

## PLANNING & ZONING COMMISSION MEETING MINUTES

March 21<sup>st</sup>, 2012

### OPENING CEREMONIES AND PRESENTATIONS

#### I. CALL TO ORDER

Chairman Earl Abrahamson called the meeting to order at 7:15 AM.

#### II. ROLL CALL

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

ABSENT: None

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

### STANDARD MOTIONS

#### 1. MINUTES

Minutes dated January 18th, 2012 submitted for approval.

**MOTION BY:**

**SECOND BY:**

To approve the minutes of the January 18th, 2012 minutes.

DISPOSTION: Motion carried. Unanimous vote. (7-0)

### REGULAR AGENDA

Chairman Abrahamson requested that he wants to keep all comments to the property and not personal. And explained the sketch plats will not include public comment.

1. **REZONING REQUEST** – To consider a Rezone Petition from AG to R1, R2, R3, CC, LC and GI for property described in the NW ¼ of Section 28, Township 140N, Range 96W.

Harvey Schneider with Toman Engineering his client Mike Koch who is the proponent. Mr. Schneider explained the maps he is presenting. He said he has met with the City Engineer, Mr. Soehren and the City Planner, Mr. Courton and have made changes based on their recommendations. Earl Abrahamson asked if they plan to take control of the AG, and Mr. Schneider said the City is taking it. Gene Jackson thinks the rezone is fine. He is wondering how many units are going to be built in the R3 zone. Mr. Koch stated he is not quite sure – it is going to be a mixture of duplexes from 4-8 units. Jay Elkin questioned when the project would be completed. Mr. Koch said the dirt work should be completed by June 1<sup>st</sup>, and hoping to be completed by September.

Chairman Abrahamson opened the hearing for public comment. Mike Maus, Esquire representing Fred Klein. Mr. Maus handed out an exhibit to the members. He is concerned that KLJ shows a

pipeline and an oil well and it is not platted. He is also concerned about access to the oil well. He thinks the current road has insufficient width to turn around, and believes it needs the road should be constructed to a seven road capacity. Mr. Courton mentioned that this has gone thru Planning Commission; it has not gone thru City Commission. Mr. Maus needs to present this to City Commission. Mr. Schneider said that they had utilities located and tied them in on-site, and that's how they indicated their easements. As far as the turnaround - he felt the road was ample and would be happy to visit with Fred regarding the issue.

Gene Jackson had a concern about the commercial zoning designation along 34<sup>th</sup> Street West for one-half mile. Mr. Abrahamson believes there has been a nice transition and they have been aware of their plans for a while now, and he is comfortable with the rezone.

Mr. Courton added that with the future land use map – just across the street on State Avenue, there will be a commercial node, and then transitioning to residential.

**MOTION BY:** Jay Elkin

**SECOND BY:** Jason Hanson

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition from AG to R1, R2, R3, CC, LC and GI**, 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.

Mr. Courton commented that the GI on the motion was not correct. Mike Koch thanked the commission.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

- 2. REZONING REQUEST** - To consider a Rezone Petition from GI to GC for property described as Lot 1, Block 1, Energy Center 1<sup>st</sup> in Section 1, and 12, Township 139N, Range 96W.

Chairman Abrahamson opened the hearing for public comment. Randy Sickler, on behalf of Badlands Properties, and Quentin Kitzan representing. The purpose for this rezone is to build a hotel, which is consistent with neighboring lots. Mr. Sickler pointed out that there is a need for a hotel on the east side of town, where there is not one now. Chairman Abrahamson questioned how many rooms the hotel would have, and the time frame. Mr. Kitzan says there should be about 60 rooms, and it will take about seven months. He hopes to be done by the end of the year. Mr. Jackson asked if there would be a restaurant, Quentin declined. City Planner Ed Courton says that he has met with the applicants and is comfortable with the rezone request.

**MOTION BY:** George Nodland

**SECOND BY:** Scott Kovash

I move the City of Dickinson Planning and Zoning Commission recommend Approval of **the Rezone Petition from GI to GC for property described as Lot 1, Block 1, Energy Center 1<sup>st</sup>**, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

- 3. REZONING REQUEST** - To consider a Rezone Petition from AG to GC for property described in the SE ¼ of the NE ¼ of Section 28, Township 140N, Range 96W.

