

PLANNING & ZONING COMMISSION MINUTES
July 14, 2015 - 6:00 p.m.

CALL TO ORDER

The regular meeting of the Planning and Zoning Commission was called to order at 6:00 p.m.

MEMBERS PRESENT: Chair Bob Kinzel, Commissioners Howie Oswald, Gwen Carleton, Steve Lund and Council Liaison Steve Barrows

MEMBERS ABSENT: Bob Ryan

STAFF PRESENT: Community Development (CD) Director Josh Doty and Planner Matthew Gindele

OTHERS PRESENT: Joan Novak, Peg & Marc Serani, Jerry Negen, Jim Kramer, Jerry Peterson, Tim Nelson, Jason & Tiffany Diaz, Heather Klein and John Pecarich

APPROVAL OF MINUTES

MOTION by Commissioner Lund, seconded by Commissioner Oswald to approve the minutes from the June 9, 2015 meeting as presented. Motion carried unanimously.

PUBLIC HEARINGS

*All items under old and new business items will go to City Council on
July 21, 2015 if not tabled, continued or otherwise noted.*

Chair Kinzel stated that this Commission is advisory and the final approval/denial is given at the City Council Meeting on July 21, 2015 at 7:00 pm.

OLD BUSINESS

None

NEW BUSINESS

1. PUBLIC HEARING. Preliminary and final plat to be named "Vaughans Lots" to allow one lot of record for an existing single family home and one outlot located at 5749 Laverne Circle. (PART OF GOVERNMENT LOT 6 AND PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER SECTION 12, TOWNSHIP 133 NORTH, RANGE 29 WEST, CROW WING COUNTY, MINNESOTA) (City file 15-15)

Requested by: Roger and Paulette Vaughan 3656 East Marlene Dr. Gilbert, AZ 85296

Chair Kinzel asked CD Director Doty to review the preliminary and final plat request with the Commission. This request is to separate the home from the property to the south, and to create an outlot to be developed at a later date. He indicated that park fees will not be due at this time as the new lot will be

an outlot. CD Director Doty provided a review of the staff report and indicated that staff is recommending approval of the plat, subject to the findings and conditions.

Chair Kinzel opened the public hearing

Mr. Jim Kramer, KLD representing the owner stated that there is potential buyer for the property and then build two four-plexes on the property. Mr. Kramer stated that the application is pretty straight forward and he had no concerns.

Chair Kinzel closed the public hearing.

Motion by Commissioner Lund, second by Commissioner Carleton to recommend City Council approve the Preliminary and final plat to be named “Vaughans Lots” to allow one lot of record for an existing single family home and one outlot located at 5749 Laverne Circle as presented by staff. Motion carried unanimously.

2. PUBLIC HEARING. Interim Use Permit to allow a private stable for property located at 4186 Mapleton Road. (N. 682.93 FT OF SW1/4 OF SE1/4 OF SEC. 15, EXCEPT THE W 660 FT THEREOF. Full legal available at City Hall) (City file 15-16)

Requested by: Jerome and Susan Peterson 4186 Mapleton Rd. Baxter, MN 56425

Chair Kinzel asked CD Director Doty to review the interim use permit (IUP) request with the Commission. He indicated that the owner used to have horses on the property and have received notices recently for their neighbors to have horses. CD Director Doty explained the existing property improvements including a riding area, stable, pasture and fencing. They do not comply currently with the required 300 setback as the zoning regulations now require, this request acknowledges the non-conformity. CD Director Doty explained the southerly lot does not have a home on it, therefore the pasture would be an accessory use without a primary use. Because of the use there is a need for a deed restriction for the southerly lot, so if the southerly lot is ever sold the IUP would become invalid. CD Director Doty provided a review of the staff report and indicated that staff is recommending approval of the interim use permit, subject to the findings and conditions.

Commissioner Carleton asked who owns the property to the west. CD Director Doty was unsure of ownership.

Chair Kinzel opened the public hearing.

Mr. Jerome Peterson, property owner, purchased the southerly lot in 1985 from Mr. John Sullivan with the intent of using it for a pasture. He explained that they moved away for 8 years and are now moving back to Baxter. Mr. Peterson explained that his wife and he would like to bring their two horses back and that no additional horses would be purchased. He had no issue with the conditions placed on the 5 acre lot and appreciated the time staff had taken to explain the process to him.

