

BAXTER CITY COUNCIL MINUTES
April 21, 2015

Mayor Darrel Olson, who led in the pledge to the flag, called the regular meeting of the Baxter City Council to order at 7:00 p.m.

COUNCIL MEMBERS PRESENT: Mayor Darrel Olson and Council Members Quinn Nystrom, Steve Barrows, Todd Holman, and Mark Cross

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: Community Development Director Josh Doty, Finance Director Jeremy Vacinek, Assistant City Administrator Kelly Steele, and Public Works Director/City Engineer Trevor Walter

PUBLIC COMMENTS

Jim Gammello, on behalf of Essentia, would like to explain Essentia is not opposed to the Isle Drive project, just the assessment. Mr. Gammello explained he is still looking for an appraisal. Mr. Gammello also explained he understands the council may approve the project tonight. Mr. Gammello stated the council has six months to approve the project, and in a short period of time we can meet and talk about the assessment. The delay would put us in a position that is more amendable.

CONSENT AGENDA

- A. Approve City Council Minutes from April 7, 2015
- B. Approve City Council Joint Utilities Commission Minutes from April 7, 2015
- C. Approve City Council Work Session Minutes from April 7, 2015
- D. Approve City Council Special Meeting Minutes from April 9, 2015 for Briarwood Lane Assessment Hearing
- E. Approve City Council Special Meeting Minutes from April 9, 2015 for Inglewood Drive Improvement Hearing
- F. Approve City Council Special Meeting Minutes from April 9, 2015
- G. Approve the Payment of Bills and Finance Report
- H. Approve Third Amendment to AT&T Lease Agreement on North Water Tower and Authorize Execution of Agreement
- I. Approve Appointment for Public Works Seasonal Positions of Park Attendant, Maintenance, and Roadside Mower
- J. Adopt Resolution No. 2014-44 Adopting Assessment for the 2015 Isle Drive Extension Project
- K. Adopt Resolution No. 2015-36 awarding the 2015 Isle Drive Extension Project to RL Larson Excavating, Inc. in the amount of \$4,395,409.26.

- L. Adopt Resolution No. 2015-37 to award the 2015 Briarwood Lane Improvement Project to Anderson Brothers Construction in the amount of \$51,205.67.
- M. Approve Agreement for Contract Building Inspection Service
- N. Accept Utilities Commission Minutes from April 8, 2015
 - 1. Approve the SEH, Inc. Fee Amendment for the 2015 Excelsior Road Improvement Project in the additional amount of \$43,155.00 for a total contract not to exceed amount of \$327,461.00.
 - 2. Approve the SEH, Inc. Fee Amendment for the 2015 Mill and Overlay Project in the additional amount of \$14,250.00 for a total contract not to exceed of \$129,104.
 - 3. Approve the Quality Flow Systems quote for the Lift Station No. 23 Project in the lump sum amount of \$52,400.00.
 - 4. Approve the WSN Dellwood Drive and Novotny Road Improvements Proposal Amendment in the additional amount of \$7,450.00 for a total contract not to exceed amount of \$100,955.00.
 - 5. Approve the Bolton & Menk Proposal for Engineering Services for Pavement Management Program Development in the Not to Exceed Amount of \$14,500.00.
 - 6. Approve the Exit Lakes Realty Development Agreement contingent on submission of a traffic control and detour plan.
 - 7. Approve the Quality Flow Systems quote for the Lift Station No. 7 Rehabilitation Project in the amount of \$50,530.00.
- O. Approve Planning and Zoning Commission Minutes from March 10, 2015

MOTION by Council Member Cross, seconded by Council Member Barrows to approve the consent agenda. Motion carries unanimously.

OTHER BUSINESS

Planning & Zoning Actions

Adopt Resolution No. 2015-38 approving a Conditional Use Permit Amendment to allow a used car dealership named “Prestige Auto Sales” for property located at 14230 Dellwood Drive

Community Development Director Doty explained the applicant is requesting approval of a conditional use permit amendment to allow a used car dealership named Prestige Auto Sales for property located at 14230 Dellwood Drive.

