

THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION WAS HELD ON MONDAY, MAY 16, 2011 IN THE COMMISSION ROOM AT CITY HALL IN WILLISTON, NORTH DAKOTA.

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

MEMBERS PRESENT: Chris Brostuen, Deeann Long, Nick Haugen, Jerry Fleck, Glenn Boyeff.

MEMBERS ABSENT: Cynthia Aafedt, Jon Maristuen.

OTHERS PRESENT: Kent Jarcik, City Planner, Thomas Kalil, City Attorney, Elaine Sinness, Assistant City Planner, Monte Meiers, City Engineer, Tom Rolfstad, Economic Development.

Boyeff indicated that the minutes to be approved are from the April 7, 2011 special meeting. He said the April 18, 2011 minutes have not been completed; therefore, they will need to be approved at the June meeting. He then welcomed the board's new member Nick Haugen.

DISPOSITION OF MINUTES: MOTION BY BROSTUEN, SECOND BY LONG, to approve the April 7, 2011 special meeting minutes, as submitted. MOTION CARRIED ON VOICE VOTE.

PUBLIC HEARING:

1. Review of proposed Preliminary Plat for Harvest Hills Subdivision and application for a Planned Unit Development Overlay District (PUD) - Granite Peak Development

Boyeff for Harvest Hills Subdivision and application for a Planned Unit Development Overlay District to include residential and commercial uses from the Granite Peak Development and to be presented by Rick Luethold. He opened the public hearing and asked Jarcik to introduce the request.

Jarcik explained that the proposal is a mixed use development containing 289 acres located in the northwest corner of 35th Avenue and 26th Street. He said the Board's decision will be for a planned unit development with underlying base zoning to include, R-3, R-4, C-2 and C-3 and a Public District for school site (40 acres) & shared park (15 acres) and a Preliminary Plat (Phase D) for approximately 198 lots. Jarcik referred to Exhibit 'C' (base zoning) and Exhibit 'H' (variances). He said the adhoc met and discussed the layout and general build out of the proposed uses and densities. Need for clarification regarding the townhouse, multifamily and/or single family development, parking for the town center which will have shared parking for office and upper level apartments, traffic study and contingency items.

Jarcik said the adhoc was in favor of the proposal and recommends approval of the PUD overlay district, zoning variances (Exhibit 'H'), the base underlying zoning districts(Exhibit 'C') and preliminary plat for Phase I. He also indicated the contingencies are to be recorded with the variance sheets that will provide wording for verification of shared parking to be reviewed at the time of a building permit, wording for boulevard tree planting and the ability for the City to assess the property owners. He said further information will be presented by the developer.

Rick Luethold (Sanderson/Stewart), representing Granite Peak Development, gave a comprehensive power point presentation. He handed out a packet to the board which summarized the proposal which included the Master Land Use Plan, Development Master Plan and preliminary plat for Harvest Hills Subdivision (Phasing Plan). The presentation include an overview of the Master Land Use Plan which is a mixed use development (289 acres) with residential, commercial, open space and future school & park area including Residential Units for multi-family, single family, a Towncenter (storefront, landscaping, benches), Commercial (vehicle drive, convenience, gas pumps, fast food, retail spaces) and Apartments/Condos. Mr. Luethold explained the base zoning (Exhibit C) within the Harvest Hills Subdivision (PUD) to be zoned R-3,R-4,C-2,C-3, and Public: Pocket parks, pedestrian path, benches, picnic area, (shared park & school). The mixed use development requires variances for minimum lot, yard, lot coverage, impervious surface ratio, maximum height and shared/off-street parking. (Exhibit H) Mr. Luethold reviewed the Preliminary Plat for Harvest Hills Subdivision for (200+ acres), which will be completed in three phases. Phase one (the lower third of the project area) including the C-2,C-3 & R-4 & R-3. Second Phase (north of the school & park area) mixed uses and Third Phase (multi family, higher density, couples & singles in a maintained environment (close to golf course). The recommendation is to have the board accept the first phase located along 26th. The transportation plan would be north to the golf course (35th Avenue West, 26th Street). The plan proposes that 35th be developed to link to the golf course. The proposed infrastructure will be built out in three phases. The storm drainage, utilities, water, sanitary sewer were reviewed. The area will be served with city water/sewer/garbage and all streets would be full width with curb and gutter. A complete development plan and review of the subdivision improvement agreement will be completed. Mr. Luethold said the parking analysis and traffic study deals with access off 26th and 35th which will be included in the subdivision improvement agreement which is part of the preliminary plat information. Mr. Luethold explained that the auxiliary dwelling units are for families who want to get into a little bigger house but would like to rent out upstairs over garages or accessory cottages (mother-in-law homes). He said the 40 acres that is Park & School could be maintained by either the school district or the City. All the remaining parcels will be maintained through a home owners association. Boyeff said that was discussed in adhoc asked if further discussion has taken place.

