



Planning & Zoning Commission Meeting Minutes

October 2, 2019, 5:30pm
Grand Forks Council Chambers

1. **Roll Call: Members Present**

Andrew Budke, Cole Johnson, Jamie Lunski, Alex Reichert, Meggen Sande (appearing by telephone/computer) Frank Matejcek, Steve Wasvick. Members absent-Pete Kuhn, Paula Lee.

2. **Reading and Approval of Minutes for September 4, 2019**

Motion to approve as submitted by Reichert; second by Budke. Motion carried unanimously.

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

3-1 **Matter of the discussion regarding the bike path lying within Block 42, McCormack's 1st Addition.**

Mr. Gengler introduced the item. The item is for informational purposes only, but also relates to Items 3-2, 3-3 and 3-4, and the property discussed therein. In 2016, the City vacated a 10-foot bike path easement lying within Block 39 of McCormack's 1st Addition as shown on the attached map. The easement was vacated in conjunction with the construction of the Lumber Exchange Apartments. Following the vacation of this portion of the easement, it was determined that the bike path should be rerouted to the sidewalk on North 3rd Street, connecting back up with the existing path near Wilder Elementary. The 2019 adopted Grand Forks-East Grand Forks Bikeway Map reflects these changes.

At the time the initial segment of the bike path was vacated it was understood that at some point the remaining bike path through Block 42 would be vacated. Planning and Engineering staff have researched numerous sources for the easement document relating to Block 42. However, to the best of their knowledge it appears there are no records of the easement for this segment of the bike path. Because the recently adopted 2019 Bikeway Map now shows the route along North 3rd Street, staff has determined there is no further action required as it relates to the bike path lying with Block 42.

3-2 **Shared Parking Agreement for 920 N 3rd Street, 930 N 3rd Street and 111 Gateway Drive.**

Mr. Gengler introduced the item and stated that this item was discussed previously at the last meeting, and is for a shared parking agreement between 3rd & 9, Big Jim's Tire and Prairie Harvest. A neighborhood meeting was held on Thursday, September 26th at 6:00 pm in the Council Chambers. On September 13th, staff mailed out 74 meeting invitations to the surrounding area, of which three residents attended the meeting, and a few notices were returned to the Planning office. Staff recommends approval. Mr. Wasvick asked the committee if they had any questions for Mr. Gengler before the developer came forward. Mr. Matejcek asked if there was a time period for 3rd & 9's use

of 49 stalls provided by Big Jim's, and Mr. Gengler stated that it was his understanding that both agreements (including Prairie Harvest) indicated the use would be from 6:00 pm to 7:00 am or other times where 3rd & 9 obtains permission to do so. Mr. Johnson asked if all of the agreements had been clarified, and Mr. Gengler stated to his knowledge they remain as they were originally presented at last month's meeting.

Mr. Wasvick stated that the committee asked for two things before considering approval: (1) a neighborhood meeting,(which he stated went really well), and (2) firmed up parking agreements so as to have some teeth to the same, and then invited the owners to come forward to speak. Mr. Gengler added that he met with Mr. Swanson regarding the agreements and it was decided that if either shared parking agreement goes away in the future, then the owner must provide the City with proper notice of the same, and then City Council will decide on how to proceed. Mr. Reichert asked if the parking stalls don't materialize or go away, would there be a revocation of the Conditional Use Permit, and Mr. Gengler stated this is not a Conditional Use Permit, instead it is a Shared Parking Agreement. Mr. Reichert asked if Mr. Swanson thought there would be a way to do something if this fails in the future, and Mr. Gengler stated Mr. Swanson's advice was if this did occur, then the City would get involved.