Chair Kinzel closed the public hearing.

Motion by Commissioner Carleton, second by Commissioner Oswald to recommend City Council approve the interim use permit to allow a private stable for property located at 4186 Mapleton Road as presented by staff. Motion carried unanimously.

3. PUBLIC HEARING. Variance to allow an approximately 1,736-square foot detached accessory structure, which exceeds the 1,152-square foot maximum allowed by the zoning ordinance for property located at 4612 Michelle Circle. (Lot 7 Block 5 Nichols Suburban Acres) (City file 15-17)

Requested by: Marc and Peg Serani 4612 Michelle Cr. Baxter, MN 56425

Chair Kinzel asked CD Director Doty to review the variance request with the Commission. CD Director Doty explained that currently the applicant has a 672 square foot garage, they are asking to increase the garage by 1,064 square feet for a total of 1,736 square feet. The maximum allowed accessory structure is 1,800 square feet with one accessory structure being 1,152 square feet. The garage is in the rear yard and the addition would not be seen from the road. CD Director Doty provided a review of the staff report and indicated that staff is recommending approval of the variance, subject to the findings and conditions.

Chair Kinzel opened the public hearing.

Marc and Peg Serani, property owners stated that the addition would not be seen from the road. The lean-to would be removed and all exterior items would be moved into the new garage. Mr. Serani stated that they have several projects that they like to work on in the winter and it would be nice to have everything under one roof. Mr. Serani had no concerns with the conditions.

Chair Kinzel had a concern that down the road, if they were to sell, the next person may think of opening a business in the garage. CD Director Doty stated that the city does have a home occupation ordinance that would regulate the garage use for a business.

Chair Kinzel closed the public hearing.

Motion by Commissioner Lund, second by Commissioner Carleton to recommend City Council approve the variance to allow an approximately 1,736-square foot detached accessory structure, which exceeds the 1,152-square foot maximum allowed by the zoning ordinance for property located at 4612 Michelle Circle as presented by staff. Motion carried unanimously.

4. PUBLIC HEARING. Preliminary and final plat to be named "Second Addition to Johnson Centre" to adjust the properties lines for three existing lots of record and conditional use permits for joint access/parking for property located at 7651 Universal Road and 14221 Golf Course Drive and variance to allow a zero foot front setback for existing parking and signage for property located at 14221 Golf Course Drive. (Lot 7, Block 1, Citizen's Addition and part of the SW ¼ all in Section 5, Township 133, Range 28, Crow Wing County, Minnesota.) (City file 15-18)

Requested by: Arnold Johnson Properties, LLC 14275 Golf Course Dr. Ste. 120 Baxter, MN 56425

Staff recommends tabling this item until the next meeting.

CD Director Doty stated that staff is requesting that the Commission open the hearing and table this item to the next meeting being there was an additional variance required.

Motion by Commissioner Lund, second by Commissioner Carleton to table the Preliminary and final plat to be named “Second Addition to Johnson Centre” to adjust the properties lines for three existing lots of record and conditional use permits for joint access/parking for property located at 7651 Universal Road and 14221 Golf Course Drive and variance to allow a zero foot front setback for existing parking and signage for property located at 14221 Golf Course Drive as recommended by staff. Motion carried unanimously.

5. PUBLIC HEARING. Preliminary and Final plat to be named “Fourth Addition To Baxter Industrial Park Phase 3”, a conditional use permit for joint access to allow the construction of a manufacturing building for property located at the Northeast corner of Douglas Fir Drive and Hasting Road. (Lot 2 and 3, Block 1 and Outlot C of Baxter Industrial Park Phase 3). (City file 15-19)

Requested by: City of Baxter 13190 Memorywood Dr. Baxter, MN 56425

Chair Kinzel asked CD Director Doty to review the preliminary/final plat and a conditional use permit request with the Commission. CD Director Doty stated that additional items are being worked on, the TIFF agreement was already reviewed by the Commission, a vacation of easements would be reviewed at the City Council, and the Architectural Review Commission reviewed the Tier maps. CD Director Doty provided a review of the staff report, maps and building location. There are park dedication fees in the amount of \$32,596.54 for the lot that is being developed. The Utilities Commission did review the plat and their conditions are provided in the staff report. The conditional use permit is for shared cross access. CD Director Doty indicated that staff is recommending approval of the plat and conditional use permit, subject to the findings and conditions.