Mr. Luethold explained that it's his understanding that the park properties will be dedicated as public spaces not private which would then require cash in lieu of dedication. The land will be public, the care and maintenance was the question. Further discussion will be take place with the park district. Fleck asked about the owner/occupied cottages. Mr. Leuthold said the governing takes place with the building permit. The control of those type properties will be conditions within the PUD plan. The home owners association agreement may need to a clarify the requirement pertaining to an owner/occupied unit. Boyeff asked if an ordinance is needed to deal with these type of units. Jarcik said if the City wants to provide for accessory apartment/cottages then an update could take place to allow those type of units; otherwise those uses would be allowed as part of the master plan for this project. Haugen asked about the 90 degree parking. Mr. Luethold clarified that it will not be 90 degree but would be angled parking. A short discussion took place regarding the length of pickups/cars and the ability to park within lots. Mr. Leuthold alluded to the parking study being conducted and the need for a possible percentage of the stalls being for longer vehicles because not all stalls need the extended length. Boyeff called for public comments three times, hearing none, closed the public hearing.

Boyeff said there three actions needed regarding this project for the Harvest Hills Development, which would include the PUD Plan, the overlay zoning district and the preliminary plat (Phase I).

MOTION BY BROSTUEN, SECOND BY FLECK to recommend to the City Commission approval of the PUD overlay district as the Final Plan to establish a mixed use residential and commercial development consisting of 289.5 acres for property described as NE1/4 (less City of Williston tract) Section 9,T154N,R101W and SE1/4(less south 795' of West 1644')Section 9, T154N, R101W and the City of Williston tract containing 289.5' tract, more or less; recommendation will include the proposed variances, the Exhibit 'H' zoning variance matrix, the street parking with larger than standard right of ways in the C-3: Restricted Commercial area, the right of ways and parking spaces to be built to engineering approved specifications. The recommendation is contingent upon the PUD being recorded with the variance sheets providing wording for verification of adequacy of shared parking with projects as reviewed at the time of the building permit, as approved by the City. Wording for boulevard tree planting minimum standards and the City's ability to enforce and assess the property owner. The final contingency is annexation approval. **AYES:**Long, Brostuen, Fleck, Haugen, Boyeff. **ABSENT NOT VOTING:** Aafedt, Maristuen. **MOTION CARRIED ON ROLL CALL VOTE.**

Boyeff indicated the next action would be on the base underlying zoning district shown on Exhibit "C". He asked Mr. Leuthold about the width of the lots as discussed in adhoc. He clarified that that certain lots (yellow) would only allow for single family homes for lots zoned R-3, shown in Exhibit 'C' and Public.

