allow for co-location to other service providers and Emergency Response agencies within our area if desired and equipment can be located on site.
7. The developer shall provide a six-foot fence around the perimeter of the tower compound. Chain-linked fences shall be painted or coated with a non-reflective color with slats.
8. Signs located at the telecommunications facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number (if required), and any other information as required by government regulation. Advertising is strictly prohibited.
9. Unless required by the Federal Communications Commission or the Federal Aviation Authority, the telecommunications tower shall not be lighted.
10. Security lighting for the equipment shelter shall be confined to the boundaries of the tower site.
11. The tower shall be constructed of galvanized metal and shall be of an appropriate earth tone color to harmonize with the surroundings.
12. Any proposed change of use of the tower, increase in height or change of location shall require a hearing before the City of Dickinson Planning and Zoning Commission as well as final approval from the Dickinson City Commission.
13. Development of the telecommunications tower shall be performed in accordance with all applicable City, County, State and Federal rules and regulations.
14. The service provider shall report to the Community Development Director if the telecommunications tower facility is no longer in use. The telecommunications tower facility shall be removed, at the service provider's expense, within six (6) months of this notice and the site shall be restored by the service provider to its pre-existing condition.

MOTION BY: Shirley Dukart **SECOND:** Scott Decker

DISPOSITION: Motion declared duly passed.

2. **SPECIAL USE PERMIT** - to consider Special Use Permit SUP-004-18, for adding additional equipment to an existing Communications Tower site located at 640 12th Street West on leased ground, immediately west and adjacent to the LaQuinta Hotel along I-94 within the City of Dickinson, Stark County, North Dakota.

Mr. Hadley explained this is an existing tower they are adding additional equipment to their compound area. The applicant wasn't present. Mr. Jackson asked if anyone from the public would like to comment, there being none the public portion of the hearing was closed. Commissioner Scott Decker asked Mr. Hadley if this is just a transmitter on an existing tower. Mr. Hadley stated that's correct. Mr. Jackson asked for a motion.

Special Use Permit for Sprint Telecommunication Tower

*****Approval with Conditions*****

I move the City of Dickinson Planning and Zoning Commission recommend Approval for the application SUP-004-18 for a Special Use Permit for the addition of telecommunications tower equipment onsite, subject to the conditions listed above, as meeting all the requirements of the Dickinson Municipal Code and also being in the best interest of the public health, safety and welfare.

1. Development shall be limited to what has been added to the site plan. Any other additions may need a Special Use Permit approval as well.
2. The equipment compound shall not be used for storage of any excessive equipment; hazardous waste, or habitable space. No outdoor storage shall be allowed on site.
3. The developer shall be responsible for all maintenance associated with the tower, the tower compound and the roads accessing the tower.
4. The tower can allow for co-location to other service providers and shall offer that Emergency Response agencies within our area if desired and equipment can be located on site and within existing/proposed facilities can be accommodated.
5. The developer shall provide a six-foot slatted sight obscuring fence around the perimeter of the tower compound. Chain-linked fences shall be painted or coated with a non-reflective earth tone color with slats.

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6. Signs located at the telecommunications facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number (if required), and any other information as required by government regulation. Advertising is strictly prohibited.
7. Unless required by the Federal Communications Commission or the Federal Aviation Authority, the telecommunications tower shall not be lighted.
8. Security lighting for the equipment shelter shall be confined to the boundaries of the tower site.
9. Any proposed change of use of the tower, increase in height or change of location shall require a hearing before the City of Dickinson Planning and Zoning Commission as well as final approval from the Dickinson City Commission.
10. Development of the additional telecommunications tower equipment shall be performed in accordance with all applicable City, County, State and Federal rules and regulations.
11. The service provider shall report to the Community Development Director if the telecommunications tower facility is no longer in use. The telecommunications tower facility shall be removed, at the service provider's expense, within six (6) months of this notice and the site shall be restored by the service provider to its pre-existing condition.
12. The developer shall obtain a building permit for the proposed work onsite.

MOTION BY: Shirley Dukart **SECOND:** Jason Fridrich

DISPOSITION: Motion declared duly passed.

3. **SPECIAL USE PERMIT** - to consider Special Use Permit, SUP-005-18 for 15,000 gallons of Petroleum Storage located on a 5.4 acre parcel described as Lot 5, Block 1, Great Lakes First Subdivision. This application is dependent on final approval of REZ-001-18 zone change request to Industrial. The site is within the City of Dickinson ETZ, Stark County, North Dakota.