Walt Smith is representing on behalf of the applicant. He feels that it fits the purpose and zoning. Mr. Jackson questioned what the purposed would be. Mr. Smith says it would be offices. Mr. Jackson questioned if they would feel comfortable zoning to LC or CC rather than GC. Mr. Smith says he is uncertain. Mr. Jackson questioned the odd shape on the map. Mr. Smith says the lot was carved out of an original master plan 20 years ago. Mr. Courton says prior any building

issuance, the lot must go through the planning process in order to validate the lot. Chairman Abrahamson asked if the trail went thru the lot and Mr. Smith was not sure.

Chairman Abrahamson opened the hearing for public comment. Mr. Jackson is concerned that this request may be premature. The Commission had talked about not doing GC in this area, and he believes that CC would work better. He would like to see a master plan of the subdivision, and have the owner come back when there is a clearer picture. Chairman Abrahamson agreed with this. He would like to see if the proposed land use would fit something other than GC. Chairman Abrahamson asked Mr. Smith to speak with the applicant. Mr. Smith is okay with tabling the item. Mr. Courton suggested to table until next month or table to date uncertain and to contact him when they are ready to move forward.

**MOTION BY:** Gene Jackson

**SECOND BY:** Tracy Tooz

Motion to table action on agenda item #3 until a future meeting.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

4. **PRELIMINARY PLAT** – To consider a Preliminary Plat for S&B Subdivision and generally described in the NE  $\frac{1}{4}$  of Section 32, Township 140N, Range 96W.

Mr. Tooz is removing himself from this item due to a conflict of interest. Rick Luthold from Sanderson Stewart is representing the applicant. This plat is +/- 20 acres on the corner of 21<sup>st</sup> and States. Fifteen acres will be for multifamily, representing 278 apartment units. The first units would be ready for occupancy later this year with completion taking about fifteen months.

Chairman Abrahamson opened the Public Hearing for comment. There being no comment, closed the Hearing.

**MOTION BY:** Jason Hanson

**SECOND BY:** Jay Elkin

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

Mr. Courton added that he put a condition on the motion that before final plat approval a development agreement shall be recommended and approved by the City Engineer and asked Mr. Elkin and Mr. Hanson if that was okay and both said that was okay to amend the motion accordingly.

Mr. Kovash asked about Park Dedication. Mr. Luthold does not believe they have met with the Park Board. City Attorney Matt Kolling encouraged the applicant to meet with the Board.

Mr. Courton would recommend we alter the motion that before final plat approval, the applicant shall provide a recommendation from the Parks Department to the satisfaction of the Planning Commission.

**MOTION BY:** Jason Hanson

**SECOND BY:** Jay Elkin

Motion to amend the prior motion and recommend approval of the preliminary plat with the additional of City staff's recommendation.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

5. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Prairie Ridge Subdivision and generally described in the SE  $\frac{1}{4}$  of Section 34, Township 140N, Range 96W.

Chris Bideski is here presenting Karl Best who is the proponent. Mr. Best is proposing a seven lot subdivision. Six lots will be for townhouses and one lot will be for multifamily (duplexes or 4

plexes). They will be connecting 10<sup>th</sup> and 11<sup>th</sup> Street East and match with Elm Avenue. Mr. Lybeck has contacted the Parks Department and discussed paying for fee-in-lieu of park land. Mr. Jackson wanted to know what the units are going to be look like. Mr. Bideski understands that they will be sold units. Each unit will be two stories with a two car garage underneath the family room. The unit widths are between 25-35' wide. Mr. Courton added that as part of the plot itself, that Lot 5 would have to be widened to a minimum of 75' width to comply with the R2 designation, and suggests they add that condition for final plat approval. Mr. Bideski understands that condition.

Mr. Elkin questioned what ties does the applicant has to Tom Langle. Mr. Bideski says that he is the current owner and is selling it. Mr. Elkin pointed out that Mr. Langle is the owner of a current apartment building that has issues that need to be addressed.

Mr. Kovash questioned if the applicant has ever appeared in front of the Park Board, and suggested they need to do so.

Chairman Abrahamson announced that Bob Keogh has handed out comments.

Chairman Abrahamson opened the hearing for public comment. Bob Keogh is concerned primarily about the density in the area. Mr. Jackson stated that he got a call about density as well and would like Mr. Courton to describe R2 density. Mr. Courton explained that density for R2 is based upon lot size as defined in the Zoning Code. Chairman Abrahamson asked Mr. Bideski about off-street parking. Mr. Bideski confirmed that there would be a two-car garage and a two-car driveway.

Don Bruggemeyer is a property owner next to the proposed development. His concern, along with other single family housing owners is the density. He is concerned about emergency responders not being able to have sufficient access. He handed out a sheet with a drawing with a 23 unit development. He would like to lessen the impact by half. He is also concerned about the traffic and safety. He would like the commission to reduce the density of the development.

