

PLANNING & ZONING COMMISSION MEETING MINUTES

July 20, 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, Jay Elkin, Earl Abrahamson, Tracy Tooz, Jerry Krieg, and Gene Jackson

ABSENT: Ron Hartl, Larry Dockter, Jason Hanson and Scott Kovash

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

STANDARD MOTIONS

City Planner Ed Courton informed the Board that the workshop meetings will be held on the 1st Wednesday of each month beginning August 3, 2011.

He also asked members to turn on the microphone and speak directly into the microphone so as to be clearly heard now that the meetings are televised.

A quorum was not present. City Attorney Matt Kolling stated that public testimony could be taken but no decisions could be made until a quorum was present. Tracy Tooz arrived late making the quorum.

1. MINUTES

Minutes of the Jun 15, 2011 meeting submitted for approval.

MOTION BY: Gene Jackson **SECOND BY:** Jerry Krieg
to approve minutes of the June 15, 2011 meeting.

DISPOSITION: Motion carried.

REGULAR AGENDA

1. FINAL PLAT – Hulsing Subdivision – located in Tract No. 2 of the E ½ of the W ½ of Section 9, Twp 139N, Rge 96W of the 5th PM.

Proprietor Dennis Hulsing and Bob Procive of Interstate Engineering were present to answer questions on the plat. Mr. Hulsing stated they would like to

change the name of the plat to Meadows Subdivision. He said they are working with Mike Maus to establish a Home Owners Association to restrict the design of homes, plantings, parking, etc. He stated the circular roads have been designed to accommodate two fire trucks passing each other safely. He said on-street parking will be minimal.

Chairman Abrahamson asked who would be enforcing the restricted on street parking which would be in the covenants. City Attorney Matt Kolling stated that if on street parking occurred which was an obstruction it would be a violation of city code and police could issue a citation. However, if the parked car or camper was not an obstruction, the HOA would have to take care of it. Dennis Hulsing noted the main road would be public. Jerry Krieg asked if the circular roads were one ways. Mr. Hulsing stated that is the intent. Mr. Krieg stated it would be very difficult to allow on street parking with the street being only 33 feet. He also asked why the streets were not designed at a 90° angle and if the Fire Department would be okay with it. Mr. Courton explained the Fire Department had reviewed the plat and were okay with the access onto State Avenue which was moved further to the north and also the access on 5th which was satisfactory in the middle of the block. Gene Jackson also expressed concern with parking in the cul de sac. He stated it would be important to require double garages in the covenants. Mr. Jackson added that once you take out the driveway in the circle, there will be no room for street parking.

City Planner Ed Courton stated he and the City Engineer Shawn Soehren reviewed the circular roads and they will be fine. He stated he would like a copy of the covenants and restrictions to review before taking the final plat to City Commission for approval so there is no conflict with city code. Mr. Courton stated this is an innovative concept and overall appears to meet the required standards of a final plat. He also stated he would need to confirm the subdivision name and street names. Mr. Courton recommended the street names be removed from the plat. Bob Procive stated he would remove the street names, adding it is his job to make sure the roads and curbs work, but it is the artistic privilege of the developer to assign the street names. Mr. Courton agreed it is artistic rather than procedural and the names can change. Walt Smith of Kadrmas, Lee and Jackson stated they have gone over this issue in their office as well and their surveyor dug into Century Code and the surveyor believes they should be on there. Gene Jackson stated he's not sure of the state law requirement, but historically, the City of Dickinson has asked that the street names be left off. He suggested we leave it up to the City Planner to make sure the names are unique.

Mr. Jackson added this plat has been a little unusual since the surveyor usually draws the plat. Mr. Courton agreed stating he had a couple of corrections minor in nature which he provided to Mr. Procive.

MOTION BY: Gene Jackson

SECOND BY: Jerry Krieg

To recommend approval of the final plat contingent on the correction of survey, administrative review of the street names and restrictive covenants to include two off street parking spaces per lot.

DISPOSITION: Motion carried.

2. **REZONING REQUEST** – To consider a request to rezone from R2 (Residential Medium Density) to R3 (Residential High Density) on the property described as Lots 1-21, Block 4, Country Oaks Estates Addition.

Chairman Abrahamson opened the Public Hearing. Austin Sullivan, representing the owner stated they want to construct twin homes and possibly a 36 unit apartment on the property.