Mr. Hadley explained the Special Use request. Don Schmeling representing the applicant Ystaas Electrical stated the applicant want's to construct an office and shop for on-site petroleum storage for their business. Mr. Jackson asked if this will be in the rural Fire Departments jurisdiction, he didn't see any comments from them on this project. Mr. Hadley stated they don't comment on projects, but it was reviewed by the State Fire Marshal, those comments were included. Mr. Jackson asked if anyone from the public would like to comment, there being none the public portion of the hearing was closed. Mr. Jackson asked for a motion.

Special Use Permit for Ystaas Electrical

*****Approval with Conditions*****

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the petition for a Special Use Permit SUP-005-18 for on-site petroleum storage of 15,000 gallons, subject to the conditions listed above, as meeting all the requirements of the City of Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

1. The applicant shall obtain an approach permit from Stark County prior to the start of construction on site.
2. The applicant shall be limited to a total of 15,000 gallons of petroleum storage on site as presented. Any changes would require an additional SUP permit.
3. The applicant shall have the correct address posted on the site per the E911 office during construction and posted clearly on structure when completed.
4. The petroleum storage is limited to employees of the site to utilize only.
5. No changes in the scope presented shall be allowed without first presenting to the Planning Director for concurrence or possibly amending this SUP approval.
6. This SUP approval goes with the applicant, not the land in this case. Any other form of use at this location would need to be approved by the Planning Director or the Planning Commission prior to starting any expanded use on site. If the site is sold the new owner would need to obtain a SUP for the existing petroleum storage facility. The site will be reviewed for compliance each year to ensure that the operation is being kept in conformance with all zoning standards. Additionally, the applicant shall provide to the city the annual inspection of the petroleum storage facility by the State Fire Marshal for the file.
7. The applicant shall obtain a building permit from Stark County.

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8. The applicant shall contact the Stark County Weed control Department and ensure that the site meets their requirements during the construction on site. It was too early in the year to have them do a review prior to this application.

MOTION BY: Dean Franchuk **SECOND:** Shirley Dukart

DISPOSITION: Motion declared duly passed.

4. **(5) FINAL PLAT** - to consider FLP-001-18 a Preliminary/Final Re-Plat of Prairie Creek Second Subdivision. The site contains 68 lots on 27 acres. Specifically, Lot 2, Block 3, Block 4, Block 5, Lots 1-21, Block 6, Block 7, and Lots 1-3 Block 8 Prairie Creek Subdivision within the City of Dickinson, Stark County, North Dakota.

Mr. Hadley explained the request for a Replat of Prairie Creek Second Subdivision. Phyllis Christenson with LaDuke & Associates representing the applicant stated they agree with the requirements and she will answer any questions, there were none.

Mr. Jackson asked if anyone from the public would like to comment.

David and Jill Smith who live at 1665 Prairie Creek Road, Lot 5 Block 2 in Prairie Hills 5th Subdivision made public comments against the development stating the surveying currently being done is encroaching into their backyard. The Smith's discussed inspections and drainage easements.

Mr. Jackson stated a replat of this subdivision shouldn't change the home they purchased. City Engineer Craig Kubas, stated he would need to review the location, this replat wouldn't change the boundaries of the original plat. This request is just reconfiguring the lots and the changes cannot affect the Smiths land. Mr. Smith stated the surveyor indicated that the new staked out location is correct and it goes right up to his deck. Mr. Kubas stated the surveyor would need to possibly go back and reevaluate this. Mr. Jackson stated this cannot be explained today and has nothing to do with a replat, it seems to be a survey dispute.

Ms. Smith stated this is a dispute between the city and the developer and they are caught in the middle, if that was the true property line they wouldn't have purchased the property. Mr. Hadley added this was surveyed when it was originally platted and the pins would have been set at that time.

Commissioner Jason Fridrich stated the Smith's property pins should have been in the ground when the property was surveyed. There was an ongoing discussion about the surrounding lots, additions and the surveying.

Jeremy Wood with Northern Plains Engineering stated he believes the issue is with the previous owner who landscaped into the adjacent lot. Mr. Kubas stated we can set up a meeting this isn't pertinent to this Board. Mr. Wood agreed adding they can get this resolved it's a separate issue.

Mr. Hadley added the Development Agreement will be amended to include lighting and utility relocation.

Mr. Jackson asked if there were any other comments, there being none the public portion of the hearing was closed. Mr. Jackson asked for a motion.