Chair Kinzel asked if the landscaping ok. CD Director Doty stated that there were additional trees that were required to screen the loading dock and they are proposed to be three foot trees. Staff is recommending that the trees be four feet high to meet the minimum requirements of the zoning ordinance.

Chair Kinzel opened the public hearing, there was no one to speak regarding this item, Chair Kinzel closed the public hearing

Motion by Commissioner Carleton, second by Commissioner Lund to recommend City Council approve the preliminary and final plat to be named “Fourth Addition To Baxter Industrial Park Phase 3”, a conditional use permit for joint access to allow the construction of a manufacturing building for property located at the Northeast corner of Douglas Fir Drive and Hasting Road as presented by staff. Motion carried unanimously.

6. PUBLIC HEARING. Preliminary and Final plat to be named Second Addition to Regal Park to allow for the sale of C-1 Commercial lots at property located on Whispering Woods Lane (Outlot A Regal Park) (City file 15-20)

Requested by: Whispering Woods, LLC and Security State Bank of Aitkin PO Box 170, Aitkin, MN 56431

The applicant has pulled this application off of the agenda.

7. PUBLIC HEARING. Rezoning from R-1 (Low Density Residential) to PUD (Planned Unit Development) and a PUD general plan to allow a group home with up to 14 beds for Port to be located at 13401 Birch Drive. (THAT PT OF N 1/2 OF NW1/4 OF SE1/4 SEC 8 DESC AS FOL: BEG AT THE I/M AT THE SW COR OF BIRCH DR Full legal available at City Hall) (City file 15-21)

Requested by: PORT 115 N. 1st Street, Brainerd, MN 56401

Chair Kinzel asked CD Director Doty to review the rezoning and PUD request with the Commission. CD Director Doty stated that there is a current conditional use permit (CUP) in place for a 10 bed group home. CD Director Doty stated that staff was not in favor of amending the CUP as the zoning regulations do not allow for group homes with 14 beds, therefore a PUD was a better option as it can be tailored to this use for this property alone. There is no building expansion planned, however there is going to be some interior remodeling for two offices. Parking was a concern initially, however after meeting with the applicant, staff was more comfortable with the parking provided, being the residents will be bussed everywhere and would not be allowed to drive. CD Director Doty provided a review of the staff report and indicated that staff is recommending approval of the rezoning and PUD, subject to the findings and conditions.

Chair Kinzel confirmed the rezoning is only for this site and in several years if Port sold the property it could go back to a single family dwelling, CD Director Doty indicated that the 14-bed group home approval would carry forward but that they could also convert the home to single family without amending the PUD. Commissioner Lund asked if he could have 10-bed facility, would it need a conditional use permit. CD Director Doty indicated that the code is silent on this subject, therefore a new location would require a zoning text amendment. Commissioner Lund asked if there were any additional group homes in this area and how far are they away from this location. Commissioner Carleton stated there is Pine Haven not too far away.

Chair Kinzel opened the public hearing.

Miss Heather Kelm, representing Port approached the podium. Chair Kinzel asked if she had received and reviewed the conditions of the previous approvals. She indicated that she has reviewed the conditional use permits. Chair Kinzel reviewed all conditions and Miss Kelm indicated that all conditions could be met. Commissioner Carleton asked the gender, Miss Kelm indicated that the residents will all be females. Commissioner Carleton noted her concern for the girls "running", as she knows this does happen. Commissioner Carleton asked CD Director Doty if the conditions of the CUP would follow with this approval. CD Director Doty indicated that they would not, however the Commission could add any conditions to this approval if they chose to.

Mr. Jerry Negen, 13384 Birch Dr. lives across the street from this property. He indicated that there is a parking problem on the weekends and there were times that he could not get out of his driveway. The former group home had staff meeting with up to 15 cars at one time. He stated there is very little police patrolling on the street. He spoke to the Brainerd Police Chief about the Port home in Brainerd and

received a copy of the 2013-2015 records and there was extensive contact with the police department. Mr. Negen expressed concern about the type of children that would be staying there.

Mr. John Pecarich, relator for the property, stated that Lutheran Social Services occupied the property for years and when they left the home sat vacant for close to 10 years. He indicated that Port has been a good neighbor in the past and the PUD locks down the property.