The owner, Thomas Wesley came to the podium to speak. He stated that the neighborhood meeting went very well, and appreciated presence by both City staff and P & Z committee members. He stated that in regards to concerns about the length of the agreements, if anything happens- which it could at any time – he would come back to the City to address the same. Mr. Reichert asked Mr. Wesley if he understood that he'd need to close down if something happened to these agreements, as he wanted to be sure Mr. Wesley doesn't invest in this venture without that understanding, and Mr. Wesley stated yes, he understood. He spoke to Big Jim's and was able to get that agreement changed to one in perpetuity. Mr. Reichert also looked for assurances that Big Jim's understands that their vehicles would need to be out when events at 3rd & 9 take place—in other words, were all the parties to the agreements on the same page, and Mr. Wesley stated they were. Mr. Wasvick's concern is the potential risk for problems down the road. Mrs. Sande stated she thought this was well thought out, and if the owner is willing to take on these risks, it's his decision, and she's on board, and moved for approval of the item. Mr. Johnson asked if the alley/gravel area around Prairie Harvest would also be finished and Mr. Gengler stated yes, the newly constructed area would connect to the right side Prairie Harvest and exit out onto N. 3rd Street.

Mr. Budke added that it was important to note that a homeowner doesn't own the street in front of their house; rather it is a public street, for any public use. He also noted that the entire discussion was driven by mandated parking minimum and there's an opportunity cost to do so, especially in an established neighborhood such as the current one. There's an opportunity cost to this parking installation, both monetary and in examining what other uses could be established with this. Mr. Wasvick asks if the concrete parking pods would be striped and signed so that invitees to events would be made aware of parking. Mr. Gengler stated yes and that they'd also receive information regarding the parking restrictions in advance of the event they were attending. Mr.

Lunski asked who'd be policing these agreements during events, and Mr. Gengler stated the City would be relying on the two property owners to stand by the agreements they've entered. Mr. Budke stated if they were considering the shared parking ordinance as it currently stands for commercial/residential/industrial uses, perhaps the ordinance should be modified to accommodate shared use between different use categories as a shared agreement and used as an example an agreement between residential (The Lumber Exchange) and commercial (3rd & 9). Mr. Gengler agreed that the ordinance is fairly outdated, and going forward the Staff will be looking into how they could do just that.

Motion to approve as submitted by Sande; second by Reichert. Motion carried unanimously.

3-3 **(Public Hearing) Ordinance to amend Section 18-0216 (11) relating to dog daycare and boarding facilities.**

Mr. Gengler introduced the item and highlighted the three elements to be changed: (1) Outdoor space can be equal to/as large as the indoor space; (2) List of materials for outdoor area is expanded to include pea gravel, synthetic turf, natural grass and any combination thereof; and (3) allowance for the same amount of dogs in the overnight boarding area as there are in the daycare area. All other requirements have not changed. Mr. Budke asked in reference to paragraph f (2) (e), who would determine if there was more than minimal negative impact in these situations. Mr. Gengler stated it would go from Staff to Planning and Zoning to Council as with all Conditional Use Permits. This provides a window of opportunity to take a closer look at each application, considering things such as the size and location of the business, and the area surrounding it. Mr. Gengler also stated that Staff will be reevaluating Ruffin It's CUP, as they've now added a larger area, and once this ordinance is amended, they will need to be in compliance with the same. Item opened for public discussion. Staff recommends approval.

Motion to approve as submitted by Reichert; second by Budke. Motion carried unanimously.

3-4 **(Public Hearing) Conditional Use Permit amendment – Petopia Pet Daycare.**

Mr. Gengler introduced the item and stated that this was Petopia's request to expand their permit subject to final approval of the ordinance to amend Section 18-0216 (11)(F) relating to dog daycare and boarding facilities. In May 2018, Petopia Pet Daycare received approval for a Conditional Use Permit (CUP) to operate a dog daycare and boarding facility at 920 North 3rd Street. Over the last several months, staff has had conversations with the applicant regarding the outdoor area for dogs, which by code is limited to 300 square feet and must have a concrete floor or other durable impervious surface. These restrictions have proven to be very problematic in terms of cramped quarters for dogs and because the dogs are not accustomed to relieving themselves on a concrete surface. These concerns have also been discussed at Planning and Zoning Commission meetings. Petopia is requesting three amendments to their current CUP: (1) expand the indoor play area from 2,989 s.f. to 5,189 s.f., which will increase the allowable number of dogs for daycare services from 60 per day to 104 per day; (2)

expand the number of dogs allowed for overnight boarding from 50% of number of daycare dogs to 100% of the number of daycare dogs; and (3) expand the size of the outdoor fenced area from 300 s.f. to 1,750 s.f. Staff recommends approval of the request, subject to further review by the Planning and Zoning Commission and City Council.