Final Replat of Prairie Creek Second Subdivision

*****Approval with Conditions*****

I move the City of Dickinson Planning and Zoning Commission recommend Approval of FLP-001-18 Final Plat for the Re plat of Prairie Creek Subdivision as depicted in Attachment A, 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 applicant shall provide lighting in accordance with the City's street lighting standards along the public road in a spacing that is acceptable to the City Engineer and a proper surety in place to ensure that the improvements occur in a timely manner.

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2. The storm water management and grading plan shall be subject to approval by the City Engineer and shall be finalized prior final recordation of the plat.
3. All infrastructure plans shall be approved to the satisfaction of the City Engineer prior to the application being finally approved by the City Commission or recordation.
4. Prior to final plat approval and recordation, the Owner shall submit an amended DA for all work not completed already and a surety/bond to cover any of the public infrastructure.
5. The applicant shall contact the U.S. Postal Service and locate and install cluster mail boxes to their specifications prior to any additional certificate of occupancies are issued to any of the newly re-platted lots obtaining a certificate of occupancy.
6. The applicant shall provide a reasonable improvement schedule in the proposed Da. The City Engineer shall concur with the proposed time line and the estimated cost. The City Attorney shall approve the form of surety prior to the final DA being approved by the City Commission.

MOTION BY: Shirley Dukart **SECOND:** Jason Fridrich

DISPOSITION: Motion declared duly passed.

5. **(6) FINAL PLAT** – to consider FLP-004-18 a Preliminary/Final Re-Plat of Lyons 4th Subdivision described as a re-plat of all of Lot 1, Block 2 of Lyons 2nd Subdivision, and all of Lot 1, Block 2, and Tract B of Lyons 3rd Subdivision on approximately 6.57 acres and creating 27 lots and two tracts within the City of Dickinson, Stark County, North Dakota.

Mr. Hadley gave an overview of the project. Shawn Soehren with Boundary Engineering was present for the applicant. Mr. Soehren commented on the development stating there are no intentions to change the Planned Unit Development and they plan to build a fence for separation that Mr. Hadley referred to. Mr. Soehren stated they have already addressed most of the conditions as outlined in the Development Agreement as well.

Mr. Jackson asked if anyone from the public would like to comment, there being none the public portion of the hearing was closed. Mr. Jackson asked for a motion.

Final Replat of Lyons 4th Subdivision

*****Approval with Conditions*****

I move the City of Dickinson Planning and Zoning Commission recommend Approval of FLP-004-18 Final Plat for the Re plat of Lyons 2nd & 3rd, to create Lyons 4th Subdivision as depicted in Attachment A, 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 applicant shall provide lighting in accordance with the City's street lighting standards along the public road in a spacing that is acceptable to the City Engineer and a surety to ensure its completion in a timely manner.
2. The storm water management and grading plan shall be subject to approval by the City Engineer prior to the start of construction on the site, and will be included in the amended DA.
3. All infrastructure plans shall be approved to the satisfaction of the City Engineer prior to the application being heard for final plat approval and all changes shall be included in the amended DA and a surety given to ensure that it is completed in a timely manner in the DA.
4. Prior to final plat recordation, the Owner shall submit an amended DA for all work not completed already and a bond to cover any of the public infrastructure.
5. The applicant shall contact the U.S. Postal Service and locate and install adequate cluster mail boxes to their specifications prior to any additional certificate of occupancies are issued in the re-platted portion of this development.
6. Prior to final plat recordation a copy of the proposed CC&Rs shall be given to the city for the file acknowledging that the city will not enforce those additional requirements.
7. The applicant shall construct the extension of the existing fence on the east side of proposed re-plat to address the previous conditions of approval within the PUD. The applicant should also be encouraged to construct a fence to separate the proposed single family residential lots on Lyons Avenue from the existing high density residential complex that exists to the west of the site. The addition of the fence will clearly and cleanly define the rear yards of the single family homes and the multi- family open space. This should be required and included in the DA as

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the PUD listed the area to meet the medium density residential designation for build out. The developer has chosen to build only single family residential in that area that is allowed but it does potentially create a mix of incompatible uses if not separated.

MOTION BY: Jason Fridrich **SECOND:** Scott Decker

DISPOSITION: Motion declared duly passed.

