

THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, FEBRUARY 28, 2011 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

1st Vice President Cynthia Aafedt called the meeting to order at 5:30p.m. Roll call was taken. A quorum was present.

MEMBERS PRESENT: Cynthia Aafedt, Deeann Long, Jerry Fleck, Jon Maristuen, Tim Kleven.

MEMBERS ABSENT: Chris Brostuen, Glenn Boyeff.

OTHERS PRESENT: Kent Jarcik, City Planner, Peter Furuseth, City Attorney, Elaine Sinness, Assistant City Planner, Doug Lalim, Building Official, Tom Rolfstad, Economic Development, Ward Koeser and Tate Cymbulak, City Commissioners.

DISPOSITION OF MINUTES: MOTION BY KLEVEN, SECOND BY FLECK, to approve January 18, 2011 minutes, as submitted. MOTION CARRIED ON VOICE VOTE.

PUBLIC HEARING:

1. Proposed Zone Change from R-1 to R-2 for Block 2, Fox Glen Subdivision – Brigham

Aafedt indicated that there are three public hearings this evening. The first one is a proposed zone change from R-1 to R-2 for Block 2, Fox Glen Subdivision as requested by Brigham Investments. She opened the public hearing and asked Jarcik to introduce.

Jarcik indicated that the property is located between 22nd Street and Sand Creek Drive. The request is to rezone property containing approximately four (4) acres. He indicated the rezone would be subject to a future subdivision plat allowing for twenty-eight 6,300 square foot lots. He said the R-2 zone would allow the developer additional lots to be subdivided, being R-1 requires a minimum lot size of 8,000 square feet.

Jarcik indicated that adhoc did meet and discussed that the single family development would be contingent on a plat. He said the proposed site plan would not be large enough for individual duplex buildings, which is not the intent of the developer. He said the recommendation was to approve the zone change to the R-2 zoning, contingent on an approved subdivision reflecting the proposed site plan, as submitted for twenty-eight (28) lots.

Jarcik went on to say there were not a lot of staff comments other than Attorney Furuseth indicated that at one time, there was neighborhood objection for a possible R-3 zoning which would have allowed apartments. He said the applicant's representative, Thad Decker is in the audience.

Aafedt asked if there were any public comments. Stacy Hill, resident at 1814 22nd Street W, asked if the homes would be stick built or modulars. Aafedt asked Mr. Decker to speak to the question. Thad Decker, Architect for Brigham Investments, said the proposal for this site is for 28 stick built single family homes aimed for young families. The size would be 1,400-1,800 square feet w/basements. A combination of single and two-story units. He said there would be 2&3 bedroom floor plans available for future buyers. They hope to start building in the spring along 19th and then to work on providing utilities in the future 18th Avenue.

Mr. Decker showed the board a conceptual footprint of the layout for the homes. He went on to say the plan is to stay in line with the adjacent lot sizes; therefore, the lot width would be 60 feet. He said the homes are not proposed to be rented and are designed for working families employed by Brigham and feels the project will be an asset to the neighborhood.

Fleck asked why the R-2 zoning is necessary. Mr. Decker said the reason is to provide for four additional homes because the average lot size will be 6,300 square feet. He said that the R-1 requires 8,000 square feet lots (minimum). He said each home would have a two-car garage.

Jarcik said one of the neighbors has submitted a letter opposing the change. He presented copies to the board. Aafedt asked if there were any public comments. Kelly Aberle, resident at 1816 23rd Street W, said she was not opposed to single family homes but did not think the extra four homes are necessary. She said the area is already very congested and feels it would be better to have larger lots which the R-1 provides. She said with smaller lots it creates more density which in turn adds even more traffic.

Mr. Decker said the added lots were for economical reasons which will keep the cost of the homes reasonable and to help with the overall development costs of the project. John LaDue, 1720 22nd Street West, said he also felt the lot size needs to be larger to prevent adding more congestion in the neighborhood and is opposed to the R-2 zoning. Karolyn Wingerter, resident at 2124 17th Court West, asked why there are no alleyways. Mr. Decker commented that the City is trying to get away from the use of alleys. He said they did look at providing alleys with rear entry garages but it would reduce the number of houses available for sale. Mr. Decker said that all the homes will be single family with a price range of \$200,000. No duplex's or twin homes are to be built.