Gene Jackson asked if they also own the north side of 24th Street. Mr. Sullivan stated they do own the south half. He said they own the lots which front the north side of 24th Street and they have plans to build single family homes on those lots, transitioning from R3 to R2 with twin homes and then R1 for single family. City Planner Ed Courton clarified the zoning for Block 6 was R1. Mr. Jackson asked if they would consider zoning Lots 1-11 as R2 for twin homes and Lots 12-21 as R3 to give transition. Mr. Sullivan stated the duplexes they are considering would be approximately 1300 SF, split level with two parking stall garages in the middle. He said each unit would fit on one lot.

Jerry Krieg asked what would be allowed in an R2 zone. Mr. Courton explained it could be single family detached, single family attached and multi-family up to ten units based on the size of the lot. He added the linear shape of the block would limit consideration for off street parking. Mr. Courton stated you can't put conditions on a rezone. He added a PUD (Planned Unit Development) could have conditions.

MOTION BY: Tracy Tooz **SECOND BY:** Jay Elkin

To recommend continuation of the request to next month and ask the developer to come back with a detailed plan.

DISPOSITION: Motion carried.

3. **PRELIMINARY PLAT** – Southview Homes 2nd Addition – Parcel A, Southview Homes Addition located north of 6th Street SE and west of 9th Avenue SE in Section 10, Twp 139N, Rge 96W containing +/- 23 acres.

Chairman Abrahamson opened the Public Hearing. John Rosa stated they are looking at R1 single family zoning on the west side and R3 higher density to the east. He said they are trying to keep with what was originally planned and continuing the existing streets.

City Planner Ed Courton stated he met with the developer in his first week of working for the City back in April. He stated we are discussing the preliminary plat today and are not discussing rezoning at this time. Mr. Courton stated he is okay with the configuration and the larger lots to the east. The current zoning designation is R1. Twin homes could be allowed if they were one on each lot.

Gene Jackson questioned if they will be asking for access on 9th Avenue SE. Mr. Sullivan stated they originally looked at access on 9th but the city didn't like that idea. Mr. Jackson asked if they will finalize the entire plat or if it will come back in phases. Sullivan stated the final plat will include the entire parcel but the infrastructure will be installed in phases. Chairman Abrahamson asked if they will start with apartments, then move west with single family. Mr. Courton stated it will be up to the developer how they stage their development. He added it would make the most sense to do the multi-family first. He suggested we proceed with approval of the preliminary plat and they should bring the rezone with the final plat next month.

Mr. Courton added that if they are preparing any type of restrictive covenants, he would like to review them prior to the final plat to assure there is no conflict(s) with city code.

MOTION BY: Jerry Krieg **SECOND BY:** Jay Elkin
To recommend approval of the Preliminary Plat of the Southview Homes 2nd Addition.

DISPOSITION: Motion carried.

4. **PRELIMINARY AND FINAL PLAT** – Replat of Diamond Acres Subdivision lying in Section 34, Township 140N, Range 96W and situated southerly of 21st Street East and westerly of 10th Avenue East containing +/- 105 acres.

Chairman Abrahamson opened the Public Hearing. Walt Smith of Kadrmass, Lee and Jackson stated this plat has been before the board several times over the last year and a half. He stated they are making some revisions with a commercial zone on the north side. There are still some drafting and surveying issues unresolved for the plat. He asked the Commission to table or approve as a preliminary plat.

City Planner Ed Courton concurred the plat is lacking some things for the final, stating if the issues can be rectified, we will hear the preliminary and final next month. Gene Jackson suggested preliminary approval based on corrections to meet Century Code.

Tracy Tooz asked if the circular Lot 15 was considered a stormwater management pond and who would maintain the lot. Mr. Smith stated it will be a wet pond with fluctuating depth and will be maintained by an HOA. Ed Courton

stated he likes the concept, although he's not sure if anything like it exists within the city. He feels it will work and they could make it an amenity by adding a fountain.

MOTION BY: Jay Elkin **SECOND BY:** Nancy MosBrucker
To recommend approval of the Preliminary Plat with corrections to meet the Century Code.

DISPOSITION: Motion carried.

