

THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, MARCH 21, 2011 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

President Glenn Boyeff called the meeting to order at 5:30p.m. Roll call was taken. A quorum was present.

MEMBERS PRESENT: Chris Brostuen, Deeann Long, Tim Kleven, Glenn Boyeff.

MEMBERS ABSENT: Cynthia Aafedt, Jon Maristuen, Jerry Fleck

OTHERS PRESENT: Kent Jarcik, City Planner, Peter Furuseth, City Attorney, Elaine Sinness, Assistant City Planner, Monte Meiers, City Engineer, Doug Lalim, Building Official, Tom Rolfstad, Shawn Wenko, Economic Development, Ward Koeser, City Commissioner.

Boyeff asked if the board would consider changing the agenda by moving Item #2 under Public Hearings to be heard first and Item 1# to follow. MOTION BY KLEVEN, SECOND BY BROSTUEN to change the order of the agenda. MOTION CARRIED

DISPOSITION OF MINUTES: MOTION BY KLEVEN, SECOND BY LONG, to approve February 28, 2011 minutes, as submitted. MOTION CARRIED ON VOICE VOTE.

COMMUNICATIONS: Jarcik asked the board if anyone would consider attending standing committee meetings to review upcoming agenda items. He said those meetings would be on the Monday prior to the regular planning meetings, which would be the 2nd Monday of @month. Jarcik said he spoke with Boyeff and he felt that would work for him, provided one or two others would consider attending.

Boyeff noted that those members in attendance agreed that would be workable. Furuseth said those meetings would still need to be scheduled by staff for any upcoming agenda items, starting in April.

PUBLIC HEARING:

I. Preliminary Plat for Williston Gardens Subdivision – Lumber One Development/Schmid

Boyeff indicated the first public hearing is a preliminary plat for Williston Garden Subdivision, requested by Lumber One Development/Schmid. He opened the public hearing and asked Jarcik to introduce the request.

Jarcik pointed out the location of the property containing approximately 8 acres which is along the south side of 42nd Street and 1st Avenue West. He said the rezone to R-3 was approved by the City Commission on January 21, 2011, subject to the property being platted. Jarcik said an adhoc meeting was held where discussion took place regarding the need for an additional right of way and utility easements. He said seven feet is needed for the future build out of 42nd street. Jarcik reviewed the staff comments: Engineer: Add 7 feet right of way (42nd) to make 40'. Planning: Meet final plat requirements, park dedication fee at time of building permit, a title opinion. County: Redline corrections Building: Need building permit for future construction. MDU: 10' easement on all sides.

Jarcik indicated the recommendation would be to approve the plat contingent upon: Additional seven (7') of right of way along 42nd street, Meet final plat requirements including a title opinion and redline corrections.

Boyeff asked if there were any public comments and asked staff if a development plan is needed. Meiers indicated those items can be handled at the time of the building permit in this case. Sinness indicated that the developer would like to present a power point. Tim Schmid, one of the owners of the property, said it will not take long. He said Lumber One Development is asking for approval to go forward with the preliminary plat. He said they have been building multi-family projects in Minnesota. He said Brutger Equities will be the manager of the project. Mr. Schmid reviewed the design of the 147 multifamily units. He said the timeline will be to start construction in June and hope to have two of the four units up and occupied prior to winter setting in. He said they will be working with a local surveyor to start the necessary paperwork and plans that will be coordinated with City staff. Mr. Schmid thanked the board for their time and asked them to approve the preliminary plat.

Boyeff asked about the additional right of way. Mr. Schmid did not have a problem and has sent the architect those figures and felt it would not be an issue. Brostuen asked if the property has been annexed. Mr. Schmid said yes and that both readings have been completed by the City Commission.

Boyeff called three times for public comment, hearing none closed the public hearing.

MOTION BY KLEVEN, SECOND BY BROSTUEN to recommend to the City Commission approval of the preliminary plat for Williston Gardens Subdivision requested by Lumber One Development, contingent on the additional seven (7') right of way along 42nd street, meeting plat requirements and a title opinion. AYES: Long, Kleven, Brostuen, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

2. Proposed Zone Change from R-4 to C-3 Lots 2&3, Block 1, Daybreak Subdivision Daybreak Properties/G&G Investments

Boyeff indicated the 2nd public hearing is for a zone change from R-4 to C-3 for Daybreak Subdivision. He said the owners are Daybreak Properties and G&G Investments. He opened the public hearing and asked Jarcik to introduce the request.