The owner of Petopia, Travis Horney came forward to entertain any questions regarding the request. Mr. Johnson asked about lot coverage, and Mr. Gengler said this was part of the site plan review which determined that they were still under 85%, and that the parking lots will have curb and gutter and will need to meet all stormwater requirements. Mr. Reichert asked how big the outdoor area will be, and Mr. Horn stated it will be 1,750 s.f. and will go right up to the N. end of the seven (new) parking spots in the rear of the building. Mr. Johnson asked if there will be an interior walkway between the new and old indoor areas to the outdoor relief area, and Mr. Horn said yes. Mr. Reichert asked if the CUP timeline starts over and Mr. Gengler stated yes, it will be a new five year period. Item opened for public discussion.

Motion to approve as submitted by Matejcek; second by Johnson. Motion carried unanimously.

3-5 **(Public Hearing) Replat of Lot 2, Block 1, Enger Subdivision and ordinance dedicating R/W.**

Mrs. Edwardson introduced the item. The subject plat is in conjunction with the State Mill's proposed locomotive storage shed located at the intersection of Mill Road and North Columbia Road and will include the vacated portion of N Columbia Road currently being advertised. The purpose of the replat is to create a buildable lot for the locomotive shed. A small portion of right-of-way will also be dedicated in order to maintain street alignment on Mill Road. Staff recommends final approval. Item opened for public discussion.

Recusal requested by Matejcek - **Motion to approve request by Budke; second by Johnson; Motion for Recusal passes with Reichert opposing.**

Motion to approve Item as submitted by Reichert; second by Lunski. Motion carried.

3-6 **(Public Hearing) Ordinance to amend zoning map - Rezone Lot 2, Block 1, Enger Subdivision from B-3 General Business District to I-2 Heavy Industrial District.**

Mrs. Edwardson introduced the item. This item relates to the State Mill's locomotive storage shed project and coincides with the replat of Lot 2, Block 1, Enger Subdivision, located at the intersection of N Columbia Road and Mill Road. Currently the subject lot is zoned B-3 General Business. Because the property will become a part of the State Mill's rail operation, the lot needs to be rezoned to I-2 Heavy Industrial to fit with the rest of the State Mill property. Staff recommends final approval of the rezoning request. Item opened for public discussion.

Recusal requested by Matejcek - **Motion to approve request by Budke; second by Johnson; Motion for Recusal passes with Reichert opposing.**

Motion to approve Item as submitted by Reichert; second by Lunski. Motion carried.

3-7 **(Public Hearing) Conditional Use Permit for the temporary storage of beet tailings - Red River Biorefinery.**

Mr. Gengler introduced the item. Red River Biorefinery (RRB) is a biofuels production plant currently under construction in the industrial zoned areas north of Gateway Drive, east of I-29. The applicant is requesting approval of a Conditional Use Permit (CUP) for the temporary storage of beet tailings in conjunction with the start-up of plant operations in January 2020. The proposed timeframe for the storage is December 1, 2019, to March 31, 2020. The proposed storage area, located at 2051 North 36th Street, is a vacant 20-acre parcel owned by North American Green Pulp, of which 1 to 2 acres is proposed to be used for the storage. The overall area is primarily zoned I-2 Heavy Industrial, with A-1 Agricultural zoning east of the I-2 zoning. I-2 allows for a number of land uses via the CUP process as stated in Section 18-0219 (3). Staff recommends approval.

Mr. Reichert asked why this didn't fit under letter (E), storage of hazardous and non-hazardous materials . . . , and Mr. Gengler stated that Mr. Swanson, City attorney, and Mr. Gengler both concluded that letter (G) of that section which reads: "Any other industrial activity deemed fitting and compatible to the district by the planning and zoning commission," was the appropriate section to apply to this CUP request. Mr. Rajpal, managing member of RRB and this project, came to the podium to provide a brief slide presentation, and a better understanding of the purpose for this CUP request. His company is looking to bring some beet stock to their facility, and is considering this storage area (as defined in the CUP) as a safety valve in case they need overflow storage space for the tailings. The plan is to prepare the site by grading, berming around the edges and complying with any other containment requirements. Because the tailings are wet, they plan on using American Crystal Sugar's dewatering site to remove all excess water, and then bring them to their site for processing. For their process, it is important that the tailings will be kept cold in order to prevent deterioration. The tailings will be covered, and once they are removed from the site, the ground will be remediated. Mr. Reichert asked if the tailings would lie on the ground, and Mr. Rajpal stated yes.