In 1985, a conditional use permit was approved for retail and wholesale reconditioned vehicle sales business. The applicant is requesting an amendment to the 1985 approval. The property is currently vacant with an existing parking lot and approximately 324 square foot building. The applicant would use the existing building and parking lot for the business. The applicant would use 16 parking stalls to display cars for sale, with the remaining three parking spaces for visitors and handicap parking. The subject site and property to the north has the same property owner and the parking lots are connected. Therefore, if there is a need for overflow parking there are other parking spaces on the site to the north.

The Planning and Zoning Commission has added a condition that the applicant provides a cross access and parking easement. The Planning and Zoning Commission also added a condition

regarding the location of snow storage. The C-2, Regional Commercial zoning district allows vehicles sales with a conditional use permit. Community Development Director Doty explained curbing is not required due to the subject property being an existing building. Staff finds with the conditions in the resolution, the application meets the City's conditional use permit standards. Staff recommends approval of the conditional use permit, subject to the conditions in the resolution.

MOTION by Council Member Barrows, seconded by Council Member Nystrom to adopt Resolution No. 2015-38 approving a conditional use permit amendment to allow a used car dealership named Prestige Auto Sales for property located at 14230 Dellwood Drive. Motion carries unanimously.

Adopt Resolution No. 2015-39 approving an Interim Use Permit to allow existing farm animals for property located at 4122 Mapleton Road

Community Development Director Doty explained the applicant is requesting approval of an interim use permit to allow farm animals for property located at 4122 Mapleton Road. The RS, Special Residential/Cluster zoning district allows farm animals with approval of an interim use permit.

On March 17, 2015, the Council approve a conditional use permit to allow construction of a 40-foot by 64-foot detached accessory building for the subject property. The Council stated the existing farm operation has never been documented and it is unknown what the legally non-conforming uses are and required the applicant submit an interim use permit to document the existing animal use.

The zoning ordinance allows the keeping of farm animals accessory to an allowed principal use provided the farm animals are kept 300 feet from any property line. The existing animal pens and pastures are located between 85 and 341 feet from the property line. Staff finds that since the farm is existing, the City should allow the existing pens and pastures to remain in their present location.

Community Development Director Doty reviewed the number of animal requested with the interim use permit. Staff notes some of the existing animals could be classified as wild animals per the definitions in the zoning ordinance. The zoning ordinance does not allow wild animals in the City of Baxter. Staff finds these three species of deer, porcupines, and wallabies do not present a public safety risk if the animals were to escape from their pens or pastures. Given that these animals are an existing use, staff finds these animals should be allowed to remain with the interim use permit.

The property owner has requested the approval of the interim use permit remain valid for as long as they or their children own the property. Staff has added this as a condition of the resolution. The Planning and Zoning Commission recommends approval of the interim use permit, subject to the findings and conditions in the resolution.

After the Planning Commission meeting, staff was contacted by a property owner concerned about the farm being a business use and it is zoned as a residential property. The property owner was concerned about the expansion of the use and also inquired if the farm owner would pay taxes as a business. For a business perspective, Crow Wing County would be made aware of the business and the taxes associated.

The Council discussed if a termination clause of the interim use permit would be the sale, in addition to the transfer, subdivision, or change in the zoning of neighboring properties. Community Development Director Doty explained the interim use permit would expire if the applicant is found in violation of the city code. The property area is zoned as residential development. Staff asked the applicant to document the existing number of animals. The Council discussed the definition of a farm as a business.

MOTION by Council Member Barrows, seconded by Council Member Cross to adopt Resolution No. 2015-39 approving an interim use permit to allow existing farm animals for property located at 4122 Mapleton Road. Motion carries unanimously.

Adopt Resolution No. 2015-40 approving a Preliminary and Final plat to be named “ALDI First Addition” and Resolution No. 2015-41 approving a conditional use permit to allow a joint driveway access and a variance for rear setback to allow the construction of a new Aldi Grocery store located 14620 Dellwood Drive

Community Development Director Doty explained the applicant is requesting approval of a preliminary and final plat to allow Aldi First Addition to divide one property into one lot and one outlot, a conditional use permit for a joint access and a variance for rear setback to allow the development of a new Aldi grocery store for property located at 14620 Dellwood Drive.