Kris Bruggemeyer concurred with the letter that Bob Keogh handed out. She mentioned an article in the Dickinson Press relative to curb appeal, and doesn't think this property looks like it will have much curb appeal.

Jim Privratsky is concerned about traffic issues. He would like to have the Park Board look at green space, instead of money.

Kent Mortenson is concerned about snow removal and placement. He asked about tree planting requirements. He doesn't see any area to plant trees. He is also concerned about the density, and doesn't see why there couldn't be single family homes there. He would like something more pleasing to the eye, and thinks it will depreciate the value if they try to sell. He is also concerned about the runoff on the north side of 11<sup>th</sup> street. He would prefer a twin home development, and doesn't feel the neighborhood is ready for this development.

John Keppnik lives on Dell Ave. He says that on the west side of Dell is a row of single family homes and the other side is Pioneer Haven – Dell will be sandwiched in by the two developments. He is concerned about how they are going to develop the area. He is also worried about dust and soil erosion on the east side and water moving down the hill. He agrees with everything that has been said previously.

Arvid Hoerner lives in the backyard of this development. He agrees with all the comments that have been made and asked for a show of hands. Chairman Abrahamson explained that he could not do that here.

Mr. Bideski does understand all the comments. He wants to make it clear that they are not asking for any variance and comply with current codes. They have reduced the units that they initially proposed. He explained that there will be a need for a turnaround on Lot 5, and the code of 25 foot for a driveway will be there and some will be even wider.

Mr. Courton addresses some of the issues. As far as curb appeal – this falls under the City's landscape ordinance, and will require a 15' landscape buffer. Mr. Courton went on to explain the ordinance. Mr. Courton is in favor of a PUD for the applicant, and some of the issues could be addressed under a PUD. Most details will be addressed at the building permit stage. Mr. Courton understands the concerns of the neighborhood, but feels the project will be compatible with the existing neighborhood, and he would recommend approval.

Mr. Jackson asked what the PUD would address relative to the public comments. Mr. Courton explained that they could cluster the housing units and situate the units in the center to add additional space around the perimeter and require additional buffering along with an opaque fence. Mr. Jackson asked Mr. Bideski if he would consider that, and Mr. Bideski said he could not answer that now. They would likely stay with the same number of units. They would like to construct this summer and with a PUD in place it would take longer. Chairman Abrahamson believes that there are some incentives to doing a PUD. Mr. Jackson noted that they are in compliance already and it has already been rezoned, so he doesn't see any basis on why they would deny this item. He does understand the neighborhood's concerns. Mr. Courton added that the process for the PUD would require advertising, and going through the Planning Commission and City Commission. This would delay the project a month or two.

Mr. Elkin questions if they should table the request until they meet with Mr. Courton and the City Engineer to discuss the PUD. Mr. Courton is in favor of the PUD. Mr. Nodland is wondering why this was zoned R2 twenty or so years ago. Mr. Courton believes the parcel is a remnant from a larger parcel. There may have been other R2's that were rezoned later to R1. He was not here at that time, so he cannot comment on it. Mr. Abrahamson likes the idea of a PUD, and thinks it would probably enhance the neighborhood. Mr. Kolling suggests they may approve the preliminary plat and establish a condition that they meet with Mr. Courton about developing a PUD before final plat. Mr. Abrahamson added that they should also meet with the Parks Department before final plat.

**MOTION BY:** Gene Jackson

**SECOND BY:** Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of **the Preliminary 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.

(AND) the following additional requirements

**1. Prior to Final Plat Approval, Lot 5 shall be redesigned to a minimum 75-foot width per City Code**

**2. Prior to Final Plat Approval the developer must consider a PUD and satisfy the Park Requirements.**

**DISPOSITION:** Motion carried. Not a unanimous vote (6-1) Mr. Nodland Objects.

Mr. Bideski understands the PUD's are a very good tool. They might be able to come up with something better.

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

Mr. Tooz is removing himself from this item for conflict of interest.