Item was opened for public discussion, and Mrs. Korynta came to the podium. She and her husband are the owners of land on both sides of the RRB project. She stated that when she and her husband sold the land in question, they were told nothing would be stored on the ground. She is worried about runoff, odor, and the water table being raised. Mr. Gengler stated that he and Mr. Grasser had discussed some of these issues and asked if Mr. Rajpal had information regarding containment. Mr. Rajpal stated he expects minimal amount of moisture on site, as the tailings will be dewatered off site, and any moisture that would remain would be collected via a containment system with

pumping capability, if necessary. He addressed the odor concern by stating that they will keep the tailings covered, and the onset of colder weather should prevent further deterioration of the tailings.

Mr. Wasvick asked for more information about containment of the tailings placed on the ground, and Mr. Rajpal stated the ground will be prepared and graded properly, to include a berm around the edge, and they will remediate if needed, and will pump or whatever else may be needed. Mr. Reichert asked what sugar beet tailings were, and Mr. Rajpal stated that they are the parts of the sugar beets that have fallen off. Mr. Matejcek added that tailings are anything left after processing that can be used from the sugar beets, including tops, beet pieces, and may contain dirt as well. Mr. Reichert asked if the tailings smell, and Mr. Matejcek stated yes, and that he agrees with Mrs. Korynta that runoff and smell can be a problem with tailings, and he doesn't like this plan. He stated that the ground underneath the tailings will be unfrozen because of the beets biological properties, and that runoff cannot be prevented. Mr. Rajpal reminded the committee that they were not looking to pile up all the tailings on the ground; rather it would just serve as a temporary site if the bunkers are full. Mr. Matejcek requested that Mr. Grasser provide his opinion regarding containment of the runoff. Mr. Reichert commented that Mr. Rajpal stated there would be berms in place and asked Mr. Matejcek if he thought the runoff would go beyond those berms, and Mr. Matejcek stated he didn't know. Mr. Reichert clarified with Mr. Rajpal that normal operations has the beets processed daily, that the CUP use is only if the volume in exceeds the volume out for whatever reason, and that this is a one-time use from December 2019 to March 2020.

Mrs. Korynta asked where the runoff goes . . . would it end up in the coulee, as she has animals in that area and doesn't want this runoff to enter their water supply. Mr. Grasser stated he had the same questions when the proposal was originally brought to him, but in his opinion, the critical item is the time of year, the ground will be frozen, and may thaw, but to establish the site, they will be digging down 6-12 inches and putting that ground along the edges as and for the berm, which will provide a containment system. Along as the ground is sloped properly with a catchment, most likely what will happen is the site will be pumped out into the sanitary sewer because of the biological properties of the runoff. He believes the mitigative efforts are adequate, but should be included as part of the CUP, as well as a date as to when the topsoil should be returned to the site. Mr. Johnson asked Mr. Rajpal if the process would be last in/first out, and Mr. Rajpal stated yes, that they would remove from the piles first before using any tailings stored in the bunkers. Mrs. Korynta was concerned because of the volume of rain, but Mr. Wasvick stated that because of the December start date, they most likely will prep the site closer to freeze up. Mrs. Korynta stated that she has land for sale beside this location, and is concerned she may lose potential buyers because of the odor, and possible changes in both the water table and environment that may be caused by allowing for the CUP.

Recusal requested by Budke – **Motion to approve request by Johnson; second by Lunski; Motion for Recusal passes with Reichert opposing.**

Motion to approve Item as submitted by Reichert; second by Johnson. Motion carried with Matejcek opposing.

3-8 **(Public Hearing – Fast Track) Replat of Lots B and R, Block 1, Perkin’s 1st**

Addition.

