

MINUTES OF PLANNING COMMISSION MEETING  
January 13, 2020

Pursuant to due call and notice thereof, a regular Planning Commission meeting was held at City Hall on the 13th day of January, 2020 at 6:30 PM

**THE FOLLOWING MEMBERS WERE PRESENT:** Commissioner Ferris, Commissioner Thompson, Commissioner Zelinske, Commissioner Torkelson, Commissioner Tinsley and Commissioner Burton.

**THE FOLLOWING WERE ABSENT:** Commissioner Fitch

**THE FOLLOWING WERE ALSO PRESENT:** City Administrator Tim Ibisch, City Clerk Rappe, Finance Director Nancy Zaworski, City Attorney Leth, City Engineer Theobald, Consultant Laura Chamberlain HKGi, Les Conway, Tony Bigelow, Coy Borgstrom, Jason Wilker, Julie Nagorski, Brian Keehn, Ben Boynton, Kyle Decker, Rose McKain, Dean and Terri Schuette, Brandon Stedman, Chris Hallstrom, Kaleb Melcher, Charlie Hallstrom, Doug Buck, Bonnie Ryan, Neeley Ryan, Bruce Whitacker, Sae Denny, Christie and John Bausman, Steven Arett, Troy Andrist, Steve Erickson

**CALL TO ORDER AT 6:30PM**

**MINUTES OF THE PREVIOUS MEETINGS – December 9, 2019 – Motion to Approve the Minutes as presented by Commissioner Thompson, second by Commissioner Burton with All Voting Aye.**

**PUBLIC HEARING BIGELOW-VOIGT 8<sup>th</sup> GENERAL DEVELOPMENT PLAN** – Laura Chamberlain, HKGi Planning Consultant, gave the background of this proposal of 11.81 acres of 14 single family detached lots and 28 single family attached homes. In this case the single family attached units are incorporated in the planned unit development so only one CUP is required. Ms. Chamberlain has consulted the City's Comprehensive Plan regarding greenspace, trails, roadways and floodplain/ponds/wetlands. Ms. Chamberlain referred to her staff report regarding the specific considerations for the CUP for PUD and Preliminary Plat. Ms. Chamberlain also referred to the staff comments as well as the City Engineer comments.

Tony Bigelow – 1210 16<sup>th</sup> St NE Kasson. Mr. Bigelow stated that they are willing and can work on all contingencies except the one connecting 12<sup>th</sup> St NW because that drainage channel drains a large area.

Les Conway – WSE Massey. Mr. Conway stated that they reviewed Ms. Chamberlain's and staff comments, the pond on the west handles the drainage for Bigelow 7<sup>th</sup> and the new pond on the east that could handle Bigelow 8<sup>th</sup> and other areas that drain this direction. They propose that Outlot A would be City property. Mr. Conway stated that by not putting 12<sup>th</sup> St through improves the sustainability and habitat of this design.

Public Hearing Open – no comments

Public Hearing Closed

Discussion

Planning Commission Meeting January 13, 2020

Commissioner Zelinske – He agrees that 12<sup>th</sup> does not need to go through and that would hamper water flow. He doesn't like the idea of private streets because of narrowness for fire trucks and issues of parking and snow removal.

Commissioner Thompson - agrees that 12<sup>th</sup> does not need to go through and that the private roads could be wider.

Mr. Conway stated that those responsibilities are the homeowners association. And the ends of the streets are less than 150' to the intersection and there would not be any parking on those streets. All of the townhomes would be in the association.

Commissioner Burton - all comments brought up by staff regarding the PUD are appropriate and he is in agreement the 12<sup>th</sup> St NW would not need to go through but we need to find a way to eventually to cross that waterway. Not in favor of running an easement across the Wilker property and somehow we need to go to the north to get to County 21.

Commissioner Torkelson proposed that there be no parking along private streets.

Commissioner Tinsley – nothing to add, feels the same way about the streets and how is parking enforced.

**Motion to Approve the General Development Plan with staff comments made by Commissioner Thompson, second by Commissioner Zelinske with all voting Aye.**

**PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT**

**REQUESTED BY BIGELOW-VOIGT 8TH** – Mr. Conway stated that they have no problem meeting the requirements of staff and WHKS design comments.