Jeff Schaumann representing Arista Development is respectfully requesting approval for R3 zoning. Mr. Jackson would like to know more about the project. Mr. Schaumann explained that it would include four buildings totaling 144 units. Mr. Elkin asked about Arista's interest in the surrounding properties. Mr. Schaumann says Clear Creek on the west and north have been collaborating with them, but they are not interesting in the surrounding areas. Mr. Elkins thinks this project needs to be master platted. Mr. Courton mentioned that the applicant is going through the sketch plat at the end of the agenda, and that they are keeping it at all one piece of property and coming back at a later day to rezone the remaining piece of property as R3. Mr. Schaumann explained that the tract before them today is bound on the east by the row of trees and extends back to the power line and to the well head. There is a natural boundary. Mr. Jackson is questioning the 2000 ft. by 1200 ft. piece of ground that has no dedicated streets or parks. Mr. Courton explained they are proposing two lots, and the access point will be via 21<sup>st</sup> St W. They are required to provide a dedication of 75' from the centerline of the road. If it's unified then there is no need for a dedicated road. Mr. Nodland asked if this was all R3, and Mr. Courton confirmed that it is proposed to be all R3. The property to the west and northwest is also proposing R3. He explained that this corridor is proposed to have a R3 designation, and that it makes sense to have high density resident along major roads. Chairman Abrahamson would like to know when the development would be completed. Mr. Schaumann would likely begin construction in June, 2012 and be completed by the end of the year.

Mr. Nodland asked Mr. Courton if 3,200 units were built, how many people that would be? Mr. Courton explained that the 2010 census stated that 1.8 people per dwelling unit. He thinks this is underestimated, and leans towards 2 – 2.5 per dwelling unit. He also explained this couldn't all be completed in one year – the build out could take five to ten years. Mr. Nodland added that someone has to show him the need for such a high number of apartments. Mr. Elkin asked if Arista is building for their own personnel. Mr. Courton stated that he looks at it as traditional housing units, even if they are for their employees. Mr. Schaumann explained a broad view of his company. They are owned by RDO Equipment Company. They are building a John Deere facility and RDO Equipment in Dickinson. They do need housing for their employees. Mr. Jackson added that we need to have a discussion about R3. He too has concern about the total number of apartment units being proposed for the City. Mr. Jackson believes the high rent costs will be resolved by building more apartments and feels for now we need to go with this proposal. He believes that if we restrict R3 too soon will be see increasing rents going up more than they are now.

Chairman Abrahamson opened the hearing for public comment. . David Kalow lives on Grasslands Drive. Just wants to bring attention to the 25 R3 units ½ mile south of this area.

Mr. Kovash questioned if what we are looking at going to be part of the other plot, because of park dedication. Mr. Kolling stated that the fees will depend upon how the land is platted, and will be paid at the time of final plat. Mr. Courton noted this request is for rezoning and not platting, which would require park dedication or payment-in-lieu. Mr. Kolling stated that at this time, this property is not contiguous with city limits, so it would not be able to be annexed at this time. Mr. Courton added that they have been working with all the property owners to the south and west to make sure the future annexation is contiguous.

**MOTION BY:** Jay Elkin

**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. Unanimous vote. (7-0)

7. **PRELIMINARY PLAT** - To consider a Rezone Petition from R1 and R2 to P, R1, R2 and R3 with PUD Overlay for property described as a Replat of Lots 1-3 and part of Lot 4, Block 3, North Industries First Addition and All of Blocks 1-4, Lyons Subdivision.

Jeff Schauman is representing Arista development. He believes a mixed density zoning is appropriate for this area, and also feels PUD's are appropriate. He has met with some of the neighbors and they have come to an understanding. They have agreed to extend solid screened fence against the east property line, and have agreed to provide some access easements in the R2 zoning. He also showed some plans with additional landscaping.

Chairman Abrahamson opened the hearing for public comment. Ed Kuntz owns 55 acres south of the property. He has reached a preliminary agreement with Mr. Schauman, and supports the preliminary plat.

Laura Marsch lives north of the R2. She was not included in neighborhood discussions, but she does agree with preliminary plat.

Mr. Kolling noted that this property is subject to a memorandum of understanding that it would prevent R3 zoning, and that memorandum will have to be revised. It will also need to go before City Commission to approval.

Mr. Kolling added that they will have to modify the memorandum of understanding, and Mr. and Mrs. Kuntz will have to agree with this.

**MOTION BY:** Jay Elkin

**SECOND BY:** George Nodland

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition from R1 and R2 to P, R1, R2 and R3 with PUD Overlay**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

8. **PRELIMINARY PLAT** - To consider a Preliminary Plat for Prairie Creek Subdivision and generally described in the NW ¼ of Section 33, Township 140N, Range 96W.