Mrs. Edwardson introduced the item. The owner of the property at 2751 32nd Ave S (the Pizza Hut) also owns the retail spaces anchored by the former grocery store. They have a potential customer who is seeking to lease the property, with an option to purchase, in order to redevelop it for the new construction of a Discount Tire store. Part of the redevelopment is the need to replat the property in order for Discount Tire to lease additional land to provide enough parking on site to meet the required off-street parking amount of 29 stalls (1 stall per 400SF + number of employees on largest shift).

The replat incorporates additional land to the south from the larger mall parcel. The internal circulation of the mall area will be improved as the development will better align the existing skewed internal intersection. The realignment will remove approximately 7-10 parking stalls from the mall parking lot, but the larger mall complex has excess stalls above their required parking amounts. Staff recommends approval. Item was opened for public discussion. Mr. Budke commented that this seemed like a good place for a shared parking agreement, but he thinks the 29 stalls are a lot. Mrs. Edwardson stating that they discussed the possibility of a shared parking agreement, but the developer believed it would be better to have the parking on site. She also stated that they meet parking code requirements.

Motion to approve as submitted by Reichert; second by Lunski. Motion carried unanimously.

3-9 **(Public Hearing) Appeal to the Detailed Development Plan (DDP) for an increase to impervious surface for District Apartments, 4150 S Washington Street.**

Mrs. Edwardson introduced the item. The developer of the property, District Apartments, 4150 S Washington Street is seeking an increase in impervious surface amounts in order to provide additional pedestrian and outdoor amenities throughout the multi-family complex. The developers are requesting an increase from the previously approved maximum of 65% to a maximum of 70%. Staff recommends approval. Item was open for public discussion. The developer, Ryan Carlson, came to the podium to address any questions from the committee. Mr. Johnson asks if they are adding or expanding, and Mr. Carlson stated they are adding a pedestrian path/sidewalk and bike path areas, which allows for a connection between the egress doors and private patio areas for the residents. The retention pond already picks up the 70% request, so there is no impact from the water retention/quality aspect. Mr. Budke asked about the 64% on the site plan, and Mrs. Edwardson stated that what’s shown is the original DDP site plan, as Engineering doesn’t usually finalize the site plan until it has been approved. Mr. Budke asked about the parking figures on the site plan, and Mrs. Edwardson stated overparking concerns will be addressed on the next item. She stated there are

limitations on how the site is corrugated where they could pull the impervious surface without impacting how they are routing the runoff.

Mr. Wasvick expressed concerns that even though prior allowances have been made on this property, they are back and are asking for more. Mr. Budke asked, in terms of the materials used, if the landscape architect looked at alternatives to concrete that wouldn't count fully towards the impervious percentages. Mr. Carlson stated they looked at alternatives, but are trying to maximize what they are offering to tenants, while still allowing financial institutions to lend money for projects such as this. If they were to add pervious pavers or alternatives to sidewalks, they would have to cut somewhere else, which is something they are not willing to do. They want to have first class amenities and offer something that hasn't been done before. Mr. Reichert asked Mrs. Edwardson how the eight new units corresponded to the (parking) reduction, and she stated they are looking to add eight additional units to the site, taking a portion of the single stall garages and putting four units above the parking garages, which increases their parking into the site. However, they are looking to utilize the option in the Off-Street Parking code that allows for the reduction of required parking when a site provides transit and bicycle accommodations. They are meeting the transit requirements to receive this reduction by dedicating quite a bit of internal space for bike racks and bike repairs, and by providing access to the existing multi-use path that runs parallel to S Washington.

Mr. Wasvick stated he's struggling with the current proposal because in the past, the committee has told other developers to go back and redraw their proposals or has denied their requests altogether. Mr. Reichert echoed that concern and asked the developer why his request should be treated differently, and Mr. Carlson stated that the reason for the increased impervious is to provide more tenant amenities, not more units, and as such, they are investing more money into the complex so that they can offer the first class amenities. They are adding a resort style pool, dog park and retention pond and taking elements required by code and making them aesthetically pleasing. Mr. Reichert likes how they are doing this, but just wonders if there is another way to build these amenities without impervious surfaces.