6. **(4) FINAL PLAT** - to consider FLP-005-18 a Preliminary/Final Plat of Odyssey First Addition to create one lot with a general description of south of 2nd Street East between Sims Street and 1st Avenue East, the addition will re-plat Lots 1-7 & Lots 21-24 Block 11, of the Original Plat of the Town of Dickinson, within the City of Dickinson, Stark County, North Dakota.

Mr. Hadley stated in the Planning & Zoning packets there is a memo recommending this item be tabled, there were a number of issues that were unresolved at the time the review was completed. City staff met with the applicants yesterday and most of those issues have since been resolved. We now have a Development Agreement addressing the City's concerns. Mr. Hadley stated the applicant is here and the can explain their own proposal.

Troy Tooze with Lightowler Johnson Associates stated they have addressed the issues such as, handicapped parking, lot layout, flow and direction to accommodate the post office, the Development Agreement at length. Mr. Tooze added they have no issues with the revisions to Life safety travel distances they discussed with the Fire Marshall. They are working on detailed phasing construction to minimize impact on the surrounding area during building, understanding that parking is a sensitive issue. They will address landscaping down Sims and do the best they can with a zero lot line building. Mr. Tooze stated this will be a great thing for the down town.

Mr. Jackson asked staff if Mr. Tooze summary fits the City's understanding of what needs to happen.

Mr. Hadley stated that is what was discussed and fits what the city is requesting.

Brian Sieve with Odyssey Entertainment added they don't have a long construction season and it's a tall building over 30 feet tall and it makes all the difference in the world with a zero lot line. There are a lot of details to work out typically in a building review, after meeting we were able to find a resolution. Mr. Tooze said the building plans should be submitted to staff by June 1st, there will be a bid process and we hope to start building as soon as possible.

Mr. Jackson noted the action today is only for the plat.

Mr. Hadley stated the final plat still need final approval at City Commission June 5th.

Final Replat of Odyssey First Addition

*****Approval with Conditions*****

Conditions will be included in the Development Agreement.

MOTION BY: Jason Fridrich **SECOND:** Shirley Dukart

DISPOSITION: Motion declared duly passed.

IV. WORK SESSION – AGENDA

1. Medical Marijuana

City Attorney Janilyn Murtha handed out draft ordinance materials on medical marijuana. Ms. Murtha went over the drafts that would outline the requirements for a Special Use Permit for medical marijuana manufacturing and dispensaries, adding these are defined and outlined in state code. Ms. Murtha stated we should try not to duplicate theses in our own code.

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There was a discussion regarding where facilities should be allowed, and the application processes.

Mr. Jackson asked why this would go into General Commercial. Ms. Murtha stated that it is a decision for the Commission to make, it doesn't have to be there. There was a detailed discussion about the locations for dispensaries, and obtaining data on the activity surrounding the locations.

Mr. Jackson asked if the draft ordinance materials handed out are for future consideration and review. Ms. Murtha stated this isn't a rush at this point to get into the code it's needed for guidance. We need a concept to allow approval for future dispensaries, RFP's are open now for dispensaries.

A discussion ensued regarding inspections, requirements from the Department of Health, setbacks from schools and residences.

City County Planner Steve Josephson stated they will be brining something before the County Planning & Zoning board regarding standards in the code.

Ms. Murtha suggested adding something in the draft on odor air filtration systems as part of the Special Use Permit.

Mr. Hadley stated next month's Planning & Zoning meeting we will bring a draft forward to review we can then amend that and move forward with a finalize draft for vote in July.

There was a discussion about the look of store fronts, displays, advertising involved if any is desired.

2. Report on upcoming work session, KLJ planning basics

City Engineer Craig Kubas stated Steve Sletner with KLJ is proposing having a joint meeting with the City Commission and Planning and Zoning Commissions at the June P&Z meeting going over three key areas, planning principals, getting more out of the code, and key components of our comprehensive plan.

Mr. Kubas added that Mr. Sletner wants to discuss those outlined items and how to tweak and adjust them to the environment we have today. This meeting should be about an hour long depending on engagement, there will be two to three other people from KLJ speaking as well.

Mr. Jackson stated we should eliminate other work session items as much as possible and have the appropriate staff present to hear this.

Building Inspector Jim Thorpe gave an update on the building permits to date. Mr. Jackson requested an update on the building permits monthly so they have an idea of what's going on.

MOTION BY: Jason Fridrich **SECONDED BY:** Shirley Dukart

Adjournment of the meeting at approximately 8:29 AM

DISPOSITION: Motion carried unanimously.

PREPARED BY:

Brandy Goetz

APPROVED BY:

Walter Hadley