Jarcik pointed out the location of the property along the southside of 14th Street West between 19th Avenue West and 20th Avenue West. He said the existing property is west and northwest of Creekside Ridge single family development, south of R-4 multifamily units and commercial to the east and south.

Jarcik said an ad hoc met and discussed the location within the residential development. He indicated that lots 2 and 3 were set up for R-3 zoning as a buffer from the Bay Homes to the west and commercial to the east. Consideration was given to the original buffer and with the development of the area it was felt the buffer needs to be kept. He indicated that the adhoc committee recommended denying the request. The applicant has asked that Lot 2 not be considered in the rezone and that only Lot 3 be rezoned. Jarcik pointed out that a petition with 23 signatures protesting the zone change has been submitted and is in the board's packet.

Boyeff asked for public comments. Bud Bowman, G & G Investments, said he was here on behalf of owner. He said the original plan was to use Lots 2&3 for a future hotel. Mr. Bowman said after consideration the hotel would now be placed on the already existing commercial, which is Lot 4&5. They would now like to consider utilizing Lot 3 for a restaurant. He said it fits the area and don't blame the adjoining residents if they don't want commercial. Mr. Bowman said the design now being considered allows for apartments on the upper level with coffee shop and /or professional office spaces on the lower level, which would be an asset to the area with the future clinic being built. Mr. Bowman said a franchise (Motel 6) is only as good as what the manager allows. He said the owners have a vested interest in Williston and feel this would be good for the City.

Boyeff asked for public comment. Shawn Wenko, adjoining property owner (Dublin Estates), spoke in opposition to the zone change. Mr. Wenko went on to say the children's safety is uppermost in his mind, as well as his neighbors. He said by introducing a transient population into a residential setting does not seem to fit well at all. Mr. Wenko went on to say with the current housing crisis, why take away two multi-family lots and change them to commercial zoning, even though only one of the two is now being considered. Mr. Wenko and his wife are asking that the board deny the request for the zone change. He said multi-family appears to work as proper buffering for the neighborhood.

Dean Harman, owner of adjoining multifamily units. He said they plan to build two more units. Mr. Harman said they are already tight with parking for their units and feels their project could be compromised by possible spill over parking from across the street. He said it appears that the future Motel 6 is still be considered and wondered if there would be a meeting room in the motel, which would cause even more parking problems. Mr. Harman said he is not anti-development but asked the board to consider looking at all the issues involved with a motel in this area. Mr. Bowman said there would be no meeting rooms. He said the design of the motel would be three, not four stories.

Two adjoining property owners spoke out in opposition of the rezoning because of the quality of life in the neighborhood and would not want to see a motel allowed. Frank Keogh, representing Kathleen Hagen and her family, spoke out in strong opposition to this zone change. Mr. Keogh explained the history of the property. He said in 2007 the Hagan family was approached and agreed to sell a small acreage to allow additional homes. The intent was for one-story professional type businesses or light retail for the residential neighborhood. He said the Hagan family does not want to see a 3-4 story structure such as a hotel which in turn will generate even more traffic problems. Mr. Keogh felt this type of project is not acceptable for this site.

Boyeff called three times for public comment, hearing none closed the public hearing. Boyeff asked for discussion or recommendation from the board. Kleven said he felt the existing zoning should remain. Boyeff said the original intent was for more of an office type plaza and/or professional offices. Brostuen said the R-4 matches the property to north and feels it needs to remain as is. He reminded the board that motels are permitted uses within lots (4&5) currently zoned commercial by Herman Oil.

MOTION BY KLEVEN, SECOND BY BROSTUEN to recommend to the City Commission denial of the zone change from R-4 to C-3 for Lots 2&3, Block 1, Daybreak Subdivision, as requested. AYES: Brostuen, Kleven, Long, Boyeff. NAYES: None ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

Boyeff said this action will be forwarded to the City Commission for their review.

3. Proposed Zone Change from A: Agricultural to R-5: Mobile Home Court for unplatted lots 1&2, Section 19, T154N, R101W, City of Williston –Lynch & Valentina Enterprises

Boyeff indicated the 3rd public hearing is for unplatted property in Section 19, T154N, R101W, City of Williston, requested by Lynch and Valentina Enterprises. He opened the public hearing and asked Jarcik to introduce the request.