Aafedt asked for public comments a third time, hearing none closed the public hearing. She asked if someone from adhoc would like to comment. Fleck said there were concerns about condos or twin homes but because single homes are to be built adhoc did not have a problem with the change. Kleven said he would rather see the area remain R-1 and widen the lot size. He felt 60' is quite narrow and does not want to see what happened in the 80's, like Pheasant Run, with smaller lots & narrow streets being allowed. His other concern was if the R-2 is allowed what assurance is there that the developer will not change his design before the single family homes are constructed.

A short discussion took place regarding the width of the lots and streets in comparison to Timbers or Granite Peak Developments, and if parking will be allowed on both sides of the future street. (18th Avenue West)

Aafedt asked what the zoning is around the area. Sinness pointed out that the present zoning is mixed with R-2, R-3 and R-1 zoning. Further discussion continued regarding that lot sizes would be handled at the time of the plat as well as future street width, location of future utilities, paving requirements, and other development concerns.

Aafedt said action by this board at this time will be for the zone change only. Fleck reiterated that staff in adhoc did not have a problem with the change to R-2 but realizes the possibility of the developer changing his intent. Discussion continued regarding the need for a final site plan and development plan which would need to come before this board again. Mr. Decker indicated the developer has no intent to go with something other than single family homes.

MOTION BY FLECK, SECOND BY LONG to recommend to the City Commission approval of the zone change for Block 2, Fox Glenn Subdivision from R-1 to R-2, contingent on submission of a site plan and plat. **AYES:** Maristuen, Long, Fleck, **NAYES:** Kleven, Aafedt. **ABSENT NOT VOTING:** Boyeff, Brostuen. **MOTION CARRIED.**

Aafedt said the request was approved and will be forwarded to the City Commission for a 2nd public hearing. Date of the hearing has been set for March 8, 2011 at 7:30PM.

2. Proposed Zone Change from R-1A to R-1 for an unplatted Plot 7, and Preliminary Plat for Herron Subdivision – Envision Land & Development, Inc./Smestad

Aafedt indicated the 2nd hearing is for a zone change from R1A to R1 for an unplatted Plot 7, City of Williston and a preliminary plat for Herron Subdivision requested by Envision Land & Development, Gordon and Connie Smestad (property owner). She opened the public hearing and asked Jarcik to present.

Jarcik indicated the property is located along 26th Street and 7th Avenue West, North of the Kum& Go Store, East of Glenn Villa Trailer Park and South of the airport. He said the property is currently zoned R-1A and has an existing residence on the 4.4 acre parcel. The proposal is to rezone the property to R-1 and provide for a preliminary plat for Herron Subdivision to create eighteen (18) single-family homes with a 60' right of way cul-de-sac running north and south. He said the adhoc met and discussed that 26th street is a major arterial street, which requires an 80' setback from the centerline of the street; which would render lots 1 & 18 unbuildable. He mentioned that the corridor study has potential improvements to the area.

Jarcik then provided an updated drawing that shows a 15' setback from the property. He said the adhoc also discussed the paved alleyway to the east and the need for controlled access along the drainage easement at the time of construction. He then reviewed staff comments: Planning: Development agreement needed, final plat requirements to be met. Engineer: Street, water, sewer details & drainage plan is needed. Access to existing paved alley to the east needs to be fenced off and not used during development. Assessor: Survey needs corrections.

Jarcik went on to say two motions will be necessary, one for the zone change and one for the preliminary plat. The recommendation would be to approve the rezone from R-1A to R-1 for an unplatted parcel (4.4 acres), Plot 7, except East 30' and to recommend approval of the preliminary plat for eighteen (18) lots, contingent on approved setbacks for Lots 1 and 18, a development agreement, final plat requirements and requirements as mentioned by engineering.

