

PLANNING & ZONING MEETING MINUTES

Wednesday, October 21st, 2020

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OPENING CEREMONIES AND PRESENTATIONS

I. CALL TO ORDER

Chairman, Jason Fridrich, called the meeting to order at approximately, 7:10.

ROLL CALL

Present Were:

Chairman: Jason Fridrich **Vice Chairman:** Scott Bullinger

Commissioners: Shirley Dukart, Troy Bosch, Scott Karsky and Dean Franchuk

Absent: Brad Kordonowy

Ex-Officio Members: Mayor Scott Decker, Assistant City Engineer Loretta Marshik, Planning Director Walter Hadley, and City/County Planner Steve Josephson.

City Attorney, Christina Wenko

II. ORDER OF BUSINESS

Chairman Fridrich asks if there are any additions or corrections to the Order of Business, Mr. Hadley stated there is one addition.

One addition: Update on the AT&T project. Will be under Work Session #2.

Motion to approve the order of business as presented.

MOTION BY: Troy Bosch **SECONDED BY:** Scott Bullinger

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

MINUTES – Meeting minutes dated September 16th, 2020

Motion to approve meeting minutes dated September 16th, 2020.

MOTION BY: Scott Bullinger **SECONDED BY:** Shirley Dukart

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

1. PRELIMINARY/FINAL PLAT - To consider a Preliminary/Final Plat for the Wychanko Subdivision. A 154.29 Acre Parcel of Land in The Northeast Quarter (Ne1/4), Section Twenty-Two (22) Township 139 North (T139n), Range 96 West (R96w), Of The 5th Principal Meridian, City of Dickinson Etz, Stark County, North Dakota To Create Two Lots Of 5 And 149.29 Acres in Size.

Mr. Hadley explains the plat request. This is a simple two lot subdivision in the ETZ for the owner to build a home in the near future. There was one call into his office, but no comments on this

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request. He explains there will need to be some dedication of rights of way on the north and east sides, and staff recommends approval. Mr. Hadley did ask Mr. Wychanko if there was any concerns with the dedication required on the plat to meet the Comprehensive Plan/Engineering requirements. Mr. Wychanko indicated he didn't have a problem with it.

Chairman Fridrich opens the public hearing. There being no public comment, the public hearing is closed.

I move the City of Dickinson Planning and Zoning Commission recommend Approval of the proposed Wychanko Subdivision Preliminary/Final Plat, as depicted in Attachment A, and meeting all the requirements of the Dickinson Municipal Code and also being in the interest of the public health, safety and welfare.

(AND) the following additional requirements:

- 1. The Applicant shall gain final Engineering Department approval on the proposed plat prior to it being placed on a City Commission agenda for final Plat consideration.***
- 2. The Applicant shall submit the plat to the County Recorder for input and alteration of the proposed plat prior to being placed on a City Commission agenda for consideration for final approval and obtaining any approval signatures.***
- 3. The owners of lots shall post their correct 911 address on the site as directed by Stark County Emergency Management.***
- 4. The applicant shall apply and receive an approach permit from Stark County.***

MOTION BY: Troy Bosch

SECONDED BY: Dean Franchuk

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

2. **ZONING TEXT AMENDMENT** – To consider proposed amendments to Article 39.05 of the Dickinson Municipal Code regarding the West Villard Overlay district.

Mr. Josephson presents the zoning text amendment. This overlay district was created years ago to allow residential structures on commercially zoned property to become legally conforming. There are a number of viable residential structures in the overlay district on commercially zoned property that could not have been rebuilt or replaced if destroyed. Approval of the zoning text amendment would do the following:

- Restore the original language stating any existing residential structure damaged to the extent that the cost of restoration exceeds 50 percent of its replacement cost may be rebuilt as long as the structure does not exceed the existing building's original footprint.
- Allow for existing single-residential structures in commercial zoning districts to be used for commercial uses that promote walkability and that complement the existing West Villard commercial district; and
- Establish that development standards for residential uses in the overlay district would be those of the High Density Residential (R3) zoning district. The proposed changes would also establish development standards if the existing residential use was converted into a commercial use.

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The overlay district's boundaries are shown on the map attached to this agenda packet. Mr. Fridrich believes this will be a good change.

Chairman Fridrich opens the public hearing. There being no public comment, the public hearing is closed.

I move to approve the proposed amendments to Article 39.05 of the Dickinson Municipal Code regarding the West Villard Overlay district.

MOTION BY: Shirley Dukart

SECONDED BY: Scott Karsky

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

3. **ZONING TEXT AMENDMENT** – To consider proposed amendments to Article 39.02 Definitions, Article 39.03 User Types, Article 39.04 Zoning District Regulations, and Article 39.06 Supplemental Use Regulations of the Dickinson Municipal Code regarding Accessory Dwelling Units.

Mr. Josephson explains the proposed text amendment would permit property owners to develop accessory dwelling units (ADU) residential lots. A property owner could build one new detached structure, convert a garage, or build a unit within an existing residential structure. A property one could only build one ADU on the property. The property owner must live on either the main dwelling units or the ADU. The ADU cannot be sold off as a separate property. The ADU cannot be used as a short term rental unit.