Troy Tooz is representing the developer. He explained that this plat would be a mix of R1, R2 and R3. Chairman Abrahamson questioned the names of the roads. Mr. Tooz says they are open to name changes, and are only labeled for discussion purposes. Mr. Courton commented that they do need to be unique in their street names for emergency purposes. Mr. Courton noted that he has attached some recommended conditions of approval:

**1. Prior to Final Plat Approval, Union Drive shall extend westerly to connect to State Avenue.**

**2. Prior to Final Plat Approval, Grassland Circle Drive shall be renamed and accepted by the City.**

**3. Prior to Final Plat Approval, the Parks Department shall provide a recommendation to the Planning and Zoning Commission relative to a park dedication or payment-in-lieu and the bike trail.**

**4. Prior to Final Plat Approval, the proposed bike path shall be located outside of any lots and be a minimum 6 (six) foot wide, hard-surfaced bike path and it shall further be maintained by a Homeowners' Association or other funding mechanism acceptable by the City.**

**5. Prior to Final Plat Approval, the 100-year floodplain shall be depicted.**

**6. Prior to Final Plat Approval, a Development Agreement shall be recommended for approval by the City Engineer.**

**7. Prior to Final Plat Approval, a Rezone Petition must precede this Preliminary Plat Petition in order to be forwarded to the City Commission for final decision**

Mr. Tooz has no problem with staff's proposed recommendations.

Mr. Nodand asked how many R3 units there would be and Mr. Tooz was uncertain to the total number of units. The developer prefers to do R1. Mr. Nodland asked about time frame. Mr. Tooz says that he would like to get a significant amount done this year, and it would be about a 2-3 year build out.

Mr. Kovash questioned if a bike path was part of the developers plan. Mr. Tooz wishes to have some park included with the R3 development.

Chairman Abrahamson opened the public hearing. David Kelow lives on Grasslands Drive. He commented that it is gratifying to hear this is R1, as he objects to R3. He noted that a majority of traffic will go out on Prairie Creek Rd and Grasslands Drive. He further commented that Grasslands drive is a low elevation, and is a terrible intersection for catching snow. He is also concerned about high density, and the effect on property values. He is also concerned about the lack of emergency access. He handed out a petition.

Mr. Courton explained roads and access points – he does not want a lot of access points via State Avenue. He believes traffic will mostly flow out of the development on States Avenue. The City Engineer says the roads are fine.

Mr. Nodland asked about the commercial lot in the corner of the development and agrees commercial zoning should be placed at major intersections. Mr. Jackson thinks we need to discuss land uses because it will affect the layout of the plat, and questioned the traffic problems off Grasslands and 15<sup>th</sup> street.

Craig Steve lives on Prairie Creek Road. He would like to see this item tabled. He is concerned about funneling all of the traffic north, down into Grasslands Drive. He is also concerned about the flow of water onto Grasslands Drive. Mr. Nodland agrees with Mr. Steve and Mr. Jackson. He feels road issues and flood plain issues needs to be addressed. He believes there may be problem borrowing money for a house in a flood plain.

Mr. Courton suggested they could table it until they present a rezone petition. Chairman Abrahamson asked Mr. Tooz what would be favorable to him.

Mr. Tooz doesn't want to lose any time, and that would happen if this was tabled. Mr. Jackson asked about what areas they would be working on this summer. Mr. Tooz says the R1 district on the east end. Mr. Courton suggested he should get a rezone application in for next month's meeting.

Chairman Abrahamson noted that if it's approved, changes would have to be made, and thinks we should go on to approve the preliminary plat.

Tracy Tooz mentioned that Mr. Courton and Will Ralph with Braxton Development, met and there has been a lot of movement of roads.

Mr. Jackson noted that there has been a lot of improvement on this plat, and thinks this should be almost done by preliminary plat presentation. He also believes there will be a sanitary/sewer issues.

David Kelow would like to see this tabled.

Chairman Abrahamson asked Mr. Tooz if he would be prepared to come back in three to four weeks with a more extensive project description. Mr. Tooz says he would submit the rezone request today, and will be able to make changes within the next month.

**MOTION BY:** Gene Jackson

**SECOND BY:** Jason Hanson

Motion to table Preliminary Plat for the Prairie Creek Subdivision.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

Mr. Jackson would like to accommodate the project as fast as they can.

Chairman Abrahamson agrees. Mr. Elkin really likes the layout and hopes they can make it work.

9. **FINAL PLAT** – To consider a Final Plat for Hausauers 1<sup>st</sup> Subdivision and generally described in the SW ¼, SE ¼ of Section 26, Township 140N, Range 96W.