Chair Kinzel asked the representative of Port to clarify the concerns. Miss Kelm stated that there are a variety of types of residents such as sex traffic victims, HDAH, detachment issues and depression. These kids are usually the product of persons in jail. There is constant structure for these children every day. They purchased two homes on St. Mathais Rd. and they met a lot of resistance from the neighbors. Once they were in the community the residents started bring gifts to the girls and the girls started helping the neighbors mow grass, rake lawns and fix small property repairs, it was positive. Commissioner Carleton asked if these were all court ordered. Miss Kelm indicated that some are court ordered, some are voluntary and some are in County custody. Commissioner Carleton asked if they are only Crow Wing County, Miss Kelm indicated that these residents can come from beyond the County. CD Director Doty asked Miss Kelm to address the parking and running issues. Miss Kelm stated that the parking is adequate, the most would be a Port vehicle and 3 staff vehicles. Miss Kelm stated that the home like setting is much better than the institutional type setting that they are currently located in and that keeps them from running as they enjoy being in a home setting. Chair Kinzel asked about visitors and parking. Miss Kelm indicated that visiting is by appointment and there are dedicated hours. If needed, they can transport the girl to a different location for a visit.

Chair Kinzel closed the public hearing.

Commissioner Carleton preferred to keep it to 10 beds and R-1. Commissioner Lund stated that the age bracket is also changing from 18 to 24 years old and Port is asking for ages 10 to 21 years old, so a change is required. Commissioner Lund stated that originally he was not in favor of this applicant, however after hearing more from the applicant his concerns have diminished but he still has concern regarding parking.

Miss Kelm stated they have to schedule visits and the visits are scheduled 24 hours in advance. She noted that is how they can control the parking issue. Chair Kinzel stated that he would like to have the opportunity for review of the parking in the future. CD Director Doty stated that there can be a parking condition in the PUD approval.

Motion by Commissioner Oswald, second by Commissioner Lund to recommend City Council approve the Rezoning from R-1 (Low Density Residential) to PUD (Planned Unit Development) and a PUD general plan to allow a group home with up to 14 beds for Port to be located at 13401 Birch Drive with the previous conditional use permit conditions of 2, 3, 5, and 8 being included and exclude 1, 4, 6, 7, 9.

Commissioner Lund noted that some of the conditions are not measureable and enforceable. He suggested taking the water and sewer condition off as it is already hooked up. He questioned how the crime is going to be enforced. Chair Kinzel also questioned enforcement. CD Director Doty stated that condition number 5 regarding crime provides at least some coverage in the PUD related to this issue so that if there were problems that it could be revisited.

Motion carried with Commissioner Carleton opposed.

- 8. PUBLIC HEARING. Conditional Use Permit to allow grading related to the construction of a single family home on a legally non-conforming riparian lot on Red Sand Lake located at 14877 Lynndale Lane. (Lot 1, Block 1, Northdale Third Addition. Full Legal available at City Hall) (City file 15-23)

Requested by: Jason Diaz 1602 SE 13th Street, Brainerd, MN 56401

Chair Kinzel asked CD Director Doty to review the conditional use permit (CUP) request with the Commission. He stated that the applicant submitted a new home building permit and was informed that a conditional use would be required to construct the home on a non-conforming lot. The previous owners took a small triangle piece of property to make their lot conforming and in doing so, made the applicant's lot non-conforming. CD Director Doty reviewed the shoreland regulations with the Commission. CD Director Doty provided a review of the staff report and indicated that staff is recommending approval of the CUP, subject to the findings and conditions.

Chair Kinzel opened the public hearing.

Mr. Jason Diaz, property owner had no issues with the conditions. CD Director Doty informed Mr. Diaz of the grass regulations, Mr. Diaz had no concerns.

Chair Kinzel closed the public hearing.

Motion by Commissioner Lund, second by Commissioner Carleton to recommend City Council approve the Conditional Use Permit to allow grading related to the construction of a single family home on a legally non-conforming riparian lot on Red Sand Lake located at 14877 Lynndale Lane as presented by staff. Motion carried unanimously.

OTHER BUSINESS

CD Director Doty introduced Matthew Gindele to the Commission.

ADJOURNMENT

MOTION by Commissioner Carleton, seconded by Commissioner Oswald to adjourn the meeting at 7:47 p.m. Motion carried unanimously.

Approved by:

Submitted by:

Chair Bob Kinzel

Shanna Newman CD Administrative Assistant