Jarcik pointed out the location on the East side of East Dakota Parkway at the end of 8th Street East. The proposal is to rezone 15+ acres from Agricultural to R-5: Mobile Home Park for approximately ninety (90) mobile homes. He said the FLU would need to be amended from industrial to mobile home court. Jarcik pointed out that in the board's packet there is a conceptual site plan provided by the applicant as well as a letter (Craig & Rena Helberg) asking that the property remain as is or consider commercial not industrial. He mentioned that engineering has worked on a water/sewer plan to service the area. The applicant would like to tie into the future plan, as well as the street system.

Jarcik indicated an adhoc did meet and discussed both pros and cons of the project. Pros were: Mobile Homes would be better than permanent foundation, provide additional needed housing, limits the amount of industrial uses which would be fenced off from the existing walkway. Cons: Project has poor soils, M-1 is transitioning in the area, concerns about the residential encompassed by industrial on three sides, past City considerations would better be for industrial due to soil and floodplain and truck traffic was of concern. He then reviewed staff comments: Building: May be in floodplain. Engineer: Need development agreement for water,sewer and road extensions. Planning: Area should be paved for the court streets and minimum lots size and development standards met per final site plan requirements. Fire: Hydrants per NFPA. Assessor: Ok for assessment – m major traffic issues Health District: No concerns as long as court rules and regulations are consulted and followed.

Jarcik said the adhoc committee did not feel they could make a recommendation and wanted additional board input and see if the public commented. The planning department recommends denying the Future Land Use amendment and denying the request to rezone based on past considerations of zoning in the area and current trends with the industrial zoning.

Boyeff indicated that any action on the zone change would require the board to first consider the future land use change from an industrial use to a mobile home court. Boyeff asked for public comments and asked if the applicant was in attendance. David Powell with Valentina Enterprises approached the board. He explained there is a lot of separation from the industrial and explained the site plan layout and that proper buffering will be provided to protect residents from outside activities. Mr. Powell said the accessible to the existing walking path is a real plus of the area, as well as the close proximity to the river for future recreational activities.

Randy Waitman, adjoining property owner, said he is not opposed to development in the area but questioned the future residential use of the property as well as floodplain, mosquitoes can be a real problem, green space and place for children to play. He asked why there needs to more trailer parks in Williston.

John Cook, adjoining property owner, asked about the road system. He wondered about the future sewer and water and the size of those mains (8"). Mr. Cook said the landowners can petition to not have the road improvements which could be a real cost factor. He said there could be a lot of traffic due to the need to transport students back and forth to different schools and was in opposition to the zone change.

Rick Tofte, adjoining property owner, spoke in opposition to the zone change. He feels the area needs to remain industrial because of the added truck traffic and would not be a good idea to allow for residential. Andy Anderson, owner of Scenic Sports, felt with all the activities that are taking place in the area he has to agree this is not a good area for residents. He feels it would be a dangerous place for children. Mark Barstad, spoke in opposition to the change.

Mr. Powell spoke again about their understanding regarding the flood plain issue, soil conditions and is willing to provide for proper fill dirt and landscaping. He said they are more than willing to work with engineering to provide a development plan to address water, sewer and road improvements, as well as proper fire protection.

Boyeff called three times for public comment, hearing none closed the public hearing.

Brostuen expressed concerns regarding the future land use amendment that would need to be changed from the industrial classification. He said he believes the City needs additional mobile home space but did not feel comfortable with nestling residential within industrial and said it's not a good fit for the area.

MOTION BY BROSTUEN, SECOND BY LONG to recommend to the City Commission denial of the Future Land Use Amendment from industrial to residential for the unplatted parcels in Lots 1&2, Section 19, T154, R101W, Stony Creek Township. AYES: Kleven, Long, Brostuen, Boyeff. NAYES: None ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

MOTION BY BROSTUEN, SECOND BY KLEVEN to recommend to the City Commission denial of the zone change from A: Agricultural to R-5: Mobile Home Court for the unplatted parcels in Lots 1&2, Section 19, T154, R101W, Stony Creek Township. AYES: Long, Brostuen, Kleven, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

4. Proposed Zone Change from A: Agricultural to M-2: Heavy Industrial and Preliminary Plat for Sublot No. 11 – Miller/Oasis Petroleum.