Ms. Chamberlain stated that staff would like some time to look over the plans that were just handed out and if the Planning Commission approves this staff would make sure that it is complete before it goes to City Council.

Public Hearing Opened – no comments

Public Hearing Closed

Discussion

Commissioner Tinsley had questions for Mr. Conway regarding grading for wetlands. Mr. Conway stated that in the new plan the pond is stretched out a bit and the slope is not as steep.

**Motion to Approve the CUP for a PUD Contingent on the Developer Meeting The Conditions Outlined by Staff before Approval, made by Commissioner Burton, second by Commissioner Thompson with All Voting Aye.**

**PUBLIC HEARING FOR BIGELOW VOIGT 8<sup>TH</sup> PRELIMINARY PLAT**

Public Hearing Opened – no comments

Public Hearing Closed

**Motion to Approve the Preliminary Plat With the Conditions Either Already Met or Still Needed to Meeting made by Commissioner Thompson, second by Commission Torkelson with All Voting Aye.**

**PUBLIC HEARING FOR A CONDITIONAL USE PERMIT FOR A LANDSCAPING AND NURSERY REQUESTED BY JASON WILKER** - Ms. Chamberlain gave a brief background on the property. Ms. Chamberlain has provided findings and additional considerations, in the Comprehensive Plan it is designated as medium density residential. The application as presented did not provide enough information to grant this CUP. Ms. Chamberlain reminded the Commissioners that a CUP is applied to the property and not to the owner.

Julie Nagorski , Jason Wilker’s Attorney, - This plan that he has submitted is what he has used before. Wilker has a nursery stock dealer certificate, he has a plan that works under the parameters of the city ordinance. She does not believe that requirements that are not in the ordinance should not be imposed. Ms. Nagorski and Mr. Wilker are against the suggestions made by the City Attorney.

Jason Wilker – Property Owner of 1103 8<sup>th</sup> Ave NW, Kasson, resides at 630 Meadowlark Ct, Byron, MN – he feels he has met and tried to meet what the city has asked of him. He has not heard from anyone who wanted to come out to his property.

Public Hearing Opened

Ben Boynton – 209 4<sup>th</sup> St SW – he is concerned that this has become a bigger topic in town than the infrastructure. He feels that Mr. Wilker is complying with the City. Mr. Boynton supports the CUP.

Troy Andrist – 64739 270<sup>th</sup> Ave, Kasson - he knows what Jason is going through and has had the same experience. He would like to get something worked out.

Ben Boynton – he lives near two giant culverts and debris blocks culverts and if it would cause drainage issues.

Steve Arett – 25145 750<sup>th</sup> Hayfield - he is here to support Wilker.

Doug Buck – 300 15<sup>th</sup> Ave NW – he is here in support of Wilker, and attested to his character.

Coy Borgstrom – 20 E Veterans Memorial Hwy – he believes we need to go back to the book on this. This has been twisted. The CUP is answered by the neighbors, and there have been no complaints in 10 years. The only complaint was from a person 6-8 blocks away. Mr. Borgstrom stated that Domino’s is violating their CUP for the sound barrier on their roof and no one is doing anything about that. He doesn’t want anyone to take staff’s recommendation and that they don’t make the decisions. There are a lot of things in this community that are against the ordinance but no one is doing anything about them.

Jason Wilker – he notices that rules are bent for some people. He has had no complaints in 11 years. He believes his business benefits the city.

Public Hearing Closed

Laura Chamberlain – point of clarification, the application for a CUP does not require a General Development Plan but a CUP does require a Development Plan.

Planning Commission Meeting January 13, 2020

Commissioner Thompson asked where the City is regarding litigation. City Attorney Leth stated that there has been no assurances that if this is granted that the lawsuit will go away. There has been no communication from Wilker or his Attorney in that regard. Attorney Leth stated that just because someone hasn't set foot on Mr. Wilker's property doesn't mean that there isn't sufficient evidence to take this action. The allowed CUP is for a nursery and he is not operating as a nursery he is operating as a landscaping business. In the 2010 CUP he was required to plant 60% of property to trees.

