

## Minutes of the Ward County Planning Commission

February 18, 2016

The meeting was called to order at 7:00 PM by Chairman Tuttle. Present were Commissioners Fjeldahl, Fegley, Kopp, Livingston, Miller, Schuler, and Weppler. Also present were County Planning and Zoning Administrator Amber Turnquest, Highway Engineer Dana Larsen, and Misty Hester, Secretary. Others present: Ward County Building Inspector, Leo Schmidt.

Moved by Commissioner Weppler, seconded by Commissioner Fegley, to approve the Planning Commission Meeting Minutes from the January 21, 2016 meeting. Roll call: all voted yes; motion carried.

Application for **plat approval** by Rebecca Jungemann for the following described property:

Outlot 2 of NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , Section 11-155-86, Mandan Township

The application is for 9.04 acre outlot. The Mandan Township Board has recommended approval with the following amendment “to approve the plat with a 33 feet right of way in accordance with the Mandan Township Zoning Ordinance. It is recommended by the Mandan Township Board that the additional 7 feet be purchased by the county if required”. The Ward County Water Resource Board returned the plat without objection, but with the recommendation that a storm water management plan may be required if the property is (a) developed or subdivided or (b) if an application is made for a building permit; and that any development as a result of this plat should not obstruct watercourses or divert surface water flows.

A lengthy discussion followed. Mandan Township retains their zoning so discussions arose because they approved the application with the amendment “to approve the plat with a 33 feet right of way in accordance with the Mandan Township Zoning Ordinance. It is recommended by the Mandan Township Board that the additional 7 feet be purchased by the county if required”. This led to a discussion with regard to the 33 feet versus 40 feet of right of way and who should be responsible for the cost of that land when required by the county for road development. The question of “does the county have authority to override townships with zoning regulations” was debated. Commissioner Weppler addressed the concern that the answers needed to come from the States Attorney and noted that no one from that office was present at the meeting. Discussions continued to follow regarding set-backs, rules, and how they would be enforced.

Amber then presented information that she had researched through the past week regarding past zoning ordinances that had been approved regarding the right of ways:

- 1961—40 feet from centerline
- 1994—40 feet from centerline
- 1996—60 feet from centerline (Commissioner Link, Charleston, Lee, Reinarts, and Conrad) with 75 feet from centerline for farm to market roads. 66 feet frontage roads and rural subdivision roads had been established.
- April 6, 2010—(which matches our current ordinance)—County roads 150 feet, Township & section line roads at 80 feet, frontage roads and rural subdivision roads were voted at 80 feet. This had been a unanimous vote by Commissioners Gruenberg, Feldahl, Erickson, and Nybakken.

Conversation continued until Chairman Tuttle mentioned without someone from the States Attorney being there to answer specific questions, they needed to move onto the agenda. It would still need to pass the County Commission or come back to the Planning Commission.

Continuing on the presented agenda, it was moved by Commissioner Fjeldahl, Seconded by Commissioner Fegley, to approve the plat with the Mandan Township recommendation and based on the stipulations by the Ward County Water Resource Board. All voted yes; motion carried.

It was then motioned by Commissioner Weppler, seconded by Commissioner Kopp to move up the public hearing to the on the agenda. All voted yes; motion carried.

Application for **variance approval** by R. Scott Patton for the following described property:

Outlot 1 of SW ¼ SW ¼, Section 32-156-85, Foxholm Township

This application is for a variance on the above mentioned property. Outlot 1 is 70 feet wide, 300 feet in length and has an area of 0.5 acres. From the center of County Road 11 to the east lot line is a distance of approximately 105 feet. An existing home on the property is currently 50 feet from the County Road. The setback distance requirement for residential buildings that abut County Roads is 125 feet from centerline (Article 20, A, 3). The Ward County Zoning Ordinance allows for variances due to hardship where it can be shown that "strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography, or other such conditions would result in retarding the achievement of the objective of these regulations" (Article 22, Section 1, B, 4, a and Article 24, Section 8).

The applicant requests that the setbacks for this lot be changed to 50 feet from the County Road, 5 feet from the east property line, and 10 feet from the north and south property lines.

A brief discussion took place before opening the public hearing.

Moved by Commissioner Weppler, seconded by Commissioner Fjeldahl, the Public Hearing was open at 7:46 P.M. Roll call: all voted yes, Motion carried.

Scott Patton; whose address is PO Box 87 in Ross, ND, began the discussion by presenting his request for variance approval and to answer any questions. He bought the property two years ago. The new house would not be any closer, but the back of the house would be brought back 5 feet from the back of the property line. The set-backs on the north and south side would be 10% of the lot length. If a brand-new house is built, it needs to be brought up to current code. If this passes, it would allow him to rebuild on the exact same spot and a little further back, but not closer to the road.

Commissioner Schuler asked if any concerns were expressed by any of the neighbors. Amber said no and that notifications had been sent out to the neighbors and no concerns were expressed.

Moved by Commissioner Livingston, seconded by Commissioner Fegley, the public hearing was closed at 7:56 PM. Roll Call: all voted yes; motion carried.

Moved by Commissioner Weppler, Seconded by Commissioner Schuler, to approve the variance based on the building not being placed any closer than the current building, which is 50 feet from the County Road. The finding of fact would be the challenges of the lot size. Roll Call: All Voted yes; Motion carried.