Aafedt asked for public comment. Ronald Neft, resident at 2613 Skyway Court, commented about the 60' drainage easement and wanted to know how far west the other alleyway will be located. Jarcik said there will not be another alleyway and that the back yards for lots 1-9 would be fenced along the existing drainage easement. He said the easement would be maintained by the City which also has a 36" culvert.

Greg Bradford, representative for Envision Land Development, said he has met with engineering staff and after looking at the project it would be best to not have alleyways and go with the cul-de-sac design. He said Envision's engineers checked on the setbacks of the adjoining properties along 26th Street, so nine (9) feet was added for the setbacks. He said the design being considered will provide between 45-50' for back yards. Fleck asked about the lot widths. Mr. Bradford explained that they have both a 35' and a 45' width plan which may not allow for 3-car garages but feels it will be a workable site plan. He said the square footage will remain at 8,000+ square feet per lot.

Gordon Smestad, owner of the property, asked about the easement that was taken for the culvert some years ago and wondered if the City would be willing to give back some of the easement to the future buyer so the lot sizes could be increased plus it would element the City needing to maintain that easement. Koeser said he is aware of the City allowing that at times but it would be up to the engineering department. A short discussion continued regarding the airport drainage easement. Aafedt said the plat will be coming back to this board to review the final plat, should the neighbors have more concerns needing to be addressed

Lalim commented that there are flood plain concerns in this area and that he would not recommend the City making changes to the existing easement. He then asked about the need for the alignment of 7th Street along Kim and Go. Mr. Bradford said he had asked engineering about the need for an alignment and was told that it would be unlikely.

Aafedt called three times for public comments, hearing none, closed the public hearing for both the zone change and preliminary plat. Aafedt asked for comments from the board. Fleck said the main issue of concern at adhoc was the setback from 26th street, which appears to be resolved with the updated drawing.

MOTION BY MARISTUEN, SECOND BY FLECK to recommend to the City Commission approval of the zone change from R-1A to R-1 for an unplatted parcel containing 4.4 acres, Plot 7, SW1/4SE1/4, except East 30' in Section 11, City of Williston. AYES: Long, Fleck, Kleven, Maristuen, Aafedt. NAYES: None. ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

MOTION BY FLECK, SECOND BY LONG to recommend to the City Commission approval of the Preliminary Plat for Herron Flats Subdivision, contingent on an approved setback requirement for Lots 1&18, comments by engineering and planning staff, including a development plan, street, water & sewer details, a drainage plan and access to the existing alleyway to be fenced off during construction. AYES: Fleck, Kleven, Maristuen, Long, Aafedt. NAYES: None. ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

Aafedt said this item will be forwarded to the City Commission who will be holding a 2nd hearing on the zone change and plat.

3. Proposed Preliminary Plat for Dakota Supply Subdivision –Dakota Supply/Eggart

Aafedt indicated the third and last public hearing is for a preliminary plat of Dakota Supply Subdivision as requested by Dakota Supply by Quentin Eggart. She opened the public hearing and asked Jarcik to present.

Jarcik indicated the property is located South of 26th Street and West of University Avenue, adjacent to Minute Lube and Williston Home & Lumber. He said the proposal is to create three (3) lots containing 6+ acres. Lot 3 is located to the south and currently is the location of Dakota Supply. Jarcik said the applicant plans to develop Lots 1&2 for commercial use. Lot 1 for retail shops or other commercial uses permitted in the C-2 District on the main floor with an apartment on the 2nd level intended for the store owner or manager. Lot 2 for a restaurant or other permitted C-2 uses. Jarcik said the applicant proposed accessing the three (3) lots by a 38' private road running between Lots 1&2, which needs an agreement for road maintenance. He went on to say in adhoc there were comments regarding the water & sewer plan, an easement agreement for private access, street paving required, a property owners Association for maintenance and repair for a private roadway, fire hydrant location and need to provide access control of the existing alley to the East.