MOTION BY FLECK, SECOND BY HAUGEN to recommend approval to the City Commission for the base underlying zoning districts as shown on Exhibit "C" for property described as NE1/4 (less City of Williston tract) Section 9, T154N, R101W and SE1/4 (less south 795' of West 1644') Section 9, T154N, R101W and the City of Williston tract containing 289.5' tract, more or less; contingent upon annexation approval. ABSENT NOT VOTING: Brostuen, Fleck, Haugen, Long, Boyeff. NAYES: Aafedt, Maristuen. MOTION CARRIED ON ROLL CALL VOTE

Boyeff said the last action will be for Phase I of Preliminary Plat for Harvest Hills Subdivision, which is the southern portion. Discussion took place regarding the need for requirements relating to mother in law homes which could be part of the Conditions, Covenants & Restrictions which are recorded and runs with the land and is tied to the Home Owners Association. The subdivision improvement agreements versus development agreements were also discussed, along with the responsibility of the maintenance of the parks. Final approval of park dedication requirements will be looked at during the final plat process.

MOTION BY FLECK, SECOND BY HAUGEN to recommend to the City Commission approval of the Preliminary Plat for Phase I, (Harvest Hills Subdivision) of Blocks 1-18; Lot 1, Block 19, Lots 1-9, Block 20, Lot 1 & 14, Block 27 and Lots 2-16, Block 28 on the southern portion of the PUD described as the NE1/4, (less the City of Williston's tract) Section 9, T154N, R101W and SE1/4 (Less South 795' of the West 1644') of Section 9, T154N, R101W and the City of Williston tract containing more or less 289.5 acres; contingent upon final plat requirements, title opinion, annexation approval, subdivision improvement agreement, the conditions, covenant & restrictions (CCR) agreement and a statement regarding who will be maintaining the green spaces. AYES: Fleck, Haugen, Long, Brostuen, Boyeff. ABSENT NOT VOTING: Aafedt, Maristuen. MOTION CARRIED ON ROLL CALL VOTE.

2. Review of Proposed Zone Change from R1-A: Rural Residential to R-3 and C-3 and Preliminary Plat for University Commons – Williston Ventures, LLC/Baird

Boyeff said the next public hearing is a zone change from Rural Residential to R-3 and C-3 & plat for University Commons Subdivision as requested by Williston Ventures, LLC. He opened the public hearing and asked Jarcik to present. Jarcik said this proposal is located north of Applebee's and south of 34th street, containing 57 acres. He explained the property being identified for higher density residential use and commercial along the western side, property to the east being industrial, the development will require water and sewer, adequate street improvements and provision for storm water.

Jarcik indicated an adhoc meeting was held with discussions regarding proposed zoning in the center of the property being R-3 (600 residential units), the northwest corner (3 acres) being C-3, access points located on 34th, need to extend 30th street, necessary street improvements along University and points of egress/ingress which will require a traffic study to determine impact on major road connections. Jarcik reviewed building's comments. (1) Grading plan, 1-foot above flood elevation, (2) Drainage plan, (3) proper setbacks, (4) questioned adequate access, (5) questioned streets being private or public, and (5) need for park dedication. Jarcik said the adhoc felt the applicant is developing something that is appropriate for the acreage, subject to issues being worked out with applicant, including park dedication, development agreement, grading & drainage plans, proper access, closing on city owned property, final plat requirements, and landscaping.

Brent Moore, Architect, representing University Commons and Bill Baird, referred to the zoning map which shows the project being within the city limits which does not require an annexation. He said the City's master plan indicates the property to be a mixture of commercial and higher residential uses. Mr. Moore said the purpose of the project is to provide housing for the community and commercial uses.

Mr. Moore said transportation and traffic was the main concern during the adhoc meeting and a new drawing has been proposed which will provide an additional access point. (Extension of 30th West) Mr. Moore felt issues can be worked out with staff and request the board's approval.

Boyeff called for any comments from the public. Kenneth Johnson, 3024 University, asked what type of commercial is being proposed and the type of residential. Boyeff said it will be restricted commercial (C-3) just in one area along 34th in the northwest corner. Mr. Moore said the plan is to have a shared office and residential use on the second level for the commercial property (3 acres). The remainder will be single and/or multi-family residential uses. Jarcik explained the commercial will be similar to the downtown district which allows for residential uses.