Mrs. Edwardson stated the other option would be if the developer reduced the parking stalls along Washington to make up for the impervious surface. The developer likes to stay overparked so as to prevent any parking issues in the development. They're trying to offer more than adequate parking, enhanced amenity base, so what they could do is to shrink or eliminate the walkway to the dog park, but that's not what they'd like to do. Mr. Reichert asks if the dog park is impervious, and Mr. Carlson stated no it will be artificial turf/pervious, but the sidewalks leading to it would be impervious. Mr. Wasvick commented that there are pervious sidewalk systems available, but Mr. Carlson stated not only are they expensive, but many times they don't do what they're supposed to do over time. Mr. Reichert stated that if the committee required more pervious surfaces, that it would take place inside that internal ring and no one would see it anyway, and Mrs. Edwardson stated yes, from what Mr. Carlson is describing.

Mrs. Sande asked if Mr. Grasser has any issues with this, and he replied that as long as the expanded pond can mitigate the increased impervious surfaces, he doesn't have any issues. Mrs. Sande asked if they were doing this mitigation, and Mrs. Edwardson stated yes. Mrs. Sande moved for approval stating that it is something different and unique for Grand Forks. Mr. Budke asked Mr. Carlson to address developments in other cities if they have such a high percentage of studio and one bedroom (here it's 49%), do two stalls for each of these units get used, and Mr. Carlson stated no, the demographic of tenants is changing from 2bdr/2ba to 1bdr/studio as land is getting more expensive, and more money is going into the amenities as opposed to square footage. He further stated that stalls don't get used except for special events; most persons renting a studio have either no vehicle or one vehicle. Mr. Budke asked about tradeoff for amenities and feels that selecting overparking over other amenities is the wrong way to go about this, as parking should not be prioritized at the expense of the impervious space.

Motion to approve as submitted by Sande; second by Reichert, with Budke opposing. Motion carried.

3-10 **Parking Reductions for Transit & Bicycle accommodations for District Apartments, 4150 S Washington Street.**

Mrs. Edwardson introduced the item and stated this item was part of the discussion of the previous item, 3-9, and that this item is before the committee for final action as it does not move forward to City Council. Staff recommends approval.

Motion to approve as submitted by Reichert; second by Budke. Motion carried unanimously.

3-11 **(Public Hearing – Fast Track) Plat of Crary's Tenth Addition.**

Mrs. Halford introduced the item and stated that the owner is requesting replat of the property in order to create a two acre lot to help sell the lot in the future. Staff recommends approval. Item was opened for public discussion.

Motion to approve as submitted by Reichert; second by Matejcek. Motion carried unanimously.

3-12 **(Public Hearing – Fast Track) Replat of Lots 18, 20, 22 and 24, Block 14, Budge and Eshelman's Second Addition.**

Mr. Brooks introduced the item. This property is located on University Avenue by the laundromat, and the request is for a replat in order to make the lot line bigger for 824. Some of buildings in the back of the lot will be torn down. Mr. Budke asked what they will do with the building, and Mr. Brooks stated it will most likely be use for parking as there currently is no on-site parking. Mr. Reichert asked about vacating right of ways, but Mr. Brooks stated that would be difficult because much of that is owned by BNSF. Staff recommends approval. Item was opened for public discussion.

Motion to approve as submitted by Reichert; second by Lunski. Motion carried unanimously.

3-13 **(Public Hearing) Ordinance to amend zoning map - Southern Estates Planned Unit Development (PUD), Amendment No. 13.**

Mr. Brooks introduced the item and stated this is the Edgewood area and is just a tweak to the current zoning. One area will be R-1 Single-Family and will have 5 foot side yards and will have 55% impervious lot coverage, which is similar to what's been previously allowed in some other areas with smaller lots. The R-3 Multi-Family development to the south will require 60% impervious lot coverage, which is what's required today for R-4. Staff recommends final approval. Item was opened for public discussion.

Motion to approve as submitted by Reichert; second by Lunski. Motion carried unanimously.

4. **Communications and Preliminary Approvals-None**

5. **Reports from the Planning Department-None**

6. **Other Business-None**

7. **Adjournment**

Motion to adjourn by Reichert; second by Matejcek; Motion carried unanimously.