Jarcik then review the staff and utility comments: Engineer: Need Water&Sewer & Drainage Plan, pavement for private road, easement for water,sewer and road access, property owners association agreement for maintenance and repair. Alley access control required (curb or fence). 10'alley along East side. Check with Airport. Planning: Final plat requirements to be met. Cedar, vinyl or masonry wall along the East property line to control alley access & buffering from residential. Building: Need building permit and compliance with ND state codes. Questioned if residential units are restricted to single family. Nemont: 10' easement on North of Lots 1&2. Would like new easement along the East property line of Lots 2 due to amount of existing utilities in the alleyway. Assessor: Check measurements.

Jarcik said the recommendation is to approve the preliminary plat for an unplatted parcel in the NE1/4NW1/4, Section 13, T154N,R101W containing 6.28 acres contingent on easements for water, sewer, private road. A property owners association document for road maintenance and repairs, water & sewer & drainage plan, alley access control for access with the building permit and 10' alley along east side and to meet final plat requirements.

Aafedt called for public comment or questions three times, hearing none, closed the public hearing. Kleven asked if each property owner will be required to maintain the roadway. Craig Johnson from KLJ Surveying said there will be individual agreements for maintaining the street and common areas. He indicated a water & sewer plan will be submitted to City engineering for review.

A short discussion took place regarding the natural water shed in the area, sidewalks and street lighting along 26th Street, interior lighting for parking lots and fire hydrant locations, all needing to be handled at the time of the final plat.

MOTION BY KLEVEN, SECOND BY FLECK to recommend to the City Commission approval of the preliminary plat for Dakota Supply Subdivision contingent on reducing the roadway to 38' rather than 66'. Submission of a development plan along with easements for water, sewer and private roadway. A property owners association document for road maintenance and repairs, alley access control at time of building permit, water & sewer & drainage plan, dedication of a 10' alley along the east side of the plat and to meet final plat requirements. AYES: Kleven, Maristuen, Long, Fleck, Aafedt. NAYES: None. ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

Aafedt said the recommendation to approve will go the City Commission for a final review at the March 8th meeting.

NEW BUSINESS:

1. Application for Special Permitted Use for a Restaurant at 3120 2nd Avenue West-Mead/Nor-Tana

Aafedt said the next item is for a Special Permitted Use for a restaurant at 3120 2nd Avenue West requested by Russ Mead, Nortana Hardware (property owner). She indicated this is not a public hearing but will call for any public comments. She asked Jarcik to introduce.

Jarcik said the location of the property is at 3120 2nd Avenue West, adjacent to Horob Auto Sales & Service along the south side. The zoning for the property and surrounding parcels is Light Industrial (M-1). Applicant is planning to convert the Burns Rod Welding Shop into a pizzeria.

He said adhoc met and discussed access, parking requirements, paved surface required and that building and fire codes need to be met. He said the applicant, Russ Mead, is proposing that the parking lot be constructed in phases. The first phase would include grading with an asphalt base until hot mix is applied in the second phase.

Jarcik said the committee recommends approval contingent on verifying airport zoning, sewer connections and completion of the parking lot by December 1, 2012, along with a building permit. Mr. Mead commented that he would like to get the entire lot completed all at once, if possible, but it depends on the weather conditions.

Jarcik then reviewed staff comments: Building: Needs permit for change of use/construction. Must comply with City codes. Planning: Needs to meet parking requirements. Engineer: Check airport zoning, paving required for parking. May have drainage issues in alley. Fire: Must meet fire codes. UMDHU: Have given preliminary approval. Licensing required. Attorney. Ingress and Egress may be an issue.

Jarcik indicated that issues regarding the need for buffering is being considered along with the pavement requires and has been discussed with Mr. Mead. He said contact with the airport manager has been completed and was told the use would be acceptable provided no additional height is being considered.

Aafedt asked Mr. Mead if he had any comments. He said not at this time. She asked that the SPU criteria be reviewed and wondered about the airport zoning. Jarcik said the airport manager approved the use. Long asked about the sewer connection question. Lalim said that was checked with the previous owner today and it is tied to the City system. Aafedt referred to the engineer's comment regarding the paving. Jarcik said the idea was to bring forth a phasing plan but that may not be needed. Mr. Mead commented that it makes sense to complete the entire lot in the beginning but budget issue as well as weather may make it necessary to stay with a phasing plan.