Boyeff indicated this is the 4th public hearing is for a zone change from Agricultural to M-2 and a preliminary plat for Sublot No. 11 requested by Floyd Miller and Oasis Petroleum. He opened the public hearing and asked Jarcik to introduce the request. He said the property is located along County 7 north of 58th Street, across from Black Hills Pipe yard. He said the property is zoned M-2 in the area. Jarcik indicated the applicant is proposing individual water and sewer on the property. He indicated the Future Land Use Plan will need to be amended from residential to industrial.

Jarcik said an adhoc did meet and discussed the road access to the west and the need to show the right of way along the ¼ line and the alignment of the road starting from the east on the north boundary of the property line. He said engineering will be working with the owner. He then reviewed the staff comments: Building: Building permit required. Storm water runoff plan at time of construction. Planning: Final plat requirements, title opinion. Engineer: Provide road right of way aligning the ¼ line or along the north line for access. Assessor: Need plat corrections Nemont: 10' easement on north&east. MDU: 10' easement around the entire edge of Sublot 11.

Fabian Kjorstad, Oasis Petroleum, said he is concerned about the access points to assure proper safety. He plans to get with the county to make sure they are comfortable with the access points. Mr. Kjorstad also said they will be getting a storm water plan regarding the drainage issues. He said they plan to provide gravel surfacing and fencing to control access points. Boyeff called three times for public comment, hearing none closed the public hearing.

MOTION BY BROSTUEN, SECOND BY KLEVEN to recommend to the City Commission approval of the Future Land Use Amendment from residential to industrial for the unplatted property in Section 34, T155N, R101W, Missouri Ridge Township containing 37.34 acres. AYES: Brostuen, Kleven, Long, Boyeff. NAYES: None ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

MOTION BY KLEVEN, SECOND BY BROSTUEN to recommend to the City Commission approval of the zone change from A: Agricultural to M-2: Heavy Industrial for the unplatted property in Section 34, T155N, R101W, Missouri Ridge Township containing 37.34 acres and the preliminary plat for Sublot 11.

Boyeff said the plat does not show the roadway. MOTION AMENDED BY KLEVEN, SECOND BY BROSTUEN to approve the plat, contingent upon a road easement along the north side of the plat. AYES: Kleven, Long, Brostuen, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

5. Proposed Preliminary Plat for Brigham Subdivision –Brigham Investments

Boyeff indicated the 5th Public Hearing is for the preliminary plat for Brigham Subdivision requested by Brigham Investments. He opened the public hearing and asked Jarcik to introduce the request. Jarcik said Thad Decker, Architect for Brigham, would like to attend via conference call.

Jarcik indicated there was a public hearing on March 7, 2011 before the City Commission who approved the zone change from R-1 to R-2, subject to a plat. He said an adhoc meeting was held where discussion took place regarding lots sizes and street width with the potential of widening the lots and an issue regarding a possible cul de sac was mentioned.

Jarcik then reviewed the staff comments: Engineer: Need a water and sewer layout, new street section with grades. Development agreement for public infrastructure. Update vicinity map. Planning: Final plat requirements to be met, title opinion. County: Redline corrections needed. Building: Need permit for construction. 18th Avenue West should have a cul-de-sac on north end to protect neighbor complaint (22nd Street W) Nemont: Easements required to provide service to future lots. Jarcik explained there is an existing residential house at the end of 18th Avenue West. He said a letter has been submitted from the property owner at 1720 22nd Street West. Jarcik read the letter from Rainnie & John Ladue asking that a cul-de-sac be considered instead of a thru street and thanked the board for their time. Jarcik showed area photos to the board. He said Mr. Decker has taken those comments into consideration and would prefer that 18th street go through for a number of reasons being additional lots will be provided and that issues regarding water and sewer that are existing in 22nd Street.

Jarcik indicated the adhoc recommendation was to approve the preliminary plat for Brigham Subdivision.

Russ Larson, adjoining owner, said there is a lot of building taking place in the area and was concerned about the lack of green space which will result with additional homes. He said it will cause a great deal of congestion on those streets. Ward Koeser said as he looks at the layout he indicated there are a number of other streets similar in town and was not in favor of a cul-de-sac.