Under the plan, the applicant would create a buildable lot in the southwest portion of the property along Dellwood Drive for the construction of a new Aldi grocery store. The remainder of the vacant Mills owned property would be platted into an outlot.

Staff has reviewed the application for consistency with City Code requirements, as well as City policies. The subject Aldi property meets the City’s minimum lot requirements. As part of the plat, the applicant would be required to pay park dedication fees for the Aldi property.

Staff is not requiring the dedication of additional right-of-way on Dellwood Drive. However, the City’s Functional Classification Map identifies Golf Course Drive as a major collector roadway and the City’s subdivision regulations require an 80-foot right-of-way for major collector roadways.

The City currently has 66 feet of right-of-way. Therefore, the city has added a condition to the resolution that prior to recording the plat, the applicant must provide 7-feet of additional right-of-way along Golf Course Drive. The property owner is not in agreement with this requirement and has therefore, not shown the right-of-way dedication on the plat.

Two shared driveways would be provided to the Aldi property from Dellwood Drive. The southerly access is an existing joint access between Target and the subject Mills-owned property. A second shared access would be provided on the north end of the site to be shared between Aldi and future commercial use on the Mills property.

Staff has reviewed the access management guidelines and finds the proposed access meets the City's requirements.

Staff requested the applicant provide a sidewalk from Dellwood Drive to the east property line so that the sidewalk can ultimately be connected to Golf Course Drive. The applicant has provided a sidewalk to their west property line. However, the location where the sidewalk ends faces parking stalls in the Target parking lot. Staff therefore recommends the applicant revise the sidewalk location to that it can be extended in the future on the vacant outlot.

The City is requesting a conditional use permit to allow joint access between the Aldi grocery store and the vacant property to the vacant Mills outlot to the north. The City allows shared access with a conditional use permit provided that driveways and parking areas are designed to accommodate a safe traffic pattern, design requirements are met, an access master plan is submitted, and a cross access easement be submitted for approval by the city attorney and recorded. With the conditions in the resolution, staff finds the conditional use permit meets the City's standards.

The C-2, Regional Commercial zoning district requires a rear yard setback. The applicant is proposing a 10-foot rear yard setback to a loading dock wing wall. The applicant's original plan identified the loading area on the north side of the building. Staff worked with the applicant to move the loading dock to the backside of the building so the loading dock would not be visible from TH 371. To fit the loading dock in a way that works with truck turning radius movements, the applicant needed to request a variance to the rear setback.

The Utility Commission reviewed the application and recommended approval subject to five conditions. The architectural review application complies with the City's architectural guidelines and can be reviewed administratively by staff. The Planning and Zoning Commission recommends approval of the preliminary and final plat, the variances and conditional use permit subject to the conditions in the resolutions.

The applicant will have to revise the plat to show the 7' right-of-way before the plat can be approved. The Council discussed changing the variance language so that the rear of the entire building and any future expansions would not be entitled to the setback variance. Community Development Director Doty will revise the variance language.

MOTION by Council Member Cross, seconded by Council Member Nystrom to Adopt Resolution No. 2015-40 approving a Preliminary and Final plat to be named "ALDI First Addition" and Resolution No. 2015-41 approving a conditional use permit to allow a joint driveway access and a variance for rear setback to allow the construction of a new Aldi Grocery store located 14620 Dellwood Drive with the rewording of the variance. Motion carries unanimously.

Adopt Resolution No. 2015-42 approving a Conditional Use Permit Amendment to allow three motor fuel service station pumps and a car wash at 15811 Audubon Way

Community Development Director Doty explained the applicant is requesting approval of a conditional use permit amendment to allow a three motor fuel service station pumps and a car wash for Village Pumper located at 15811 Audubon Way.

The fuel service station pumps would offer unattended fuel 24-hours per day and seven days per week for fuel club members. Von Hanson's Meats currently occupies the building and Morey's Fish Market will be moving to the vacant building space.

No service station would be available for the amended use. Minnesota Petroleum will maintain the fuel equipment and carwash. In 2005, the Council approved a conditional use permit for a motor fuel service station at the site for Amstar. The conditional use permit amendment is required for the amended fuel and car wash use. There will only be lights, not a full canopy over the fuel station.

The Planning Commission recommends approval of the conditional use permit, subject to the conditions in the attached resolution.