Koeser commented that the paving requirement is important to the City and if Mr. Mead is not in a position to complete it now, he feel there needs to be a definite timeline set with the SPU permit. He said normally, lots are to be paved. Lalim commented this is light industrial which has a different paving requirement but because this is a commercial business the lot should be paved at least from the street to the required handicap parking spaces. He realizes this is a unique situation but does agree with Mayor Koeser. Aafedt wondered if the board is comfortable with a December 1st completion date, which is in the middle of winter. Fleck said they were in hopes of a nice fall season but felt it could surely be moved up to October 1st.

Maristuen wondering why a restaurant needs a review being it's a commercial business. Furuseth explained that the Light Industrial District requires a SPU for restaurants so that the board is able to place any requirements on the use to help make them comfortable with this type of business being allowed within an industrial setting.

Kent Horob, owner of Horob Auto, was concerned about any possible outside venting from the business which could cause damage to the cars sitting outside the building. Mr. Mead said the exhaust would be on the south side, which would only be from pizza ovens. He said no fryers or grills are being installed; only baked foods are to be sold. He does not foresee any grease or odor problems. He plans to keep things simple with pizza and salads. Mr. Horob said he is not opposed to the restaurant but concerned about the added traffic and the drainage problems along the frontage road.

Aafedt said the proper ingress and egress is necessary. She asked Attorney Furuseth about his concerns. He said because of the frontage road and the increase in traffic it may be somewhat of an issue. Rolfstad commented that it is an industrial area but believes the long range plan for the area is starting to be more commercial than industrial type uses. Long agreed with Rolfstad.

Aafedt asked the board to review the SPU criteria. She said buffering has been mentioned earlier and wondered if that would be between Horob's and the restaurant. Mr. Mead said the discussion was regarding shrubs along the front of the building and agreed that there needs to be green space because of the highway, depending on the location of the lot lines.

MOTION BY FLECK, SECOND BY KLEVEN to approve the Special Permitted Use for Wildcat Pizza (Lot 7, Thomas Subdivision-3120 2nd Avenue West) contingent on the parking lot being asphalted in two phases. First Phase to be completed by October 1, 2011 and the 2nd phase by October 1, 2012 along with a building permit. AYES: Long, Fleck, Kleven, Maristuen, Aafedt. NAYES: None ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

Lalim commented that he was concerned about the parking lot providing for handicap parking (lot to the entranceway) prior to the opening of the restaurant. A short discussion concerning weather conditions and answering to the state compliance. Mead said he will provide paving requirements as soon as possible.

AMENDED MOTION BY FLECK, SECOND BY KLEVEN adding that the paving to the handicap accessibility parking is completed before opening the restaurant. AYES: Long, Fleck, Kleven, Maristuen, Aafedt. NAYES: None ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

2. Application for Special Permitted Use for a 40' Cell Tower at 2321 2nd Avenue West – Verizon/Streifel

Aafedt said the next item is a Special Permitted Use for a 40' Cell Tower at 2321 2nd Avenue West by Verizon Wireless, Norm Streifel (property owner). She asked Jarcik to introduce.

Jarcik said the location of the proposed tower is behind the H&R Block building, South of Ebel's and North of Ceynar Chiropractic and is zoned General Commercial (C-2). He said the pole is to be 36' in height with antennas extending to 40'. Jarcik indicated the applicant is submitting forms to FAA for a total height of 45'. He said the setbacks per the ordinance are based on 75% of the total height. The airport clearance will need to meet FAA requirements for both a temporary and the permanent structures. He said the applicant had attempted to co-locate on the KOTANA or ND DOT towers which are in their target service area but are unable to utilize either towers.

Jarcik then reviewed the staff and utility comments. Building: Need a permit with structural engineering and height approval by the airport authority. Planning: Need to submit FAA forms for approval. Engineer: Check with airport manager. Nemont: May need an easement for communications lines if tower requires service. Attorney: Needs FAA Approval.