Diane Hausauer and her daughter Sarah Espinoza are representing. They would like to dissolve the plat into 2 lots. They would like the east and west streets vacated along with the northern dedicated road to be removed from the plat. They have met with the City Engineer and the dedications for the north and south streets were added. Mrs. Espinoza commented that the street doesn't go east west very well, and believes it doesn't fit in there, but is fine with it if they have to include it on the plat, but would prefer to remove it from the plat. Mr. Jackson questioned the plat, because what they are seeing showed the east/west road being dedicated. Mrs. Hausauer says the dedication was added without her knowing about it. Mr. Courton doesn't recommend removal without talking to the City Engineer first. He suggested that we could move forward with final plat and the City Engineer could remove the requirement at City Commission if necessary.

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

**MOTION BY:** George Nodland

**SECOND BY:** Jay Elkin

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Final Plat for Hausauers 1<sup>st</sup> Subdivision**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

Chairman Abrahamson clarified that it is the plat they received with the roadway dedication included. Mr. Courton says that he would discuss this with the City Engineer.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

10. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Hatzenbuhler Subdivision and generally described in the SE ¼ of Section 16, Township 139N, Range 96W.

Terry Ficek is representing Ken Hatzenbeuhler. This is a one lot plat that needs road easements to connect to 8<sup>th</sup> Avenue SW. Mr. Courton explained that this is a 1 lot subdivision. The applicant is trying to build a residence on an illegally segregated parcel. This plat would validate the parcel and allow the applicant to build a residence. Staff has no problem with the approval. He noted that there is a recommended condition of approval to be attached on the motion.

Chairman Abrahamson questioned the access to 8<sup>th</sup> Ave, and who owned the property to the east and west. Mr. Ficek clarified that Mr. Hatzenbeuhler does and that he needs a separate subdivision, so he can build his house on it.

Mr. Abrahamson remembered last time we couldn't do this because the lots were owned by the same party and now we are going to go with it and have a 30 ft. access.

Ed added that the lots to the west and east were split by a deed which is illegal splits. Running an easement is a satisfactory way to resolve it. Mr. Jackson and Chairman Abrahamson discussed the access and Chairman Abrahamson suggested at this time to defer further comment until a couple items down on the agenda and tabled this item.

After item 11 was discussed, the Commission re-opened the hearing to continue discussion of the request.

Mr. Courton recommended a condition of approval requiring the City Engineer to approve a future road alignment going through the plat, if necessary. Mr. Courton added a 2nd condition to the motion.

Mr. Kolling noted that the access easement isn't part of the plat itself and will have to be on a separate document recorded at the Recorder's Office.

**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 Hatzenbuhler 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, an access easement shall be depicted from the subject lot westerly to 8<sup>th</sup> Avenue SW.**

**2. Prior to Final Plat Approval, future road alignment must be to the satisfaction of the City Engineer.**

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

11. **PRELIMINARY PLAT** – To consider a Preliminary Plat for Southpark Addition and generally described in the NE ¼ of Section 16, Township 139N, Range 96W.

Dave Patience is representative for the applicant gave a presentation of the project. The owner has intention of selling off some of the pieces to some other developers, and then would like to find a developer to build single family residential on the remaining property. Access will be on 8th Street West, State Avenue and Hwy 22. He has contacted the Highway Dept. and NDDOT has indicated that access will be provided to the development via Highway 22.

Mr. Jackson inquired about the proposed ownership of the drainage area. Mr. Patience explains that they went to the park district and they would rather not be involved. They would like to keep the residents out of the area and it needs it to act as a storm water management for this area. If it drains naturally he would like to keep it that way.

Mr. Kovash mentioned the idea to put a trail along the park. They were proposing that the Park Board take the drainage ditch, but the Park Board doesn't want to own the area; they would prefer cash-in-lieu.

Mr. Courton commented that he feels the Preliminary Plat is premature. He needs to have it rezoned first, and recommends this be continued. He recommended the following conditions of approval:

1. **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 area.**
2. **Prior to Final Plat Approval, 11<sup>th</sup> and 12<sup>th</sup> Street SW shall be granted approval from the NDDOT.**
3. **Prior to Final Plat Approval, the depicted access easement for Lots 9-11, Block 9 & Lots 21-22, Block 1 shall be removed and relocated along the westerly portion of said Lots.**
4. **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.**
5. **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.**

Mr. Patience mentioned they did move the easement in the commercial area. Chairman Abrahamson comments that there are quite a few issues he sees that would have to be resolved such as the park and roads.

Chairman Abrahamson opened the public hearing. Judene Brusseau is wondering about how many people will be in the sites where there are apartments. She is concerned about the traffic heading north. She thinks the size of lots would be good for single family homes.

