



Planning & Zoning Commission Meeting Minutes
July 10, 2019, 5:30pm
Grand Forks Council Chambers

1. Roll Call: Members Present

Andrew Budke, Cole Johnson, Jamie Lunski, Alex Reichert, Meggen Sande Frank Matejcek, Pete Kuhn, Steve Wasvick. Members absent-Paula Lee.

2. Reading and Approval of Minutes for June 05, 2019.

Mr. Budke requested that the minutes from June 5, 2019, be corrected to reflect that on page 5, Item 4-3, last sentence, Mr. Brooks' response regarding the size of the ponds should be changed from yes to no.

Motion to approve minutes with corrections as noted by Mr. Budke made by Matejcek, second by Reichert. Motion carried unanimously.

3. Public Hearings, Final Approvals, Petitions, and Minor Changes

3-1 (Public Hearing) Plat of Gornowicz Second Resubdivision and ordinance dedicating R/W.

Mr. Brooks introduced the item. The owner of the property is requesting to subdivide the two lots to six to sell them as smaller lots for industrial garages. The center portion of the lots will be used for a private shared access and utilities. The storm pond for this area is located to the north of the property. The use fits the zoning and land use plan for the area. All other zoning requirements for setbacks will be required to be followed by the new construction on the site. Staff recommends final approval by this committee and City Council. Item was opened for public discussion, hearing no discussion, public hearing closed.

Motion by Reichert, second by Lunski for approval of Staff Recommendation. Motion carried unanimously.

3-2 (Public Hearing) Ordinance Amending Zoning Map - JR's PUD Amendment No. 3 – Lot coverage increases on 45th Ave S from 34th Street South to 30th Street South.

Mr. Brooks introduced the item. This area has been platted and the lots have begun to be developed. The builders have requested that the impervious lot coverage be increased to 50% for this area. This is similar to what has been done in other areas of town provided that the stormwater system is designed to handle the additional capacity. In this case, the ponds have been sized for apartments in this area. Staff recommends final approval by this committee and City Council. Mr. Matejcek asked if the trail between the two ponds was a bike path or walk path, and Mr. Brooks stated it was part of the pond system, and deferred to Mr. Grasser for further comments. Mr. Grasser stated it was not a bike path, and that the path was just a connection/overflow point, with a small pipe buried underneath it connecting the two ponds. Mr. Matejcek asked if the public was allowed in that area, or was this area fenced off, as he was concerned that with the school in close proximity, that children may end up playing in that area.

Mr. Grasser stated that it wouldn't be a comfortable area for playing because of the level of sloping around the ponds. Item was opened for public discussion, hearing no discussion, public hearing closed.

Motion by Johnson, second by Kuhn for approval of Staff Recommendation. Motion carried unanimously.

3-3 (Public Hearing) (Fast Track) Plat of Southern Estates Twelfth Resubdivision – (need variance to number of lots). (This item has been withdrawn).

3-4 (Public Hearing) Plat of Adams Addition and ordinance dedicating R/W.

Ms. Edwardson introduced the item. The proposed plat is located in the 3900 block of 27th Ave N, east of adjacent to the CHS Inc. tank farm. Xcel Energy intends to purchase the 3,600 sf lot in order to install necessary infrastructure for gas services. The plat also contains a small portion of dedicated right-of-way in order to provide access to the lot. Staff recommends final approval of the plat by this committee and City Council. Item was opened for public discussion, hearing no discussion, public hearing closed.

Recusal requested by Matejcek. Motion by Johnson, second by Budke. Motion carried.

Item Motion by Reichert, second by Sande for approval of Staff Recommendation. Motion carried.

3-5 (Public Hearing) (Fast Track) Replat of Lots A and B, Block 8, Renewal Resubdivision No. 2.

Ms. Edwardson introduced the item. The property is located downtown, in the 500 block of Demers Avenue. A replat of the property was approved last fall, however slight modifications to the lot lines have occurred during the site layout design necessitating a new replat. The project modifies the school district faculty parking lot boundaries, allowing for the development of a mixed use building with commercial grocery (Hugo's) and Alerus drive-thru bank planned on the first floor and residential units on the upper floors. Staff recommends final approval of the replat by this committee and City Council. Item was opened for public discussion, hearing no discussion, public hearing closed.