Jarcik said an adhoc did meet and recommends approval as proposed for a temporary tower with FAA approval until such time the permanent tower is completed and then removal of the temporary one. To approve the permanent tower meeting standard setback of 75% of total height, along with FAA approval.

Aafedt asked if anyone from the audience had comments regarding the SPU. Curt Walter, representative for Verizon Wireless, said he would be willing to answer any questions the board may have. Kevin asked if the permanent tower is to be free standing. Mr. Walter said yes. Aafedt asked about FAA approvals regarding the temporary tower. Mr. Walter said Verizon has received the approval (FAA) for the temporary structure to be 37' in height. Aafedt then referred to the applicant's ten (10) answers to requirements outlined in Section 6.b.i of the City Ordinance.

Jarcik referred to item (ix) which is about a backhaul network which can be very expensive, if required. He said the applicant has never been asked to provide one for other sites that have been approved elsewhere. A short discussion took place regarding why the placement of the tower needing to be in the City rather than out in the County. Mr. Walter explained that it is not that they don't look for other locations, such as north of the City but the towers need to be within an area where the users are located. He gave the example of Fargo which has a tower every mile.

Fleck asked if the board needs to approve the SPU for each tower or just the land it sits on. Jarcik said the approval would be for the proposed use of the land and should a second permanent tower be required there would need to be a 2nd application and be reviewed by this board. Kleven asked why a recent tower was placed on City property for ALTEL which was not reviewed by this board. Jarcik said it was not necessary because the location was on public property. He further commented that at the time of the public input for the Comprehensive Plan there were a number of comments regarding the poor cell service here in Williston.

Aafedt asked the board to review the criteria and if they had any concerns. None was heard.

MOTION BY FLECK to approve the Special Permitted Use for Verizon Wireless for one tower, following the specifications required by FAA and City Ordinances. MOTION DIED FOR LACK OF SECOND. FLECK WITHDREW THE MOTION.

MOTION BY FLECK, SECOND BY KLEVEN to approve the Special Permitted Use for Verizon Wireless for the purpose of placing one temporary tower that will be replaced by one permanent tower (L7, Block 1, Airport 1st Addition- 2321 2nd Avenue West), contingent on FAA approval and City Ordinances. AYES: Kleven, Maristuen, Long, Fleck, Aafedt. NAYES: None ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

3. Final Plat for Sublot (s) 8&9, NESE, Section 12, T154N, R101W, Williston Township. – Olson

Aafedt said the last item this evening is for a final plat for Sublot(s) 8 & 9 for Robert and Eleanor Olson. She asked Sinness to present.

Sinness indicated this subplot is located in the City's 1-mile jurisdiction along 13th Avenue East and thanked the Olson's for being here this evening. She said on January 25, 2011, the City Commission approved the preliminary plat subject to a title opinion which has been submitted and reviewed by Attorney Furuseth. Sinness said there are concerns regarding the need to verify the easements as mentioned in the opinion. One is regarding a 100' easement that will need to be shown as abandon and the need to increase 13th Avenue to 60', which needs to be looked at by the surveyor, whom she will be contacting.

Sinness further commented that the park dedication requirement and a signed non-protest for future annexation will be necessary. She indicated the Olson's are aware of these requirements and are willing to sign the non-protest agreement.

Aafedt asked about the new house location. Sinness explained that Lot 8 will be for the future home and that Lot 9 is where the existing corrals are located. It's her understanding that the future buyer (Chris Nelson) are hoping to buy Lot 9 at a later date. Mr. Olson said that was correct.

Sinness indicated the recommendation is to forward approval of the final plat to the City Commission, contingent on a signed non-protest agreement for future annexation, park dedication requirement to be met at time the of a building permit and completion of the survey corrections

MOTION BY MARISTUEN, SECOND BY KLEVEN to recommend to the City Commission approval of the Final plat for Sublot(s) 8 & 9 subject to survey corrections, a signed non-protest agreement for future annexation and park dedication. AYES: Maristuen, Long, Fleck, Kleven, Aafedt. NAYES: None ABSENT NOT VOTING: Boyeff, Brostuen. MOTION CARRIED.

Meeting adjourned.

Kent Jarcik, City Planner