Brian Moe, whose dad owns property along 34th, questioned the R-3 zoning when the surrounding property is all one-half acre lots or larger. He said the R-3 would allow 132 units, he would rather see the property remain R-1A which allows for larger lots. He said the zoning requires a maximum of twelve units together. Mr. Moe said it appears the plan would be for sixteen. He believes there is a market for R-1A and to consider maybe looking at only a portion of the acreage being R-3. He was also concerned about the access points for the potential of over 760 units. Boyeff said 30th street has been added to the plan which would be off 1st Avenue West. Gary Hanson, 3323 University Avenue, asked if there are plans for an alleyway off University and asked about improvements to 34th.

Meiers said improvements are dealt with in the development plan. He said there is a problem being the property to the North is not annexed, as well as East of University. He said typically the developer is not always responsible for all improvements when others benefit. Boyeff asked about the separation between the existing residence and future M-3. (Block 2) Mr. Baird said grading is being considered but no specific buffering is being considered for the backyards. He said buffering is a reasonable request. Scully, adjoining lot owner (Lot 3), said the traffic is very congested in the area. He would like to see single family residential uses and that buffering be provided. An adjoining resident asked about street lighting on University. Meiers said that will need to be considered with the development plan. A short discussion took place relating to the future extension of water and sewer to the property further north. (Marburger property).

Discussion continued regarding the possibility of having single family along University and the extension of water/sewer north along 3rd Avenue. Mr. Baird indicated that most of the potential buyers are looking for multi-family but if someone is interested in single family residents being placed along University Avenue which the zoning does allow single family within the R-3 district which he would not oppose. He alluded to the plan being multi-family within the center of the acreage. The townhouses are most likely being considered.

Rolfstad said that developing land is expensive and the market at this time is requiring apartment units but that does not mean that won't change as the market changes. He said the City is fortunate to have Mr. Baird looking at this developing this property with his experience in real estate development. Rolfstad asked Meiers whether there would be any federal aid to help with University. Meiers said it depends on the dollars received, which are based on a five year plan. Boyeff asked for any further comments. A resident asked when the project will start, if approved. Boyeff said this board makes a recommendation to the City Commission which in turn comes back to this board for a second review of the plat. He said all final decisions are made by the City Commission, who will be holding another public hearing. A resident asked if the City owns part of the property. Mr. Baird said Williston Ventures owns approximately 48 acres and 11 acres are City owned (south east corner). Rolfstad commented that the city owned land is not desirable because of drainage issues so the developer needs to provide a great deal of fill to utilize the entire property. Boyeff called for public comments three times, hearing none closed the public hearing.

Brostuen asked if there are any comments from the airport zoning. Meiers said there is a portion that may be of concern. Mr. Baird said there is a non build zone in the southwest corner of property and that another area is of concern so the airport manager has been trying to get the board of adjustments together so the project would be subject to their review.

MOTION BY BROSTUEN, SECOND BY LONG to recommend to the City Commission approval of the proposed zone change from R1A to R-3 for 57 acres and to C-3 for the future Lot 6 (3 acres) University Commons Subdivision, located in the SW ¼, Section 12, T154N, R101W, City of Williston.

Fleck said it seems whenever there is commercial next to residential it is important to have buffering (green space) between the districts. Brostuen agreed. A short discussion took place regarding the grade change in the area between the two districts to determine the location of future buffering. Brostuen felt that issue could probably be handled at the time of the plat process and could be included in the development plan. AYES: Haugen, Long, Brostuen, Fleck, Boyeff. ABSENT NOT VOTING: Aafedt, Maristuen. MOTION CARRIED ON ROLL CALL VOTE

MOTION BY FLECK, SECOND BY HAUGEN to recommend approval to the City Commission of the plat for University Commons Subdivision subject to engineering and grading plan for the proposal, a traffic study, including impact on major road connections, park dedication fee or open space to be included in the development, a development agreement along with buffering between C-3 and R-3 zoning, a water and sewer plan, closing on the City owned property and title opinion. AYES: Long, Brostuen, Fleck, Haugen, Boyeff ABSENT NOT VOTING: Aafedt, Maristuen. MOTION CARRIED ON ROLL CALL VOTE