Recusal requested by Matejcek. Motion by Johnson, second by Lunski. Motion carried.

Recusal requested by Budke. Motion by Sande, second by Kuhn. Motion carried.

Item Motion by Reichert, second by Lunski for approval of Staff Recommendation. Motion carried.

3-6 (Public Hearing) (Fast Track) Replat of Lots 1 and 3, Block 16 and vacated lands adjacent thereto, Skidmore Addition.

Mr. Gengler introduced the item. The subject property is located at 501 Seward Avenue. In June of 2010, the City approved a replat of the property, however the owner never recorded the approved replat and it is now considered to be void. The same owner is now requesting approval

of a replat of the same property – Lots 1 and 3, Block 16, Skidmore’s Addition. The property contains a commercial building/garage on the west half and a single-family home on the east half. The replat will split the property into 2 lots. Staff is researching a slight discrepancy in zoning as a result of replatting the lot. The easterly 20-feet of the commercial lot appears to fall within the R-4 zoning, rather than the B-3. This may result in the submittal of a subsequent request to rezone this portion of the commercial lot if it is deemed necessary. Staff recommends final approval of the replat by this committee and City Council. Mr. Reichert asked if Mr. Nyberg owned both lots and Mr. Gengler stated yes. Item was opened for public discussion, hearing no discussion, public hearing closed.

Motion by Reichert , second by Kuhn for approval of Staff Recommendation.
Motion carried unanimously.

3-7 (Public Hearing) (Fast Track) Plat of O’Reilly’s Third Resubdivision

Mr. Gengler introduced the item, and mentioned that 3-7 and 3-8 are regarding the same property. The property is platted and zoned B-3 General Business District and is located at 3200 Gateway Drive as shown on the attached vicinity map. The owner is requesting to split the undeveloped property into two lots, one of which (Lot 2) is currently under review for the approval of a Conditional Use Permit for contractors shops. Lot 2 has legal access from Gateway Drive through a private ingress/egress access easement recorded as document number 757296. At this time staff does not have development plans for Lot 1. Staff recommends final approval of the plat by this committee and City Council. Item was opened for public discussion, hearing no discussion, public hearing closed.

Motion by Reichert, second by Lunski for approval of Staff Recommendation.
Motion carried unanimously.

3-8 (Public Hearing) Conditional Use Permit for Contractors Shops at 3200 Gateway Drive, to be replatted as O’Reilly’s Third Resubdivision.

Mr. Gengler introduced the item. Ten Grand LLC is requesting approval of a Conditional Use Permit (CUP) for Contractors Shops in the B-3 General Business District located on the property to be replatted as Lot 2, Block 1, O’Reilly’s Third Resubdivision. Contractors shops, by definition, are an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building related products, and interior storage, but which does not utilize any exterior storage area.

The properties abutting Gateway Drive are zoned B-3 General Business District and the properties to the north are zoned I-2 Heavy Industrial. The lot contains 2.64 acres and is currently undeveloped and zoned within the B-3 General Business District. Section 18-0216 (3) (H) allows contractors shops in the B-3 through the approval of a Conditional Use Permit (CUP). In conjunction with the request for the CUP, the owner is also seeking approval of the replat of O’Reilly’s Third Resubdivision. Over the past years, we have approved some of these types of CUP’s around town in different sizes and shapes. It should be noted that a contractor shop is different than a contractor’s yard, in that there is no exterior storage or fabrication/work that occurs outside of the building. As with all CUP’s, if Staff receives complaints or discovers that a violation of the CUP has occurred, the permit can be revoked. Mr. Gengler stated that he was contacted by the owners of the Carpet Garage in terms of questions regarding the ability for someone to enter the subject property and continue on over to Carpet Garage’s property. Mr.

Gengler stated that the current regulations mandate a minimum buffer yard planting on the perimeter, and by the nature of all of the regulations required, there would be a barrier just by default. Staff recommends final approval of the Conditional Use Permit (CUP) by this committee and City Council. Item was opened for public discussion, hearing no discussion, public hearing closed. Mr. Reichert asked if there was any expansion of lot coverage and Mr. Gengler stated all that the committee would be doing is authorizing the issuance of a CUP for this type of land. Mr. Reichert asked about setbacks for B-3, and Mr. Gengler stated this property was unique in that it's not adjacent to a public road, but that there will be the basic minimum setbacks/building separations, which will be finalized once a site plan is received. Item was opened for public discussion, hearing no discussion, public hearing closed. Mr. Wasvick commented that this is a perfect place for contractor shops.