5. **PRELIMINARY AND FINAL PLAT** – Replat of Braun 2nd Subdivision lying in the SE ¼ Section 34, Township 140N, Range 96W, now platted as Braun 3rd Subdivision located southerly of 14th Street East containing 13 acres.

Chairman Abrahamson opened the Public Hearing. Walt Smith from Kadrmass, Lee and Jackson and Jack Wallander, property owner stated the purpose of the replat is to eliminate the cul de sac and combine lots. There was 60' right-of-way which will be vacated with the replat and the city is asking for a 60' sewer easement. The sewer is 18' deep in the middle of the subdivision. Mr. Wallander stated in the realtor/purchaser agreement, they offered a 20' easement. He said he realizes that 20' is probably not wide enough but 60' is too much. Lot 3 has a large row of trees to buffer the cemetery to the east. If he moves his house away from the easement, he will lose about a dozen trees. He said he wants to keep the 30' high trees. He would like to offer 20' on both sides of the cul de sac.

City Planner Ed Courton stated they came before the board in April for a street vacation. At that meeting, the city stated they would require the 60' sewer easement which was not contested by Steve Schwab representing his client, Mr. Wallander. Mr. Courton stated he was notified two days ago that they would contest the 60' easement. He said he discussed it with City Engineer Shawn Soehren and he said without more time to review, he feels we need the 60'. Gene Jackson stated it appears the only area of concern is Lot 3. He suggested we take less in Lot 3 but more in the other lots allowing a place to pile the dirt. Mr. Courton stated that is a possibility, but he wouldn't change his recommendation until it could be reviewed by the City Engineer. He suggested we defer until next month.

Walt Smith agreed to work with the City Engineer and asked if the board would consider approval contingent on working out the sewer easement issue. Mr. Courton stated he would be in favor of recommending approval with a satisfactory agreement concerning the sewer easement. He said he feels it is an awkward way of doing things but he is okay with it under the circumstances. He said it will come back to Planning and Zoning if they can't come up with an agreement. City Attorney Matt Kolling said approval could be made contingent on resolution of the easement issue.

Gene Jackson also asked if the access easement in the NW area of the plat is private. Mr. Smith stated it was to access Lots 4 & 5. Mr. Jackson suggested using the wording “private for the benefit of Lots 4 & 5.”

MOTION BY: Gene Jackson

SECOND BY: Tracy Tooz

To recommend approval of the final plat contingent on satisfactory resolution of the sewer easement.

DISPOSITION: Motion carried.

6. **PRELIMINARY PLAT** – State 7th Addition (Replat of a portion of State Addition) located easterly of I-94 Business Loop and southerly of Fairway Street in Section 5, Twp 139N, Rge 96W containing +/- 16 acres.

Chairman Abrahamson opened the Public Hearing. City Planner Ed Courton stated the drawings for State 7th and 8th show them as a Sketch Plat but the Board is very familiar with the area so they were published as Preliminary Plats. Larry Nygaard from Roer’s Development stated this will finish out the State Addition for them.

Mr. Courton asked that the zoning be removed prior to the final plat. Gene Jackson agreed that it should be removed for the final plat but said it is nice to see it on the preliminary plat.

MOTION BY: Nancy MosBrucker

SECOND BY: Tracy Tooz

To recommend approval of the preliminary plat.

DISPOSITION: Motion carried.

7. **PRELIMINARY PLAT** – State 8th Addition (Replat of a portion of State Addition) located easterly of I-94 Business Loop and southerly of Fairway Street in Section 5, Twp 139N, Rge 96W containing +/- 21 acres.

Chairman Abrahamson opened the Public Hearing. Larry Nygaard from Roer’s Development stated there will be commercial development along Fairway. Future plans include the hospital building to the north and they wish to facilitate other businesses that wish to locate near hospitals. Gene Jackson asked if they intend to access from Fairway or from 8th. Mr. Nygaard stated the businesses will likely be professional offices or clinics and they will look for access from Fairway. He said they will combine access points on Fairway. He added they have combined lots on the east side. Lots 3 & 4 will be combined into one lot as will Lots 8 & 9. They will likely share access at the property line. He noted that Fairway has a median which will have to cut through and he knows the city will want to limit the number of cuts for access. Mr. Courton agreed that we will want to limit access from Fairway but we also don’t want hindrance from the median