UNFINISHED BUSINESS:

1. Final Plat for Dakota Supply Subdivision – Dakota Supply Group

Boyeff said the next item is the Dakota Supply Subdivision, which was tabled at the last meeting. He asked Sinness to present. Sinness indicated that the property is located south of 26th Street and has an existing building (Dakota Supply) on the far south side of the property. She indicated in February this board approved the preliminary plat and in March the City Commission approved the preliminary plat, subject to meeting the engineering requirements, water & sewer and drainage plans and final plat requirements. The plat has been updated and the documents regarding proper easements and covenants have been drafted and submitted to engineering and the City attorney. The park dedication fee will be required at the time of the building permit. Sinness indicated unless Meiers or Jarcik have concerns all seems to be in order.

A short discussion took place regarding the easements relating to the private access, public alleyway (20'), utility easement, water and sewer easements, public access off 26th to Lots 1 and 2, development agreement, which allows for public access but privately maintained. Boyeff asked if engineering was comfortable with the plat. Meiers agreed. Sinness indicated that the attorney would need to review the written documents prior to the City Commission's final review. Attorney Kalil said he will be checking with Attorney Furuseth.

MOTION BY HAUGEN, SECOND BY FLECK to recommend to the City Commission approval of the final plat for Dakota Supply Subdivision subject to payment of park dedication at time of the building permit and signed easements and covenants at the time of the final plat upon review by the City attorney. AYES: Long, Brostuen, Fleck, Haugen, Boyeff. ABSENT NOT VOTING: Aafedt, Maristuen. MOTION CARRIED ON ROLL CALL VOTE

1. Application for a Special Permitted Use for storage of Hazardous Materials (605 1st Street East) – GO Wireline, LLC - Gjovig

Boyeff said the last item is for a Special Permitted Use of storage of hazardous materials requested by Mark Gjovig for GO Wireline, LLC. He asked Jarcik to present. Jarcik said the application proposes storage of industrial explosives under 50 pounds in an existing building at 605 1st Avenue East in the M-1 district. He said an adhoc meeting was held and was in favor of the proposal subject to meeting the building and fire code requirements and the submittal of the approved ATF permit for the planning files. He said the staff comments were acceptable and that the fire department had no issues.

Boyeff asked Mr. Gjovig if the ATF application has been submitted. Mr. Gjovig said it has been completed and that the process is quite extensive which was started back in April and the regulators will be checking the facility tomorrow and being they will be staying under 50 pounds, the setbacks will be acceptable. He said they will check to assure the magazine and explosives are built to ATF's standards. He said the building has both a security and smoke system for safety. Mr. Gjovig said he contacted the adjoining property owners and provided them with proper notice and answered their questions. Long asked who checks the facility. Mr. Gjovig said ATF makes unannounced inspections and that every three years the entire process starts over which required another application to be approved. Boyeff felt as long as all the ATF requirements are met and the building has a proper sprinkler system, he thought it was acceptable. A short discussion took place regarding what can set off the explosives. Mr. Gjovig said the caps are kept separate from any explosives to assure public safety. Boyeff asked if the board has any concerns regarding the criteria. No concerns were expressed.

MOTION BY FLECK, SECOND BY BROSTUEN to approve the Special Permitted Use for the Storage of Hazardous Materials at 605 1st Street East. (Lot(s) 22&23, Block 2, Ruettten Addition), contingent upon ATF approval for storage up to 50 pounds. AYES: Fleck, Haugen, Long, Brostuen, Boyeff. ABSENT NOT VOTING: Aafedt, Maristuen. CARRIED ON ROLL CALL VOTE

Meeting was adjourned. Next meeting was set for June 20, 2011.

Kent Jarcik, City Planner