Motion by Reichert, second by Sande for approval of Staff Recommendation. Motion carried unanimously.

4. Communications and Preliminary Approvals

4-1 Plat of Auditor's Subdivision No. 51 and ordinance dedicating R/W.

Mr. Gengler introduced the item. The plat is located at the intersection of North 42nd Street and 27th Ave North as shown on the attached vicinity map. The land is currently zoned A-2 Agricultural Urban Reserve District and used for farming operations.

The plat of Auditor's Subdivision No. 51 contains approximately 7.07 acres with additional acreage to be dedicated for widening 27th Ave North and North 42nd Street. The City has entered into a purchase agreement with the owner in order to acquire the 7.07 acres (Lots 1 and 2 on the attached plat) for the purpose of constructing a storm pond and stockpile lot (see attached Map A for details). The storm pond is a part of a larger infrastructure project for the area known as Oscarville, which is located between N 42nd Street and I-29, north of 20th Ave N. The storm pond will provide a critical asset to the commercial and industrial businesses located in the Oscarville area. Staff recommends preliminary approval of the proposed plat by this committee and City Council. Item opened for discussion. Mr. Matejcek asked what the access would be and Mr. Gengler stated the city obtained more R/W on 27th Ave N. and N. 42nd St, access most likely coming from 27th Ave. N.

Recusal requested by Johnson. Motion by Matejcek, second by Budke. Motion carried.

Item Motion by Reichert, second by Matejcek for approval of Staff Recommendation. Motion carried.

5. Reports from the Planning Department - Mr. Gengler initiated the discussion by informing the committee that the intent of these discussions is to simply bring these items to the committee's attention, as they will be coming up in the near future.

5-1 Dog Daycare Ordinance Discussion

Mr. Gengler introduced this item by reminding the committee that about one year ago the committee approved a Conditional Use Permit (CUP) for Petopia, a dog daycare operation located on N. 3rd Street, with the knowledge that the current code may need to be changed/modified in the future as it pertains to the outdoor area, where the dogs relive themselves. The current code

limits the outdoor area to a size of 300 sq. ft., and that area must consist of an impervious surface-concrete/pavement, bordered with pea gravel, landscaping and a minimum of 6 ft. site obscuring fence. In addition to checking in with the owners of Petopia, the office conducted research into industry standards, and in doing so discovered that there's very little information/regulations regarding outdoor spaces specifically. Mr. Gengler discussed the differences between dog daycare and commercial kennels, and displayed photos provided by Petopia's owners as to the current outdoor area. Staff would like to explore the possibility of a change to the code that would allow for a greater outdoor area, which would be helpful in alleviating agitation between dogs when confined to a smaller outdoor space. A check with the police department revealed there were no complaints registered for either of the two dog daycare businesses, which led Staff to believe there is a reason to allow for a larger outdoor area, and a larger surface area. Staff does not know, and currently cannot answer the following: how big is too big, how much is enough, what's the best material: grass or turf or combination of the two. The goal is to discover a happy medium for all involved.

Mr. Wasvick asked what other cities were doing, and Mr. Gengler stated that although these types of dog daycares are prevalent everywhere, there is no particular language in their codes regarding requirements for the outside area, only strict language regarding the inside requirements. He stated that Fargo's ordinances specify minimal distances to adjoining properties, but as far as outdoor areas, they are silent. He also stated that for Petopia, going forward this will be a two part process, as first the code would need to be changed, and then they would need to resubmit their plans to align with the amended code.

The item was opened to the committee for discussion, and Mr. Matejcek asked if there were any other inquiries for other facilities, to which Mr. Gengler stated there are none at this time, but they anticipate more over time. Mr. Reichert asked that the (Petopia) owners come forward and explain what their ideal outdoor area would look like. The owners stated that the current concrete requirement is not working for the dogs, as once they go outside, they are confused by the concrete surface and usually relieve themselves in the pea rock. They would like to see that the size of the outside area match the indoor running area. Mr. Reichert asked if the outdoor area allowed was the same whether there were five dogs or 50 dogs, and Mr. Gengler stated yes. The owners of Petopia stated that when they are at or near capacity, they have to let the dogs out in shifts, and when asked by Mr. Reichert if they've received any complaints from the neighborhood, they stated no, and that people in the neighborhood are actually excited that they are there.