Georgette Dorval questioned if there is an apartment building will the developer provide a barrier fence. She mentioned that apartment buildings have dumpsters, and a barrier wall would keep this away from public view. She is okay with the whole proposal, but doesn't agree with the four apartment buildings. She thinks apartment buildings should be in the back and to the side of the development. She agrees with Mr. Brusseau.

Mr. Jackson believes the plat is well designed, but still has some questions that need to be discussed when the rezoning requests are made. He asked about proposed utility easements in the streets. Mr. Patients says they usually present a preliminary plat and send it to the utility company first.

Mr. Courton mentioned they could approve the preliminary plat with a condition of a proper rezoning or continue the item. Chairman Abrahamson would like to see this continued into next month.

**MOTION BY:** Jason Hanson

**SECOND BY:** Tracy Tooz

Motion to table the preliminary plat until next month when we look at the rezoning request.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

12. **REZONING REQUEST** - To consider a Rezone Petition from AG to GC and GI, for property described in the W 1300' of the NW ¼ of Section 12, Township 139N, Range 97W.

John Wilcek is representing for Chase Merritt. He explained the plat. Mr. Jackson is questioning if we want industrial along Hwy 10 and thinks if we approve this request the City can expect to get more industrial zoning requests along Hwy 10. Mr. Elkin agrees with Mr. Jackson and is wondering if we are encroaching on the residents with GC. Mr. Nodland asked about SW Water accommodating this area. Mr. Wilcek says that he has received a verbal agreement on certain lots and is looking for low water users for the lots. They may need to look at a developer's agreement to limit how much water each lot could have allocated.

Mr. Elkin commented that street widths in the county would need to be 80'. He also does not believe SW Water will be able to accommodate this area. Mr. Abrahamson is fine with it being GC, or GI.

Mr. Tooz believes the land use is better for GC or LI adjacent to Hwy 10 and doesn't think there should be any residential. Mr. Elkin concurs.

Mr. Jackson would like an opinion from Realtors what will happen if we approve GC on Hwy 10.

Don Schmelling, a local realtor, believes that we need some buffering along Hwy 10. He would like to see some industrial and commercial to the west and some residential to the east. He sees GC along Hwy 10, with potentially some setbacks and landscaping for a nice appearance.

Mr. Courton discussed the corridor overlay district and is not in favor of industrial along Highway 10. He recommends a condition of approval that the GC would be consistent with the other GC lots and the rezoning petition would be a metes and bounds description.

**MOTION BY:** Jay Elkin

**SECOND BY:** Tracy Tooz

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Rezone Petition from Ag to GC and GI**, as depicted in the application materials, as meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements :

1. **Prior to submittal to the City Commission, the proposed GC zoning district shall be redrawn to be a consistent boundary along the southerly zoning boundary.**
2. **Prior to submittal to the City Commission, all zoning district boundaries shall be designated and described by a metes and bounds description.**

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

13. **PRELIMINARY PLAT** – To consider a Preliminary Plat for property described in the W 1300' of the NW ¼ of Section 12, Township 139N, Range 97W.

John Wilcek is representing. This is the same as prior agenda item. He says that the plat consists of 25 lots, 80 foot wide rights-of-ways and two entrances via Hwy 10 and 115th Ave. He has discussed the entrances with the county engineer. He says drainage won't be a problem. Mr. Wilcek and Southwest Water have had a meeting relative to them providing water to the development. Stark County Health Department doesn't have a problem with individual sewage systems. He believes traffic would have to be handled in a development agreement, and is willing to address this issue as part of the agreement.

Mr. Abrahamson mentioned that boundaries on lots need to be contiguous. Mr. Wilcek replied that the lot lines would create a straight boundary.

Chairman Abrahamson opened the hearing for public comment. Don Schmelling comments that water is crucial and is bringing his business to a standstill. In this particular area there are a number of water wells at depths of 100' to 200' range.

**MOTION BY:** Jay Elkin

**SECOND BY:** George Nodland

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the **Preliminary Plat**, 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 obtain a letter from SW Water that you will have sufficient water.**
2. **A development agreement shall be recommend approval per the city engineer regarding the developments infrastructure including roads.**

Mr. Nodland pointed out that Mr. Courton wanted to continue this project prior to the meeting. Mr. Courton says if the Commission feels comfortable with the layout, then they can approve or it can e continued to address staff's overall concerns. Mr. Elkin says the development agreement should resolve the issues.

**DISPOSITION:** Motion carried. Unanimous vote. (7-0)

14. **SKETCH PLAT** – Timbers First Addition – A plat of all of Block 1 situated in the S ½ of the SE ¼ of Section 29, Township 140N, Range 96W.