Among the issues raised by the Planning and Zoning Commission are as follows:

- This proposed use is not appropriate in the R1 zoning district; and
- Allowing a second dwelling unit on an R1 zoned lot would cause conflicts with adjacent property owners.

Chairman Fridrich opens the public hearing.

Mr. Leonard Schwindt and Mr. Blaine Dukart are commenting as private citizens in opposing permitting ADUs in the R1 zoning district.

Public Hearing is closed.

*I move to **deny** proposed amendments to Article 39.02 Definitions, Article 39.03 User Types, Article 39.04 Zoning District Regulations, and Article 39.06 Supplemental Use Regulations of the Dickinson Municipal Code regarding Accessory Dwelling Units.*

MOTION: Scott Karsky

SECOND: Shirley Dukart

MOTION: Mr. Karsky motions to rescind his initial motion to deny. **SECOND:** Shirley Dukart

New motion:

*I move to **approve** proposed amendments **excluding R1 zoning** to Article 39.02 Definitions, Article 39.03 User Types, Article 39.04 Zoning District Regulations, and Article 39.06 Supplemental Use Regulations of the Dickinson Municipal Code regarding Accessory Dwelling Units.*

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MOTION BY: Scott Karsky

SECONDED BY: Shirley Dukart

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

4. **ZONING TEXT AMENDMENT** -To consider proposed amendments to Article 39.05 Special and Overlay Districts of the Dickinson Municipal Code regarding an Underground Mining Overlay District.

Mr. Josephson explains the proposed amendment to create an Underground Mining Overlay District (UMD). In areas within the City's zoning jurisdiction it would restrict development over existing underground mines to nonresidential agricultural structures. The primary concern is to prevent structural collapse due to subsidence occurring in an underground mine. The UMOD would establish setbacks for construction of buildings from areas that have underground mines.

Chairman Fridrich opens the public hearing. There being no public comment the public hearing is closed.

*I move to **approve** proposed amendments to Article 39.05 Special and Overlay Districts of the Dickinson Municipal Code regarding an Underground Mining Overlay District.*

MOTION BY: Scott Bullinger

SECONDED BY: Dean Franchuk

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

5. **ZONING TEXT AMENDMENT** – To consider proposed amendments to Article 39.04 Zoning District Regulations of the Dickinson Municipal Code regarding development standards for the Public (P) zoning district.

Mr. Josephson explains the proposed amendment. He explains the Public zoning district currently has no development standards. This code amendment would establish setbacks and height restrictions as well as off street parking location requirements for the P zoning district if the P zoned lot is adjacent to residentially zoned property. The intent is that new in the P district would be sensitive to adjacent residential development.

Chairman Fridrich opens the public hearing. There being no public comment, the public hearing is closed.

*I move to **approve** proposed amendments to Article 39.04 Zoning District Regulations of the Dickinson Municipal Code regarding development standards for the Public (P) zoning district.*

MOTION BY: Scott Karsky

SECONDED BY: Shirley Dukart

DISPOSITION: Vote... Aye 6, Nay 0, Absent 1

Motion carried unanimously.

WORK SESSION

1. **POLITICAL SIGNAGE** - Section 39.10.30 General Sign and Street Graphics Regulation

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Mr. Josephson states there was discussion about campaign signs at city commission and the time limits. He explains that he did a survey of cities in North Dakota and in adjacent states. Mr. Hadley discusses leaving signs up for candidates once they win the primary. He feels we need to have something in place regarding time frames. Mr. Josephson states that currently if a person wins a primary they would have to take it down they campaign signs and could not put them up again until 30 days before the general election, and taken down seven days after. Mr. Fridrich states this will only affect state, county and federal elections. Ms. Wenko states that after reviewing the Century Code it is possible the city cannot regulate these signs. Fargo and West Fargo do not regulate this. The city would need to include language in the code stating that leaving up the signs creates a burden. She would caution the board into taking that into consideration. Mr. Schwindt states that city time put into this is if signs are located in city ROW and signs create sight obstructions. Ms. Wenko suggests temporary and political signs be separated out. Mr. Fridrich suggests to instruct staff to follow state code, and to bring back for another meeting.

2. AT&T UPDATE (added item)

Mr. Hadley states they're moving forward with the property owner for a plan on what it's going to look like and how it's going to work. They are coming in with two requests; they are targeting an application for the December meeting.

Ms. Wenko speaks on the complaint to the municipal court. She explains that Judge Keogh had some questions, and they are working out some minor details before filing. The applicant is aware that this will be happening; the judge just needs to sign the paperwork. There are some encroachment issues that Mr. Schwindt and Ms. Marshik are working through. Mr. Schwindt states they have sent out the code to Apex engineering for review. He recommends they would have to ask for a variance to have the antennas on the front of the building. Engineering is working on an encroachment permit to allow this. They also exceed the maximum amount of antenna on the front of the building. Discussion ensues regarding setbacks. Ms. Wenko states they are doing a better job of making efforts to get this job up and running.

ITEMS NOT ON THE AGENDA:

Ms. Dukart urges the public to get out and vote.

ADJOURNMENT

MOTION BY: Shirley Dukart

SECONDED BY: Troy Bosch

Adjournment of the meeting at approximately 8:36 AM

DISPOSITION: Motion carried unanimously.

PREPARED BY:

Sylvia Miller

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APPROVED BY:

Walter Hadley