The car wash only allows for the stacking of three vehicles, resulting in some vehicle blockage during peak times.

MOTION by Council Member Cross, seconded by Council Member Barrows to Adopt Resolution No. 2015-42 approving a Conditional Use Permit Amendment to allow three motor fuel service station pumps and a car wash at 15811 Audubon Way. Motion carries unanimously.

Adopt Resolution No. 2015-43 affirming city staff's interpretation of the city's subdivision and zoning ordinance regarding the requirement to plat property with lot area variances

Community Development Director Doty explained staff was contacted in early 2015 by John Haley, the property owner of 13481 Mile Lake Drive who inquired about receiving a new property identification number to create a second legal lot of record for the property. Staff researched the matter by contacting Crow Wing County Recorder's Office and was informed that although an intervening lot bisects the lot, the subject property is one lot of record. The City's subdivision regulations require the division of non-platted parcels be approved through a plat. The property is also located in the RS, Special Residential Cluster zoning district, which requires a minimum lot area of five acres. If divided, the subject properties would be less than five acres.

Therefore, staff informed the property owner a plat and lot variances application is necessary to divide the property. Staff added approval of these applications would provide the property owner with clear title moving forward. Staff also recognizes the unique nature of this situation having one parcel bisected by an intervening lot. Therefore, staff informed the property owner

that provided the technical requirements of a plat application are satisfied, staff would be supportive of a plat and variance application to formally divide the subject property.

Chapter 10-7-7 of the Baxter's Ordinance addresses the appeal process. When hearing an appeal, the City Council may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination by the zoning administrator as to the City Council's opinion of the decision that should be made.

The property owners request was allowed, but they did not plat until after we changed the ordinance. The Council discussed if the act of surveying is lot splitting.

John Haley explained the original property owner was granted permission from the city and sold off the middle lot. Mr. Haley explained he planned to straighten out the problems after he purchased the property. The City's transportation plan indicates a future road going through this area of the City. The Council discussed if the property owner failed to take action when the original request was approved, then the current owner must follow the current rules. At the time of the original request, 2.5-acre lots were allowed. If separating the middle lot, the Council discussed if three lots were created. The Council explained they are in charge of long range planning.

MOTION by Council Member Holman, seconded by Council Member Barrows to adopt Resolution 2015-43 affirming city staff's interpretation of the City's subdivision and zoning ordinance pertaining to the requirement to plat property with lot area variance for property located at 13481 Mile Lake Drive. Motion carries with Council Members Holman, Barrows, Cross and Mayor Olson voting yes and Council Member Nystrom voting no.

Woida Road, Wildflower Drive, Franklin Drive Improvement Project Change Order No. 3 and Pay Estimate No. 7

Aric Welch reviewed his letter written in response to the claims and charge order requests received from the Woida Road contractors and subcontractors regarding time extensions, additional work, and work suspension. Based on the review of the contractor submittals and available construction records and documentation, Mr. Welch has determined the contractor is eligible to receive a change in contract price of \$60,746.15 and a time extension of 25 days. The work suspension will be lifted on Monday, May 4. The date of substantial completion will be Friday, June 5, 2015 and the final completion date will be Friday, June 19, 2015.

MOTION by Council Member Cross, seconded by Council Member Barrows to approve the Woida Road, Wildflower Drive, Franklin Drive Improvement Project Change Order No. 3 and Pay Estimate No. 7. Motion carries unanimously.

CITY ADMINISTRATOR'S REPORT

Loren Patnode Shop

City Attorney Person and Assistant City Administrator Steele updated the council on a conditional use permit request by Mr. Patnode to expand his business. Mr. Patnode's business is

not located within the municipal boundaries of the City of Baxter, but assess to his property is from a residential Baxter street. There are various concerns with the county allowing this business to expand and use residential streets with commercial truck traffic. A committee with Council Member Holman and Barrows was formed to review the concerns of the request and to formulate a response to the county.

ADJOURNMENT

MOTION by Council Member Cross, seconded by Council Member Barrows to adjourn the meeting at 8:52 p.m. Motion carries unanimously.

Approved by:

Respectfully submitted,

Darrel Olson
Mayor

Kelly Steele
Assistant City Administrator/Clerk