A short discussion took place regarding the problem with requiring a cul-de-sac and whether stop signs will be provided. The board felt a cul-de-sac is not necessary. Boyeff called three times for public comment, hearing none closed the public hearing.

MOTION BY KLEVEN, SECOND BY LONG to recommend to the City Commission approval of the preliminary plat for Brigham Subdivision. AYES: Long, Brostuen, Kleven, Boyeff. NAYES: None. ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

6, Preliminary Plat for Lots 1R, Block 5R, Borsheim Subdivision and vacating of public right of ways. - Borsheim

Boyeff indicated the final Public Hearing is for a preliminary plat for Lot 1R, Block 5R, Borsheim Subdivision and the vacating of public right of way(s), requested by Rick Legerski from USA Trucking. He opened the public hearing and asked Jarcik to introduce the request.

Jarcik pointed out the location of the plat being part of the Borsheim Subdivision. He said a rezone request was approved by the City Commission subject to the area being replatted. This is only a portion of the area to be replatted; additional plats will be coming later. This plat includes Block 3, 5 and 6 along with the vacating of alleyways and a portion of 18th and 19th. He said an adhoc met and discussed the future development of 49th Street which has a 33' right of way, annexation, individual water wells and septic systems and need for non-protest future annexation.

Jarcik then reviewed staff comments: Engineer: Increase road right of way on north side (1/4 line) to 40'. Planning: Final plat requirements to be meet. County: Redline corrections needed. Recommendation from adhoc was to recommend approval to the City Commission for the rearrangement and vacating of right of ways, contingent on an additional 7' right of way for future 49th Street, non-protest future annexation, non-protest future street improvements of 49th, final plat requirements and a title opinion.

Boyeff asked if there are any utilities in the streets or alleyways. Craig McIvor, Dakota Reality, said none have been located. He also said there is one lot owner (Peterson –Lot 3) that he has been negotiating with to buy. He said if something does not get settled, that owner will need to sign the plat because of the vacating of the alleyway.

Boyeff called three times for public comment, hearing none closed the public hearing.

MOTION BY BROSTUEN, SECOND BY KLEVEN to recommend to the City Commission approval of the preliminary plat for Lot 1R, Block 5R, Rearrangement of Lots 1-7, Block 3, Lots 1-13, Block 5 and Lots 1-9, Block 6 and the vacation of the roadways (portion of 18th & 19th Avenue) and alleyways within Block 3, 5 and 6, Borsheim Subdivision, contingent upon an additional 7' of right of way on the north side of future 49th Street, non-protest for future annexation, non-protest of future street improvements of 49th street, all final plat requirements be met and a title opinion. AYES: Brostuen, Kleven, Long, Boyeff. NAYES: None ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

NEW BUSINESS

1. Application for Special Permitted Use for Group Daycare - Oas

Boyeff indicated the last order of business is a Group Daycare for Debra Oas at 337 Roselane. He asked Sinness to present the request.

Sinness showed the location of the proposed daycare. She said the Debra Oas is moving her present daycare from 1227 6th Avenue West and is expanding the number of children to fourteen (14) and will be relocating at 337 Roselane. She said Mrs. Oas will be renting the home from Chad Norpel who has signed the application. In addition, the adjoining property owners (Harry & April Wallner) have signed an agreement to provide two parking spaces for Mrs. Oas and her employee.

Sinness went on to explain that the applicant could not make the meeting but the neighbors she contacted are in favor of the daycare and that no protest has been filed. She said building's comments require a solid core door to basement and an egress window for sleeping rooms and smoke detectors. Sinness said she spoke with Mrs. Oas and she said children will not be sleeping in any rooms that do not have proper window and that Social Services has toured the home is acceptable for 14 children and that the backyard is properly fenced.

Sinness said the recommendation is to allow for a group daycare at 337 Roselane for fourteen (14) children as requested by Debra Oas.

Boyeff asked the board if Meiers has any comments. He said no and that it looks like a good location. Boyeff said unless the board has any concerns as it relates to the standard criteria he felt the daycare is acceptable.

MOTION BY KLEVEN, SECOND BY LONG to approve a Daycare for fourteen (14) children at 337 Roselane as requested. AYES: Brostuen, Kleven, Long, Boyeff. NAYES: None ABSENT NOT VOTING: Aafedt, Fleck, Maristuen. MOTION CARRIED.

Meeting adjourned.

Kent Jarcik, City Planner