Mr. Wasvick agreed that some sort of adjustment should be made, and Mr. Reichert asked the owners what surfaces similar businesses elsewhere preferred. The owners stated the preference was usually for K-9 grass or pea rock, and in doing their own research discovered other towns didn't have a surface regulation, but rather only regulated the distance from surrounding properties. Mr. Reichert asked how much outdoor space Petopia had access to and they stated 3,000 sq. ft. Mr. Wasvick stated that any amendments to the ordinance would need to address the proposed location of this type of business as all areas aren't conducive to this, and suggested ideas be considered and presented. Mr. Gengler agreed that further research would need to take place and that this will probably come back to the committee as a preliminary ordinance with options. Mr. Gengler then introduced the next item and stated that a subcommittee should be formed for that item due to the level of detail that will need to be explored.

5-2 Gravel, Curb & Gutter Discussion

Ms. Edwardson initiated the discussion by stating that many business owners are asking Staff to consider modifying the gravel, curb and gutter requirements. She also noted that many requests to vary have been brought forward to P&Z and Board of Adjustments. Ms. Edwardson discussed both the current paving requirements and the current curb and gutter requirements. She also stated that these requirements most often become an issue for industrial properties and provided examples of four industrial businesses that requested and received variances to the paving and/or curb and gutter requirements. Also highlighted were two commercial properties who had requested variances, one of which was denied due to its location on the corridor and proximity to residential areas. Staff is not suggesting change to commercial requirements but instead used the examples to demonstrate why/how the variance process is necessary to evaluate different scenarios and conditions. Staff surveyed Fargo, Mandan, Bismarck, West Fargo and Williston to determine what they allowed/required and reported to the committee those results. Staff's overall goal is to change the code to clarify where gravel, curb and gutter would be required, and to align the code with what other communities are allowing.

Ms. Edwardson pointed out that changes to the paving requirements to provide for gravel allowances would be for I-2 districts only. For those I-2 properties, the suggestions for consideration are: (1) Allow I-2 properties to use gravel or aggregate materials for areas of the site that are used for truck and track equipment circulation, lay down, and storage areas; and (2) require I-2 properties to provide paving for their required parking spaces as determined in the Off-Street Parking code.

For the Curb and Gutter, more discussion will probably be necessary in order to clarify the requirements for all districts, and Staff suggests that Curb and Gutter requirements be moved from the Landscaping Code and into the Off-Street Parking Code. Staff also suggests that Curb and Gutter (or comparable solution) be required for parking areas for all districts and for I-2 properties along major city corridors (Gateway Drive, North Washington Street, Mill Road, etc.).

When Mr. Wasvick opened up the item for discussion and commented that he didn't recall seeing that many variance requests, Mr. Gengler stated that the Board of Adjustments sees more of these types of variance requests. Staff's goal is to find code provisions that are easy to understand and apply. Mr. Wasvick stated that for the commercial property variance requests that were considered, it appeared to be a functional issue as opposed to a cost issue. Mr. Wasvick solicited volunteers to serve on the subcommittee. Mr. Johnson asked how many variance requests came before this committee and/or the Board of Adjustments in the last year, and Ms. Edwardson stated seven to eight. Mr. Wasvick commented that all of the variances listed in the presentation made sense to him, and sometimes gravel makes more sense. Mr. Reichert stated that the subcommittee is a good idea as it appears there are complexities that would be better examined in a subcommittee setting, volunteered to be on the subcommittee and suggested a committee of four persons. Mr. Johnson and Mr. Kuhn also volunteered. Mr. Brooks suggested the subcommittee be comprised of two people from this body and two from Board of Adjustments, and Mr. Wasvick agreed this was a good idea. Mr. Lunski stated this item needs to be figured out and agreed to serve on the subcommittee. Mr. Reichert agreed to serve as alternate member if Mr. Lunski is unavailable.

5. Other Business - None

6. Adjournment

Motion by Reichert; 2nd by Lunski; Motion carried unanimously.