Mr. Courton commented on the plat and mentioned that the city will limit the plat to one access point via 21<sup>st</sup> Street West

15. **SKETCH PLAT** – Lyons 2<sup>nd</sup> Subdivision – A replat of 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 the NE ¼ of Section 27, Township 140N, Range 96W.

Jeff Schauman commented that this is consistent with PUD that was presented earlier. Mr. Courton noted that there was a drainage easement that needs to be addressed and a fire turn around would be needed at the SW corner of the plat.

16. **SKETCH PLAT** – West Ridge Sketch Plat – Exit 59 and 30<sup>th</sup> Avenue (By Pass)

Larry Nygaard presented the plat. Mr. Courton noted they will be finalizing a traffic study by the bypass and that the develop needs to incorporate the study's recommendations into their project.

Mr. Jackson asked about how many apartments there would be and Mr. Nygaard says +/- 250. He says further west they would have more single family residential.

Mr. Courton brought to his attention the concern the City has relative to the total number of proposed apartment units by developers in the City.

Mr. Abrahamson asked if the park would be retained by developer. Mr. Nygaard said that this issue is still in unresolved. He says there is a master plan for that area, and says they will be relocating oil lines. Mr. Kovash questioned if they want a park in the commercial area, and Mr. Nygaard says the master plan would illustrate the location.

17. **SKETCH PLAT** – Decker's 4<sup>th</sup> Subdivision – situated in 7.8 acres in the NW ¼ of the SW ¼ of Section 16.

Andrew Shank is representing Highlands Engineering and is presenting a plat for 6.76 acres currently zoned RR. They would like to divide the property into two blocks separated by a 33' private access easement. They are not looking to rezone.

Mr. Courton says it would need to meet county road standards of 80' wide and be constructed of hard surface materials and have a ditch on each side.

18. **SKETCH PLAT** – Clear Creek Addition –A plat of all of Block 1, Lot 1, situated in the S ½ of the SE ¼ of Section 29, Township 140N, Range 96W.

Troy Tooz is presenting. Mr. Courton noted that the NE portion needs to be depicted in the 100 year floodplain, and the fire code requires a 100' setback from any structure. Mr. Courton also noted that the City hasn't determined if roadway dedication would be required along the western edge of the property.

19. **SKETCH PLAT** – Industrial Park Second Addition – Replat of Lot 2 and Lot 3 of Block 2 situated in the NE ¼ of Section 16, Township 140N, Range 96W.

John Wilcek is representing KLJ. They are taking two lots breaking it into four lots. Access would be through an easement, which would be a public easement, privately maintained. The size is

currently a 66' easement and they will increase it to 80'. It has 100' radius. Mr. Courton suggested using the term dedicated right-of-way – not easement, with a minimum of 80'.

20. **SKETCH PLAT** – Energy Center North Subdivision – A tract of land located in SE ¼ Section 16, Township 140N, Range 96W.

Andrew Shank is presenting the client. He explained the 152.6 acres they are proposing to divide into 3 blocks. He also added that the owner has met with the surrounding owners and is working with them to address their concerns.

Mr. Jackson mentioned that at the last meeting they asked Mr. Tooz to include a strip of GC along the south boundary. Mr. Tooz says the City Engineer did not concur with adding GC on 33<sup>rd</sup> Street SW.

Mr. Jackson commented that the neighbors have called him and he says they need more conversation. Mr. Tooz says the neighbors want a 300' “no build zone” from the property line to the west side of Hwy 22. Mr. Abrahamson and Mr. Jackson think that the corridor overlay plan would help the residents feel more comfortable with this proposal.

Mr. Courton suggested using the first 300' – 400' feet as a PUD to resolve the neighbors concerns. Jeff Schauman was not in favor of this option.

Mr. Schauman commented that they would rather comply with the corridor overlay. The first 300-400 feet is a dealer breaker for them and their new store.

21. **TO AMEND CHAPTER 34 “SUBDIVISION OF LAND” AND REPLACE THE CHAPTER WITH NEW SUBDIVISION REGULATIONS TO BE INCLUDED IN THE DICKINSON MUNICIPAL CODE.**

Mr. Courton explained the changes to amend Chapter 34. This amendment is for the first four chapters of the existing subdivision regulations. He is proposing a two-prong platting process for subdivisions: minor and major subdivisions. See proposed amended subdivision ordinance attached.

### **ADJOURNMENT**

There being no further business to discuss.

**MOTION BY:** Tracy Tooz

**SECOND BY:** Jay Elkin

Motion to adjourn meeting. Meeting adjourned at 1:59 PM.

**DISPOSITION:** Motion carried.