

Supervisors **Minutes of the Ward County Planning Commission**

March 15, 2018

The meeting was called to order at 7:00 p.m. by Vice Chairman Josh Wolsky. Present were Commissioners Fegley, Fjeldahl, Koop, Livingston, Sipma, and Wepler. Also present were Planning & Zoning Administrator Nancy Simpson, County Highway Department Engineer Dana Larsen, County Highway Assistant Engineer Travis Schmit, State's Attorney Roza Larson, Building Inspector Leo Schmidt and Sarah Walker Secretary.

Moved by Comm. Wepler, seconded by Comm. Sipma, to approve the Planning Commission Meeting Minutes from February 15, 2018. Roll call: all voted yes; motion carried.

Public Hearing:

Application for a **variance** by Darrell Wilkerson for the following described property:

Outlot 6 being a portion of SE ¼ NE ¼, 20-153-81, Sawyer

The application is for a variance to Ward County Zoning Resolution No. 6 Article 24. F.1.c. pertaining to right-of-way dedication for an outlot. The reason for the variance is a hardship due to unique pre-existing conditions. The driveway of outlot 3 obstructs access to the proposed outlot 6. The way outlot 3 was drawn and approved did not dedicate right-of-way.

Moved by Comm. Wepler, seconded by Comm. Fjeldahl to open the public hearing at 7:01 p.m. Roll call: all voted yes; motion carried.

Moved by Commissioner Sipma to close the public hearing at 7:03 p.m. Voice vote; motion carried.

Comm. Sipma moved to approve with recommendations. State's Attorney, Roza Larson indicated that because the application is for a variance, the motion must include the specific reasons why. Mr. Sipma stated his reason was due to the unique pre-existing conditions imposed on the property. Motion seconded by Comm. Koop.

There was considerable discussion about why the easement is necessary. The last plat was not drawn correctly and no right-of-way was dedicated. This is no fault of the current owner. The owners of Outlots 3 and 6 have negotiated an Access Easement Agreement. Both owners have been made aware that in the event there are issues regarding access, it becomes a civil matter and will be handled accordingly. Concern that it could also present problems in the future if ownership is transferred.

Roll call; Comms. Fegley and Wepler voted no; motion carried.

Public Hearing:

Application for a **special use permit** by Kelly Perlichek for Strata for the following described property:

660' x 660' portion in SE ¼ of SW ¼ SW ¼, 3 157-182, Tatman

The application is to use property for recycle operation - asphalt, concrete & aggregate materials that are removed from the Minot Air Force Base. The materials processed on the property will be non-contaminated, non-hazardous. The Ward County Water Resource Board returned the plat without objection, and with the usual recommendation.

Moved by Comm. Fjeldahl, seconded by Comm. Wepler to open the public hearing at 7:23 p.m. Voice vote; motion carried.

Planning & Zoning Administrator Nancy Simpson handed out two letters of protest from Tatman Township. Jim Peters, President of Tatman Township appeared with objections to the application from the Township for the following reasons:

1. Concern for adjoining landowners
2. Environmental impact – dust and water runoff
3. No services at the site (electricity or water)
4. Vandalism that has occurred at similar operations nearby
5. The road to the property in question is a minimum maintenance road used by local farmers rather than 83 or the Lake Darling highway due to heavy traffic
6. Worried about the volume of trucks and the safety on the road to be used to access the property
7. Bad past experience with other contractors especially in regard to road maintenance

Strata had to move their current operation as a result of conditions and restrictions from Minot Air Force Base. The township understands the dilemma that Strata has been presented with. There is frustration on the part of both parties that they are left to deal with the problems created due to the base requiring Strata to move.

Kelly Perlichek from Strata appeared to make his case for the move. Strata has a long presence in the state and do their best to be good neighbors. Would be willing to enter into an agreement with the Township or County in regard to road maintenance. Have tried to find more suitable properties but presently, this property is the only option. Strata feels they can work with the Township to address their concerns. During their peak season there will be a high volume of traffic on the road for about a two week period (truck on the road every six minutes). Will put up signs or construct road turnouts or whatever is needed to keep the road safe. Mr. Perlichek addressed specific concerns posed by the commissioners.