Commissioner Thompson – the City does not currently have a review of CUP's process. He asked Attorney Leth to explain her recommendations. As far as the building structures this was part of the 2010 original CUP.

Chairman Ferris – this has always been a piece of property that has had a commercial use and when it was annexed it was annexed as R-1. He believes that conditions put on in 2010 were to balance the commercial activities on that land.

Commissioner Zelinske – all we want him to do is follow his conditions.

Commissioner Burton – we want to make this work for the City and Mr. Wilker. He had 14 months from when he was told that he was in violation to when the CUP was revoked. We were accurate in the fact that we were not putting a street through his property and we did not even have a request for this street until Bigelow Voigt 8<sup>th</sup> Subdivision. He is willing to work with Wilker as to new trees or trees that have been planted.

Commissioner Tinsley – looked at the conditions suggested by Wilker. He is generally in agreement with the conditions set forth from Wilker pending future clarifications.

Commissioner Thompson – believes we are headed in right direction, but need more clarification.

Commissioner Burton – would like the recommendation for the 12<sup>th</sup> St easement struck from recommendation along with further clarification related to building structures.

**Motion to table and allow City Staff and Wilker to come to a set of conditions that will work for the site, made by Commissioner Thompson, second by Commissioner Torkelson with All Voting Aye.**

10 min break 8:34.  
8:43PM

**BLAINES 14<sup>TH</sup> GDP – TABLED FROM DECEMBER MEETING** – Laura Chamberlain gave background for the Blaine's 14<sup>th</sup>. The total GDP involves two parcels with a total of 131 single family detached lots and two outlots for stormwater. She went through requirements of the Comprehensive Plan for density, land use, green space, transportation and parks and trails. There is floodplain on the site. Dodge County is preparing a map revision and have released their best estimated for flood zone in this area. There is no approving action for a GDP it is just a concept. The Planning Commission role is to review it and let the developer know if this meets the Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance. Phasing of the development is not indicated on the GDP. There is a section of land that is

not accounted for. The road extensions should be shown as future roadways. The outlot should be dedicated to the city as a single piece to protect that natural resource. Preliminary Plat is missing a lot of detail.

Commissioner Burton asked to hear from the City Attorney regarding the Attorney opinion submitted by Mr. Blaine. Her opinion is that case is not applicable here.

City Engineer Theobald – regarding the outlot, this is a request to plat all of the space around Masten Creek as an outlot and have it be dedicated to the City. Maintenance of this property is difficult if it is private. There is a sewer trunk line that runs along the creek. We would want the other outlot for the bridge. Commissioner Burton asked about the proposed parkway and if we have identified the street alignment. Engineer Theobald stated that has been a factor and in the platting process this will be considered.

Les Conway, WSE Massey represented the developer, the remnant does need to be addressed on the Preliminary Plat. Mr. Conway stated there is no phase 2 right now. As to the recommendation that the creek be an outlot, the land has value and could be a parkland dedication or a negotiated item. They tried to address all other technical issues. The end of 13<sup>th</sup> Ave would be a crown and everything would drain to the pond. They feel as far as the parkway it should not be a condition of approval. Engineer Theobald stated that he doesn't see the difference between them dedicating the stormwater pond to the City as an outlot and from dedicating the creek property to the City as an outlot. Mr. Conway stated because the City's Ordinance regarding stormwater management dictates the first.

The Commissioners were in agreement to work on negotiating for the outlot that would involve the creek.

**Motion to Direct Staff to Inform the Applicant in writing that the GDP with Suggested Revisions Will Meet the Objectives of the Subdivision and Zoning Ordinances made by Commissioner Tinsley, second by Commissioner Thompson with All Voting Aye.**

**Motion to Recommend Approval with Conditions and Findings of Fact as Presented by Staff Along with the Outlot B Be From the Sewer Line Easement to the South Side of the Creek made by Commissioner Tinsley, second by Commissioner Zelinske with All Voting Aye.**

**COMMISSIONER TERMS EXPIRING** – Both Commissioners Thompson and Torkelson are both interested in renewing their terms.

Chairman Ferris asked that voting on a Chairman on the next agenda.

**OTHER -**

ADJOURN 9:40PM

Respectfully Submitted,

---

Linda Rappe, City Clerk