Application for **plat approval** by Robert Knutson for the following described property:

Sublot E of Outlot 4 Being a Portion of Outlot 4, Section 13-154-82, Sundre Township

This application is for a 2.01 acre outlot. The Sundre Township Board has recommended approval. The Ward County Water Resource Board returned the plat without objection, but with the recommendation that a storm water management plan may be required if the property is (a) developed or subdivided or (b) if an application is made for a building permit; and that any development as a result of this plat should not obstruct watercourses or divert surface water flows.

Dana started the conversation by letting the Commissioners know this area is coming down the hill. The residents had moved in a trailer and built an approach. He wasn't sure if a building inspection had ever been done on the building. Leo wasn't aware if it'd ever been on the list in the last year. Dana mentioned it was a part of a larger chunk of land and it's now being subdivided—possibly to get it in compliance. The visibility coming from the top of the hill is very poor. Had it been checked ahead of time, it probably would've been recommended NOT to build right there; the appropriate site distance is an issue. It was built right after the flood (2011).

There is concern that the unplatted portion between Sublot E of Outlot 4 and the lots east of it would be non-buildable. It should've been tied down to the other properties, so in the future the board should not approve to subdivide this property. It changed from the original submission, but as far as it stands, it meets the requirements.

Light discussion followed. Commissioner Schuler asked for clarification if the approach had been approved by the county. It was then stated by Dana that "no, no they've never applied for an approach. There are a few approaches that went in after the flood—shortly after the flood." Commissioner Schuler brought up the concerns of the legal issues if an accident were to happen: Could the county be to blame?

Moved by Commissioner Fjeldahl, seconded by Commissioner Fegley to approve based on the stipulations by the Ward County Water Resource Board and township approval. All voted yes; Motion carried.

Application for a **plat approval** by WBI Energy Transmission Inc for the following described property:

Outlot 5 of NE ¼ NE ¼, Section 4-155-86, Mandan Township

This application is for a 0.38 acre outlot to be used for a metering station on an existing natural gas pipeline. The Mandan Township Board has recommended approval with the following amendment "to approve the plat with a 40 ft right of way in accordance with the Mandan Township Zoning Ordinance. It is recommended by the Mandan Township Board that the additional 35 fee be purchased by the county if required". The Ward County Water Resource Board returned the plat without objection, but with the recommendation that a storm water management plan may be required if the property is (a) developed or subdivided or (b) if an application is made for a building permit; and that any development as a result of this plat should not obstruct watercourses or divert surface water flows.

Discussion followed regarding if there was a 75 foot right-away and the requirements for a chain link fence in that area—along County Rd. 9A.

It was motioned by Commissioner Wepler, seconded by Commissioner Schuler to approve this plat with the 75 feet right-away as required with the zoning ordinance and based on the stipulations by the Ward County Water Resource Board & township approval. Commissioners Wepler, Schuler, Kopp, Fegley, and Chairman Tuttle voted yes. Commissioners Livingston and Fjeldahl voted no. Motion carried.

Application for a **plat approval** by Jan and Sally Severance for the following described property:

Outlot 1 SE ¼ SE ¼, Section 33-152-86, Anna Township

This application is for a 4.52 acre outlot. The Anna Township Board has recommended approval and the Ward County Water Resource Board have not yet responded.

A brief discussion followed. Amber stated the applicant had asked for the access to be moved, but the state said no. They would be given permission to improve the access, a brief discussion followed.

Moved by Commissioner Fjeldahl, Seconded by Commissioner Weppler to approve based on the stipulations by the Ward County Water Resource Board & township approval. All voted yes; Motion carried.

**Item #6 Discussion with regard to the priorities of the Planning Commission on zoning ordinance changes:**

Before Dana gave a quick summary of his ideas regarding zoning. Ex: making limits on the amount of rural ag lots allowed—leaving the rest residential. Maybe limit 1/40 acres. Basically, your agricultural residential would be limited to something greater than 5 acres and 1/40. If you start doing more than 1/40, you would have to change that zoning to residential. With the right-away, you would look at the ag subdivisions. A dedication could be adjusted. Pure residential or commercial would be required to dedicate right-away. Subdivisions with multiple homes would require right-aways. Joint-accesses could also be looked at.

Commissioner Schuler brought up spot-zoning and how it can confuse people. Amber then brought up the idea of land-map use. The conversation moved onto utility zoning and defining the specifics but don't require them to show up to planning and zoning; it would go to Commission only.

Additional ideas were brought forth considering the different types of zoning: Commercial vs. Residential. Industrial vs. other. Buffer zones could be required. Commissioner Fegley mentioned the need to restrict the number of approaches to decrease the haphazard subdividing.

Amber took over the conversation when Dana left. She asked the planning & zoning commissioners what items should be addressed first and what direction they would like to start in. Some ideas include:

- Do maps need to be created?
- Do new zoning districts need to be created?
- What are the allowed uses?
- What are the requirements?

Specific-year restrictions for commercial land use was a following topic along with special use permits.

It was agreed that Amber would need to create maps and meet with each township in order complete a current land use map.

Commissioner Fjeldahl requested to make a motion to start to make a plan as Amber has presented but start off with the questions of resolving the township and county authority issues. Commissioner Weppler suggested Roza, NDACO (ND Association of Counties), and Commissioner Fjeldahl mentioned the Association of Townships.

The Planning Commission is asking "Does the county have the right to platting and what happens when there's a conflict between the county and the township when it comes to zoning". Clarification from the States Attorney regarding zoning regulations and who has the right to approve plats is requested.

There being no further business, the meeting was adjourned by Commissioner Tuttle at 9:07 PM.