Dennis Erber, a citizen from Tatman Township, appeared to express his concerns. Throughout the course of projects and construction on the base, the Township has been in numerous conversations with the contractors involved and none have delivered on the terms they agreed to especially in regard to road maintenance. This has put a burden on the Township and he doesn't understand why the Township has become a dumping ground for the base. Also worried about how dust will affect farm yield.

Moved by Comm. Livingston, seconded by Comm. Wepler, to close the public hearing at 7:59 p.m. Voice vote; motion carried.

Moved by Comm. Sipma, seconded by Comm. Fegley, to deny the special use permit for Strata due to the size of the road, the volume of traffic and the resulting safety concerns for the Township citizens. Additional discussion regarding the possibility of turning the matter over to the Township so that they can negotiate a contract directly with Strata and then bring it back to the commission. Roll call: all voted yes; motion carried.

Regular Agenda:

Application for a **plat** by Darrell Wilkerson for the following described property:

Outlot 6 being a portion of SE ¼ NE ¼, 20-153-81, Sawyer

The plat application is for creating an outlot around an existing single family residence. The Sawyer Township has responded with a recommendation for approval and with no further comments. The Ward County Water Resource Board returned the plat without objection, and with the usual recommendation.

Moved by Comm. Fjeldahl, seconded by Comm. Livingston, to approve the plat application for Darrell Wilkerson. Roll call; Comm. Fegley voted no; motion carried.

Application for a **plat** by Scott Myers for the following described property:

Outlot 1, NW ¼ SE ¼, 5-158-87, Carbondale

The plat application is for an outlot to be created to construct a single family residence. The Carbondale Township has not yet responded. The Ward County Water Resource Board returned the plat without objection, and with the usual recommendation. Nancy Simpson said the Township has responded and have recommended approval of the application.

After discussion, moved by Comm. Weppler, seconded by Comm. Sipma, to approve the plat application for Scott Myers. Roll call; all voted yes; motion carried.

Application for a **plat** by Tyler Anderson for the following described property:

Outlot 1 S ½, 27-159-88, Baden

The plat application is for creating an outlot around an existing farmstead for the applicant to purchase from the current owner. The Baden Township has responded with a recommendation for approval and with no further comments. The Ward County Water Resource Board returned the plat without objection, and with the usual recommendation.

Comm. Fjeldahl brought up the issue of right-of-way based on the acreage size versus the irregular shape of the proposed land. According to Planning & Zoning ordinance, division of land for agricultural purposes of 40-acres or more is exempt from resolutions, one of which is in regard to right-of-way. The plat indicates a long stretch of right-of-way. Comm. Fjeldahl said his understanding based on the ordinance, is that there should be no right-of-way taken as per Zoning Resolution 6 Article 3 Definitions 73. Subdivision. The only reason the property was surveyed and platted was due to its irregular shape. There was considerable discussion as the zoning language is somewhat confusing between Zoning Ordinances 2 and 6.

Based on the discussion, it was moved by Comm. Fjeldahl, seconded by Comm. Fegley, to amend the plat application to not require right-of-way because the land is larger than 40-acres and is being used for agriculture. Roll call; all voted yes; motion carried.

Moved by Comm. Sipma, seconded by Comm. Koop, to approve the plat application for Tyler Anderson as amended. Roll call; all voted yes; motion carried.

Other Business:

The commissioners discussed the amended bylaws. There was considerable discussion regarding how notice is to be handled in regard to meetings and public hearings. Nancy Simpson will make changes to the language to be addressed at the second reading.

Moved by Comm. Weppler, seconded by Comm. Sipma, to approve the amended draft of the Planning & Zoning Commission bylaws. Roll call; all voted yes; motion carried.

There being no further business, the meeting was adjourned by Chairman Kossan at 8:45 p.m.

Chairperson, Ward County Planning Commission

Attest:

Deputy Ward County Auditor, Secretary